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**To:** Marks Nancy J; Flax Nikole C; Paz Holly O; Urban Joseph J; Lowe Justin; Park Nalee  
**Subject:** RE: QFRs

Thinking may have changed, but initially we weren't putting  
in the fn because (b)(5) DP --Nan's suggestion of adding

(b)(5) DP and AC

*Lois G.*

*Lerner*

Director of Exempt Organizations

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**From:** Marks Nancy J

**Sent:** Thursday,

April 19, 2012 4:07 PM

**To:** Flax Nikole C; Lerner Lois G; Paz Holly O;

Urban Joseph J; Lowe Justin; Park Nalee

**Subject:** RE:

QFRs

The response to Questions 1 and 2 refers to

(b)(5) DP and AC

(b)(5) DP and AC

my procedural changes

designed language is

(b)(5) DP and AC

Question 15 confuses me--is there a typo in the

incoming.

(b)(5) DP and AC

Maybe I'm just

tired. If they are asking us to

(b)(5) DP and AC

Question 16--we say the IRS

(b)(5) DP and AC

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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**From:** Flax Nikole C

**Sent:** Thursday,

April 19, 2012 3:11 PM

**To:** Lerner Lois G; Paz Holly O; Urban Joseph J;

Marks Nancy J; Lowe Justin; Park Nalee

**Subject:**

QFRs

Please see my

edits. Let me know of any concerns. Is it possible to get what we

think are close to final on Hatch, Issa and Bennett by COB? (I see I had

a few typos last night).

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 12:09 PM  
**To:** Flax Nikole C  
**Subject:** RE: Question from organization applying for exempt status

**Can we get the OK on the media piece sooner rather than later? Steve seemed OK but wanted the additional sentence, which we added. We owe the Congressional office a response, so it seemed to make sense to me that we provide something we are all comfortable with and are providing to press.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Tuesday, February 28, 2012 1:03 PM  
**To:** Lerner Lois G  
**Subject:** RE: Question from organization applying for exempt status

Steve had some issues with the guidelines too so we should talk.

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**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 1:00 PM  
**To:** Flax Nikole C  
**Subject:** FW: Question from organization applying for exempt status

**The sooner the better that we have a standard response. I am working to get the guidelines to Cincy oked by Counsel so we can post on the web too. One of the biggest reasons that folks are revved up is they don't have information**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 12:38 PM  
**To:** Grant Joseph H  
**Subject:** FW: Question from organization applying for exempt status

**Just FYI**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Williams Floyd L  
**Sent:** Tuesday, February 28, 2012 12:32 PM  
**To:** Lerner Lois G; Nielson Jacqueline R  
**Cc:** Paz Holly O; Eldridge Michelle L  
**Subject:** RE: Question from organization applying for exempt status

Lois, thank you very much.

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 11:56 AM  
**To:** Nielson Jacqueline R; Williams Floyd L  
**Cc:** Paz Holly O; Eldridge Michelle L  
**Subject:** FW: Question from organization applying for exempt status

**This is a very sensitive area and Floyd just accompanied me to the Hill last week to discuss with some folks there. I feel more comfortable if he is in the loop on these requests so we are being consistent. We have put something together for media relations to use when press come in--let me make sure it has been blessed and then I think it might be the best thing to send on. I'll get back to you later today**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paz Holly O  
**Sent:** Tuesday, February 28, 2012 11:48 AM  
**To:** Lerner Lois G  
**Subject:** Fw: Question from organization applying for exempt status

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Sent from my BlackBerry Wireless Device

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**From:** Nielson Jacqueline R  
**Sent:** Tuesday, February 28, 2012 11:40 AM  
**To:** Paz Holly O  
**Subject:** FW: Question from organization applying for exempt status

Holly, I just talked to Sarah Arbes in Senator Mitch McConnell's office. They are asking if the questions in the attached notice are ones we commonly ask organizations applying for exempt status under 501(c)(4). This case is similar to the one you worked on last week for Rep. Jordan. If you're in today, I can call and give you a little more explanation about this. Thanks. Jackie Nielson, GL, OH and KY, 614-280-8739

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**From:** Arbes, Sarah (McConnell) [[mailto:Sarah\\_Arbes@mccconnell.senate.gov](mailto:Sarah_Arbes@mccconnell.senate.gov)]  
**Sent:** Tuesday, February 28, 2012 11:19 AM  
**To:** Nielson Jacqueline R  
**Subject:** RE: Question from organization applying for exempt status

Attached are the questions we discussed. Without getting into the specifics of the individual case, we were hoping you could tell us whether these are standard questions for organizations applying for 501(c)(4) status

Thank you for your help!

Sarah

Sarah Arbes  
U.S. Senator Mitch McConnell  
317 Russell Senate Office Building  
Washington, DC 20510  
(202) 224-2541  
[sarah\\_arbes@mcconnell.senate.gov](mailto:sarah_arbes@mcconnell.senate.gov)

Sign up for Senator McConnell's [e-newsletter](#)

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**From:** Nielson Jacqueline R [ <mailto:Jacqueline.R.Nielson@irs.gov> ]  
**Sent:** Tuesday, February 28, 2012 9:51 AM  
**To:** Arbes, Sarah (McConnell)  
**Subject:** Question from organization applying for exempt status

Hi, Sarah,

Marsha in the Taxpayer Advocate office asked me to contact you about the organization that applied for exempt status under IRC 501(c)(4) and has not received their determination yet. If you have an e-mail or letter from that group that I can share with our Exempt Organization Division, would you please send it to me in reply to this e-mail, or by fax to 614-280-8735, Attn: Jackie Nielson? If they signed a privacy release that you could send me, that would be great. If they didn't furnish that, I can reply in more general terms.

Thanks, Sarah. Please call if you want to discuss.

Jackie Nielson  
IRS Governmental Liaison  
Phone (614) 280-8739  
Fax (614) 280-8735

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**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 6:29 PM  
**To:** Flax Nikole C  
**Subject:** FW: Question from organization applying for exempt status  
**Attachments:** SecureZIP Attachments.zip

**This is the incoming--it is from McConnell's staff. I planned to give the written piece to Floyd. I wrote it so it could be passed on, but it could also just be used by Floyd to give them an oral response. The attachment is just a copy of one of the requests for more information to a c4 org**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paz Holly O  
**Sent:** Wednesday, February 29, 2012 10:44 AM  
**To:** Lerner Lois G  
**Subject:** FW: Question from organization applying for exempt status

[email chain below](#)

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**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 11:56 AM  
**To:** Nielson Jacqueline R; Williams Floyd L  
**Cc:** Paz Holly O; Eldridge Michelle L  
**Subject:** FW: Question from organization applying for exempt status

**This is a very sensitive area and Floyd just accompanied me to the Hill last week to discuss with some folks there. I feel more comfortable if he is in the loop on these requests so we are being consistent. We have put something together for media relations to use when press come in--let me make sure it has been blessed and then I think it might be the best thing to send on. I'll get back to you later today**

*Lois G. Lerner*

Director of Exempt Organizations

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**To:** Lerner Lois G  
**Subject:** Fw: Question from organization applying for exempt status

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Sent from my BlackBerry Wireless Device

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Holly, I just talked to Sarah Arbes in Senator Mitch McConnell's office. They are asking if the questions in the attached notice are ones we commonly ask organizations applying for exempt status under 501(c)(4). This case is similar to the one you worked on last week for Rep. Jordan. If you're in today, I can call and give you a little more explanation about this. Thanks. Jackie Nielson, GL, OH and KY, 614-280-8739

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Attached are the questions we discussed. Without getting into the specifics of the individual case, we were hoping you could tell us whether these are standard questions for organizations applying for 501(c)(4) status

Thank you for your help!

Sarah

Sarah Arbes  
U.S. Senator Mitch McConnell  
317 Russell Senate Office Building  
Washington, DC 20510  
(202) 224-2541  
[sarah\\_arbes@mcconnell.senate.gov](mailto:sarah_arbes@mcconnell.senate.gov)

Sign up for Senator McConnell's [e-newsletter](#)

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Thanks, Sarah. Please call if you want to discuss.

Jackie Nielson  
IRS Governmental Liaison  
Phone (614) 280-8739  
Fax (614) 280-8735

(b)(3)/6103

(b)(3)/6103

(b)(3)/6103

(b)(3)/6103



(b)(3)/6103

(b)(3)/6103

(b)(3)/6103

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 28, 2012 11:28 AM  
**To:** Lowe Justin  
**Cc:** Paz Holly O; Fish David L  
**Subject:** RE: New Guidesheet Version

**Oh, please--I hope I didn't lose it! I'll check**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lowe Justin  
**Sent:** Wednesday, March 28, 2012 10:40 AM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O; Fish David L  
**Subject:** RE: New Guidesheet Version

Hi Lois, looks like nothing was attached. Can you resend please?

'Thanks,

Justin

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**From:** Lerner Lois G  
**Sent:** Tuesday, March 27, 2012 7:19 PM  
**To:** Lowe Justin  
**Cc:** Paz Holly O; Fish David L  
**Subject:** RE: New Guidesheet Version

**I've made some changes to the redlined version and added some comments. Let me know if you don't understand.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lowe Justin  
**Sent:** Tuesday, March 27, 2012 1:41 PM  
**To:** Cook Janine; Spellmann Don R; Brown Susan D  
**Cc:** Lerner Lois G; Kindell Judith E; Paz Holly O; Fish David L; Megosh Andy; Goehausen Hilary  
**Subject:** New Guidesheet Version

All,

Attached are clean and redline versions of the guidesheet, reflecting Lois's comments and additional tweaks. Please review and let us know what additional changes you'd like to see.

Thanks,

Justin

***Justin Lowe***

Internal Revenue Service  
TEGE, Exempt Organizations  
Rulings and Agreements  
Phone: (202)-283-9486  
Fax: (202)-283-8937

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**From:** Lerner Lois G  
**Sent:** Tuesday, April 03, 2012 9:18 AM  
**To:** Cook Janine  
**Subject:** RE: Guide sheet

Thanks--the exam project is specifically on political activity by all types of exempt orgs. It is different than the project on orgs that didn't apply. It is a dual track approach to political activities--referrals as well as risk models we have built based on 990 information. As I mentioned when we talked--regardless of your discomfort--we can't avoid this. That is why I continue to push you to point out the pain points so we can address them. If your guidance doesn't cover the issues--it leaves agents to their own devices when they see the issues, and they will go to the (b)(5)/DP stuff anyway if that is all they have. We would be better served to include it with caveats about the limitations than to not speak to it.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Cook Janine [<mailto:Janine.Cook@irs.counsel.treas.gov>]  
**Sent:** Tuesday, April 03, 2012 8:38 AM  
**To:** Lerner Lois G  
**Subject:** RE: Guide sheet

Met with Vicki, Don and Susan. We're close to being able to get you our draft of what we're comfortable with; just need to scrub through the questions again. Will get it to you by tomorrow COB.

What is the scope of the exam activity? Something about (b)(5)/DP that haven't applied? Well beyond the (b)(5)/DP (b)(5)/AC

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**From:** Lerner Lois G [<mailto:Lois.G.Lerner@irs.gov>]  
**Sent:** Monday, April 02, 2012 2:58 PM  
**To:** Cook Janine  
**Subject:** RE: Guide sheet

You are correct that we aren't seeing applications for (b)(5)/DP (b)(5)/... however, what I said regarding the (b)(5)/DP (b)(5)/AC still stands and I don't understand why we are parsing this to death. When it comes to the facts and circumstances review to determine whether the activity is political intervention or attempting to influence elections under 527, (b)(5)/DP (b)(5)/AC Having said that, give me the (b)(5)/D... and I'll see whether it works. This is incredibly frustrating. Not giving me the (b)(5)/DP (b)... now doesn't move the ball forward for my other project. I can't wait until next year to begin doing the training on the exam matters I have. As I mentioned, they are scheduled to have training beginning April 23.

As to the other issue--you are right--first things first.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Cook Janine [<mailto:Janine.Cook@irsounsel.treas.gov>]  
**Sent:** Monday, April 02, 2012 12:53 PM  
**To:** Lerner Lois G  
**Subject:** RE: Guide sheet

Hi Lois,

quick question in follow up our call today... Looking back at the latest draft, the guide sheet is set up for applications, so I'm a bit perplexed on the discussion this morning about it also needing to cover (b)(5)/DP (b)(5)/AC

(b)(5)/... Can we focus on the first piece (b)(5)/DP (b)(5)/... and then determine what agent's even need for

On the second issue, we are coordinating with CC:PA on where we have legal latitude to treat (b)(5)/DP (b)(5)/AC We agree on the need for some changes here for the reasons you articulate in the memo, but have to make sure what we do here is consistent with how other (b)(5)/DP (b)(5)/AC I also think there is the secondary question of how any changes will be publicly communicated since this process has been in place for a while, but we can get to that piece next.

---

**From:** Lerner Lois G [<mailto:Lois.G.Lerner@irs.gov>]  
**Sent:** Friday, March 30, 2012 7:04 PM  
**To:** Cook Janine  
**Subject:** Guide sheet

Just checking in to see when you think we might see the comments on the Guide sheet --we also will need to use it on our dual track political activities project, which exam has on its plate. That training begins at the end of April, so if we aren't going to have materials in time, I'm going to need to let the exam folks know.

On another front, where are we on getting your response concerning returning 990s that are on inappropriate forms or incomplete?

I know--you hate it when I stay late!(-: Have a good weekend.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Tuesday, April 03, 2012 5:23 PM  
**To:** Urban Joseph J  
**Subject:** FW: Follow -up

**I pushed a little harder than planned, but we need to know if they are going to do this or not. Thanks for your help--stay tuned**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Tuesday, April 03, 2012 6:22 PM  
**To:** Cook Janine  
**Subject:** Follow -up

**I just talked to Joe Urban who had come back from 1111 after bringing Susan up to speed on where we are on the Congressional. I'm thinking perhaps it would be useful for me and Joe Urban to sit down and explain to you the practical realities of Counsel's position that you don't want to include anything (b)(5)/DP (b)(5)/AC in the guide sheet and don't like the idea of a (b)(5)/DP (b)(5)/AC**

**Based on what Joe tells me about his conversation with Susan, I think there may be a big disconnect between how Counsel sees our job as tax administrators and your job as advisors to the administrators. I know everyone is trying to provide us with the best advice, and I whole heartedly appreciate that. But, at the end of the day, my job is to deliver the work. I have to do that with or without your comfort and blessing. I can't send applications back or hold on to them because the IRS/Treasury have not put out formal guidance on a particular set of facts and circumstances.**

**Perhaps if you have a better understanding of what is on my plate and the resources and timeframes in which I have to complete the work, you will be able to get to the place we previously discussed. We are not asking you to "create" new guidance, rather in the context of the guidance we have, to help us give staff a way to think about the issues in their cases. The guide sheet is not an official IRS interpretation of the Internal Revenue Code. It does not reach a conclusion on how the IRS applies the law to a specific set of facts. Instead, it is a fact-gathering tool to assist agents in gathering facts in a consistent fashion.**

**I know you suggested just including (b)(5)/DP (b)(5)/AC in the guide sheet--that just won't work. So, if--as we initially agreed--you can tell me specifically what parts of the draft we sent give you heartburn and why, we will try to lessen the heartburn. Ignoring pieces or not speaking to them because Counsel is not comfortable is NOT an option for me. The work is here, my folks need to do it, and they will regardless of what we give them. Our job is to provide them with the best tool we can.**



**As we are already way behind on getting this out to staff, I'd appreciate getting your comments on the draft by Friday. Thanks**

*Leis J. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Tuesday, April 03, 2012 5:24 PM  
**To:** Paz Holly O  
**Subject:** FW: Follow -up

**FYI**

*Lois G. Lerner*

Director of Exempt Organizations

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**Sent:** Tuesday, April 03, 2012 6:22 PM  
**To:** Cook Janine  
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(b)(5)/DP (b)(5)/AC

Based on what Joe tells me about his conversation with Susan, I think there may be a big disconnect between how Counsel sees our job as tax administrators and your job as advisors to the administrators. I know everyone is trying to provide us with the best advice, and I whole heartedly appreciate that. But, at the end of the day, my job is to deliver the work. I have to do that with or without your comfort and blessing. I can't send applications back or hold on to them because the IRS/Treasury have not put out formal guidance on a particular set of facts and circumstances.

Perhaps if you have a better understanding of what is on my plate and the resources and timeframes in which I have to complete the work, you will be able to get to the place we previously discussed. We are not asking you to "create" new guidance, rather in the context of the guidance we have, to help us give staff a way to think about the issues in their cases. The guide sheet is not an official IRS interpretation of the Internal Revenue Code. It does not reach a conclusion on how the IRS applies the law to a specific set of facts. Instead, it is a fact-gathering tool to assist agents in gathering facts in a consistent fashion.

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As we are already way behind on getting this out to staff, I'd appreciate getting your comments on the draft by Friday. Thanks

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 04, 2012 4:26 PM  
**To:** Paz Holly O  
**Subject:** FW: Cincinnati Visit

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 04, 2012 5:26 PM  
**To:** Grant Joseph H  
**Cc:** Medina Moises C  
**Subject:** RE: Cincinnati Visit

**I get that--but timing would be bad if we have to go to Cincy now. So, I will assume we can go over this here as I get the information I've already asked for? Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Grant Joseph H  
**Sent:** Wednesday, April 04, 2012 5:17 PM  
**To:** Lerner Lois G  
**Cc:** Medina Moises C  
**Subject:** Re: Cincinnati Visit

Lois,

It is a visit, not an OP review. I am interested in meeting the front -line employees and the management teams for EP and EO.

I am also interested in the questions Imraan sent to them. Some answers should be readily at hand. Others certainly won't be. I can wait and you and I can take them up at future OP reviews here in DC. There will be no "beatings". The questions just serve as a framework for a broader conversation about how things are going and what is on our respective minds.

We can chat more as we go along.

Thanks as always - Joseph

-----  
Sent from my BlackBerry Wireless Handheld

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 04, 2012 04:41 PM  
**To:** Grant Joseph H; Medina Moises C  
**Subject:** Cincinnati Visit

I'm confused. During my op review when we talked about the Cincinnati visit, you were very clear that you were not planning on doing an op review out there. It was to be more like a meet and greet and a town hall, which is what my folks are expecting and planning. I remember specifically because I said either Holly or I should be there if it was an op. review. We just got an very extensive information request from Imraan --sure looks like op review material. I'm especially concerned that information about pipeline is being asked about. One of my commitments is to analyze the pipeline and make recommendations. I just spoke with both Cindy and Holly about the impact the auto-revocation process is having on the work and gave them instructions about the overall analysis I would like. Add to that the fact that Cincinnati is smack dab in the middle of the c4 Congressional inquiries and is about to get a request from TIGTA on all of that, this is NOT a good time to be asking them for anything or to be talking to them about issues in their work.

Everyone is stressed to the max and at their wits end, so can we put this off please? If you plan to go ahead with this, I will make plans to be in Cincinnati --you guys are very nice, but they will feel like it's a beating. Perhaps we can talk

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 04, 2012 4:27 PM  
**To:** Marx Dawn R; Hall Regeina D  
**Subject:** FW: Cincinnati Visit

*Lois G. Lerner*

Director of Exempt Organizations

---

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**Cc:** Medina Moises C  
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*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Thursday, April 05, 2012 8:24 AM  
**To:** Grant Joseph H  
**Subject:** Re: Cincinnati Visit

Thanks for hearing us  
Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

---

**From:** Grant Joseph H  
**Sent:** Wednesday, April 04, 2012 09:41 PM  
**To:** Lerner Lois G  
**Subject:** Re: Cincinnati Visit

Lois,

Noted.

Joseph  
-----

Sent from my BlackBerry Wireless Handheld

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 04, 2012 06:15 PM  
**To:** Grant Joseph H  
**Cc:** Medina Moises C  
**Subject:** RE: Cincinnati Visit

**Fine with me--just trying to keep the stress level manageable in Cincinnati --they are pretty freaked. Please don't ask them about closures, pipelines, wait time for full development cases, or the c4 application letters. I know Imraan is really interested in that stuff in general --I promise to give him info---that just wouldn't be the best place to ask. Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Grant Joseph H  
**Sent:** Wednesday, April 04, 2012 5:42 PM  
**To:** Lerner Lois G  
**Cc:** Medina Moises C  
**Subject:** RE: Cincinnati Visit

Lois,



I think we are in agreement, but just to be sure. I am planning to go to Cincy at the end of the month. I am travelling with Nan Marks and Imraan. It is Nan's first trip to Cincy and will be an education for her on the DL process for **both EO and EP**. It is not an OP Review for either function. I do not expect that you would need to be there. As you suggest below, we can cover the questions here in DC at our regular EO OP reviews, as you get the information.

Joseph

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 04, 2012 5:26 PM  
**To:** Grant Joseph H  
**Cc:** Medina Moises C  
**Subject:** RE: Cincinnati Visit

**I get that--but timing would be bad if we have to go to Cincy now. So, I will assume we can go over this here as I get the information I've already asked for? Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Grant Joseph H  
**Sent:** Wednesday, April 04, 2012 5:17 PM  
**To:** Lerner Lois G  
**Cc:** Medina Moises C  
**Subject:** Re: Cincinnati Visit

Lois,

It is a visit, not an OP review. I am interested in meeting the front -line employees and the management teams for EP and EO.

I am also interested in the questions Imraan sent to the m. Some answers should be readily at hand. Others certainly won't be. I can wait and you and I can take them up at future OP reviews here in DC. There will be no "beatings". The questions just serve as a framework for a broader conversation about how things are going and what is on our respective minds.

We can chat more as we go along.

Thanks as always - Joseph

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Sent from my BlackBerry Wireless Handheld

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 04, 2012 04:41 PM  
**To:** Grant Joseph H; Medina Moises C  
**Subject:** Cincinnati Visit

**I'm confused. During my op review when we talked about the Cincinnati visit, you were very clear that you were not planning on doing an op review out there. It was to be more like a meet and greet and a town hall, which is what my folks are expecting and planning. I**

remember specifically because I said either Holly or I should be there if it was an op. review. We just got an very extensive information request from Imr aan--sure looks like op review material. I'm especially concerned that information about pipeline is being asked about. One of my commitments is to analyze the pipeline and make recommendations. I just spoke with both Cindy and Holly about the impact the auto-revocation process is having on the work and gave them instructions about the overall analysis I would like. Add to that the fact that Cincinnati is smack dab in the middle of the c4 Congressional inquiries and is about to get a request from TIGTA on all of that, this is NOT a good time to be asking them for anything or to be talking to them about issues in their work.

Everyone is stressed to the max and at their wits end, so can we put this off please? If you plan to go ahead with this, I will make plans to be in Cincinnati--you guys are very nice, but they will feel like it's a beating. Perhaps we can talk

*Leis J. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Thursday, April 05, 2012 8:30 AM  
**To:** Marx Dawn R  
**Subject:** Fw: Guidesheet draft  
**Attachments:** guide sheet 04-04-12 CC CLEAN.doc

Please print guide sheet and email for me. Thanks

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From:** Cook Janine [<mailto:Janine.Cook@irscounsel.treas.gov>]  
**Sent:** Wednesday, April 04, 2012 07:46 PM  
**To:** Lerner Lois G  
**Cc:** Judson Victoria A; Brown Susan D; Spellmann Don R  
**Subject:** Guidesheet draft

Lois,

Per our earlier conversation, here is a revised version of the guidesheet that reflects our recommended changes. Major differences are listed below. We are happy to discuss our thinking behind the changes at your convenience on Friday or next week (I'm out tomorrow). Don has left for the day; he will forward the draft to the working group tomorrow.

1. The revised guide sheet provides information to assist in processing 501(c)(3) and 501(c)(4) applications. New footnote 1 states that the guide sheet may be [REDACTED]

(b)(5)/DP

2. In the introductory section and in the lead-in for each separate guide sheet, we have included [REDACTED]

(b)(5)/DP

3. The questions contained in each separate guide sheet have been revised to [REDACTED]

(b)(5)/DP

We've also revised the wording of some of the questions.

4. Finally, we added the [REDACTED]

(b)(5)/DP (b)(5)/AC

[REDACTED] There are other ways to convey the same concept, I'm sure. This was just one way of doing so.

We'll await word from you on a time to discuss.

Janine

<<guide sheet 04-04-12 CC CLEAN.doc>>

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**From:** Lerner Lois G  
**Sent:** Thursday, April 05, 2012 10:44 AM  
**To:** Miller Thomas J  
**Subject:** FW: Guidesheet draft

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Thursday, April 05, 2012 11:39 AM  
**To:** Paz Holly O; Kindell Judith E; Lowe Justin; Urban Joseph J; Fish David L  
**Cc:** Grant Joseph H; Marks Nancy J  
**Subject:** FW: Guidesheet draft

**Let's take a look and meet. I thanked Counsel for their hard work on this and told Janine we'd get back with them for any clarifications. I'd like to meet Monday as I am not here tomorrow. Dawn will set up time--thanks please forward if I've left off anyone from our side who has been working on this**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Cook Janine [mailto:[Janine.Cook@irsounsel.treas.gov](mailto:Janine.Cook@irsounsel.treas.gov)]  
**Sent:** Wednesday, April 04, 2012 7:47 PM  
**To:** Lerner Lois G  
**Cc:** Judson Victoria A; Brown Susan D; Spellmann Don R  
**Subject:** Guidesheet draft

Lois,

Per our earlier conversation, here is a revised version of the guidesheet that reflects our recommended changes. Major differences are listed below. We are happy to discuss our thinking behind the changes at your convenience on Friday or next week (I'm out tomorrow). Don has left for the day; he will forward the draft to the working group tomorrow.

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2. In the introductory section and in the lead-in for each separate guide sheet, we have included [REDACTED]

(b)(5)/DP

3. The questions contained in each separate guide sheet have been revised to [REDACTED]

(b)(5) DP and AC

We've also revised the wording of some of the questions.

4. Finally, we added the

(b)(5) DP and AC

There are other ways to convey the same concept, I'm sure. This was just one way of doing so.

We'll await word from you on a time to discuss.

Janine



guide sheet  
04-04-12 CC CLE...

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**From:** Lerner Lois G  
**Sent:** Thursday, April 05, 2012 10:47 AM  
**To:** Megosh Andy; Fish David L; Paz Holly O  
**Subject:** RE: two correspondence items

**Does Counsel have copies of all incoming regarding possible guidance so they can prepare the appropriate response to the letter we discussed a few days ago?**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Megosh Andy  
**Sent:** Thursday, April 05, 2012 10:41 AM  
**To:** Fish David L; Lerner Lois G; Paz Holly O  
**Subject:** RE: two correspondence items

In addition to the two correspondence David referenced, four more are ready for review.

2012-30293 - (b)(3); 6103 - c4 referral to exam (David's signature)  
2012-30116 - (b)(3)/6103 - c4 referral to exam (David's signature)  
2012-30298 - Forbes - asks for information concerning IRS treatment of c4 applicants (Lois' signature)  
2012-30473 - Lungren - delay of c4 application (Lois' signature)

I can e-mail the drafts if you like. Lois should have all the incoming in "the book."

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**From:** Fish David L  
**Sent:** Friday, March 30, 2012 3:13 PM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O; Megosh Andy  
**Subject:** two correspondence items

We have letters from Democracy 21 and Alliance for Justice with slightly different takes on 501(c)(4) rulemaking. We propose to provide them with the standard going to OTP to talk about business plan letters. They're set up for my signature but you should decide who signs and who you need to share with. I'm out next week but they will be on my desk.

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**From:** Lerner Lois G  
**Sent:** Thursday, April 05, 2012 6:56 PM  
**To:** Fish David L; Paz Holly O; Megosh Andy; Kindell Judith E; Lowe Justin; Park Nalee; Miller Thomas J  
**Cc:** Urban Joseph J; Marx Dawn R  
**Subject:** FW: Questions for the Record--House FY13 Appropriations request hearing  
**Attachments:** IRS - QFRs.doc  
  
**Importance:** High

**I have copied and pasted the part that relates to us below. There is no way in the world , we can have response ready by next Friday, but we can try. I am out Friday, but will be available to talk. I have put an invite on the calendar for Mon**

**Questions for the Record Submitted by Congressman Kevin Yoder**

**501(c)(4)'s**

**Question. Commissioner Shulman: Has the IRS recently changed its policy with respect to the process for examining an organization's application for 501(c)(4) tax exempt status? If so, What was the basis for changing procedures?**

**Question. Who authorized this change?**

**Question. Did the IRS have any communications with officials at the White House, political appointees of any part of the Administration, or Members of Congress or their staffs that prompted these changes?**

**Question. Does the IRS use one examination regime for organizations deemed to engage in political activities and those that are not?**

**Question. What types of documentation are you now requiring organizations provide as part of the application review process?**

**Question. Does the IRS balance its examination process to ensure equitable treatment among organizations across the political spectrum?**

**Question. How does the IRS target organizations for additional examination?**

**On March 14, twelve US Senators wrote to you about IRS inquiries of organizations in Kentucky, Ohio, Tennessee, and Texas. Are you in receipt of that letter?**

**Question. In it, the Senators note that "it is imperative that organizations applying for tax-exempt status are able to rely on a consistent and foreseeable review structure from the IRS." Is it your view that the IRS's process for reviewing organizations' 501(c)(4) status applications is today "consistent and foreseeable?"**

**Question.** Given the importance to your agency's credibility of addressing quickly the concern that the IRS examination process is being used for blatantly political purposes, when do you expect to respond to the Senators' letter?

**Question.** I want to ask in open session one question which was put to the IRS in the Senators' March 14<sup>th</sup> letter: Will you provide this Subcommittee with copies of all IRS inquiries sent to and responses received from Priorities USA?

**Question.** Will you provide this Subcommittee with copies of all inquiries sent to organizations with or applying for 501(c)(4) status since January 1, 2012?

On February 16, 2012, you received a letter from seven Democratic Senators urging you to do two things:

- 1) Re-evaluate the IRS' longstanding test used to determine the extent to which 501(c)(4) organizations may engage in political campaigns on behalf of or in opposition to candidates for public office.
- 2) "Investigate" wholly unsubstantiated "allegations" that "some political organizations" may be violating the current primary activity test.

Subsequent to you receiving this letter, Congress started to receive reports that an array of small, local 501(c)(4) organizations that openly and forcefully opposed the policies of President Obama—especially his healthcare law—operating in political battleground states, such as Ohio, started receiving very unusual and onerous requests for information from the IRS. As noted in a letter you recently received from members of the Senate finance committee, these requests sought unusual data on an incredibly short timeline.

**Question.** Commissioner Shulman, either prior to or after February 16, 2012, did you, any member of your staff, any employee of the IRS, or any other person acting on your behalf or on behalf of the IRS, have any communications --orally or written in any form (including electronic communications), with any Senator, Senate staff person, or any official, officer, employee or agent of the Democratic National Committee, the Democratic Congressional Campaign Committee, or the Democratic Senatorial Campaign Committee about investigating 501(c)(4) entities.? If so, please provide the name of the parties to each such communication, the date of such communications, and the content of such communications.

**Question.** Commissioner Shulman, either prior to or after February 16, 2012, did you, any member of your staff, any employee of the IRS, or any other person acting on your behalf or on behalf of the IRS, have any communications --orally or written in any form (including electronic communications), with President Obama, any appointee, official, employee, agent or other person acting on behalf of the White House, the Treasury Department, or the Obama Presidential Campaign, including Advisors to President Obama's campaign, or organizations affiliated with President Obama's campaign, such as officers, employees, donors or agents of "Super PACs" supportive of the President's re-election about investigating 501(C)(4) entities? If so, please provide the name of the parties engaged in such communication, the date of such communications and the content of such communication.

**Question.** Will you take all possible steps and issue any directives necessary to ensure that no records, recordings, emails, communications, records, files or correspondence in any form whatsoever related IRS inquiries, communications with or investigations of 501(c)(4) entities are preserved, including exempting them from any recurring document destruction or other electronic communications policies that may in the ordinary course result in their destructions, alteration or loss?



Commissioner Schulman, as you know, historically, not just 501(c)(4) entities, but also 501(c)(5)(labor organizations) and (c)(6)(trade associations) have been permitted to engage in campaigns for public office so long as such intervention does not constitute the organization's primary activity. As evidenced by the letter of February 14, 2012, Congress is aware of many burdensome and unusual requests with deadlines as short as two weeks to 501(c)(4) entities that have opposed the President and his policies.

**Question.** Please provide to us any correspondence since January 1, 2011 requesting similarly detailed information on similarly short deadlines from 501(c)(4) or (c)(5) entities with history of supporting the President and or his policies that are of similar size and sophistication to the entities that have received the letter referenced in the Senate Finance Committee letter of February 14, 2012.

**Question.** Will you also provide to this Committee a complete list of all 501(c)(4) or (c)(5) entities that have received inquiries from the IRS concerning their tax exempt status or factors bearing on their tax exempt status or requesting information about the identity of their donors since December 15, 2011, as well as copies of all such requests.

**Question.** Commissioner Schulman, if it should ever dawn on the Inspector General tasked with overseeing your agency that the matters about which I have been asking you warrant scrutiny to reassure the public that the IRS is not once again being subordinated to partisan political purposes, will you cooperate with reservation and direct every appointee, officials, employee and contractor of your agency to do so as well?

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Amato Amy

**Sent:** Thursday, April 05, 2012 4:00 PM

**To:** Gillis Ursula S; Boehmer Susan; Hedemann Janice M; O'Donnell Douglas W; Burns Stuart; Colaciello Joe; Livingston Catherine E; Ingram Sarah H; Lerner Lois G; Urban Joseph J; McField Terri; Chew Debra; Davy Monica H; Burger Michelle L; Smith Belinda (MITS)

**Cc:** Davis Jonathan M (Wash DC); Flax Nikole C; Walters Kathleen E; Norton William G Jr

**Subject:** Questions for the Record--House FY13 Appropriations request hearing

**Importance:** High

Attached are follow-up questions for the IRS from the March 23 hearing, as submitted by the House Financial Services and General Services Subcommittee on Appropriations.

Please take a look at my thoughts on who should take the lead in drafting the responses. If you disagree, please let me know as soon as possible so I may reassign them. There is a very rapid turn-around time on these responses. I need your cleared replies by next Friday, April 13, in order start the official clearance process to meet the Subcommittee's deadline. Sorry, and thanks!

Emerson

Budget: CFO

Taxpayer Service: CFO

Tax Gap: CFO with RAS

Office Space: REFM

Serrano  
VDP: LB&I  
BSM: MITS  
Efficiency Savings: CFO  
ROI: CFO  
ACA: Program Office

Yoder  
TEGE

Diaz-Balart  
Counsel

Womack  
Counsel

Lee  
Diversity, first question: EDI  
Diversity, second question: HCO with EDI  
Budget Cuts: CFO  
Effect on EITC/CTC: W&I

Pastor  
Counsel

Financial Services and General Government Subcommittee  
Hearing on the Internal Revenue Service FY 2013 Budget

**Questions for the Record Submitted by Chairwoman Jo Ann Emerson**

BUDGET INCREASE

IRS's budget requests increases close to \$1 billion and over 5 thousand new employees.

Question. Before making this request to Congress, did the IRS conduct an analysis of anticipated workload, the size of workforce needed to process that workload, and the difference between the size and skillset of the IRS's current and future workforce? If so, please provide this analysis.

TAXPAYER SERVICES

The Financial Services and General Government bill provides a single appropriation for the IRS's Taxpayer Services account. This account funds two types of activities : Pre-filing Taxpayer Assistance and Education, and Filing and Account Services.

Question. How does IRS decide to divide the account between the two activities?

Question. After the IRS decides on an amount for Pre -filing Taxpayer Assistance and Education, how does the IRS decide to divide that amount among the different types of assistance?

Question. Why does the IRS budget request smaller increase for Taxpayer Services, than for Enforcement and Operations Support?

CLOSING THE TAX GAP

Question. In the absence of new powers or authority, how much funding and personnel would the IRS need to close the tax gap completely? And then how much of a burden would be placed on taxpayers from this increased enforcement?

OFFICE SPACE

The IRS pays almost \$700 million a year in rent to GSA. After salaries, rent is the IRS's single largest expense.

Question. How many leases does the IRS have with GSA?

Question. How is IRS reducing its footprint, while remaining accessible to taxpayers?

Question. Does GSA ever offer advice on how to make the most efficient use of space or help IRS with plans to reduce space costs?

Question. How extensively does IRS use telecommuting and which occupations at IRS are best suited for telecommuting?

### **Questions for the Record Submitted by Ranking Member Jose Serrano**

#### **VOLUNTARY DISCLOSURE PROGRAM**

Question. Your testimony highlights the success of the Offshore Voluntary Disclosure Program, through which \$4.4 billion was collected between 2009 and 2011. What is the IRS's evaluation of the performance of the Offshore Voluntary Disclosure Program, and what are the lessons learned? In addition to resources, what else does the IRS need to ensure the success of the international tax enforcement initiative?

#### **BUSINESS SYSTEMS MODERNIZATION**

Question. What are some of the other benefits of CADE 2, besides daily processing? What is your staff now able to do analysis on that they could not do before?

#### **EFFICIENCY SAVINGS**

Question. Commissioner Shulman, your testimony states that this year's request includes \$166.3 million in efficiency savings, which brings your total efficiency savings from fiscal year 2009 forward to nearly \$1 billion. Please tell us some of the steps you have taken to streamline your agency and realize these savings?

#### **RETURN ON INVESTMENT**

Question. Commissioner Shulman, your agency is one in which we talk about return on investment, and for good reason. I, however, am confused as to which numbers are the right ones to use. Your testimony says that every dollar spent on enforcement returns \$4 to the Treasury. Your testimony also states that the IRS brings in \$200 for every \$1 spent. Can you provide, for our clarity, a chart that details the return on investment for the various functions of the IRS?

#### **IMPLEMENTATION OF HEALTH INSURANCE TAX CREDIT**

In its ongoing implementation of relevant sections of the Patient Protection and Affordable Care Act, the IRS has proposed rules (REG-131491-10 Health Insurance Tax Credit; Notice of Proposed Rulemaking) on eligibility for subsidized Exchange coverage which would limit access to the Health Insurance Premium Tax Credit. Specifically, in your proposed rule, the definition of "minimum essential coverage" under section 1.36B-2(c)(3)(v) only considers the premium cost of self-only coverage when defining affordability for families. The cost of family coverage

is far higher in nearly all cases, and by defining affordability for family coverage based on an individual, Treasury is unnecessarily limiting access to this credit, and essentially excluding many families from subsidized Exchange coverage.

Question. What is the reasoning behind this proposed definition? Does IRS have an estimate of the number of people who will be excluded from this credit as a result of this proposed definition? Is IRS in the process of considering an alternative interpretation of "affordability" based on the costs of family-based coverage?

**Questions for the Record Submitted by Congressman Kevin Yoder**

501(c)(4)'s

Question. Commissioner Shulman: Has the IRS recently changed its policy with respect to the process for examining an organization's application for 501(c)(4) tax exempt status? If so, What was the basis for changing procedures?

Question. Who authorized this change?

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Question. How does the IRS target organizations for additional examination?

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Question. Commissioner Shulman, either prior to or after February 16, 2012, did you, any member of your staff, any employee of the IRS, or any other person acting on your behalf or on behalf of the IRS, have any communications --orally or written in any form (including electronic communications), with any Senator, Senate staff person, or any official, officer, employee or agent of the Democratic National Committee, the Democratic Congressional Campaign Committee, or the Democratic Senatorial Campaign Committee about investigating 501(c)(4) entities? If so, please provide the name of the parties to each such communication, the date of such communications, and the content of such communications.

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Question. Will you take all possible steps and issue any directives necessary to ensure that no records, recordings, emails, communications, records, files or correspondence in any form whatsoever related IRS inquiries, communications with or investigations of 501(c)(4) entities are preserved, including exempting them from any recurring document destruction or other electronic communications policies that may in the ordinary course result in their destructions, alteration or loss?

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### **Questions for the Record Submitted by Congressman Mario Diaz-Balart**

#### **IRS PROPOSED REGULATION ON BANKS REPORTING OF INTEREST PAID TO NON - RESIDENT ALIENS**

Question. Is this regulation still going to be finalized and if so when will it be finalized ?

Question. What countries will the information collected be shared with ?

Question. The law states that the U.S. can only exchange tax information with countries we have tax treaties or exchanges with. Why does the IRS plan on collecting this information from banks on all non-resident aliens and not just the non-resident aliens of countries we have tax treaties or exchanges with?

Question. You stated in your testimony that if my main concern is this information being shared with Venezuela “it is not going to be a concern.” Since we do have a tax treaty with Venezuela, what assurances can you give me that this information will not be exchanged with the Chavez regime?

Question. Has a cost benefit analysis been done on the proposed regulation and if so, what were the findings?

### **Questions for the Record Submitted by Congressman Steve Womack**

#### **REAL ESTATE INVESTMENT TRUSTS**

Recently, the markets have taken notice of the successful shift across the timber industry to Real Estate Investment Trusts (REITs), and there is an increased interest among other sectors to attempt similar restructuring efforts for tax purposes. In fact, a number of technology and information services companies are considering converting into REITs. There is concern that some companies considering such a conversion may not be traditional REIT candidates, because they derive most of their income from active, service-oriented operations as opposed to passive, income-producing real estate.

Question. Where do you see this trend going and what impact will it have on tax revenues ?

Question. Is the REIT corporate structure a good fit for service-oriented businesses ?

Question. Does the IRS have the statutory authority to approve REIT conversions that change the tax treatment of these service-oriented businesses ?

Question. Do you believe that the increased interest from the technology and information services sector to convert into REITs – and the possibility of the IRS approving these conversions – will undermine Congress’s efforts on corporate tax reform ?

What factors does the IRS consider in private letter rulings for companies – particularly those companies in the technology and information services industry – converting into REITs?

Question. Does the IRS evaluate the impact of potential REIT conversions on job creation and the economy when making a private letter ruling?

Question. What is the IRS’s guidance regarding potential REIT candidates that own only a small percent of their properties and lease the remainder ?

Question. What is the IRS’s guidance regarding potential REIT candidates that lease a majority of real estate from already established REITs ?



**Questions for the Record Submitted by Congresswoman Barbara Lee**

**DIVERSITY AT THE IRS**

Dodd Frank required the Treasury Department to set up an Office of Minority and Women Inclusion (OMWI) to “be responsible for all agency matters relating to diversity in management, employment and business activities.”

Question: Can you provide the Subcommittee with an update on the how the IRS is working with the Treasury OMWI office in their efforts at creating th eir office of Minority and Women Inclusion?

Question: Please provide an annual breakdown of the diversity of the staff at the IRS, by pay grade and executive category and continue to update the subcommittee on the diversity plans, outreach and other efforts the IRS is making to strengthen the diversity of the IRS employees, procurement processes and contractors.

**POSSIBLE IMPACT OF BUDGET CUTS TO THE IRS**

Question: How will cuts to the IRS or a possible sequestration and even greater reductions impact the services and enforcement efforts of the IRS?

Question: There was some discussion about just what the return for the taxpayer dollar is when it is invested in enforcement and service efforts at the IRS. Given that the current budget of the IRS is approximately \$12 billion and the return on that investment is \$2.4 trillion in gross receipts and the tax gap is already \$450 billion annually, what would be the impact on federal revenue of additional cuts to the IRS budget?

Question: Is there any risk that critical services and mission critical work at the IRS would be impacted and would cuts to the IRS enforcement efforts actually increase the deficit?

**BUDGET CUT IMPACT ON IRS EFFORTS ON EITC AND CHILD TAX CREDIT**

The Earned Income Tax Credit is one of the most effective anti-poverty efforts that we have and the Child Tax Credit protects millions of children from poverty as well.

These credits are needed by more American families now, more than ever.

Question. How will deep cuts to the IRS effect efforts to maximize the proper payment of credits to the families who need them most?

Question. What does the IRS need to do and what other agencies do they need to coordinate with to intercept the large number of improper payments going out to tax payers before they are paid instead of having to clawback funds after they are paid out?

**Questions for the Record Submitted by Congressman Ed Pastor**

**REIT TRENDS**

Question. Recently, the markets have taken notice of the successful shift across the timber industry to Real Estate Investment Trusts (REITs) and there is an increased interest among other sectors to attempt similar restructuring efforts for tax purposes. In fact, a number of high-profile technology and information services companies have just announced their intentions to convert into REITs. Where do you see this trend going and what impact will it have on tax revenues?

**JOB GROWTH**

Question. As you know, REITs must distribute 90 percent of their taxable income to shareholders each year. While this pass-through model makes sense for bona fide REITs (since maintaining and managing their properties requires little retained earnings), I am concerned that innovative technology and information services companies would be required to make dramatic cuts in capital expenditures, long-term investments and human capital in order to comply with the 90 percent pass-through requirement. Additionally, these companies would no longer be able to retain and reinvest their earnings to grow their businesses and create – or possibly maintain – jobs. So at a time when America needs to be creating jobs, this part of the tax code may be creating an incentive to cut jobs. Does the IRS evaluate the impact of potential REIT conversions on job creation and the economy when making a private letter ruling, particularly those PLRs concerning technology and information services companies?

**TAX BASE/CORPORATE TAX REFORM**

Question. Recently, a number of technology and information services companies have announced their intentions to convert into REITs in order to receive favorable tax treatment by the IRS. These companies are not traditional REIT candidates, as most of their income derives from active, service-oriented operations as opposed to passive, income-producing real estate. REITs serve a legitimate purpose, but I am concerned that these service-oriented companies may be using the REIT structure in a way that falls outside of congressional intent. Is the REIT tax designation a good fit for service-oriented businesses? Does the IRS have the statutory authority to approve REIT conversions that so dramatically change the tax treatment of these service-oriented businesses?

Question. I am concerned that the recent increased interest from the technology and information services sector to convert into REITs – and the possibility of the IRS approving these conversions – will undermine Congress's efforts on corporate tax reform. We've already seen significant tax base erosion from the timber sector's recent REIT conversion: for instance, one company (Weyerhaeuser Company) saved \$1.064 billion in 2010 from income tax adjustments due to its REIT conversion. In addition, some have estimated that another company (Iron Mountain) would save \$148 million annually if it were to convert to a REIT. As Congress is looking to lower the corporate tax rate, it seems curious for the IRS to exempt these large,

service-oriented companies from paying taxes. Would the IRS consider suspending private letter rulings on non-traditional REIT conversions until Congress addresses corporate tax reform?

#### REAL ESTATE OWNERSHIP

Question. Some of these technology and information services companies lease most of their real estate and, in many cases, lease real estate from already established REITs. What is the IRS's guidance regarding potential REIT candidates that lease a majority of real estate from already established REITs?

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**From:** Lerner Lois G  
**Sent:** Thursday, April 05, 2012 9:31 PM  
**To:** Flax Nikole C  
**Subject:** Re: Questions for the Record.

I'll check in the morning. Have seen so many drafts I can't remember which is which --they are all in process and have had comments at least once

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From:** Flax Nikole C  
**Sent:** Thursday, April 05, 2012 08:51 PM  
**To:** Lerner Lois G  
**Cc:** Grant Joseph H; Paz Holly O  
**Subject:** RE: Questions for the Record.

I think we need to wrap up the others that we have before we can answer these (or at least Issa and Hatch). Issa is due on the 16th and I assume we need to send Hatch first. Any idea of the status of that one?

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**From:** Lerner Lois G  
**Sent:** Thursday, April 05, 2012 8:01 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H; Paz Holly O  
**Subject:** Questions for the Record.  
**Importance:** High

**Just go these from House Appropriations Hearing and was told they must be complete by next Friday. they are very difficult because they assume information that is incorrect, so responses need to clarify first and then provide the answer. They relate to the area we are responding to in the other Congressional. There is no way we can get these done by Friday and continue to work on the ones we already have. The people who know the area are already working on the other letters full time. So, I'd appreciate it if you could give us the order of priority you prefer so we can get started. Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Thursday, April 05, 2012 9:33 PM  
**To:** Paz Holly O; Park Nalee; Lowe Justin; Megosh Andy  
**Cc:** Marx Dawn R  
**Subject:** Fw: Questions for the Record.  
  
**Importance:** High

I will be on in the morning after all. Who has Hatch and how close is it to me getting another draft? Thanks  
Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

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**Sent:** Thursday, April 05, 2012 08:51 PM  
**To:** Lerner Lois G  
**Cc:** Grant Joseph H; Paz Holly O  
**Subject:** RE: Questions for the Record.

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*Lois G. Lerner*  
Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Monday, April 09, 2012 8:04 AM  
**To:** Flax Nikole C; Paz Holly O  
**Cc:** Marks Nancy J; Urban Joseph J  
**Subject:** RE: c4 congressional

I think we already have that [REDACTED]

(b)(5)/DP

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Friday, April 06, 2012 5:16 PM  
**To:** Lerner Lois G; Paz Holly O  
**Cc:** Marks Nancy J; Urban Joseph J  
**Subject:** c4 congressional

I know there is a ton of work going on trying to answer the various responses. By my count the big ones are Hatch, Issa, Levin and Appropriations QFRs. Plus we will be getting a Boutany follow-up and TIGTA.

The thought is that we should develop [REDACTED]

(b)(5)/DP

Does this work?

I will be away until next Friday, but will have my laptop so feel free to send drafts.

Thanks

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**From:** Lerner Lois G  
**Sent:** Monday, April 09, 2012 9:52 AM  
**To:** Park Nalee; Urban Joseph J; Fish David L  
**Cc:** Paz Holly O; Lowe Justin  
**Subject:** FW: Hatch  
**Attachments:** Hatch Congr Ltr 4-9-2012 clean.doc; Hatch Congr Ltr 4-9-2012.doc

**Look at the clean copy version--I put my edits on it**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Monday, April 09, 2012 6:12 AM  
**To:** Lerner Lois G; Paz Holly O; Fish David L; Kindell Judith E; Megosh Andy; Lowe Justin  
**Cc:** Marx Dawn R; Urban Joseph J  
**Subject:** Hatch

Attached is the latest draft - first attachment is a clean copy with changes reflecting Friday's discussion, and second has the changes tracked.

Response to question 6 probably has the most changes. The structure of the response ended up being slightly different from our discussion, but we can move up the (b)(5)/DP if you still prefer.

I believe this one is due Wednesday, April 11 - assume we'll be discussing this one at 10am today so to send up to Nikole soon.

NaLee

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(b)(5) DP



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(b)(5) DP

(b)(5) DP

(b)(5) DP



(b)(5) DP

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**From:** Lerner Lois G  
**Sent:** Monday, April 09, 2012 12:19 PM  
**To:** Urban Joseph J; Lowe Justin; Miller Thomas J; Paz Holly O; Fish David L; Park Nalee; Megosh Andy; Kindell Judith E  
**Subject:** RE: : Draft transcript

Well--that is interesting and supports Tom's suggestion that we talk about the problem with that is leaning towards (b)(5)/DP Thoughts\_\_I'm still (b)(5)/DP

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Urban Joseph J  
**Sent:** Monday, April 09, 2012 11:24 AM  
**To:** Lowe Justin; Miller Thomas J; Paz Holly O; Lerner Lois G; Fish David L; Park Nalee; Megosh Andy; Kindell Judith E  
**Subject:** FW:: Draft transcript

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**From:** Amato Amy  
**Sent:** Monday, April 09, 2012 11:10 AM  
**To:** Urban Joseph J  
**Cc:** Williams Floyd L  
**Subject:** Draft transcript

As discussed, here's a version of the uncorrected transcript. It's not the official record, but what Congressional Quarterly posted on-line. It should give you some context about what Mr. Yoder was after and is fairly close to the official record I'm in the process of correcting. Please let me know if you have additional questions (and if it would help to see the questions he references from Mr. Graves).

YODER:

Thank you, Madam Chair.

Commissioner, I appreciate your being here today. I might be completely (inaudible) I just stepped in from another committee hearing, but I did want to follow up on some questions that I know Mr. Graves has asked you earlier about political organizations.

And if you might just enlighten me, I know there's been some concerns from some groups that the IRS has unfairly targeted political groups in their efforts to -- certainly, there's a broad range of powers that the IRS can use to investigate, request paperwork and things that can be somewhat subjective in its implementation. So you might just discuss that a little bit, and, particular ly, did the IRS use one examination regime for organizations deemed to engage at political activities and one that is not or is it the same approach?

SHULMAN:

So I won't repeat for the committee that I walked through the basic framework that we used in our tax exempting government entities group to look at 501(c)(4) organizations.

The main issue, I think, is at stake is that 501(c)(4) organizations are allowed to engage in political and campaign activity but it can't be their primary purpose or primary activity. Anything that involves political activity, we have and it's really all sorts of sensitive cases.

If it's been referred by a member of Congress, it gets this same treatment because we want to insulate our people from any political influence on the IRS that's very much built in to the core of our nonpartisan, nonpolitical approach at the agency and so in the examination context.

And I'll get in a second because I think a lot of the reporting hasn't been in the examination process. We have a committee of three people that looks at any referrals or any allegations of misconduct in the political sphere that determines if there is enough evidence that the allegations are correct. If so, it gets sent to an individual examiner. These three people are, you know, career professionals, very much removed. You know, I've never talked about a case. No one would ever bring me any of these kinds of cases. I'm very much removed from all of Washington and activity.

So that's the process that's used for deciding examinations that have any sort of political, which is, you know, not the same as, you know, we're going to examine a government pension planner or something else. That's more about risk based kind of approach.

501(c)(4)s can hold themselves up as such. Don't need to apply for an application. We then file their 990 and our folks would look at it and see if there's a need for an examination and as you from our examinations statistics, you know the chances of examination is much lower. A bunch of those organizations decided to apply and in the application process that was gotten some of the back and forth in the application process -- it's gotten a lot of attention recently and that's the normal back and forth of an application process.

YODER:

Well, to the extent that there would be concern on whether it's justified or not -- concern that political organizations of certain angles are being unfairly targeted. How do you ensure that in the process of, you know, auditing and examination, all of that, that you ensure that that's done in a fashion that it doesn't look at one organization or another based upon their political perspective. Do you have any built in safeguards to ensure?

SHULMAN:

Sure, I mean the built in safeguard is, you know, A, it's culture and tone (ph) at the top. People (inaudible) won't be tolerated. I mean these all started back in, you know, when President Nixon tried to use the IRS for his own political gains, and there are laws in this country around people reaching into the IRS. If certain people call me about a specific case or anyone at the IRS, we actually need to report this to Congress and inspector general and so there are laws built in to it.

The next safeguard is there are only two political appointees in the IRS. It's unlike any agency and I happen to be one that has a five-year term, which overlaps presidents and to keep it insulated and it's my job to make sure that we run as a nonpolitical organization.

And then we have the safeguards built in to this process th at no one person can decide to examine an organization based on political activities. So you've got your peers watching. You can't just get a case go off in the corner and run with your own agenda.

So I think there's a lot of safeguards built in.

YODER:

OK. I appreciate that. And I know we did -- the chairwoman asked about the simplification of the tax code and I just want to engage a little bit on dialogue of how we get to that point. I hear both political parties talking about simplification of the tax code. I think most Americans think the tax code is too complicated, that they have to hire a lawyer and an accountant just to be able to fill out their basic income taxes and that small businesses are tangled up with myriad of rules and regulations coming out of Washington and certainly, tax code frustrations are always on the top of the list of things that make it difficult for them.

We're all focused on pro-growth tax code policies in this federal government that supports job creation. What can we do? What steps can we start taking now to work with an existing code?

And then, second of all, has the IRS taken any and do they take any positions on these issues in terms of whether they have an opinion or not? My assumption is no but, you might speak to that.

And then, there are obviously some lots of plans out there from a straight fraud tax to a fair tax and I think your department will be highly involved in much of what goes on in this Capitol over the next coming months as we try to sort through this.

SHULMAN:

Yes, look, I think there is a broad bipartisan consensus that the tax code is too complex. One of my favorite statistics is it's four times as long as (inaudible). It -- I think simplification would be helpful from a compliance and a service standpoint. You know, I'm not prepared to give you my dissertation on, you know, all the places you should simplify it.

I think the president has talked about it being way too complex as that have chairman of Ways and Means and Finance Committee and you know, I th ink -- you know, there's good movement and agreement for the need to engage in serious simplification. I think, you know, I'll leave it to the Congress to figure out exactly how it will get together and where to put it in its set of priorities

YODER:

Well, I appreciate that. You know, I think certainly, and both of the parties are concerned about some corporations that end up paying no taxes and then, you know, large percentages of Americans that don't end up any income taxes and I think there's just a ge neral sense of frustration amongst Americans. The code doesn't maybe work for everybody the right way.

And so we're very excited and interested in engaging with you in really in a bipartisan approach to -- if we're going to wait (ph) to make this pro -growth code and simplify it for Americans and make it more efficient and useful and I look forward in engaging with you and others on that process.

Thank you, Madam Chair.

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**Sent:** Monday, April 09, 2012 12:20 PM  
**To:** Flax Nikole C  
**Subject:** FW: : Draft transcript

**Importance:** High

So, we had planned to respond to his QFRs based on a discussion of the [REDACTED]

(b)(5)/DP

*Lois G. Lerner*

Director of Exempt Organizations

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---

**From:** Park Nalee  
**Sent:** Monday, April 09, 2012 12:21 PM  
**To:** Lerner Lois G  
**Subject:** Issa  
**Attachments:** Issa congressional.doc

Per your request, working draft attached.

NaLee

NaLee Park  
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TEGE, Washington D.C.  
(t) 202.283.9453 | (f) 202.283.9462

(b)(5) DP

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(b)(5) DP

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**From:** Lerner Lois G  
**Sent:** Monday, April 09, 2012 1:57 PM  
**To:** Paterson Troy D TIGTA  
**Cc:** Paz Holly O  
**Subject:** A Few items

**Importance:** High

1. We had a nice chat with Tom and Cheryl last week regarding the c4 audit. I sent a follow up indicating that I wanted Holly Paz (Acting Director R & A) to be in Cincinnati when they go out there. We got a message today that they would like to start in Cincy on Monday. Unfortunately, Cindy Thomas will be here next week. So, we'd like to push the Cincinnati meeting out. Holly will get back with Tom, but I just wanted you to know what was happening.

2. We have numerous Congressional on c4 orgs and are responding to those, as well as QFRs to the Commissioner. One QFR reads: " If it should ever dawn on the IG takes with overseeing your agency that the matters about which I have been asking you warrant scrutiny to reassure the public that the IRS is not, once again, being subordinated to partisan political purposes, will you cooperate with reservation and direct every appointee, officials, employee and contractor of your agency to do so as well?"

(b)(5) DP

Let us know. Thanks

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Park Nalee  
**Sent:** Monday, April 09, 2012 2:57 PM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O; Fish David L; Urban Joseph J; Miller Thomas J; Kindell Judith E; Megosh Andy; Lowe Justin  
**Subject:** FW: Hatch  
**Attachments:** Hatch Congr Ltr 4-9-2012 rev.doc

Latest draft attached - accepted your edits and new changes are tracked.

Also, just to recap so we're all on the same page/friendly reminder of your "to -do" list from this morning's meeting:

1. Discuss with/remind Nikole:

- due date for Bennett, Schumer and Hatch letters are Wednesday, April 11. She already has Bennett and Schumer. Hatch is attached.
- Yoder question re: communication with WH, Treasury, etc - still "no, no records/communication" - (b)(5)/DP
- Yoder question re: steps/directives to "preserve" documents

2. Yoder - Check with TIGTA re: opening letter for investigation

3. Levin - Check with Counsel where are they with congressional questions # 4 and 7. (Judy's working on question 5 in the Levin letter.)

NaLee  
202.283.9453

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**From:** Lerner Lois G  
**Sent:** Monday, April 09, 2012 10:52 AM  
**To:** Park Nalee; Urban Joseph J; Fish David L  
**Cc:** Paz Holly O; Lowe Justin  
**Subject:** FW: Hatch

**Look at the clean copy version--I put my edits on it**

*Lois G. Lerner*  
Director of Exempt Organizations

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**From:** Park Nalee  
**Sent:** Monday, April 09, 2012 6:12 AM  
**To:** Lerner Lois G; Paz Holly O; Fish David L; Kindell Judith E; Megosh Andy; Lowe Justin  
**Cc:** Marx Dawn R; Urban Joseph J  
**Subject:** Hatch

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(b)(5) DP

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**From:** Lerner Lois G  
**Sent:** Monday, April 09, 2012 6:15 PM  
**To:** Cook Janine  
**Cc:** Paz Holly O  
**Subject:** Congressional

**Checking in to see where you are on questions 4 and 7 from the Levin Congressional?**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Monday, April 09, 2012 6:17 PM  
**To:** Flax Nikole C  
**Subject:** Hate to Do This  
**Attachments:** Hatch Congr Ltr 4-9-2012 rev.doc

I apologize not to be sending a final final. I made some edits and as you can see, I have some comments and need responses from my disclosure folks on how we answered the last 2 questions. Having said that, I thought if you read it in final view, you could at least get a sense of what we are doing --promise to have the final to you in the morning.

NaLee wanted me to remind you due dates for Bennett, Schumer and Hatch are Wed. April 11 -- you already have our Bennett and Schumer drafts.

*Lois G. Lerner*

Director of Exempt Organizations

(b)(5) DP



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**From:** Lerner Lois G  
**Sent:** Tuesday, April 10, 2012 2:04 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee; Lerner Lois G  
**Subject:** FW: Hatch  
**Attachments:** Enclosure A - rev proc 2012-9 irb12-02.pdf; Enclosure B - Case Grading Criteria rev 11-25-02.doc; Enclosure C - irm\_07-020-002.pdf; Hatch Congr Ltr 4-10-2012 rev.doc

**OK--here is our draft of the Hatch letter with attachments. Please note that the language in the last paragraph to question 6 and the last paragraph to question 7 have been sent to Disclosure and approved by Margo Stevens. let us know if there is anything else you need on this one--we will all take another look as it has been adjusted numerous times. April 11th due date is to Leg affairs. I assume you'll get it to them --we weren't planning on sending it.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Tuesday, April 10, 2012 2:40 PM  
**To:** Lerner Lois G  
**Cc:** Marks Nancy J; Urban Joseph J; Fish David L; Kindell Judith E  
**Subject:** Hatch

Latest draft with enclosures.

NaLee

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# Internal Revenue bulletin

**Bulletin No. 2012-2**  
**January 9, 2012**

## HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

## SPECIAL ANNOUNCEMENT

### **T.D. 9559, page 252.**

Final regulations amend the user fee regulations and establish a new user fee for individuals to take the registered tax return preparer competency examination.

## INCOME TAX

### **Rev. Rul. 2012-1, page 255.**

**Recurring item exception to the all events test.** This ruling clarifies the treatment of certain liabilities under the recurring item exception to the economic performance requirement under section 461(h)(3) of the Code. It also addresses the application of the “not material” and “better matching” requirement of the recurring item exception in the context of a lease and a service contract each having a term of one year. The ruling distinguishes contracts for the provision of services from insurance and warranty contracts and applies the recurring item exception differently. Rev. Proc. 2011-14 modified and amplified.

### **T.D. 9559, page 252.**

Final regulations amend the user fee regulations and establish a new user fee for individuals to take the registered tax return preparer competency examination.

### **REG-149625-10, page 279.**

Proposed regulations under section 382 of the Code provide exceptions to the segregation rules, under which certain transactions may create one or more additional public groups treated as 5-percent shareholders, for certain sales of loss corporation stock to small shareholders and for certain re-

demptions of small shareholders. The regulations also provide that in certain circumstances certain entities owning the loss corporation generally will be treated as having no more than one public group.

## EXEMPT ORGANIZATIONS

### **Rev. Proc. 2012-9, page 261.**

This procedure sets forth issuing determination letters and rulings on the exempt status of organizations under sections 501 and 521 of the Code. The procedures also apply to the revocation and modification of determination letters or rulings, and provide guidance on the exhaustion of administrative remedies for purposes of declaratory judgment under section 7428 of the Code. Rev. Proc. 2011-9 superseded.

### **Rev. Proc. 2012-10, page 273.**

This procedure sets forth updated procedures with respect to issuing rulings and determination letters on private foundation status under § 509(a) of the Code, operating foundation status under § 4942(j)(3), and exempt operating foundation status under § 4940(d)(2), of organizations exempt from Federal income tax under § 501(c)(3). This procedure also applies to the issuance of determination letters on the foundation status under § 509(a)(3) of nonexempt charitable trusts described in § 4947(a)(1). Rev. Proc. 2011-10 superseded.

(Continued on the next page)

Finding Lists begin on page ii.



Department of the Treasury  
Internal Revenue Service

## ADMINISTRATIVE

### **T.D. 9559, page 252.**

Final regulations amend the user fee regulations and establish a new user fee for individuals to take the registered tax return preparer competency examination.

### **Notice 2012-1, page 260.**

**Optional standard mileage rates for 2012.** This notice announces 55.5 cents as the optional standard mileage rate for substantiating the amount of the deduction for the business use of an automobile, 14 cents as the optional rate for use of an automobile as a charitable contribution, and 23 cents as the optional rate for use of an automobile as a medical or moving expense for 2012. The notice also provides the amount a taxpayer must use in calculating reductions to basis for depreciation taken under the business standard mileage rate and the maximum standard automobile cost for automobiles under a FAVR allowance. Notice 2010-88, as modified by Announcement 2011-40, is superseded.

### **Rev. Proc. 2012-12, page 275.**

This procedure describes the procedures and standards that organizations must follow to be identified by the Service as a qualifying organization that may accredit continuing education providers under section 10.9(a)(1)(iii) of Circular 230 and the procedures and standards that individuals and entities must follow to be approved as continuing education providers under section 10.9(a)(1) of Circular 230.

### **Announcement 2012-2, page 285.**

This announcement contains an update to Publication 1220, *Specifications for Filing Forms 1097, 1098, 1099, 3921, 3922, 5498, 8935 and W-2G, Electronically*, revised 9-2011, concerning the filing of Form 1099-K.

26 CFR 601.201: Rulings and determination letters.

# **Rev. Proc. 2012-9**

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**SECTION 1. WHAT IS THE  
PURPOSE OF THIS REVENUE  
PROCEDURE?**

This revenue procedure sets forth procedures for issuing determination letters and rulings on the exempt status of organizations under §§ 501 and 521 of the Internal Revenue Code other than those subject to Rev. Proc. 2012–6, last bulletin (relating to pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans). Generally, the Service issues these determination letters and rulings in response to applications for recognition of exemption from Federal income tax. These procedures also apply to revocation or modification of determination letters or rulings. This revenue procedure also provides guidance on the exhaustion of administrative remedies for purposes of declaratory judgment under § 7428 of the Code.

**Description of terms used in this  
revenue procedure**

.01 For purposes of this revenue procedure —

(1) The term “Service” means the Internal Revenue Service.

(2) The term “application” means the appropriate form or letter that an organization must file or submit to the Service for recognition of exemption from Federal income tax under the applicable section of the Internal Revenue Code. *See* section 3 for information on specific forms.

(3) The term “EO Determinations” means the office of the Service that is primarily responsible for processing initial applications for tax-exempt status. It includes the main EO Determinations office located in Cincinnati, Ohio, and other field offices that are under the direction and control of the Manager, EO Determinations. Applications are generally processed in the centralized EO Determinations office in Cincinnati, Ohio. However, some applications may be processed in other EO Determinations offices or referred to EO Technical.

(4) The term “EO Technical” means the office of the Service that is primarily responsible for issuing letter rulings to taxpayers on exempt organization matters, and for providing technical

advice or technical assistance to other offices of the Service on exempt organization matters. The EO Technical office is located in Washington, DC.

(5) The term “Appeals Office” means any office under the direction and control of the Chief, Appeals. The purpose of the Appeals Office is to resolve tax controversies, without litigation, on a fair and impartial basis. The Appeals Office is independent of EO Determinations and EO Technical.

(6) The term “determination letter” means a written statement issued by EO Determinations or an Appeals Office in response to an application for recognition of exemption from Federal income tax under §§ 501 and 521. This includes a written statement issued by EO Determinations or an Appeals Office on the basis of advice secured from EO Technical pursuant to the procedures prescribed herein and in Rev. Proc. 2012–5.

(7) The term “ruling” means a written statement issued by EO Technical in response to an application for recognition of exemption from Federal income tax under §§ 501 and 521.

(8) The term “Code” means the Internal Revenue Code.

**Updated annually**

.02 This revenue procedure is updated annually, but may be modified or amplified during the year.

**SECTION 2. NATURE OF  
CHANGES AND RELATED  
REVENUE PROCEDURES**

**Rev. Proc. 2011–9 is superseded**

.01 This revenue procedure is a general update of Rev. Proc. 2011–9, 2011–2 I.R.B. 283, which is hereby superseded.

**Related revenue procedures**

.02 This revenue procedure supplements Rev. Proc. 2012–10, this Bulletin, with respect to the effects of § 7428 of the Code on the classification of organizations under §§ 509(a) and 4942(j)(3). Rev. Proc. 80–27, 1980–1 C.B. 677, sets forth procedures under which exemption may be recognized on a group basis for subordinate organizations affiliated with and under the general supervision and control of a central organization. Rev. Proc. 72–5, 1972–1 C.B. 709, provides information for religious and apostolic organizations seeking recognition of exemption under § 501(d). General procedures for requests for a determination letter or ruling are provided in Rev. Proc. 2012–4. User fees for requests for a determination letter or ruling are set forth in Rev. Proc. 2012–8.

**What changes have been made to  
Rev. Proc. 2011–9?**

.03 Notable changes to Rev. Proc. 2011–9 that appear in this year’s update include —

(1) Section 3.01 clarifies that Form 8718, *User Fee for Exempt Organization Determination Letter Request*, is not a determination letter application.

(2) A reference to § 501(r) is added to section 3.03 to cover hospitals seeking exemption under § 501(c)(3).

(3) Section 4.08 is added to describe existing practice that the Service may decline to issue a group exemption letter when appropriate in the interest of sound tax administration. *See* Rev. Proc. 2012–4, section 8.01.

(4) A new item (6) is added to section 12 to reflect revocation of exemption automatically pursuant to § 6033(j) for failure to file a required annual return or notice for three consecutive years.

### **SECTION 3. WHAT ARE THE PROCEDURES FOR REQUESTING RECOGNITION OF EXEMPT STATUS?**

#### **In general**

.01 An organization seeking recognition of exempt status under § 501 or § 521 is required to submit the appropriate application. In the case of a numbered application form, the current version of the form must be submitted. A central organization that has previously received recognition of its own exemption can request a group exemption letter by submitting a letter application along with Form 8718, *User Fee for Exempt Organization Determination Letter Request*. See Rev. Proc. 80–27. Form 8718 is not a determination letter application. Attach this form to the determination letter application.

#### **User fee**

.02 An application must be submitted with the correct user fee, as set forth in Rev. Proc. 2012–8.

#### **Form 1023 application**

.03 An organization seeking recognition of exemption under § 501(c)(3) and § 501(e), (f), (k), (n), (q), or (r) must submit a completed Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*. In the case of an organization that provides credit counseling services, see § 501(q) of the Code. In the case of an organization that is a hospital and is seeking exemption under § 501(c)(3), see § 501(r) of the Code.

#### **Form 1024 application**

.04 An organization seeking recognition of exemption under § 501(c)(2), (4), (5), (6), (7), (8), (9), (10), (12), (13), (15), (17), (19), or (25) must submit a completed Form 1024, *Application for Recognition of Exemption Under Section 501(a)*, along with Form 8718. In the case of an organization that provides credit counseling services and seeks recognition of exemption under § 501(c)(4), see § 501(q) of the Code.

#### **Letter application**

.05 An organization seeking recognition of exemption under § 501(c)(11), (14), (16), (18), (21), (22), (23), (26), (27), (28), or (29), or under § 501(d), must submit a letter application along with Form 8718.

#### **Form 1028 application**

.06 An organization seeking recognition of exemption under § 521 must submit a completed Form 1028, *Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code*, along with Form 8718.

#### **Form 8871 notice for political organizations**

.07 A political party, a campaign committee for a candidate for federal, state or local office, and a political action committee are all political organizations subject to tax under § 527. To be tax-exempt, a political organization may be required to notify the Service that it is to be treated as a § 527 organization by electronically filing Form 8871, *Political Organization Notice of Section 527 Status*. For details, go to the IRS website at [www.irs.gov/polorgs](http://www.irs.gov/polorgs).

#### **Requirements for a substantially completed application**

.08 A substantially completed application, including a letter application, is one that:

(1) is signed by an authorized individual;

(2) includes an Employer Identification Number (EIN);

(3) for organizations other than those described in § 501(c)(3), includes a statement of receipts and expenditures and a balance sheet for the current year and the three preceding years (or the years the organization was in existence, if less than four years), and if the organization has not yet commenced operations or has not completed one accounting period, a proposed budget for two full accounting periods and a current statement of assets and liabilities; for organizations described in § 501(c)(3), see Form 1023 and Notice 1382;

(4) includes a detailed narrative statement of proposed activities, including each of the fundraising activities of a § 501(c)(3) organization, and a narrative description of anticipated receipts and contemplated expenditures;

(5) includes a copy of the organizing or enabling document that is signed by a principal officer or is accompanied by a written declaration signed by an authorized individual certifying that the document is a complete and accurate copy of the original or otherwise meets the requirements of a “conformed copy” as outlined in Rev. Proc. 68–14, 1968–1 C.B. 768;

(6) if the organizing or enabling document is in the form of articles of incorporation, includes evidence that it was filed with and approved by an appropriate state official (*e.g.*, stamped “Filed” and dated by the Secretary of State); alternatively, a copy of the articles of incorporation may be submitted if accompanied by a written declaration signed by an authorized individual that the copy is a complete and accurate copy of the original copy that was filed with and approved by the state; if a copy is submitted, the written declaration must include the date the articles were filed with the state;

(7) if the organization has adopted by-laws, includes a current copy; the by-laws need not be signed if submitted as an attachment to the application for recognition of exemption; otherwise, the by-laws must be verified as current by an authorized individual; and

(8) is accompanied by the correct user fee and Form 8718, when applicable.

**Terrorist organizations not eligible to apply for recognition of exemption**

.09 An organization that is identified or designated as a terrorist organization within the meaning of § 501(p)(2) of the Code is not eligible to apply for recognition of exemption.

**SECTION 4. WHAT ARE THE STANDARDS FOR ISSUING A DETERMINATION LETTER OR RULING ON EXEMPT STATUS?**

**Exempt status must be established in application and supporting documents**

.01 A favorable determination letter or ruling will be issued to an organization only if its application and supporting documents establish that it meets the particular requirements of the section under which exemption from Federal income tax is claimed.

**Determination letter or ruling based solely on administrative record**

.02 A determination letter or ruling on exempt status is issued based solely upon the facts and representations contained in the administrative record.

(1) The applicant is responsible for the accuracy of any factual representations contained in the application.

(2) Any oral representation of additional facts or modification of facts as represented or alleged in the application must be reduced to writing over the signature of an officer or director of the taxpayer under a penalties of perjury statement.

(3) The failure to disclose a material fact or misrepresentation of a material fact on the application may adversely affect the reliance that would otherwise be obtained through issuance by the Service of a favorable determination letter or ruling.

**Exempt status may be recognized in advance of actual operations**

.03 Exempt status may be recognized in advance of the organization’s operations if the proposed activities are described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements for exemption pursuant to the section of the Code under which exemption is claimed.

(1) A mere restatement of exempt purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement.

(2) The organization must fully describe all of the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures.

(3) Where the organization cannot demonstrate to the satisfaction of the Service that it qualifies for exemption pursuant to the section of the Code under which exemption is claimed, the



Service will generally issue a proposed adverse determination letter or ruling. *See also* section 7 of this revenue procedure.

**No letter if exempt status issue in litigation or under consideration within the Service**

.04 A determination letter or ruling on exempt status ordinarily will not be issued if an issue involving the organization's exempt status under § 501 or § 521 is pending in litigation, is under consideration within the Service, or if issuance of a determination letter or ruling is not in the interest of sound tax administration. If the Service declines to issue a determination or ruling to an organization seeking exempt status under § 501(c)(3), the organization may be able to pursue a declaratory judgment under § 7428, provided that it has exhausted its administrative remedies.

**Incomplete application**

.05 If an application does not contain all of the items set out in section 3.08 of this revenue procedure, the Service may return it to the applicant for completion.

(1) In lieu of returning an incomplete application, the Service may retain the application and request additional information needed for a substantially completed application.

(2) In the case of an application under § 501(c)(3) that is returned incomplete, the 270-day period referred to in § 7428(b)(2) will not be considered as starting until the date a substantially completed Form 1023 is refiled with or remailed to the Service. If the application is mailed to the Service and a postmark is not evident, the 270-day period will start to run on the date the Service actually receives the substantially completed Form 1023. The same rules apply for purposes of the notice requirement of § 508.

(3) Generally, the user fee will not be refunded if an incomplete application is filed. *See* Rev. Proc. 2012-8, section 10.

**Even if application is complete, additional information may be required**

.06 Even though an application is substantially complete, the Service may request additional information before issuing a determination letter or ruling.

(1) If the application involves an issue where contrary authorities exist, an applicant's failure to disclose and distinguish contrary authorities may result in requests for additional information, which could delay final action on the application.

(2) In the case of an application under § 501(c)(3), the period of time beginning on the date the Service requests additional information until the date the information is submitted to the Service will not be counted for purposes of the 270-day period referred to in § 7428(b)(2).

**Expedited handling**

.07 Applications are normally processed in the order of receipt by the Service. However, expedited handling of an application may be approved where a request is made in writing and contains a compelling reason for processing the application ahead of others. Upon approval of a request for expedited handling, an application will be considered out of its normal order. This does not mean the application will be immediately approved or denied. Circumstances generally warranting expedited processing include:

(1) a grant to the applicant is pending and the failure to secure the grant may have an adverse impact on the organization's ability to continue to operate;

(2) the purpose of the newly created organization is to provide disaster relief to victims of emergencies such as flood and hurricane; and

(3) there have been undue delays in issuing a determination letter or ruling caused by a Service error.

**May decline to issue group exemption**

.08 The Service may decline to issue a group exemption letter when appropriate in the interest of sound tax administration.

## **SECTION 5. WHAT OFFICES ISSUE AN EXEMPT STATUS DETERMINATION LETTER OR RULING?**

### **EO Determinations issues a determination letter in most cases**

.01 Under the general procedures outlined in Rev. Proc. 2012–4, EO Determinations is authorized to issue determination letters on applications for exempt status under §§ 501 and 521.

### **Certain applications referred to EO Technical**

.02 EO Determinations will refer to EO Technical those applications that present issues which are not specifically covered by statute or regulations, or by a ruling, opinion, or court decision published in the Internal Revenue Bulletin. In addition, EO Determinations will refer those applications that have been specifically reserved by revenue procedure or by other official Service instructions for handling by EO Technical for purposes of establishing uniformity or centralized control of designated categories of cases. EO Technical will notify the applicant organization upon receipt of a referred application, and will consider each such application and issue a ruling directly to the organization.

### **Technical advice may be requested in certain cases**

.03 If at any time during the course of consideration of an exemption application by EO Determinations the organization believes that its case involves an issue on which there is no published precedent, or there has been non-uniformity in the Service's handling of similar cases, the organization may request that EO Determinations either refer the application to EO Technical or seek technical advice from EO Technical. *See* Rev. Proc. 2012–5, sections 4.04 and 4.05.

### **Technical advice must be requested in certain cases**

.04 If EO Determinations proposes to recognize the exemption of an organization to which EO Technical had issued a previous contrary ruling or technical advice, EO Determinations must seek technical advice from EO Technical before issuing a determination letter. This does not apply where EO Technical issued an adverse ruling and the organization subsequently made changes to its purposes, activities, or operations to remove the basis for which exempt status was denied.

## **SECTION 6. WITHDRAWAL OF AN APPLICATION**

### **Application may be withdrawn prior to issuance of a determination letter or ruling**

.01 An application may be withdrawn upon the written request of an authorized individual at any time prior to the issuance of a determination letter or ruling. Therefore, an application may not be withdrawn after the issuance of a proposed adverse determination letter or ruling.

(1) When an application is withdrawn, the Service will retain the application and all supporting documents. The Service may consider the information submitted in connection with the withdrawn request in a subsequent examination of the organization.

(2) Generally, the user fee will not be refunded if an application is withdrawn. *See* Rev. Proc. 2012–8, section 10.

### **§ 7428 implications of withdrawal of application under § 501(c)(3)**

.02 The Service will not consider the withdrawal of an application under § 501(c)(3) as either a failure to make a determination within the meaning of § 7428(a)(2) or as an exhaustion of administrative remedies within the meaning of § 7428(b)(2).

## **SECTION 7. WHAT ARE THE PROCEDURES WHEN EXEMPT STATUS IS DENIED?**

### **Proposed adverse determination letter or ruling**

.01 If EO Determinations or EO Technical reaches the conclusion that the organization does not satisfy the requirements for exempt status pursuant to the section of the Code under which exemption is claimed, the Service generally will issue a proposed adverse determination letter or ruling, which will:

(1) include a detailed discussion of the Service's rationale for the denial of tax-exempt status; and

(2) advise the organization of its opportunity to appeal or protest the decision and request a conference.

**Appeal of a proposed adverse determination letter issued by EO Determinations**

.02 A proposed adverse determination letter issued by EO Determinations will advise the organization of its opportunity to appeal the determination by requesting Appeals Office consideration. To do this, the organization must submit a statement of the facts, law and arguments in support of its position within 30 days from the date of the adverse determination letter. The organization must also state whether it wishes an Appeals Office conference. Any determination letter issued on the basis of technical advice from EO Technical may not be appealed to the Appeals Office on issues that were the subject of the technical advice.

**Protest of a proposed adverse ruling issued by EO Technical**

.03 A proposed adverse ruling issued by EO Technical will advise the organization of its opportunity to file a protest statement within 30 days and to request a conference. If a conference is requested, the conference procedures outlined in Rev. Proc. 2012-4, section 12, are applicable.

**Final adverse determination letter or ruling where no appeal or protest is submitted**

.04 If an organization does not submit a timely appeal of a proposed adverse determination letter issued by EO Determinations, or a timely protest of a proposed adverse ruling issued by EO Technical, a final adverse determination letter or ruling will be issued to the organization. The final adverse letter or ruling will provide information about the filing of tax returns and the disclosure of the proposed and final adverse letters or rulings.

**How EO Determinations handles an appeal of a proposed adverse determination letter**

.05 If an organization submits an appeal of the proposed adverse determination letter, EO Determinations will first review the appeal, and, if it determines that the organization qualifies for tax-exempt status, issue a favorable exempt status determination letter. If EO Determinations maintains its adverse position after reviewing the appeal, it will forward the appeal and the exemption application case file to the Appeals Office.

**Consideration by the Appeals Office**

.06 The Appeals Office will consider the organization's appeal. If the Appeals Office agrees with the proposed adverse determination, it will either issue a final adverse determination or, if a conference was requested, contact the organization to schedule a conference. At the end of the conference process, which may involve the submission of additional information, the Appeals Office will either issue a final adverse determination letter or a favorable determination letter. If the Appeals Office believes that an exemption or private foundation status issue is not covered by published precedent or that there is non-uniformity, the Appeals Office must request technical advice from EO Technical in accordance with Rev. Proc. 2012-5, sections 4.04 and 4.05.

**If a protest of a proposed adverse ruling is submitted to EO Technical**

.07 If an organization submits a protest of a proposed adverse exempt status ruling, EO Technical will review the protest statement. If the protest convinces EO Technical that the organization qualifies for tax-exempt status, a favorable ruling will be issued. If EO Technical maintains its adverse position after reviewing the protest, it will either issue a final adverse ruling or, if a conference was requested, contact the organization to schedule a conference. At the end of the conference process, which may involve the submission of additional information, EO Technical will either issue a final adverse ruling or a favorable exempt status ruling.

**An appeal or protest may be withdrawn**

.08 An organization may withdraw its appeal or protest before the Service issues a final adverse determination letter or ruling. Upon receipt of the withdrawal request, the Service will complete the processing of the case in the same manner as if no appeal or protest was received.

**Appeal or protest and conference rights not applicable in certain situations**

.09 The opportunity to appeal or protest a proposed adverse determination letter or ruling and the conference rights described above are not applicable to matters where delay would be prejudicial to the interests of the Service (such as in cases involving fraud, jeopardy, the imminence of the expiration of the statute of limitations, or where immediate action is necessary to protect the interests of the Government).

**SECTION 8. DISCLOSURE OF APPLICATIONS AND DETERMINATION LETTERS AND RULINGS**

Sections 6104 and 6110 of the Code provide rules for the disclosure of applications, including supporting documents, and determination letters and rulings.

**Disclosure of applications, supporting documents, and favorable determination letters or rulings**

.01 The applications, any supporting documents, and the favorable determination letter or ruling issued, are available for public inspection under § 6104(a)(1) of the Code. However, there are certain limited disclosure exceptions for a trade secret, patent, process, style of work, or apparatus, if the Service determines that the disclosure of the information would adversely affect the organization.

(1) The Service is required to make the applications, supporting documents, and favorable determination letters or rulings available upon request. The public can request this information by submitting Form 4506–A, *Request for Public Inspection or Copy of Exempt or Political Organization IRS Form*. Organizations should ensure that applications and supporting documents do not include unnecessary personal identifying information (such as bank account numbers or social security numbers) that could result in identity theft or other adverse consequences if publicly disclosed.

(2) The exempt organization is required to make its exemption application, supporting documents, and determination letter or ruling available for public inspection without charge. For more information about the exempt organization’s disclosure obligations, see Publication 557, *Tax-Exempt Status for Your Organization*.

**Disclosure of adverse determination letters or rulings**

.02 The Service is required to make adverse determination letters and rulings available for public inspection under § 6110 of the Code. Upon issuance of the final adverse determination letter or ruling to an organization, both the proposed adverse determination letter or ruling and the final adverse determination letter or ruling will be released pursuant to § 6110.

(1) These documents are made available to the public after the deletion of names, addresses, and any other information that might identify the taxpayer. *See* § 6110(c) for other specific disclosure exemptions.

(2) The final adverse determination letter or ruling will enclose Notice 437, *Notice of Intention to Disclose*, and redacted copies of the final and proposed adverse determination letters or rulings. Notice 437 provides instructions if the organization disagrees with the deletions proposed by the Service.

**Disclosure to State officials when the Service refuses to recognize exemption under § 501(c)(3)**

.03 The Service may notify the appropriate State officials of a refusal to recognize an organization as tax-exempt under § 501(c)(3). *See* § 6104(c) of the Code. The notice to the State officials may include a copy of a proposed or final adverse determination letter or ruling the Service issued to the organization. In addition, upon request by the appropriate State official, the Service may make available for inspection and copying the exemption application and other information relating to the Service’s determination on exempt status.

**Disclosure to State officials of information about § 501(c)(3) applicants**

.04 The Service may disclose to State officials the name, address, and identification number of any organization that has applied for recognition of exemption under § 501(c)(3).

**SECTION 9. REVIEW OF DETERMINATION LETTERS BY EO TECHNICAL**

**Determination letters may be reviewed by EO Technical to assure uniformity**

.01 Determination letters issued by EO Determinations may be reviewed by EO Technical, or the Office of the Associate Chief Counsel (Passthroughs and Special Industries) (for cases under § 521), to assure uniform application of the statutes or regulations, or rulings, court opinions, or decisions published in the Internal Revenue Bulletin.

**Procedures for cases where EO Technical takes exception to a determination letter**

.02 If EO Technical takes exception to a determination letter issued by EO Determinations, the manager of EO Determinations will be advised. If EO Determinations notifies the organization of the exception taken, and the organization disagrees with the exception, the file will be returned to EO Technical. The referral to EO Technical will be treated as a request for technical advice, and the procedures in Rev. Proc. 2012–5 will be followed.

**SECTION 10. DECLARATORY  
JUDGMENT PROVISIONS OF  
§ 7428**

**Actual controversy involving  
certain issues**

.01 Generally, a declaratory judgment proceeding under § 7428 of the Code can be filed in the United States Tax Court, the United States Court of Federal Claims, or the district court of the United States for the District of Columbia with respect to an actual controversy involving a determination by the Service or a failure of the Service to make a determination with respect to the initial or continuing qualification or classification of an organization under § 501(c)(3) (charitable, educational, etc.); § 170(c)(2) (deductibility of contributions); § 509(a) (private foundation status); § 4942(j)(3) (operating foundation status); or § 521 (farmers cooperatives).

**Exhaustion of administrative  
remedies**

.02 Before filing a declaratory judgment action, an organization must exhaust its administrative remedies by taking, in a timely manner, all reasonable steps to secure a determination from the Service. These include:

(1) the filing of a substantially completed application Form 1023 under § 501(c)(3) pursuant to section 3.08 of this revenue procedure, or the request for a determination of foundation status pursuant to Rev. Proc. 2012–10, this Bulletin, or its successor;

(2) in appropriate cases, requesting relief pursuant to Treas. Reg. § 301.9100–1 of the Procedure and Administration Regulations regarding the extension of time for making an election or application for relief from tax;

(3) the timely submission of all additional information requested by the Service to perfect an exemption application or request for determination of private foundation status; and

(4) exhaustion of all administrative appeals available within the Service pursuant to section 7 of this revenue procedure.

**Not earlier than 270 days after  
seeking determination**

.03 An organization will in no event be deemed to have exhausted its administrative remedies prior to the earlier of:

(1) the completion of the steps in section 10.02, and the sending by the Service by certified or registered mail of a final determination letter or ruling; or

(2) the expiration of the 270-day period described in § 7428(b)(2) in a case where the Service has not issued a final determination letter or ruling, and the organization has taken, in a timely manner, all reasonable steps to secure a determination letter or ruling.

**Service must have reasonable time  
to act on an appeal or protest**

.04 The steps described in section 10.02 will not be considered completed until the Service has had a reasonable time to act upon an appeal or protest, as the case may be.

**Final determination to which  
§ 7428 applies**

.05 A final determination to which § 7428 of the Code applies is a determination letter or ruling, sent by certified or registered mail, which holds that the organization is not described in § 501(c)(3) or § 170(c)(2), is a public charity described in a part of § 509 or § 170(b)(1)(A) other than the part under which the organization requested classification, is not a private foundation as defined in § 4942(j)(3), or is a private foundation and not a public charity described in a part of § 509 or § 170(b)(1)(A).

**SECTION 11. EFFECT OF  
DETERMINATION LETTER  
OR RULING RECOGNIZING  
EXEMPTION**

**Effective date of exemption**

.01 A determination letter or ruling recognizing exemption is usually effective as of the date of formation of an organization if its purposes and activities prior to the date of the determination letter or ruling were consistent with the requirements for exemption. However, special rules under § 508(a) of the Code may apply to an organization applying for exemption under § 501(c)(3), and special rules under § 505(c) may apply to an organization applying for exemption under § 501(c)(9), (17), or (20).

(1) If the Service requires the organization to alter its activities or make substantive amendments to its enabling instrument, the exemption will be effective as of the date specified in a determination letter or ruling.

(2) If the Service requires the organization to make a nonsubstantive amendment, exemption will ordinarily be recognized as of the date of formation. Examples of nonsubstantive amendments include correction of a clerical error in the enabling instrument or the addition of a dissolution clause where the activities of the organization prior to the determination letter or ruling are consistent with the requirements for exemption.

**Reliance on determination letter or ruling**

.02 A determination letter or ruling recognizing exemption may not be relied upon if there is a material change, inconsistent with exemption, in the character, the purpose, or the method of operation of the organization, or a change in the applicable law. Also, a determination letter or ruling may not be relied upon if it was based on any inaccurate material factual representations. *See* section 12.01.

**SECTION 12. REVOCATION OR MODIFICATION OF DETERMINATION LETTER OR RULING RECOGNIZING EXEMPTION**

A determination letter or ruling recognizing exemption may be revoked or modified: (1) by a notice to the taxpayer to whom the determination letter or ruling was issued; (2) by enactment of legislation or ratification of a tax treaty; (3) by a decision of the Supreme Court of the United States; (4) by the issuance of temporary or final regulations; (5) by the issuance of a revenue ruling, revenue procedure, or other statement published in the Internal Revenue Bulletin; or (6) automatically, pursuant to § 6033(j), for failure to file a required annual return or notice for three consecutive years.

**Revocation or modification of a determination letter or ruling may be retroactive**

.01 The revocation or modification of a determination letter or ruling recognizing exemption may be retroactive if there has been a change in the applicable law, the organization omitted or misstated a material fact, operated in a manner materially different from that originally represented, or, in the case of organizations to which § 503 of the Code applies, engaged in a prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purpose and such transaction involved a substantial part of the corpus or income of such organization. In certain cases an organization may seek relief from retroactive revocation or modification of a determination letter or ruling under § 7805(b). Requests for § 7805(b) relief are subject to the procedures set forth in Rev. Proc. 2012-4.

(1) Where there is a material change, inconsistent with exemption, in the character, the purpose, or the method of operation of an organization, revocation or modification will ordinarily take effect as of the date of such material change.

(2) In the case where a determination letter or ruling is issued in error or is no longer in accord with the Service's position and § 7805(b) relief is granted (*see* sections 13 and 14 of Rev. Proc. 2012-4), ordinarily, the revocation or modification will be effective not earlier than the date when the Service modifies or revokes the original determination letter or ruling.

**Appeal and conference procedures in the case of revocation or modification of exempt status letter**

.02 In the case of a revocation or modification of a determination letter or ruling, the appeal and conference procedures are generally the same as set out in section 7 of this revenue procedure, including the right of the organization to request that EO Determinations or the Appeals Office seek technical advice from EO Technical. However, appeal and conference rights are not applicable to matters where delay would be prejudicial to the interests of the Service (such as in cases involving fraud, jeopardy, the imminence of the expiration of the statute of limitations, or where immediate action is necessary to protect the interests of the Government).

(1) If the case involves an exempt status issue on which EO Technical had issued a previous contrary ruling or technical advice, EO Determinations generally must seek technical advice from EO Technical.

(2) EO Determinations does not have to seek technical advice if the prior ruling or technical advice has been revoked by subsequent contrary published precedent or if the proposed revocation involves a subordinate unit of an organization that holds a group exemption letter issued by EO Technical, the EO Technical ruling or technical advice was issued under the Internal

Revenue Code of 1939 or prior revenue acts, or if the ruling was issued in response to Form 4653, *Notification Concerning Foundation Status*.

**SECTION 13. EFFECT  
ON OTHER REVENUE  
PROCEDURES**

Rev. Proc. 2011–9 is superseded.

**SECTION 14. EFFECTIVE DATE**

This revenue procedure is effective January 9, 2012.

**SECTION 15. PAPERWORK  
REDUCTION ACT**

The collection of information for a letter application under section 3.05 of this revenue procedure has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545–2080. All other collections of information under this revenue procedure have been approved under separate OMB control numbers.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collection of this information is required if an organization wants to be recognized as tax-exempt by the Service. We need the information to determine whether the organization meets the legal requirements for tax-exempt status. In addition, this information will be used to help the Service delete certain information from the text of an adverse determination letter or ruling before it is made available for public inspection, as required by § 6110.

The time needed to complete and file a letter application will vary depending on individual circumstances. The estimated average time is 10 hours.

Books and records relating to the collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. The rules governing the confidentiality of letter applications are covered in § 6104.

**DRAFTING INFORMATION**

The principal authors of this revenue procedure are Mr. Dave Rifkin and Mr. Matt Perdoni of the Exempt Organizations, Tax Exempt and Government Entities Division. For further information regarding this revenue procedure, please contact the TE/GE Customer Service office at (877) 829–5500 (a toll-free call), or send an e-mail to [tege.eo@irs.gov](mailto:tege.eo@irs.gov) and include “Question about Rev. Proc. 2012–9” in the subject line.

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**EXEMPT ORGANIZATION DETERMINATIONS CASE ASSIGNMENT GUIDE  
CASE GRADING CRITERIA**

<b>CASE COMPLEXITY FACTORS</b>	<b>GRADE LEVEL DISTINCTIONS</b>		
	<b>GS-11</b>	<b>GS-12</b>	<b>GS-13</b>
<b>Analysis of Application</b>	Application is basic; facts regarding nature and purpose are easily discernible. Private benefit/inurement issues unlikely but possible.	Application is complex and facts must be determined through analysis and questioning of applicant. Private benefit/inurement issues possible.	Application is extremely complex (e.g., involves inurement, private benefit, related entities) and significant additional documentation is required of applicant.
<b>Factual Complexity of Issues</b>	Issues are of average complexity and sensitivity. Established case development methods and procedures are usually adequate.	Issues may be sensitive or involve controversy. Case development methods and procedures must be adapted to case.	Case development methods and procedures must be adapted to unique situations. Issues are novel and unusual and involve the largest and most complex EO's.
<b>Application of Tax Law</b>	Tax laws are in most cases applicable but occasionally involve unusual interpretation and application.	Tax laws are not always directly applicable. Research and analysis are required to establish proper interpretation and use of precedents.	Tax laws or other legal issues involve points of law without precedent or with conflicting precedents. Research and analysis are necessary to establish significant similarities with related issues.
<b>Interpersonal Skills</b>	Contacts are with representatives of applicants, organization members and contributors. Tact and diplomacy are required to resolve and elicit information and resolve questions and problems.	Contacts are with a variety of EO representatives and officers of considerable prominence in the community including accountants and legal representatives. Considerable tact and skillful negotiations are necessary since issues discussed are sometimes controversial and sensitive.	Contacts are with officials of very large or prominent organizations and persons with national reputations in business, legal and accounting circles and others of outstanding political, social or economic influence. Considerable tact and discretion are required for resolution of issues.
<b>Impact of Work</b>	Determination decision may impact other organizations; applicant's sole source of income may be from donations; and, the likelihood of media attention is limited.	Determination decision may affect larger organizations of regional or national stature; applicant's income is from a variety of sources; and media attention is likely.	Determination decision may impact other organizations nationwide; applicant has significant resources and determination decision may have significant social and economic implications with recurring effects in prior or subsequent tax years; and, widespread media attention is probable.

Revised November 25, 2002





**Part 7. Rulings and Agreements**  
**Chapter 20. Exempt Organizations Determination Letter Program**  
**Section 2. Determination Letter Processing of Exempt Organizations**

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**7.20.2 Determination Letter Processing of Exempt Organizations**

- 7.20.2.1 [Determination Processing](#)
- 7.20.2.2 [User Fees](#)
- 7.20.2.3 [Technical Screening](#)
- 7.20.2.4 [Case Processing](#)
- 7.20.2.5 [Commonly Used Forms](#)
- 7.20.2.6 [Case File Assembly](#)
- 7.20.2.7 [Requesting Additional Information](#)
- 7.20.2.8 [Effective Date of Exemption and Special Rules](#)
- 7.20.2.9 [Adverse Determination Cases Overview](#)
- 7.20.2.10 [IRC 508\(a\) Overview](#)
- 7.20.2.11 [National Taxpayer Advocate Service Level Agreement General Information](#)
- 7.20.2.12 [Microfiche and Record Storage](#)
- 7.20.2.13 [Case Closing](#)
- Exhibit 7.20.2-1 [Form 6038](#)

**7.20.2.1 (11-01-2004)**  
**Determination Processing**

1. Determination requests are processed in the following offices:
  - Cincinnati Submission Processing Center (CSPC)
  - EP/EO Determinations Processing Office (Processing Office)
  - Work groups in EO Determinations
  - Work groups in EO Technical
2. The Cincinnati Submission Processing Center (CSPC) at the Covington, Kentucky, address shown in the instructions to Form 1023 receives all determination requests.
3. No determination requests will be accepted by the Director, EO Examinations, in Dallas, Texas, or the Director, EO Technical, in Washington, DC. The organization seeking to submit an exemption application should be informed that the application needs to be submitted to the CSPC in Covington, Kentucky.
4. The CSPC is responsible for establishing the determination request on the EP/EO Determination System (EDS) and processing the user fee, if required. See IRM 7.22.1, Exempt Organizations EDS User Manual, which provides procedures for processing determination applications on EDS from establishment to closing.
5. CSPC will then forward the determination request to the Processing Office located in Cincinnati. See IRM 7.22.1.1.
  - A. The case is held until requested for technical screening. See IRM 7.20.2.3.
  - B. If the case is not closed by technical screening (or transferred to EO Technical based on criteria in IRM 7.20.2.2.3), then the Processing Office holds it as unassigned inventory.
6. Each week the Processing Office sends cases in order of receipt to the work groups located in PODs outside of Cincinnati. The Cincinnati POD work groups can receive work up to three times a week. The number of cases sent to each group is based on a case request.
7. When the Processing Office transfers a case to a work group, the group manager assigns it to an agent using the appropriate case assignment guidelines.
8. A case closed in a work group (not requiring mandatory review) is forwarded to the group manager for review/signature/approval.
  - A. If the group manager approves a proposed favorable case closing, the case is closed on EDS and mailed at the group level. The date on the letter is the date the case is closed on EDS.
  - B. If the favorable case closing approved by the group manager is not selected for mandatory or sample review, it is forwarded to the Records Unit and microfiched. The case file is not stored. For further discussion, see IRM 7.20.2.13.
  - C. If the group manager does not approve the proposed agent's recommendation for case closing, the case will be returned to the agent in status 53 for correction or comment. The manager should include written guidance identifying items the agent needs to address if the case requires more than a minor correction. If the agent does not agree with the manager's reasons for returning the case, then the agent will prepare a memo to the group manager explaining why the manager's changes are not necessary before resubmitting the case to the manager. For a further discussion see IRM 7.20.2.13.
  - D. If the group manager approves a proposed adverse closing, the case is forwarded to EO Determinations Quality Assurance for mandatory review. See IRM 7.20.5.

**7.20.2.1.1 (11-01-2004)**  
**EO Returns Processing**

1. Exempt organizations, other than private foundations or excepted organizations, must file an annual information return on Form 990 or Form

990-EZ if their gross receipts normally exceed \$25,000.

2. All private foundations exempt under section 501(c)(3) must file Form 990-PF.
3. Regardless of their annual gross receipts, all exempt organizations that incur unrelated business income in excess of \$1,000 are required to file Form 990-T.
4. Returns are not generally solicited through the determination process. However, if an original return is received, it should be date stamped and forwarded to the Ogden Campus for processing. The control date should be the postmark date on the envelope or the IRS received date if there is no postmark evident or legible. See IRM 7.4.3 Chapter 3. The agent will:
  - A. Complete a routing slip (Form 1725) and forward the date-stamped return to: Ogden Campus, Ogden, UT 84201-0027.
  - B. Keep a copy of the return if it contains vital information not found elsewhere in the open application under consideration. It is not necessary to keep a copy if there is no open case.

#### 7.20.2.1.2 (11-01-2004)

##### Establishing and Reestablishing Cases on EDS

1. EDS is the computer system used by TE/GE to track and manage determination cases. Cases are assigned individual case numbers. See IRM 7.21.3, Screening, Controlling and Case Closing.
2. Cases must be established or reestablished on EDS before agents may properly charge time to them. Agents need to be aware of these special situations:

**Note:**

For case-type definitions, see IRM 7.20.1.2.2.

- A. An A, F, P and/or T case needing to be worked simultaneously may require the establishment of a new case number for each determination. For example, an organization at the end of its advance ruling period states that it wants to terminate its operations; therefore, an F case would be worked simultaneously with a T case.
  - B. The establishment of another I case is required for a change in subsection request when Form 1023 is submitted to replace the original Form 1024, or vice versa. For example, an organization that is applying for exemption under IRC 501(c)(4) withdraws its request and substitutes a Form 1023. No new case needs to be established when an organization is changing subsections on Form 1024.
  - C. Replies received in "Failure to Establish" (FTE) cases require reestablishment of an S case under the original subsection based on the original Form 1023 or Form 1024.
  - D. An I case should be established in conjunction with an S case if a reply includes a request for a change in subsection based on a new Form 1023 to replace the original Form 1024, or vice versa. See IRM 7.20.2.4.2, Processing Withdrawals, for procedures on closing the S case in this situation. For example, this situation would arise when an organization, which had originally submitted a Form 1024 and its application was closed as an FTE, then requests exemption under IRC 501(c)(3) and submits a Form 1023. No new case needs to be established when an organization is only changing subsections on Form 1024.
3. The agent will prepare the "Establish on EDS" form to secure a new case number.
  4. The agent will research EDS and print case status information. If the case is in an open status (e.g., 55), the file must be retrieved by the group secretary and controlled back to the agent in status 52 (Case Assignment).
  5. Offices located in PODs other than Cincinnati may fax forms to the Processing Office at 513-263-3522 or e-mail their requests using secure messaging. The forms to be faxed will be a transmittal form, original fee source documents, "Establish on EDS" forms, and EDS print. See IRM 7.20.2.2(1) - Additional Fees.
  6. If the agent receives a reply on a previous FTE case with no user fee payment, then the agent will:
    - A. Print a copy of the closed FTE case's Screen #1 from EDS—this should reflect status 11 or 12—and attach it to the top of the response.
    - B. If the case is in an open status (e.g., 55), request the group secretary to retrieve the file and control it back to the agent in status 52.
    - C. Place the above information in the designated bin in the group for case establishment and/or reestablishment.
  7. If an agent is assigned a case that was not established correctly and no time has been put on the case, then the agent will close the case using status 30 (Correction Disposal) and prepare an "Establish on EDS" form to correctly establish the case. If time has been charged to the case, then it should be closed status 12. The status 30 closure should be turned into the manager immediately so the case can be closed out on EDS. If not, the case may inadvertently remain in status 55 indefinitely.
  8. An organization may submit additional information after a case has been closed for failure to establish on EDS. The following procedures apply in handling these types of cases.

IF	THEN the agent will
1. The organization's case was originally worked in the Cincinnati POD and the organization requests extensions to submit the requested information and the user fee within the 90-day period	Prepare the necessary form and forward it to the user fee unit.
2. The organization's case was originally worked in a POD other than Cincinnati and the organization requests extensions to submit the requested information within the 90-day period	Pull the closed case, determine whether the extension should be granted, and document the Case Chronology Record (CCR).
3. The organization is providing a status report	Call the organization to acknowledge receipt and then forward the information to be associated with the file.
4. The organization is providing previously requested information	Prepare the "Establish on EDS" form and all applicable information as outlined in items (2) through (6) above.

#### 7.20.2.1.3 (11-01-2004)

**IDRS Research**

1. IDRS is the acronym for the Integrated Data Retrieval System. It is a computer system used to retrieve/change data on the Individual Master File (IMF), the Business Master File (BMF), and the Exempt Organizations Master File (EOMF). See Document 6209, ADP and IDRS Information 2001, and Document 6379, EO Management Information Systems Codes, for a description of the various codes contained on each Master File.
  - A. The EOMF contains the EO submodule of exempt organizations or applicants. The EO submodule contains information regarding the name, address, status code, date, foundation status, organization type, etc.
  - B. Generally, the EO submodule is created and updated by the preparation of Form 8670 on EDS when closing a case; however, Form 2363 or Form 2363-A may be required in some instances.
  - C. The actual print of the research is commonly referred to as "research."
2. The various types of Master File research that may be needed are as follows:

EINAD:	To secure the employer identification number.
NAMEE:	To secure the employer identification number (preferred).
ENMOD:	To verify that an employer identification number has been assigned and is active.
INOLE:	To verify the name and address of the organization and to determine information reflected on Master File.
BMFOLO:	Similar to INOLE, but more extensive EO submodule information (most common type of research requested).

**7.20.2.2 (11-01-2004)****User Fees**

1. CSPC and the tax examiners in the Processing Office process all user fees. See IRM 7.21.2. However, as requests are being processed in EO Determinations, screeners and agents need to determine if the correct user fee was paid based upon information received. The user fee schedule and rules for when to refund, waive, or request additional fees are set forth in Rev. Proc. 2004-8 (updated annually).
2. Rev. Proc. 2004-8 provides guidelines on the types of determinations to be issued and the amount of the user fee required for each. Payments are recorded on the LINUS system. All organizations making an initial request for exemption under IRC 501(c) must pay a user fee.
  - A. If an organization is newly formed, the user fee will normally be based on a two-year projected budget.
  - B. User fees are not due in F, T or P cases. Fees are also generally not due in A cases, unless the organization is applying for a group ruling or seeking reclassification under another section of 501(c).
3. If the application is received without a user fee, then the applicant will be requested to pay the fee. If the fee is not paid after the request is made, then the application will be returned to the applicant.
4. Situations may arise when it is necessary for an agent to secure an additional fee during case processing.
5. The screener in EO Determinations will initially identify problems with user fees and will designate those cases reserved for inventory. It is ultimately the agent's responsibility to ensure that the correct user fee is paid.
6. The user fee paid is reflected on Form 8718 and on EDS. Research may be obtained from the LINUS system. This research may be requested from the group secretary located in the Cincinnati POD or by calling the Processing Office at 513-263-3430.

**Note:**

Form 1023 is undergoing revisions and will incorporate Form 8718.

7. User fees must be paid in advance for all determination letters. The agent is responsible for verifying that the correct user fee was paid. An agent may determine whether a fee has been paid by reviewing Form 8718.
8. EO Determination personnel should be aware of the following issues relating to user fees, which are discussed in this subsection:
  - Dishonored Personal Checks
  - Additional Fees
  - Refund of User Fees
  - Waiver of User Fees
9. **Extensions:** If an organization's file is closed based on "failure to establish," it has 90 days in which to submit the additional information without incurring an additional fee.
  - A. If a request for extension is received in the Cincinnati POD, it should be forwarded to the user fee adjuster. Use an extension request form; calls should not be forwarded for extensions of the user fee date to the user fee adjuster.
  - B. If a request for extension is received in a POD other than Cincinnati, the agents may grant extensions as long as the 90-day period has not yet expired. A letter should be sent to the organization confirming the extended due date.

**Note:**

In the interests of good customer service, use every opportunity to remind organizations in FTE status of their need to request an extension if they cannot meet the 90-day period. If taxpayers call for any reason during the 90-day period and do not specifically ask for an extension, agents should remind them to do so.

10. An applicant that submits an incorrect application form, but pays the correct user fee, does not need to pay an additional fee if the correct application is submitted while the case based on the incorrect application form is open.

- A. Close the incorrect application form case on EDS as 04 (Withdrawal).
- B. Establish the correct application form case on EDS.
11. Use the following procedures when processing user fees.

IF	THEN
a. A Form 1023 applicant that does not qualify for relief under Regs. 301.9100 submits Page 1 of Form 1024 while the Form 1023 is still under consideration	No additional fee is required to process the Form 1024.
b. In a case closed FTE, the applicant responds and submits a user fee after the 90-day period has expired	Follow the procedures described in paragraph (1) above to process the fee.
c. In a case closed FTE, the applicant responds after the 90-day period has expired but does not submit a second user fee	Determine from the facts of the case if an additional fee is due.

12. In rare circumstances, an initial determination request may be incorrectly mailed to a work group rather than to the CSPC. If this situation arises, the group secretary will:
- A. Prepare User Fee Check Transmittal—
- Indicate "Initial application(s)" in Remarks section of transmittal
  - Complete all applicable columns on the transmittal for each fee received
- B. Forward transmittal(s), original fee, source document(s), and initial application(s) to appropriate area, as follows—
- Cincinnati POD: Hand carry to user fee adjuster
  - PODs other than Cincinnati: Send to the CSPC daily via overnight mail
- C. Retain a copy of the completed transmittal to monitor and follow up acknowledgment by CSPC within 7 days.

#### 7.20.2.2.1 (11-01-2004) Dishonored User Fee Checks

1. During the processing of a determination request, it may occur that a user fee paid by a personal check may be dishonored by a bank and returned for insufficient funds.
2. If the user fee check is dishonored while the application case is open, the user fee adjuster will notify the agent of the dishonored check. The letters "BBBB" will appear as the name control on EDS. The agent will advise the applicant of the requirement to pay the user fee by certified check or money order and allow a reasonable period for payment based on the facts of the case. The case cannot be approved or denied until the correct fee is paid.
3. If a case is closed on merit, but is still in the group when the user fee adjuster notifies the agent of the dishonored check, the agent will attempt to secure the user fee.
- A. If the applicant does not pay the user fee within 3-5 days, the agent will update the case to status 52 and contact the applicant again to determine whether the applicant intends to pay the fee.
- B. If the applicant does not pay the user fee, the case will be closed on EDS with a status 03 (No Remittance).
4. An agent should consult with his or her group manager if an applicant appears to have intentionally misrepresented its character or nature to qualify for the reduced user fee.

#### 7.20.2.2.2 (11-01-2004) Additional Fees

1. Group secretaries are responsible for opening incoming mail within a work group. The following table lists the responsibilities of the group secretary when an additional user fee check is received in the work group's mail:

IF	THEN the group secretary will
1. A fee is secured on an open case	<p>a. Record receipt of the fee on the Form 5464 (Case Chronology Record)</p> <p>b. Process receipt of the fee</p> <ul style="list-style-type: none"> <li>· Research EDS and print case status information</li> <li>· Prepare a "dummy" Form 8718: Enter the payment amount, your initials, and the organization's name and EIN in the appropriate spaces.</li> <li>· Stamp Form 8718 with IRS received date</li> </ul> <p>c. Copy fee source document (personal check, money order, or cashier's check), "dummy" Form 8718, add EDS print, and associate with respective case file</p> <p>d. Prepare User Fee Check Transmittal</p> <ul style="list-style-type: none"> <li>· Indicate "Additional Payments" in "Remarks" section of the transmittal</li> <li>· Complete all applicable columns on the transmittal for each fee received</li> </ul> <p>e. Forward transmittal(s), original fee source document(s), "dummy" Form(s) 8718, and EDS print(s) to appropriate area:</p> <ul style="list-style-type: none"> <li>· <u>Cincinnati POD</u>: Hand carry to the User Fee Adjuster</li> <li>· <u>PODs other than Cincinnati</u>: Send to the CSPC daily via overnight mail</li> </ul> <p>f. Keep a copy of each completed transmittal to monitor and follow up acknowledgment by CSPC within 7 days</p>
2. A fee is received on a closed "failure to establish" (FTE) case	<p>a. Research EDS and print case status information</p> <ul style="list-style-type: none"> <li>· If the case is in an open status (e.g., 55), retrieve the file</li> </ul> <p>b. Prepare User Fee Check Transmittal</p> <ul style="list-style-type: none"> <li>· Indicate "Case Reestablishment" in "Remarks" section of the transmittal</li> <li>· Complete all applicable columns on the transmittal for each fee received</li> </ul> <p>c. Prepare the "Establish on EDS" form</p> <ul style="list-style-type: none"> <li>· <u>PODs other than Cincinnati</u>: If a new case was established prior to submitting the user fee for processing, enter "Case Established in Area Office—Process Payment Only" in "Remarks" section and indicate new case number so payment may be properly applied</li> </ul> <p>d. Forward transmittal(s), original fee source document(s), "Establish on EDS" form(s) (if appropriate), and EDS print(s) to appropriate area</p>

<ul style="list-style-type: none"> <li>· Cincinnati POD: Hand carry to user fee adjuster</li> <li>· PODs other than Cincinnati: Send completed transmittal(s), fee source document(s), "Establish on EDS" form (if appropriate), and EDS print(s) to the CSPC daily via overnight mail</li> <li>· e. Keep a copy of completed transmittal to monitor and follow up acknowledgment by CSPC within 7 days</li> </ul>
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2. If the applicant's activities are inconsistent with its financial data and an additional user fee is due, the agent will ask the applicant to clarify the inconsistency.

If the applicant	Then the agent will
a. Does not respond and the application can be otherwise approved	Close the case, Failure to Establish (FTE), and caveat the letter to request the payment of the additional fee. The caveat will clearly state the basis for the additional fee.
b. Requests to withdraw the application	Follow the procedures in IRM 7.20.2.4.2.
c. Pays the additional fee	Process the case as usual and process the payment as described in paragraph (1) above.
d. Responds but does not agree to the increased fee	Discuss the case with the group manager and consider forwarding the case to the EO Determinations Quality Assurance Office for resolution of the fee issue.

#### 7.20.2.2.3 (11-01-2004) Refunds of User Fees

1. The user fee is not refundable if an organization withdraws its exemption application. However, the user fee is refundable if the application was filed based on erroneous advice from IRS personnel, or the application is withdrawn solely because the organization is unwilling to pay a higher user fee than that originally paid. Procedures for processing withdrawals are in IRM 7.20.2.4.2.
2. The user fee should be refunded if the agent discovers the applicant is already exempt (other than under a group ruling) before completing an application under the same paragraph of IRC 501(c). The user fee will not be refunded if the previous exempt status is not discovered until the determination is completed. The user fee should be refunded if the agent discovers the applicant is covered by a group exemption and it wishes to remain in the group exemption. Procedures for processing withdrawals are in IRM 7.20.2.4.2.
3. An agent outside the Processing Office should forward the refund authorization forms to the Processing Office for processing if the CSPC deposited the original fee.
4. A partial refund of the user fee will be issued if the organization paid \$500, but its gross receipts will not exceed \$10,000.
5. A partial refund of the user fee will be issued if the organization paid an incorrect dollar amount, one other than the appropriate \$150 or \$500.
6. If the applicant claims a refund is due but the agent does not agree, the applicant may request reconsideration of the user fee by the Manager, EO Determinations Quality Assurance. Refer to IRM 7.20.5.8.
7. If it is determined that a user fee was overpaid, the agent will:
  - A. Prepare a routing slip addressed to the user fee adjuster stating the amount and briefly explaining the reason for the refund.
  - B. Submit the routing slip to the group manager for review and approval.
  - C. If the manager approves the refund, prepare Form 3198-A, TE/GE Special Handling Notice, and notate "User Fee Refund."
  - D. If the case is being closed favorably, notify the applicant (after the manager approves the refund) that the refund will be issued separately. Notification may be by telephone or correspondence.
  - E. Document the contact in the Case Chronology Record.

#### Note:

If a screener forwards a case to unassigned inventory for more development, the screener should note possible refund on the screener checklist, but should not notify the applicant of the potential refund.

#### 7.20.2.2.4 (11-01-2004) Waiver of User Fee

1. An organization may request a waiver of any additional fee. A request that a user fee be waived is approved or denied by the Manager, EO Determinations Quality Assurance (Quality Assurance) after reviewing a case forwarded by an agent.

#### Exception:

The following situation does not constitute a waiver request and is not subject to review: A resubmitted exempt organization's FTE case may clearly show that the initial user fee was correctly paid. The screener or agent to whom the case is reassigned may conclude that a second user fee is not required because the applicant either complied with the 90-day deadline, or failed to do so because of a Service error. To determine if Service error has occurred, the organization should be requested to provide chronological details as to the circumstances surrounding the request.

2. The agent will secure the additional information necessary to determine whether there was Service error.
3. In preparing a case for review by Quality Assurance, the agent will:
  - A. Develop the facts of the case. If necessary, the organization needs to provide chronological details of the circumstances surrounding its request for waiver.
  - B. Prepare a summary of the facts, and recommend whether the request should be approved or denied on Form 1725.
  - C. Based on the recommendation, prepare a letter to notify the organization of the decision.
  - D. Forward the entire case file to the group manager for review and approval. If the group manager agrees that the request is complete and the summary is accurate, then the manager will initial and date the Form 1725, and the case file will be forwarded via Form 3210 to the Manager, Quality Assurance, for assignment to a reviewer. EDS will be updated to status 31. Refer to IRM 7.20.5.8 for processing of the request by Quality Assurance.

E. Based on the recommendation from Quality Assurance, the applicable approval or denial letter will be mailed to the applicant.

#### 7.20.2.3 (11-01-2004) Technical Screening

1. Technical screening is a process of identifying and reviewing determination requests from organizations with historically demonstrated high levels of compliance and of closing them quickly on their merit as approvals, based on the information submitted. EO Determination agents work the technical screening cases. These agents are referred to as screeners.
2. Determination requests that are subject to technical screening include:
  - Requests for determination letters
  - Foundation follow-ups
  - Terminations
  - Amendments established on EDS
3. The variety of IRC 501(c) subsections, as well as the variety of organizations exempt under IRC 501(c)(3), makes categorizing the kinds of organizations that can be merit-closed very difficult. Thus, to ensure the quality of the merit screening process, only the most experienced determination agents will be assigned to technically screen applications. These agents will use sound reasoning based on training and experience to determine if the information in the application meets the organizational, operational, and other technical requirements of the Code and regulations.
4. The screener will review the application.

IF	THEN
1. The exemption application can be granted upon initial submission	The screener may close the case as an approval.
2. The application lacks only minimal, relatively non-complex items	The screener may request additional information by telephone from the organization. Additional information letters will not be written on screening cases. See (7) below for further guidance.
3. The additional information completes the application and the organization qualifies	The screener may close the case as an approval.
4. The screening agent cannot approve the case, and securing the information to approve the case would be time-consuming or would require research of issues	The case must be returned to unassigned inventory for processing.

5. If a determination request cannot be closed by the screener, the screener will:
  - A. Enter the case grade per the case assignment guide on the input sheet.
  - B. Notate the input sheet if the case should be classified as reserved inventory per IRM 7.20.1.2.3.
  - C. Complete the Exempt Organizations Technical Screening Checklist.

#### Note:

Forwarding a case to unassigned inventory means that the case file needs to be reviewed further. It does not necessarily mean that the applicant must be contacted.

6. If a case can be approved in technical screening, the screener will process the case per IRM 7.20.2.13 with the following differences:
  - A. Complete only Form 6038; no attachments are required in this instance. However, the Case Chronology Record should be documented in unusual or borderline cases.
  - B. Use disposal code 06 (rather than 01) when closing the case.
7. If the screener decides to request additional information by telephone, up to five days may be allowed for a response. A longer period may be granted based on the group manager's discretion. If the applicant does not submit the information, the screener will telephone the applicant to explain that the case will be forwarded to an agent for further development. The applicant will be advised that the case may be worked in another office. The screener will forward the case to unassigned inventory.
8. The items on the Exempt Organizations Technical Screening Checklist are not intended to be all-inclusive, but identify the issues that preclude the application from being approved by the screener.

#### 7.20.2.4 (11-01-2004) Case Processing

1. EO Determination agents manage their inventory in a first-in first-out (FIFO) manner, (oldest date first) with the exception of approved expedite requests. Where an organization responds to an information request, that case takes precedence over cases that have not been started.
2. The agent will review the determination request to ensure that no items are missing. The following is a list of items which should be submitted with the determination letter request:
  - Correct user fee, if applicable
  - Application Form 1023/1024 signed by an authorized person
  - Power of Attorney or other authorization form, if applicable, signed by an authorized person
  - An Employer Identification Number (EIN) or a completed Form SS-4, Application for Employer Identification Number

- All applicable pages and schedules of the respective applications
  - A conformed organizing document
  - Bylaws, if adopted
  - Financial data as described in the Form 1023/1024 instructions
  - A narrative describing the organization's past, current, and planned activities
3. The agent will contact the organization to obtain any additional information or amendments necessary to process the application. See IRM 7.20.1.5 for authorized persons.
  4. The agent will determine, based on the facts of the case and clearly established rules in the statute, a tax treaty, the regulations, a revenue ruling, opinion or court decision, how the case should be closed (approved, adverse, failure to establish, other) and the proper EDS letter to be issued.
    - If technical advice or technical assistance is required, see IRM 7.1.3.
    - If an adverse closing, see IRM 7.20.2.9.
    - For case closing, see IRM 7.20.2.13.
    - For case file assembly, see IRM 7.20.2.6.
  5. The agent will submit the case for managerial review/signature. In addition, some cases may be subject to mandatory or sample review, TEQMS, or post-review by EO Technical. See IRM 7.20.5.
  6. No document submitted by an applicant should be marked or written on by anyone processing a determination request. If there is litigation with respect to the case, then the court may construe unnecessary markings on documents as inappropriate.
  7. If an application is being processed under IRC 501(c)(3) and the application does not contain all of the necessary information to allow a determination to be made under IRC 501(c)(3), then the 270-day period referred to in IRC 7428(b)(2) begins with—
    - the postmark date on the incomplete application, or
    - if no postmark, the IRS stamped received date.
  8. Any missing information necessary to process an application to which IRC 7428 applies must be requested in writing from the organization to demonstrate that the IRS did not unreasonably delay processing the application. For example, information from a website will not become part of the administrative file on adverse determinations unless submitted in writing by the organization or shared in writing with the organization.
  9. Agents will provide identifying information about themselves so taxpayers will know whom to contact if they should have questions relating to their determination request. This requirement is mandatory, as provided in section 3705 of the IRS Restructuring and Reform Act of 1998 (RRA 98). See IRM 21.3.3.4.19.1, Preparation of Outgoing Correspondence.

#### 7.20.2.4.1 (11-01-2004) Amendments

1. An "amendment" or an A-type case is a case in which a recognized exempt organization informs the Service of organizational or operational changes.
2. Examples of changes that would be considered amendments include:
  - Change in purposes
  - Change in sources of financial support
  - Name change
  - Change in operations
3. When an organization is recognized as exempt under IRC 501(a), the determination letter instructs it to report changes in name, address, purposes, operations, or sources of financial support to the TE/GE Customer Account Services Office (CAS).
4. CAS receives and screens most amendments. CAS will only process amendments that do not affect an organization's exempt status, such as the number of directors, accounting period, name or address of the organization, or other amendments which CAS can review and determine that the change will not jeopardize the organization's exempt status. See IRM 21.3.8 for additional information.
5. If the amendment cannot be processed by CAS, it will be forwarded to the Processing Office to have an A case established. Some specific determination requests that are treated as amendment cases are:
  - Group exemption requests
  - Requests for advance approval of grantmaking under IRC 4945(g) (see IRM 7.20.3.7.8)
  - Requests by organizations to be reclassified as private foundations (see IRM 7.20.3.3.7)
  - Requests where changes have been completed
6. The amount of development necessary in processing cases depends on the facts and circumstances of each situation. In general, there should be enough information to determine whether the new request may be granted and whether the changes affect the exemption or the foundation status of the organization. Information can be requested from the organization to obtain details about changes in its purpose, character, or method of operation by using a composed development letter. Following are examples of the information needed for various

requests:

- A. If an organization has added or changed activities, sufficient detail about the activities should be secured so that it is clear the new activity is conducted in an exempt manner and is allowable under the applicable Code section.
  - B. If the organization's sources of support have changed and the organization is a public charity, financial data for the last four years should be secured to verify that the organization continues to meet the public support test. Sufficient information should be secured to determine whether the organization's sources of support affect exempt status and whether they subject the organization to unrelated business income tax.
  - C. If the organization requests a change in subsection, and is currently exempt, a new application must be submitted, and it should be worked as if it were an initial application. See IRM 7.20.2.2(b) for user fee issues.
  - D. If an IRC 501(c)(9) organization submits an amendment to its plan document or trust agreement, information should be secured to ensure that the plan remains nondiscriminatory.
7. Once an amendment case is assigned to an agent, it should be developed and processed based on all of the facts and circumstances. Additional information may be requested by the agent to obtain details about the changes in the organization's purposes and methods of operation.

IF the agent is working a(n)	THEN the agent will
Request for advance approval under section 4945(g)	Issue the appropriate determination letter
Private foundation reclassification	Issue the appropriate determination letter
Group ruling request	Issue the appropriate determination letter
Amendment case where the organization has made completed changes that will have an adverse impact on the organization	Complete Form 5666 (see IRM 7.20.2.5.3) and write an acknowledgment letter to the organization informing it that there has been a referral of its submission to EO Exam
Amendment case where the completed changes are based upon established rules, guidelines, and published tax law that will not jeopardize exempt status	Issue the appropriate determination letter
Amendment case not described above	Consult his/her manager. Where sufficient information has not been provided about a completed change or the completed change is not clearly covered by the Internal Revenue Code, Income Tax Regulations, or other established rules and guidelines, a letter acknowledging receipt of the information may be appropriate along with a statement that it is not in the interest of the Service to issue a determination letter.

8. Generally, if an organization described in IRC 501(a), but not in IRC 501(c)(3), requests a termination of its exempt status, then the agent should acknowledge the organization's request. The acknowledgment should inform the organization of its future responsibilities. The agent should update EDS and EOBFM to change the organization's filing requirements.
9. Generally an organization described in IRC 501(c)(3) may not voluntarily relinquish its exempt status. If an agent reviews such a request, then a Form 5666 should be filled out and referred to EO Examinations.
10. When an organization submits information about changes to its organizing documents, it should provide conformed copies of amendments to its articles of organization (such as corporate charter, trust instrument or constitution) or internal regulations (such as bylaws).
11. EO Technical refers amendments it receives to EO Determinations.
12. If a Federal credit union submits an amendment, the agent should return it and advise the credit union that the information should be submitted to the National Credit Union Administration (NCUA). The NCUA is the independent federal agency that makes an annual report to the Service, incorporating all the changes affecting all Federal credit unions. See IRM 7.25.1.4.4.
13. Amendments filed by group exemption organizations are discussed at IRM 7.20.2.7.1.

#### 7.20.2.4.2 (11-01-2004) Processing Withdrawals

1. An organization may request, in writing, to withdraw its application any time before the determination letter is issued. Even though the application is withdrawn, the application and all supporting documents will be retained by the Service and will not be returned to the organization. For user fee issues, see IRM 7.20.2.2.
2. Exempt organization personnel will not take any direct or indirect action that may be interpreted as a solicitation of a withdrawal of an application. Agents may, however, discuss with an organization its option to withdraw its application because it does not appear to qualify for favorable determination. If the option of withdrawing its application is discussed with an organization, the agent will thoroughly document the discussion in the Case Chronology Record.
3. A request for the withdrawal of its application for exemption must be secured in writing from the organization and must be signed and dated by an officer of the organization. The organization should be advised that there can be no refund of the user fee paid to process the application for exemption and that the application will not be processed further. The agent will:
  - A. Issue Letter 2244 on EDS to the organization to acknowledge that the application has been withdrawn.
  - B. Use the closing status 04 on Form 8670.
  - C. Prepare Form 2363 to input the filing requirements on IDRS if the organization was operational and had taxable income. See IRM 7.20.5.3.
4. If two applications (i.e., a Form 1023 and a subsequent Form 1024, or vice versa) are established on EDS due to a request for a change in subsection, the application that will not be processed further should be closed using status 04 on Form 8670. The organization will not be issued Letter 2244 in this situation. The EDS closing sheet for the case that will not be processed further will be given to the manager for closure on EDS even if processing of the remaining application is not yet complete. The new case should have an EDS control.

#### 7.20.2.4.3 (11-01-2004) Termination of Exempt Status



1. An exempt organization is required to notify the Service of changes to its organizational structure. The requirement to notify the Service is explained in the determination letter sent to the organization.
2. If an organization notifies the EO Determinations Processing Office or the TEGE Customer Accounts Service Office of its dissolution, the case will be controlled on EDS as a Termination or T case. See IRM 3.11 for information received on dissolved organizations through information return filings or taxpayer delinquency investigations.
3. The agent must secure evidence of the dissolution as follows:

IF the organization	THEN the agent will secure
a. Is incorporated and has filed Articles of Dissolution with the State	A complete copy of the filed Articles of Dissolution.
b. Is incorporated and has not filed Articles of Dissolution with the State	A resolution, signed by at least 2 officers, directors or trustees, stating the date of dissolution.
c. Is an unincorporated association or a trust	A resolution, signed by at least 2 officers, directors or trustees, stating the date of dissolution.
d. Submits conflicting information about whether it has dissolved	A statement signed by a majority of the officers, directors or trustees, stating they agree to dissolve the organization.

4. If the organization is exempt under IRC 501(c)(3), the agent will secure a statement signed by an officer of the organization showing the disposition of any assets on hand at the date of dissolution. If the agent believes that there is a substantial distribution of assets not exclusively for IRC 501(c)(3) purposes, then the agent should refer the issue to EO Examination.
5. The agent will take the following actions to close the case:

IF	THEN the agent will
a. The organization's termination information is complete	<ul style="list-style-type: none"> <li>· Issue EDS letter 2242.</li> <li>· Prepare Form 2363-A to update IDRS to reflect status 20.</li> <li>· Prepare Form 3198-A, if necessary, to notify State officials.</li> <li>· Prepare a copy of this letter for the processing office.</li> </ul>
b. The organization did not provide sufficient information	<ul style="list-style-type: none"> <li>· Not issue EDS letter 2242.</li> <li>· Use closing code status 12 on Form 8670.</li> <li>· Prepare Form 3198-A, if necessary, to notify State officials.</li> </ul>
c. The organization is incorporated and has been administratively dissolved by the State	<ul style="list-style-type: none"> <li>· Issue EDS letter 2242 with an addendum to the effect that if the organization later becomes active and in good standing with the State, a new Form 1023 will be required to have its exempt status reinstated.</li> </ul>
d. The organization does not respond to the request for additional information	<ul style="list-style-type: none"> <li>· Not issue a termination letter.</li> <li>· Close the case on EDS using closing code 12.</li> <li>· Use Form 2363-A to update the Master File status to 20.</li> <li>· Prepare Form 3198-A and state in "Other Instructions" : "Termination – Do Not Notify State Officials."</li> </ul>
e. The organization does respond to the request for additional information and verifies that the dissolution was proper	<ul style="list-style-type: none"> <li>· Issue EDS Letter 2242.</li> <li>· Prepare Form 2363-A to update the Master File status to 20.</li> <li>· Prepare Form 3198-A with instructions to notify State officials.</li> <li>· Close the case on EDS with closing code 01.</li> </ul>

6. For mid- to large-sized IRC 501(c)(3) organizations (especially housing, health care, etc.), the agent will inquire whether tax-exempt bonds are outstanding at the time of the termination. If so, the agent will complete Form 5666, TE/GE Referral Information Report.
7. See IRM 7.20.3.3.5 for instructions on processing a termination that occurs during the advance ruling period.

#### 7.20.2.4.4 (11-01-2004)

##### Mergers

1. One type of termination occurs when an exempt organization merges with another exempt organization. When working a case involving a merger, at least two organizations will be involved: the merged organization(s) and the surviving organization. [For purposes of this discussion, a merger describes a situation, in which an existing organization combines its assets and operations with those of another existing organization; one predecessor organization survives, and one predecessor organization terminates its existence.]
2. In a merger, an agent will verify that the activities are consistent with the exempt status of the survivor (such as conducting IDRS research to make sure neither organization is under examination) and will take the following actions:

IF	THEN the agent will
a. The surviving organization is a corporation	Secure a complete, filed copy of the Articles of Merger.
b. The surviving organization is an association or trust	Examine all the terms of the merger, which must indicate that the majority of the officers, directors, or trustees adopted it. The document must be signed by 2 officers, directors, or trustees, and it must show the effective date of the merger.
c. The terminated organization is a 501(c)(3) organization classified as a public charity	Verify that the organization into which it is merging is also a 501(c)(3) organization.
d. Both organizations are private foundations	Contact EO Technical to obtain the specialized language under IRC 507(b)(2) that should be provided to the surviving organization.

3. If the request can be approved, the agent will:
  - A. Prepare Form 2363-A to update the status of the merged organization to status 26, Termination Merger.
  - B. Send Letter 2242 to the merged organization and a composed letter to the surviving organization.
  - C. Prepare Form 3198-A and, if the merged organization is a 501(c)(3) organization, indicate in "Other Instructions" : "Termination/Merger – Notify State Officials." For non-IRC 501(c)(3) organizations, indicate: "Termination/Merger – Do Not Notify State Officials."

#### 7.20.2.4.5 (11-01-2004) Expedite Requests

1. EO Determinations processes applications/determinations based upon the date received in the CSPC. An exception to processing in the order of the date received is made if the application/determination is approved for expedited handling.
2. "Expedited handling" means the immediate review and processing of a request ahead of the regular order. Expedited handling is limited to rare and unusual situations. The criteria for expedited handling are described in Rev. Proc. 2004-4 (updated annually) and in IRM 7.20.2.4.5.1.
3. If the application has not been assigned to an agent, the request for expedited handling is approved or denied by CAS. A letter is issued to the organization to notify the organization of the decision. If expedited processing is approved, the case is placed in a pink folder.
4. If a screener identifies an expedited handling request which has not been forwarded to CAS and is unable to approve exemption, the screener will copy the request and forward it to CAS. In addition, the screener will attach Document 5089, Expedite Tag, to the top of the case folder.
5. If the request for expedited handling is received after the case has been assigned to an agent, the EO Determinations group manager will approve or deny the expedited handling request. This determination is based on the criteria in Rev. Proc. 2004-4 (updated annually). The agent will call the organization to notify it of the decision.
6. EO Technical will honor an approval of expedited processing made by EO Determinations before the case was referred to EO Technical.
7. The Service has discretion whether to grant a request for expedited handling. The Service's discretion should be exercised consistently.
8. Examples of circumstances that are within the applicant's reasonable expectation or control and would not justify the granting of expedited handling include the following:
  - A. The applicant was created to participate in a significant transaction (e.g., a bond issue), in which the deadline was established or scheduled by the applicant's creators, directors, etc., without regard for the time it might take for the application to be approved.
  - B. The application was submitted late in the calendar year and the organization seeks recognition of exemption before December 31, so that its founder can be assured of a charitable deduction for a contribution of appreciated stock.
9. Approval of a request for expedited treatment does not include assurance that the organization will qualify for exemption.

#### 7.20.2.4.5.1 (11-01-2004) Expedite Requests — Other

1. If the expedite request is found/received when a case is assigned to an agent and there is no indication of approval or denial of the request from CAS, the agent should review the expedite request to ascertain the following pertinent information:
  - A. Grant pending
  - B. Grantor
  - C. Amount of grant or property the organization will receive
  - D. Date the organization's determination letter is needed
  - E. Adverse impact on the organization's ability to continue operations if the application is not expedited by the requested date
  - F. (If purpose is to provide disaster relief) Details of the immediate need for disaster relief and of the manner in which the organization will provide relief
  - G. (If Service error) Nature of error(s) in detail, including dates
2. The agent should make a recommendation to the group manager that explains whether expedited treatment is merited.
3. If expedited treatment is not approved, the agent will notify the organization and process the case in control date order, as usual.
4. If a case is assigned to an agent (status 52) after the expedite request has already been approved, the agent will:
  - A. Process the case ahead of other cases in inventory.
  - B. Attempt to secure additional information that may be required by telephone, but if the information needs to be confirmed in writing, then by FAX.

#### 7.20.2.4.6 (11-01-2004) Employer Identification Numbers

1. An employer identification number (EIN) is a number assigned to each organization by the Internal Revenue Service. All organizations seeking exemption must have an EIN that is uniquely theirs. See Rev. Ruls. 73-422 and 73-526.
2. The agent is responsible for securing a correct EIN if there is an indication that an incorrect EIN has been provided, and agents should be alert to such problems. Generally, the organization will provide its EIN on page one of the Form 1023.
3. If the organization does not have an EIN when it applies for exemption, an EIN is secured at the initial phase of processing in the CSPC.
4. If the organization is not using the correct number, then the agent will determine whether it has an EIN of its own. If not, the agent will obtain one. The agent will request IDRS Master File research (NAMEE, ENMOD, INOLES, OR BMFOLO) from the group secretary. To obtain the EIN, the agent will:
  - Preferably secure a signed Form SS-4 from the organization. Alternatively, agents are authorized to complete and sign Form SS-4 for the organization, when securing one signed by an officer of the organization is not possible.

- Once a completed Form SS-4 is secured, fax it to the TELE-TIN unit at the Cincinnati Accounts Management Center (CAMC) at 859-669-2079.
  - Include a fax cover sheet from TE/GE that provides identifying information (i.e., name, phone, and fax number of the agent) to enable the TELE-TIN unit to notify the agent of the assigned EIN. Include the following comments on the fax cover sheet: "Urgent—EO Office Needs EIN Assigned." Prior to faxing the Form SS-4, contact the TELE-TIN unit at 859-669-4284 or at 859-669-4515.
5. If an agent discovers that an organization has been assigned more than one EIN, the EINs will be merged. The following is the procedure the agent will follow if two (or more) EINs are assigned to one organization.

**Note:**

Be careful not to confuse this with two organizations merging into one.

- A. Obtain IDRS Master File research on all EINs (e.g., INOLES, ENMOD, BMFOLO, and EDS).
  - B. Request the organization to confirm the EIN which is to survive. It is less problematic to retain the EIN under which any tax returns were filed or to which any tax payments were applied (BMFOLO will show this information). However, if the taxpayer prefers to retain the other EIN, the taxpayer's preference should be honored.
  - C. Prepare an "EIN Merger Memo" to be sent to the Ogden Campus, Entity Control Unit, to advise which EINs are to be consolidated. In addition, send to the Ogden Campus copies of the applicable research prints and a copy of the organization's letter requesting consolidation of EINs (if applicable).
  - D. Keep a copy of the "EIN Merger Memo" for the left side of the case file.
6. An organization must secure a new EIN when it changes its form (e.g., association or trust to a corporation), unless:
- It is an unincorporated association applying simultaneously with a corporation;
  - It is changing from a for-profit to a non-profit corporation; or
  - It is merely reincorporating in a different State.
7. If EDS shows an incorrect EIN, in addition to correcting the EIN shown on EDS, the agent must also correct the EIN on LINUS. The agent will complete a Form 3198-A to route the case to the user fee adjuster and a Form 1725 indicating the following:
- Old EIN
  - New EIN
  - Reason for the change
  - Instruction to "Update LINUS"

#### 7.20.2.5 (11-01-2004) Commonly Used Forms

1. The following table lists the forms used in processing a determination case. The preparer should initial and date the upper right corner of every form and workpaper in the case file. See *IRM 7.20.2.6*, Case File Assembly, for specifics on where each of the following must be placed in or on the case file.

Form	Description/Use
Form 8718, User Fee for Exempt Organization Determination Letter Request	• Follow instructions on form for preparing and using this form.
Form 3198-A, TE/GE Special Handling Notice	<ul style="list-style-type: none"> <li>• Provides handling/routing instructions for certain cases, e.g., mandatory review cases, cases transferred to EO Technical, cases in which notification of State officials is required, cases with user fee issues, termination cases, cases with Form 5768, Election/Revocation of Election by an Eligible Section 501(c)(3) Organization to Make Expenditures to Influence Legislation.</li> <li>• Complete Form 3198-A with the full legal name of the organization.</li> <li>• If Mandatory Review, check the "Mandatory Review" box under "Determination Cases."</li> <li>• Indicate the reason for mandatory review and/or special handling.</li> <li>• Initial and date the bottom of the form. Attach it to the outside of the case file on top of Form 8670.</li> <li>• Use the "Other Instructions" box for special handling instructions.</li> </ul>
Form 5464-A, Case Chronology Record	<ul style="list-style-type: none"> <li>• Included in all case files. Used to record all actions taken on the case, including, but not limited to, contacts, delays in processing, significant involvement by the group manager, and reasons for excessive or unusual time taken in a case.</li> <li>• Accurate and complete preparation of the Case Chronology Record (CCR) is vital to case processing. All entries must be legible. The entries include date, action code, time charged, and an explanation of the action. For every telephone call, show the name of the person spoken with in the space following the date.</li> <li>• The total time recorded on the CCR should agree with the time charged to the case on EDS and on the ETTS time report, Form 6490.</li> </ul>
Form 5666, EO Information Report	<ul style="list-style-type: none"> <li>• Used to refer information to an Area Office about a case that may require follow-up action.</li> <li>• The form is sent to the Director, EO Examination, in Dallas. When this form is utilized in case processing, Form 3198-A must be completed to advise the closing clerk to "Forward the Attached Form 5666 to Processing Branch."</li> </ul>
Form 6018, Consent to Proposed Adverse Action	<ul style="list-style-type: none"> <li>• A consent to proposed adverse determinations and to proposed adverse foundation classification cases.</li> <li>• However, it is not a waiver of the organization's right to declaratory judgment under IRC 7428. Therefore, follow adverse processing procedures in cases that have a right to declaratory judgment even if the organization signs the Form 6018.</li> <li>• See <i>IRM 7.20.2.5.3</i></li> </ul>

Form 6038, Exempt Organization Determination Case Worksheet	<ul style="list-style-type: none"> <li>· A checklist of actions that must be completed in "I" and "S" requests and any "A" case with a subsection change. It is added to the application in screening and remains part of the administrative file.</li> <li>· The agent who approves an application request must attach a narrative explaining the legal justification for approval on Form 6038.</li> <li>· See Exhibit 7.20.2-1. The attachment is not required for cases approved in technical screening.</li> </ul>
Form 8670, EO Control Sheet	<ul style="list-style-type: none"> <li>· EDS-generated closing sheet attached to all cases except those transferred to EO Technical.</li> <li>· The Form 8670 will reflect the closing data provided by the agent.</li> <li>· See IRM 7.22.6.</li> </ul>
Form 5768, Election/Revocation of Election by an Eligible Section 501(c)(3) Organization to Make Expenditures to Influence Legislation	<ul style="list-style-type: none"> <li>· This form is used by IRC 501(c)(3) organizations to make an election under IRC 501(h) regarding their expenditures for legislative activities.</li> <li>· If a Form 5768 is received by an agent, the agent will prepare a Form 3198-A with instructions to "Forward Form 5768 to Ogden Campus" after the case is closed.</li> </ul>
Form 872-C, Consent Fixing Period of Limitation Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code	<ul style="list-style-type: none"> <li>· This is a statute extension form for excise tax under Chapter 42, section 4940.</li> <li>· This form is used only for organizations requesting exemption under IRC 501(c)(3) and requesting an advance ruling on their foundation status under IRC 509(a)(1) and 170(b)(1)(A)(vi), or under IRC 509(a)(2).</li> <li>· For more specific information, see IRM 7.20.2.5.1.</li> </ul>
Form 2363-A, Request for IDRS Input for BMF-EO Entity Change	<ul style="list-style-type: none"> <li>· This form is used to establish or change the EO submodule or entity information on the Business Master File (BMF).</li> <li>· If changes are needed to the EO submodule or Master File entity but the closing action on EDS does not provide a second screen, Form 2363-A may be needed.</li> <li>· Examples include Termination/Merger, Presumptive PF, Group Ruling, and IRC 507 Termination closures. See IRM 4.75.16.</li> </ul>
Form 1725, Routing Slip	<ul style="list-style-type: none"> <li>· A transmittal sheet (also known as a buck slip).</li> </ul>

#### 7.20.2.5.1 (11-01-2004) Form 872-C

- The name that should appear on Form 872-C is the exact legal name of the organization as it appears in the organizing document. However, variations of the name can be accepted as long as they are substantially correct. For example, if the organization's name is The Promise Foundation, Incorporated, the following variations may be accepted: Promise Foundation, Incorporated (or Inc.); The Promise Foundation; and Promise Fdn., Inc. (or any other abbreviation for foundation).

**Note:**

Form 1023 is undergoing revision and will incorporate Form 872-C.

- The address of the organization should be as listed in part I, item 1, on page 1 of the Form 1023 application. If the address differs, the organization should be asked to verify its address.

**Note:**

It is not necessary to delay the closing of an application for the correct address on this form as long as our records contain the correct address.

- The date on Form 872-C is the ending date of the first tax year of the organization based on its effective date. This date is based on 1) the date the Articles of Incorporation were filed, or if unincorporated, the date the organizing document was formally adopted; and 2) the month the organization's tax year ends. If an organization was incorporated on December 30, 1997, and its annual tax year ends in December, then the ending date of the first tax year for purposes of Form 872-C is December 31, 1997.
- An officer or an authorized representative of the organization must sign the form. A faxed copy of the form is acceptable. The original is not required.

**Note:**

If an agent requests an organization to complete or correct the form, then the corrections needed should be specified.

#### 7.20.2.5.2 (11-01-2004) Form 6018

- This form is a consent to proposed adverse determinations and is used in denials and adverse foundation status cases.
  - Form 6018 may be solicited prior to closing denials of exemption applications regardless whether such denials are subject to IRC 7428.
  - Form 6018 should be solicited in adverse "F" cases only when the proposed effective date of the adverse foundation status is already established.
  - Form 6018 should be solicited prior to developing the private operating foundation (POF) or IRC 4945(g) issue in an adverse foundation follow-up case.

IF Form 6018 is secured	THEN
On an exemption application denial that is <b>not</b> subject to IRC 7428	Issue an abbreviated agreed denial letter without the protest paragraph. The "Taxpayer's Position" section of the letter should state that the organization agreed by signing Form 6018.
On an exemption application denial that <b>is</b> subject to IRC 7428	There is no change to the closing procedure. These denials are subject to declaratory judgment proceedings and, therefore, the adverse letter must contain the protest paragraph and be held in review for the 30-day period.
On an adverse foundation follow-up case subject to mandatory	The adverse letter should contain this sentence: "You agreed to private foundation status by signing Form 6018 dated _____, however, you may

review	reconsider your position during the 30-day period starting on the date of this letter." See IRM 7.20.3.5.1.2, Processing Adverse Foundation Follow-up Cases.
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**Note:**

Under study are proposals for a revised Form 6018, Consent to Proposed Action—7428, to be used for denials subject to IRC 7428, and a separate, new Form 6018-A, Consent to Proposed Action, to be used for denials not subject to IRC 7428.

**7.20.2.5.3 (11-01-2004)****Form 5666**

1. Form 5666 will recommend examination for either the first year in which the organization is a tax-exempt entity or for an appropriate subsequent year.
2. The decision to prepare Form 5666 is discretionary at the group manager level or above, based on the facts and circumstances, examination potential, possibilities of noncompliance, etc., in the particular case. The Form should be signed by the group manager.
3. Information submitted with Form 5666 may include the following:
  - A. A statement that the organization's exemption has been denied or that it failed to establish exemption
  - B. The effective date of the adverse action
  - C. A copy of the denial letter or FTE letter
  - D. The date the organization was incorporated or, if unincorporated, the date the association was formed
  - E. A statement that, as a taxable entity, the organization should be reporting any income, employment, and excise taxes for which it may be liable
  - F. In cases where contributions to the organization were formerly deductible as charitable contributions, a statement that those contributions are no longer deductible as charitable contributions.

**Note:**

If available, include the names and social security numbers or EINs of substantial contributors to ease the retrieval of corporate or individual income tax returns, which may be needed to determine whether donors have properly claimed charitable contribution deductions.

- G. The effective date after which contributions are no longer deductible as charitable contributions
- H. Copies of any available tax returns or a statement that no tax returns have been obtained
- I. Any pertinent documents and financial or other information.

**Note:**

The determination case file after it is microfiche can be used to satisfy this requirement.

**7.20.2.6 (11-01-2004)****Case File Assembly**

1. Agents are responsible for properly assembling documents in the case file. Proper case file assembly:
  - A. Helps managers, reviewers, conferees, and Appeals officers review the case.
  - B. Reduces the risk of an improper disclosure by separating non-disclosable material from material that is available for public inspection.
  - C. Assists in compiling the administrative record (as defined in Tax Court Rule 210(b)(12)) in cases that are litigated under IRC 7428.
2. Minor deviations to the case assembly guide to provide for local forms or documents may be necessary in unusual situations.

**7.20.2.6.1 (11-01-2004)****Guide for Assembling a Determination Case File**

1. Proper assembly is required for case files involving applications for recognition of exemption. These files are divided into three basic categories:
  - Information open for public inspection (under IRC 6103 and 6104) on the right side
  - Information not open for public inspection on the left side
  - Items to be purged from the case file
2. The following forms are to be attached to the **front** of the file in descending order:
  - a. Form 3198-A, if necessary
  - b. Form 8670 (if more than one, to be staggered with 1 of 2 and 2 of 2 written above the case number)

**7.20.2.6.2 (11-01-2004)****Case File Information Open for Public Inspection**

- a. Determination letter(s) (1 for each recipient, including complete copy of letter to POA, and 1 copy of each for file)
- b. Form 872-C (original plus 1), if executed (one additional for each POA)
- c. Form 8718, User Fee for Exempt Organization Determination Letter Request
- d. Form 2848, Power of Attorney, if executed
- e. Form 872-C, if not executed (i.e., not signed by the organization and the IRS)
- f. Application Form 1023 or 1024, upon which the determination was made
- g. Application Form 1023 or 1024 (withdrawn)
- h. Organizing document
- i. Amendments to organizing document in chronological order
- j. Bylaws
- k. Financial information (not submitted as integral part of application form) (audit report)
- l. Documentation of nondiscriminatory policy required by Rev. Proc. 75-50 (if applicant operates a school)
- m. All disclosable schedules or statements submitted as part of applications
- n. Correspondence received from the organization or issued to the organization relating to the determination of exempt status.

**Note:**

Correspondence should be organized in ascending chronological order with the oldest material on top. If the correspondence becomes an integral part of the application, it should be inserted as appropriate.

- o. Printed material, publications, etc., which support the approval of the application
  - p. Envelope showing the postmark date for IRC 508/505 purposes
2. In an **adverse case**, the case assembly of the right side of the case file is the same as in (1) above, except that the information listed below will be placed on top of the file in the following order:
- a. Proposed adverse letters (1 only for recipient)
  - b. Form 6018 (2 only for recipient), if signature requested
  - c. Publication 892 (1 for recipient)
  - d. Copy of proposed adverse letter and Form 6018 (if signature requested) stapled together for Quality Assurance
  - e. Form 6018, if executed
  - f. Index

**Note:**

Quality Assurance will make a copy of the proposed adverse letter and the Form 6018 for the case file from the floppy disk that is enclosed with the case.

**Reminder:**

No documents are purged in a proposed adverse closing.

**7.20.2.6.3 (11-01-2004)****Case File Information Not Open for Public Inspection**

1. Agents will assemble the items that are not open for public inspection on the left side of the case file in the following descending order:
  - a. Unexecuted memorandums to file pertaining to section 301.9100-1 relief
  - b. Form 5060 requiring the reviewer's signature and documents to be forwarded to other functions (e.g., Form 5768, Form 5666)
  - c. Original EOMF/BMF documents to be input (e.g., Form 2363-A)
  - d. Case Chronology Record, oldest date on top
  - e. Copies of Form 2363 or 2363-A (includes the group exemption pilot voucher and list of subordinates)
  - f. Copy of Form 5666
  - g. Form 6038
  - h. Attachments to Form 6038

prints, copy of signed Form 5060, etc.)

- j. Copies of Form 8670 with different case numbers assigned to the organization
- k. Reviewer's memorandums and other IRS memorandums or reports (Forms 5456 and 5457, Form 12175, expedite requests, copy of the user fee waiver/refund, EO Technical Post Review memorandums, EO Technical Case History, EIN merger memo, and memorandums to file)
- l. Copies of user fee checks
- m. Any other non-disclosable information (e.g., patents, trade secrets, etc.)

#### **7.20.2.6.4 (11-01-2004)** **Purged and Discarded Materials**

1. During the processing of a determination request, the agent may need to keep some materials that will be purged at case closing and others that may be discarded during processing. Some examples of items that are discarded **at case closing** are:
  - Technical Screening Sheet
  - Form 8327
  - EO Determination Input Sheet
  - Publications, booklets, brochures, pamphlets, newsletters, etc., which do not support the approval of the determination
  - Leases that do not support the approval of the determination
  - Completed Forms 872-C on definitive rulings

#### **Note:**

Nothing should be marked "Purge" in adverse cases.

2. Some examples of items that may be discarded during processing are:
  - Duplicate forms and letters
  - Blank forms and pages
  - Envelopes with no IRC 508 or IRC 505 issues

#### **7.20.2.7 (11-01-2004)** **Requesting Additional Information**

1. Requests for additional information in processing a determination should be thorough and relevant. Attachments or questionnaires may be used if they do not request information already submitted. EDS Letters 1312 and 1313 are usually used to request additional information in Type I and S cases requesting recognition of tax-exempt status.
2. Information not critical to exempt status, e.g., clarification of an address, may be obtained by telephone. The agent will document the details of the conversation in the file.
3. An applicant must submit information critical to tax-exempt status, e.g., a description of its proposed activities, a representation that it will not engage in political activity, etc., in writing, over the signature of an officer or authorized representative, regardless whether the agent's request was made orally or in writing. The document may be faxed to the agent.

#### **7.20.2.7.1 (11-01-2004)** **Time to Submit Information**

1. Applicants are allowed 21 days to submit additional information in response to an agent's written request, except for requests for additional information during technical screening. Extensions should not be granted if solely by phone.
2. In some situations, an organization may not be able to provide the additional information within the 21-day period.
  - A. If the organization contacts the agent because it is unable to provide the information within the 21-day period, then the agent can grant an extension of up to 14 days.
  - B. If the organization cannot respond within the 21-day period or the 14-day extended period, the agent should consult with the group manager as to whether any further extension request should be granted.
  - C. After consulting with the group manager, the agent must contact and inform the organization whether the extension of time was granted or denied.
3. If the applicant fails to respond to the request for additional information or does not request an extension of time by the end of the 21-day period, the agent will:
  - A. Verify the applicant's address and determine whether the additional information request was returned as undeliverable.
  - B. Telephone the individual whose name and telephone number appear on the application, or the authorized representative, and inquire about the status of the information request. The agent may grant a 14-day extension.
  - C. If the authorized representative or contact person cannot be reached by telephone, the agent will send a follow-up letter to the organization informing it that its determination request will be closed if the additional information is not received. The letter will give the organization 14 days to respond.

4. In type I, S, and group exemption cases, in which the organization has not responded to the actions described in (3) above, the agent will:
  - A. Clearly explain that if the organization does not provide the information requested in order for the Service to determine tax-exempt status, then its case will be closed, and the organization will have 90 days to submit the additional information without incurring an additional user fee and without having to submit a new application.
  - B. Fully document the conversation with the organization in the case file.
  - C. After a total of 35 days, close the case using status 11, Failure to Establish (FTE) unless it is a church, and issue the appropriate EDS letter.
  - D. Complete as much of Form 6038 as possible. No attachment is required.
5. Refer to IRM 7.20.3.5.1.1 for procedures for handling no-response foundation follow-up cases. Refer to IRM 7.20.2.4.3 for handling no-response Termination (T) type cases.
6. No-response type A (other than group exemption requests) and P cases will usually be closed using status 12 (Other) on EDS. Whether or not to update the Master File will depend on the facts of the case. Form 3198-A will be prepared if special handling is required.

**7.20.2.8 (11-01-2004)****Effective Date of Exemption and Special Rules**

1. An exemption letter does not usually state an effective date if an organization is entitled to exemption from the date it was formed because the exemption is effective beginning with the date the organization was legally established.

**Note:**

Revised exemption letters will state an effective date to avoid any confusion concerning the effective date.

- A. An IRC 501(c)(9) or (c)(17) applicant must file its application within 15 months from the end of the month in which it was organized for the effective date to be retroactive to the date of formation. See Treas. Reg. 1.505(c)-1T.
  - B. An IRC 501(c)(3) applicant, except if described in IRC 508(c), must file its application within 15 months from the end of the month in which it was organized for the effective date to be retroactive to the date of formation. See Treas. Reg. 1.508-1(a). The filing date is the U.S. postmark date stamped on the envelope in which the exemption application is mailed. If the envelope is not postmarked, or the postmark is illegible, the filing date is the date the completed application is stamped received by the Service.
  - C. If the IRC 501(c)(3) application is not filed within the 15-month period, then the applicant has an automatic extension of 12 months as provided in Rev. Proc. 92-85. If the applicant does not file the application within the initial 15 months plus the automatic 12-month period, it may request a discretionary extension beyond the 27-month period. See IRM 7.20.2.10.
  - D. IRC 508(c) and Reg. 1.508-1(a)(3) list exceptions to the notification requirement of IRC 508(a), and the appropriate notation should be made on Form 6038 at case closing.
2. If the organization was not described in any subsection of IRC 501(c) from the time it was formed, the letter must specifically state the effective date of exemption, which is the date when it was first described in IRC 501(c). The agent will include the appropriate EDS paragraphs in the closing letter to inform the applicant of the effective date of tax-exempt status.
    - A. The agent may secure a written agreement from the organization similar to the following:  
 "This refers to our conversation of \_\_\_\_\_ when we discussed the effective date of our exempt status under section 501(c)(3) of the Internal Revenue Code. We agree with the conclusion of the Internal Revenue Service concerning the effective date of our exempt status under section 501(c)(3) of the Code. We also agree with the conclusion of the Internal Revenue Service that from \_\_\_\_\_ through \_\_\_\_\_ this organization did not qualify for recognition of exemption from Federal income tax under section 501(c)(3) of the Code. We are in agreement with the Internal Revenue Service that from \_\_\_\_\_ through \_\_\_\_\_ contributions to our organization are not deductible under section 170 of the Code."
    - B. If the applicant does not submit the statement within 21 days, the determination letter must include a protest paragraph and the paragraph on exhaustion of administrative remedies.
  3. If an IRC 501(c)(3) applicant does not meet the automatic 27-month period and does not specify in its application or in other communications whether it wants relief from IRC 508(a), the agent should contact the applicant to explain the IRC 508 issue completely.
  4. In the case of a non-IRC 501(c)(3) organization operated in an exempt manner as an unincorporated association before its incorporation, the exemption letter should state that the period of exemption includes the period during which the organization, now a corporation, operated in unincorporated status. See Rev. Rul. 54-134, 1954-1 C.B. 88. For IRC 501(c)(3) organizations, see Rev. Ruls. 73-422, 1973-2 C.B. 70, and 77-116, 1977-1 C.B. 155.

**7.20.2.9 (11-01-2004)****Adverse Determination Cases Overview**

1. Agents should attempt to resolve determination cases at the earliest possible time. Therefore, it is often advisable to hold an informal conference with an organization, during which concerns can be addressed, before issuing an initial adverse ruling or determination letter. The agent may hold the conference together with the group manager.
2. Issues to discuss with the organization may include:
  - Clarification of activities or purposes that come within the exempt or foundation status requested
  - Clarification of the facts
  - Alternative tax-exempt status classification under IRC 501(a)
  - Alternative foundation classification under IRC 509(a)
3. However, if the agent and group manager believe that the administrative record is sufficient to prepare an initial adverse determination letter without a discussion with the organization, then an initial adverse determination letter with protest rights may be prepared.



4. If, after the discussion, the organization is expected to provide additional information describing its activities and/or purposes, then the agent should confirm such expectation by issuing an information letter to the organization.
5. If, after the discussion with the organization and a review of the information submitted by the organization, the agent and group manager agree that the organization does not qualify for a favorable determination, then the agent should prepare an initial adverse determination letter with protest rights. The group manager should document his or her involvement in the case file. The initial adverse determination letter is subject to mandatory review (except in no-support F cases). See IRM 7.20.5.4.

**7.20.2.9.1 (11-01-2004)****Preparation of Initial Adverse Determination Letter**

1. All factual and legal issues should be fully developed in an initial adverse determination letter. The final case disposition depends on the quality of fact development and the correct application of law to those facts.
2. Initial adverse determination letters must include or address the following:
  - A. The material facts on which the determination is based
  - B. The applicable statute, regulations, and other governing precedent
  - C. The Service's conclusion and a clear explanation of the underlying reasoning
  - D. The denial of recognition status under any other paragraph of IRC 501(c), if exempt status is the issue; or under any other foundation classification, if foundation classification is the issue
  - E. The organization's right to protest the proposed action; Publication 892, EO Appeal Procedures for Unagreed Issues, attached to the adverse letter
  - F. The right of the organization to a conference
  - G. A statement that the determination will become final if the organization does not submit a written protest within the allotted time
  - H. A statement in an IRC 501(c)(3) exemption case that under IRC 6104(c) State officials will be notified
3. Form 3198-A will be marked for mandatory review (in the "Determination Cases" section of the form) when the agent prepares an initial adverse determination letter.
4. The agent will prepare an index of the administrative record documents, attach the index to the inside right side of the case file folder, and update it as necessary. In a foundation follow-up case, or F case, an index should be prepared if the case is unusually large, complex, or likely to be protested.

**7.20.2.9.2 (11-01-2004)****Miscellaneous Issues Concerning Initial Adverse Determination Letters**

1. An agreed foundation follow-up case, in which the organization signs Form 6018, Consent to Proposed Adverse Action, is processed as an adverse case because Form 6018 does not contain the necessary language to waive the organization's right to declaratory judgment. However, the proposed adverse letter and the administrative record need not be as detailed as in a case in which the organization does not sign the Form 6018. See IRM 7.20.3.5 for a complete discussion of foundation follow-up cases. See IRM 7.20.2.5.2 for a further discussion of Form 6018.
2. Protest appeal rights or court review are not extended to:
  - Determination cases closed based on "failure to establish "
  - Foundation classification cases closed as presumptive private foundations
3. Technical advice may be requested on issues in controversy. See IRM 7.1.4, EO Technical Advice Procedures.

**7.20.2.9.3 (11-01-2004)****Adverse Ruling or Determination Not Sustained by Court**

1. If an organization exercises its right to file for a declaratory judgment under IRC 7428, it may obtain a favorable determination if:
  - A. The Court issues a favorable decision, or
  - B. Counsel agrees to a favorable determination in exchange for withdrawal of the action.
2. Apart from filing a declaratory judgment action, an organization may also obtain a favorable determination by successfully challenging a tax assessment that resulted from a prior adverse determination.
3. The procedures for the issuance of rulings or determination letters to organizations that have established in court their qualifications for exemption from federal income tax are contained in Rev. Proc. 80-28, 1980-1 C.B. 680.
4. Counsel will return the file to the Director, Rulings and Agreements, for preparation of a favorable determination letter. If there has not been a change in the controlling law, the favorable determination letter (including signature and date stamp) will be forwarded to Area Counsel for delivery to the applicant. The administrative file should contain a brief statement over the signature of a principal officer that the organization's activities remain the same as in the period considered by the court, if that is the case.

**Note:**

The organization need not submit a new application if one has already been submitted.

**7.20.2.10 (11-01-2004)****IRC 508(a) Overview**

1. Organizations applying for exemption under IRC 501(c)(3) are subject to the notice provisions of IRC 508(a) and related regulations, which generally require an organization to submit Form 1023 within 15 months from the end of the month in which it was organized.
2. IRC 508(c)(1) provides that the 15-month filing requirement described in IRC 508(a) does not apply if the organization is:
  - A. Not a private foundation described in IRC 509(a) and its annual gross receipts are normally not more than \$5,000 (*see IRM 7.20.2.10.1*), or
  - B. A church, integrated auxiliary, or convention or association of churches.
3. If an organization is not described in (2)a) or (2)b) above, and does not file its Form 1023 within 15 months from the end of the month in which it was organized, then it may file for relief from the IRC 508(a) filing requirement pursuant to Rev. Proc. 92-85, 1992-2 C.B. 490. Relief is covered under Reg. 301.9100-1.

**7.20.2.10.1 (11-01-2004)****"Gross Receipts of a Public Charity Normally Not More Than \$5,000" Defined**

1. To determine whether an organization satisfies the exception for filing under IRC 508(c)(1)(B) because its annual gross receipts are normally not more than \$5,000, the agent must review the organization's financial statements to verify that:
  - A. In Year 1 of its existence, the organization's gross receipts did not exceed \$7,500;
  - B. The organization's gross receipts for *Years 1 and 2 combined* did not exceed \$12,000; and
  - C. The organization's gross receipts for *all three years combined* did not exceed \$15,000, thus averaging not more than \$5,000 annually.

**Note:**

This exception applies only if the organization does not apply for exemption within the first 27 months of its existence.

2. The organization has 90 days from the end of the fiscal year, in which it fails the gross receipts test, to submit an application for relief from the IRC 508(a) filing requirement.

**7.20.2.10.2 (11-01-2004)****Relief under Section 301.9100**

1. Delegation Order 183 (as revised) authorizes group managers in Exempt Organizations to grant a reasonable extension of time for IRC 505 (c) and 508(a) matters. This authority may not be redelegated. IRC 508 applies to organizations requesting exemption under IRC 501(c)(3). IRC 505(c) applies to organizations requesting exemption under IRC 501(c)(9) or (17).
2. Treas. Reg. 301.9100-2 provides an automatic 12-month extension of the 15-month period for filing Form 1023 to organizations requesting recognition of exemption under IRC 501(c)(3), and for filing Form 1024 to organizations requesting recognition of exemption under IRC 501(c)(9) or (17). See Rev. Proc. 92-85. The automatic 12-month extension applies if the organization submits a completed Form 1023 or Form 1024 within 12 months after the end of the initial 15-month filing period.
3. An organization submitting a Form 1023 or 1024 must state at the top of page 1 of its application, "Filed Pursuant to Section 301.9100-2." If the application does not already contain this statement, the organization may be advised to add the statement to the Form 1023 or 1024, or the statement can be added to Form 6038 on the checksheet. The Form 6038 should contain a statement that the organization qualifies for an automatic extension.
4. If the organization does not submit its application within 27 months from the time it was filed, then section 301.9100-3 provides that an additional extension of time may be granted if the applicant submits an affidavit demonstrating that it acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the Government. The affidavit should be signed and dated by an officer of the organization attesting to the facts surrounding the organization's failure to file.
5. An organization may satisfy the affidavit requirement of section 301.9100-3 if it:
  - A. Meets the requirements for tax exemption from the end of the month in which it was created;
  - B. Files its application before the Service discovers the organization's failure to timely file the Form 1023 or 1024; and
  - C. Was not, or is not, under examination.
6. The affidavit requirement of section 301.9100-3 is not automatically triggered if an organization files a Form 990 to meet its filing requirements, but has not filed an application form and is contacted by the Ogden Campus to resolve the unpostable condition.
7. The question regarding Service contact with the organization for failure to file Form 1023 no longer appears on Form 1023; it is, therefore, no longer necessary to solicit this information from the customer if the organization answered "Yes" to question 4 on page 5 of Form 1023.
8. When closing the case, the agent will state on Form 6038 that relief has been granted and briefly explain the reasons for granting the relief.

**Note:**

Rev. Proc. 93-28, 1993-2 C.B. 344, modifies Rev. Proc. 92-85 with respect to section 5.

**7.20.2.10.3 (11-01-2004)****Relief Not Granted**

1. If the agent recommends that section 301.9100 relief should not be granted, and the group manager agrees, the group manager should schedule a conference with the taxpayer before the issuance of any determination letter.
2. If section 301.9100 relief is not granted by EO Determinations, then the applicant may request exemption under IRC 501(c)(4) for the period preceding the effective date of exemption under IRC 501(c)(3). The agent will review the following in order to process the applicant's request:
  - A. Page 1 of Form 1024 must be filed by the organization to receive consideration under IRC 501(c)(4).

- B. Exempt status under IRC 501(c)(4) will be effective from the date of formation until the date of recognition of exemption under IRC 501(c)(3).
  - C. Two separate determination letters will be issued: one for IRC 501(c)(4) status and one for IRC 501(c)(3) status. Each letter will indicate the effective date of the exemption.
3. If section 301.9100 is not granted by EO Determinations, and the applicant does not seek exemption under IRC 501(c)(4) for the period from formation until the effective date of exemption, then the case is subject to mandatory review. See IRM 7.20.5.

**7.20.2.11 (11-01-2004)****National Taxpayer Advocate Service Level Agreement****General Information**

- 1. National Service Level Agreements (SLAs) have been established between the Taxpayer Advocate Service (TAS) and each Operating Division. The SLAs contain basic requirements for handling TAS-referred cases and include specific actions to take on TAS referrals and specific time frames for completing those actions.
- 2. The SLAs can be found at <http://advocate.no.irs.gov/Library/Library.htm#Service>, and procedures are contained in IRM 13, Taxpayer Advocate Service.

**7.20.2.11.1 (11-01-2004)****Congressional Inquiries**

- 1. For purposes of determination work, a congressional inquiry is an inquiry initiated by a congressional office. Typically, the inquiries are letters prepared on congressional letterhead inquiring about an organization's application. A letter from an organization merely indicating that it has contacted its congressional office is not a congressional inquiry.
- 2. The agent will normally receive a congressional inquiry in one of the following ways:
  - A. The TAS office receives an inquiry from a congressional office and contacts the agent to resolve the inquiry.
  - B. The congressional office contacts the agent assigned to a constituent's case directly.
  - C. The agent finds correspondence in the case file from a congressional office prior to contacting the organization.
- 3. The agent should advise the group manager when a congressional inquiry has been made on a case.
- 4. If the TAS office contacts the agent to resolve the congressional inquiry, it is typically to check on the status of the application, or to obtain a copy of the request for additional information or a copy of the final determination.
- 5. If the congressional office contacts the agent directly, the agent should inform the congressional office that it should contact its Local Taxpayer Advocate's office directly. However, if it is a simple question, the agent may resolve the issue, provided all disclosure requirements are satisfied. See IRM 13.1.8.12.
- 6. If the agent finds correspondence in the case file from a congressional office, the agent must contact the TE/GE TAS Liaison at 513-263-3656. If the TE/GE TAS Liaison requests a copy of the letter, the agent must ensure there is sufficient information in the letter to identify the organization. If the information is not sufficient, a copy of page 1 of the application request should be submitted with the copy of the letter. The agent will attach this information to a Form 1725 and route it to TE/GE TAS Liaison, Room 2023, Group 1, Cincinnati POD. It may also be faxed to 513-263-3756. The agent will not initiate contact with the congressional office.

**7.20.2.11.2 (11-01-2004)****Operations Assistance Requests (OARs)**

- 1. The Taxpayer Advocate Service (TAS) uses the Operations Assistance Request (OAR) process to refer cases when TAS lacks either the statutory or delegated authority to resolve a taxpayer's problem. TAS utilizes Form 12412, Operations Assistance Request, to initiate the OAR process.
- 2. In cases requiring an OAR, TAS will complete Form 12412 and forward the case to the TE/GE TAS Liaison via Form 3210. The TE/GE TAS Liaison will review the case, assign it to the appropriate area, and monitor the case to its conclusion.
- 3. Every effort must be made to expedite the completion of OAR cases which meet expedite criteria. See IRM 7.20.2.4.5. Time frames for the assigned area to complete the case will be indicated on Form 12412.
  - A. If resolution of a taxpayer's case cannot be completed by the requested completion date shown in Box 3, Section IV of Form 12412, the agent should contact the TAS employee assigned the case to negotiate an extension date.
  - B. The agent will work with the TAS Liaison listed on Form 12412 to agree on time frames for follow-up based on the facts and circumstances of the particular case.
  - C. The agent will discuss his or her findings and recommendations on the final disposition of the case with the assigned TAS employee. The TAS employee is responsible for communicating the final decision on the case to the taxpayer; however, this does not prohibit the agent from also communicating that decision to the taxpayer.
  - D. If the TAS employee and the agent cannot agree on the resolution of the taxpayer's problem, the TAS employee will elevate this disagreement to his or her manager who, in turn, will discuss it with the appropriate Operating Division manager. The agent will also elevate any disagreement to his or her manager.
- 4. When the agent has completed the action requested in the OAR, the agent will complete Section VI of Form 12412. The completed form will be forwarded to the TE/GE TAS Liaison and a copy retained in the case file. This form can be accessed electronically. The agent may also complete Section VI and e-mail that page directly to the assigned TAS employee via secure messaging. If e-mail is used, the TE/GE TAS Liaison should be notified at 513-263-3656 that the OAR has been completed.
- 5. For more detailed information, see IRM 13, Taxpayer Advocate Service, and the Service Level Agreements at <http://advocate.no.irs.gov/Library/Library.htm#Service>.

**7.20.2.12 (11-01-2004)****Microfiche and Record Storage**

1. The Processing Office Records Unit microfiches case files for retrieval for public inspection and reference.
2. All A, F, I, P, R, S, and T cases controlled on EDS (except those closed as Correction Disposals) are microfiched.
3. Additional information on closed cases should be forwarded to the Processing Office Records Unit for microfiching.
4. Microfiche are filed in alphabetical order by State, according to the address of record. An EO Records Unit employee must retrieve the microfiche.
5. To request microfiche:
  - A. Fax a request to 513-263-3780; or
  - B. Send a legibly completed Form 8057 through the group secretary to the Processing Office Records Unit.
6. When preparing Form 8057, include:
  - Agent's name and date
  - Group number
  - Telephone number
  - EIN
  - Organization's name and address, including the State
7. To advise the EO Records Unit to add/correct information on the microfiche, prepare the appropriate form. This form should be forwarded to the Records Unit through the group secretary. An agent will use this form in the following situations:
  - A. When information is received from an organization on a closed case that will not change the final decision (approval of the application), it should be added to the microfiche for future reference.
  - B. When an organization changes its name, the previous microfiche should be changed to reflect the organization's new name.
  - C. When an organization changes its address of record to a new State, the previous microfiche should be refilled accordingly (under the appropriate State).

**7.20.2.13 (11-01-2004)****Case Closing**

1. When the processing of a case is completed and a determination is to be issued, each case status must be updated to a closed status on EDS to reflect the decision on the case. Each of the workpapers prepared for case closing must be initialed and dated by the preparer. This is generally done in the upper right-hand corner of each page.
2. The following forms are required for case closing:
  - A. Form 6038: This form is prepared only when closing an I or S case. The front of the form is the checklist. The agent will check each block appropriately. At the bottom of the front page is a section for other issues, comments, and conclusions. The agent will indicate "See Attached" in this section. In situations where the case involved significant issues, an additional section should be added to the Form 6038 identified as issues. The agent should explain what the significant issues in the case were and how they were resolved.
  - B. The attachment to this form contains three sections: Activities, Law, and Conclusion. These are the headers for the narratives for justification of exemption. Under "Activities," the agent will write a narrative, usually a paragraph, describing the activities of the organization. The "Law" section should contain a description of the precedent used to recommend exemption. This can be a revenue ruling, court case, public law, or regulation. The regulations should be cited only if there is no other available precedent on point. The "Conclusion" should contain a brief statement justifying exemption. Foundation status should describe the appropriate classification.
3. The following types of cases require worksheets for case closing:
  - A. Foundation follow-up cases to show how public support tests are met
  - B. Initial approval of an IRC 501(c)(3) organization with a definitive ruling to show how the public support test is met
  - C. IRC 509(a)(3) foundation classification to show how the criteria of this section are met
  - D. Schools within the meaning of IRC 509(a)(1) and 170(b)(1)(A)(ii) to show how the criteria of these sections are met
  - E. IRC 501(c)(9) organizations to show how the criteria of this section are met
4. All closed cases require a National Taxonomy of Exempt Entities code. These codes are assigned to each IRC 501(a) organization based on organizational type. They are commonly referred to as the NTEE codes. Special care should be exercised in selecting the appropriate code for each organization as the NTEE coding structure is relied on as a source of data by the IRS Statistics of Income (SOI) Program, the Urban Institute, GuideStar, various grantmakers, and many other public- and private-sector entities. The NTEE codes can be found on the Internet website of the National Center for Charitable Statistics at <http://www.nccs.urban.org/ntee-cc>.

**7.20.2.13.1 (11-01-2004)****After Case Closing**

1. On the date that a case is closed and placed in status 55 (awaiting managerial review), it must be submitted for review. Each group has a designated space for cases closed by the agents.
2. After the case is closed, it will be subject to review. Except for discretionary review of merit closures, the manager, on-the-job-instructor (OJI),

or other designated individual may review the case. In addition, some cases are specifically identified for mandatory review and others are selected for TEQMS review. If correction of procedural errors or further technical development is necessary, the case will be returned for correction or development.

3. Upon review, the manager, OJI, or other designated individual may:
  - Return the case in status 53 with written guidance provided as to needed corrections.
  - Post a note on the case file identifying minor corrections to be made. This type of case may be hand-carried for correction. The necessary changes should be made promptly and the case returned for closure the same day.
4. Cases returned from the manager, OJI, or designated individual require the agent to complete the following actions:
  - Promptly review all status 53 cases
  - Address each item described by the manager.
  - If necessary corrections have been made, indicate next to each item what action was taken to correct the item and initial the remarks
  - Briefly explain any disagreement, citing current law or published procedures in the rebuttal
  - Discuss the case with the manager if what the reviewer is requesting is unclear
  - Once all necessary items have been completed, update the status of the case on EDS
  - Initial and date the checksheet at the bottom
  - Close the case once again to the manager and place it in the designated place in the group

**Exhibit 7.20.2-1 (11-01-2004)**  
**Form 6038**

**Sample Attachment:**

Your Name  
Date

Attachment to Form 6038

Name of organization  
EIN

Activities

The above-named organization was formed for the purpose of raising funds to be distributed to organizations that are exempt under section 501(c)(3) of the Code.

Fundraising activities include candy sales, Christmas bazaar, direct mail solicitations, and requests for grants from corporations. The board of directors will determine to whom distributions will be made.

Law

Revenue Ruling 67-149 provides exemption under section 501(c)(3) of the Code to an organization that provides financial assistance to other charitable organizations, providing that the indirect support of charity is of itself a charitable activity.

Conclusion

This organization's activities are similar to the activities conducted by the organization described in the revenue ruling in that it is making distributions to section 501(c)(3) organizations; therefore, exemption is recommended.

Foundation status

A definitive ruling under sections 509(a)(1) and 170(b)(1)(A)(vi) is being granted. Please see attached worksheet.

**Note:** This form appears most professional when typed; however, if preferred, the attachment may be handwritten on the back of the Form 6038. If this form is handwritten, agents should ensure that their comments are legible.

[More Internal Revenue Manual](#)

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(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Tuesday, April 10, 2012 5:05 PM  
**To:** Megosh Andy  
**Cc:** Paz Holly O  
**Subject:** FW: Hatch

All your small letters--except the pure referrals need to go to Nikole please --along with the incoming--we'll need to scan the incoming, unless they were scanned for us by leg affairs.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, April 10, 2012 5:37 PM  
To: Lerner Lois G  
Cc: Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee; Paz Holly O; Fish David L  
Subject: Re: Hatch

Thanks. I think we will want to see anything other than the pure referrals.

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Grant Joseph H  
Cc: Urban Joseph J  
Cc: Marks Nancy J  
Cc: Park Nalee  
Cc: Paz Holly O  
Cc: Fish David L  
Subject: RE: Hatch  
Sent: Apr 10, 2012 5:26 PM

I am out Wed through Friday--my husband is having surgery. Holly and David are here and can work whatever issues we have. I will be available for some of the time and Holly will know how to reach me. I'll have the Blackberry in the waiting room!

By the way--this afternoon, I learned we have several other letters coming in --some just making specific referrals, for which we have a standard letter, others asking us to change the regs, again standard language, but others asking about the process. For that last set, the responses are the same as those included in the letters we've been working together. I've told my staff none of them should go out until we get the big ones out. If you want to see these little ones, let us know.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, April 10, 2012 5:08 PM  
To: Lerner Lois G  
Cc: Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee  
Subject: Re: Hatch

Thanks. I will take a look and will send our comments. I will let leg affairs know that we won't be final by tomorrow. We may need the comprehensive response before we start sending anything.

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Grant Joseph H  
Cc: Urban Joseph J  
Cc: Marks Nancy J  
Cc: Park Nalee  
Cc: Lerner Lois G  
Subject: FW: Hatch  
Sent: Apr 10, 2012 3:03 PM

OK--here is our draft of the Hatch letter with attachments. Please note that the language in the last paragraph to question 6 and the last paragraph to question 7 have been sent to Disclosure and approved by Margo Stevens. let us know if there is anything else you need on this one --we will all take another look as it has been adjusted numerous times. April 11th due date is to Leg affairs. I assume you'll get it to them--we weren't planning on sending it.

Lois G. Lerner  
Director of Exempt Organizations

---

From: Park Nalee  
Sent: Tuesday, April 10, 2012 2:40 PM  
To: Lerner Lois G  
Cc: Marks Nancy J; Urban Joseph J; Fish David L; Kindell Judith E  
Subject: Hatch

Latest draft with enclosures.

NaLee

NaLee Park

SE:T:EO:RA:G, Rm NCA-551

EO Guidance, R&A

TEGE, Washington D.C.

(t) 202.283.9453 | (f) 202.283.9462



<<mailto:nalee.park@irs.gov>>

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 10, 2012 6:12 PM  
**To:** Park Nalee  
**Subject:** Document1 (6).doc  
**Attachments:** Document1 (6).doc

(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Tuesday, April 10, 2012 6:27 PM  
**To:** Marks Nancy J  
**Subject:** RE: Hatch

Sure

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Marks Nancy J  
Sent: Tuesday, April 10, 2012 6:06 PM  
To: Lerner Lois G  
Subject: RE: Hatch

Lois would you have them copy me as well.

-----Original Message-----

From: Lerner Lois G  
Sent: Tuesday, April 10, 2012 6:03 PM  
To: Flax Nikole C  
Cc: Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee; Paz Holly O; Fish David L  
Subject: RE: Hatch

OK--I'll have Holly send them

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, April 10, 2012 5:37 PM  
To: Lerner Lois G  
Cc: Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee; Paz Holly O; Fish David L  
Subject: Re: Hatch

Thanks. I think we will want to see anything other than the pure referrals.

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Grant Joseph H  
Cc: Urban Joseph J  
Cc: Marks Nancy J  
Cc: Park Nalee

Cc: Paz Holly O  
Cc: Fish David L  
Subject: RE: Hatch  
Sent: Apr 10, 2012 5:26 PM

I am out Wed through Friday --my husband is having surgery. Holly and David are here and can work whatever issues we have. I will be available for some of the time and Holly will know how to reach me. I'll have the Blackberry in the waiting room!

By the way--this afternoon, I learned we have several other letters coming in --some just making specific referrals, for which we have a standard letter, others asking us to change the regs, again standard language, but others asking about the process. For that last set, the responses are the same as those included in the letters we've been working together. I've told my staff none of them should go out until we get the big ones out. If you want to see these little ones, let us know.

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Director of Exempt Organizations

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Sent: Tuesday, April 10, 2012 5:08 PM  
To: Lerner Lois G  
Cc: Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee  
Subject: Re: Hatch

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Lois G. Lerner  
Director of Exempt Organizations

---

From: Park Nalee

Sent: Tuesday, April 10, 2012 2:40 PM

To: Lerner Lois G

Cc: Marks Nancy J; Urban Joseph J; Fish David L; Kindell Judith E

Subject: Hatch

Latest draft with enclosures.

NaLee

NaLee Park

SE:T:EO:RA:G, Rm NCA-551

EO Guidance, R&A

TEGE, Washington D.C.

(t) 202.283.9453 | (f) 202.283.9462

<<mailto:nalee.park@irs.gov>>

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 10, 2012 6:28 PM  
**To:** Paz Holly O; Megosh Andy  
**Subject:** FW: Hatch

Please cc Nan

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Marks Nancy J  
Sent: Tuesday, April 10, 2012 6:06 PM  
To: Lerner Lois G  
Subject: RE: Hatch

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From: Lerner Lois G  
Sent: Tuesday, April 10, 2012 6:03 PM  
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Cc: Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee; Paz Holly O; Fish David L  
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Lois G. Lerner  
Director of Exempt Organizations

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Cc: Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee; Paz Holly O; Fish David L  
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To: Flax Nikole C  
Cc: Grant Joseph H  
Cc: Urban Joseph J  
Cc: Marks Nancy J  
Cc: Park Nalee

Cc: Paz Holly O  
Cc: Fish David L  
Subject: RE: Hatch  
Sent: Apr 10, 2012 5:26 PM

I am out Wed through Friday --my husband is having surgery. Holly and David are here and can work whatever issues we have. I will be available for some of the time and Holly will know how to reach me. I'll have the Blackberry in the waiting room!

By the way--this afternoon, I learned we have several other letters coming in --some just making specific referrals, for which we have a standard letter, others asking us to change the regs, again standard language, but others asking about the process. For that last set, the responses are the same as those included in the letters we've been working together. I've told my staff none of them should go out until we get the big ones out. If you want to see these little ones, let us know.

Lois G. Lerner  
Director of Exempt Organizations

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Sent: Tuesday, April 10, 2012 5:08 PM  
To: Lerner Lois G  
Cc: Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee  
Subject: Re: Hatch

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Cc: Grant Joseph H  
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Cc: Park Nalee  
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Subject: FW: Hatch  
Sent: Apr 10, 2012 3:03 PM

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Lois G. Lerner  
Director of Exempt Organizations

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From: Park Nalee



Sent: Tuesday, April 10, 2012 2:40 PM

To: Lerner Lois G

Cc: Marks Nancy J; Urban Joseph J; Fish David L; Kindell Judith E

Subject: Hatch

Latest draft with enclosures.

NaLee

NaLee Park

SE:T:EO:RA:G, Rm NCA-551

EO Guidance, R&A

TEGE, Washington D.C.

(t) 202.283.9453 | (f) 202.283.9462

<<mailto:nalee.park@irs.gov>>

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 10, 2012 6:42 PM  
**To:** Paz Holly O  
**Subject:** BPR info

**Joseph said it is OK to use. Make sure you tell the ACT the only official number we have is the average time it took to close cases in 2011. The 74 was a snapshot on one particular day and can't be reproduced because data in the system changes daily. We would be comfortable with a statement that the screening cases were closed within 90 days.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 10, 2012 6:49 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee; Paz Holly O  
**Subject:** RE: Letter

That's what I thought--Holly get with Nalee and Marc Morgan. Also, use the [REDACTED]

[REDACTED]  
(b)(5)/DP  
[REDACTED]

[REDACTED] thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, April 10, 2012 7:45 PM  
To: Lerner Lois G  
Cc: Park Nalee; Paz Holly O  
Subject: Re: Letter

[REDACTED]  
(b)(5)/DP  
[REDACTED]

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Park Nalee  
Cc: Paz Holly O  
Subject: Letter  
Sent: Apr 10, 2012 7:39 PM

Issa Letter in question 3 asks for a breakdown of the number of c3 -c6 applications based on approved, denied and pending. [REDACTED]

[REDACTED]  
(b)(5)/DP  
[REDACTED]

[REDACTED] This getting complicated--let us know what you want please.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, April 10, 2012 5:37 PM  
To: Lerner Lois G  
Cc: Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee; Paz Holly O; Fish David L  
Subject: Re: Hatch

Thanks. I think we will want to see anything other than the pure referrals.

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Grant Joseph H  
Cc: Urban Joseph J  
Cc: Marks Nancy J  
Cc: Park Nalee  
Cc: Paz Holly O  
Cc: Fish David L  
Subject: RE: Hatch  
Sent: Apr 10, 2012 5:26 PM

I am out Wed through Friday --my husband is having surgery. Holly and David are here and can work whatever issues we have. I will be available for some of the time and Holly will know how to reach me. I'll have the Blackberry in the waiting room!

By the way--this afternoon, I learned we have several other letters coming in --some just making specific referrals, for which we have a standard letter, others asking us to change the regs, again standard language, but others asking about the process. For that last set, the responses are the same as those included in the letters we've been working together. I've told my staff none of them should go out until we get the big ones out. If you want to see these little ones, let us know.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, April 10, 2012 5:08 PM  
To: Lerner Lois G  
Cc: Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee  
Subject: Re: Hatch

Thanks. I will take a look and will send our comments. I will let leg affairs know that we won't be final by tomorrow. We may need the comprehensive response before we start sending anything.

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Grant Joseph H  
Cc: Urban Joseph J  
Cc: Marks Nancy J  
Cc: Park Nalee  
Cc: Lerner Lois G  
Subject: FW: Hatch  
Sent: Apr 10, 2012 3:03 PM

OK--here is our draft of the Hatch letter with attachments. Please note that the language in the last paragraph to question 6 and the last paragraph to question 7 have been sent to Disclosure and approved by Margo Stevens. let us know if there is anything else you need on this one --we will all take

another look as it has been adjusted numerous times. April 11th due date is to Leg affairs. I assume you'll get it to them --we weren't planning on sending it.

Lois G. Lerner  
Director of Exempt Organizations

---

From: Park Nalee  
Sent: Tuesday, April 10, 2012 2:40 PM  
To: Lerner Lois G  
Cc: Marks Nancy J; Urban Joseph J; Fish David L; Kindell Judith E  
Subject: Hatch

Latest draft with enclosures.

NaLee

NaLee Park

SE:T:EO:RA:G, Rm NCA-551

EO Guidance, R&A

TEGE, Washington D.C.

(t) 202.283.9453 | (f) 202.283.9462

<<mailto:nalee.park@irs.gov>>

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 11, 2012 12:23 PM  
**To:** Park Nalee; Paz Holly O  
**Subject:** Re: processing timeline verbiage

Need to change the [REDACTED] (b)(5)/DP

[REDACTED]  
Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Nalee Park  
To: Holly Paz  
Cc: Lois Call in Number  
Subject: processing timeline verbiage  
Sent: Apr 11, 2012 11:18 AM

FYI - Verbiage on the timeline for application processing that will be added to Issa's letter. Right now, it's been added as the last paragraph in the application process overview piece - but subject to change, depending on how Lois wants to finalize:

[REDACTED]  
(b)(5)/DP

NaLee

NaLee Park

SE:T:EO:RA:G, Rm NCA-551

EO Guidance, R&A

TEGE, Washington D.C.

(t) 202.283.9453 | (f) 202.283.9462

<<mailto:nalee.park@irs.gov>>

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 11, 2012 12:43 PM  
**To:** Park Nalee; Paz Holly O  
**Subject:** Re: Letter

Thanks for working this guys. Before this goes anywhere, I'll want to see.  
Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Nalee Park  
To: Holly Paz  
Cc: Lois Call in Number  
Subject: FW: Letter  
Sent: Apr 11, 2012 9:57 AM

Here's the question Lois is referring to:

Request 3. A chart showing the number of applications for tax exempt status for all 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) applications, filed by organizations since January 1, 2009. This chart should include the number of applications that have been approved, the number that have been denied, and the number that are still pending for each application type.

Holly - Forgot to mention the other piece of Lois' s email below when I had stopped by earlier. FYI: We already have SOI data on approved and disapproved for FY 2009 -2011 from the Databook. But FY2011 is only for Oct 1, 2010 through Sept 30, 2011. Question asks for data "since Jan 1, 2009" so we also need applications approved, disapproved, and pending from Oct 1, 2011 through March 30, 2012.

Let me know if you need anything else.

NaLee  
202.283.9453

-----Original Message-----

From: Lerner Lois G  
Sent: Tuesday, April 10, 2012 7:49 PM  
To: Flax Nikole C  
Cc: Park Nalee; Paz Holly O  
Subject: RE: Letter

That's what I thought--Holly get with Nalee and Marc Morgan. Also, use the [REDACTED]

[REDACTED]  
(b)(5) DP  
[REDACTED]

[REDACTED] thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C

Sent: Tuesday, April 10, 2012 7:45 PM

To: Lerner Lois G

Cc: Park Nalee; Paz Holly O

Subject: Re: Letter

(b)(5) DP

-----Original Message-----

From: Lerner Lois G

To: Flax Nikole C

Cc: Park Nalee

Cc: Paz Holly O

Subject: Letter

Sent: Apr 10, 2012 7:39 PM

Issa Letter in question 3 asks for a breakdown of the number of c3 -c6 applications based on approved, denied and pending. [REDACTED]

(b)(5) DP

[REDACTED] This getting complicated--let us know what you want please.

Lois G. Lerner

Director of Exempt Organizations



---

**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 9:07 AM  
**To:** Urban Joseph J  
**Subject:** Re: :: Some background information to today's TNT article on complaints against the IRS  
**Attachments:** check-small.png; play\_button.png

(b)(3)/6103


Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

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**From:** Urban Joseph J  
**Sent:** Thursday, April 12, 2012 07:51 AM  
**To:** Lerner Lois G; Marks Nancy J; Fish David L; Paz Holly O; Kindell Judith E; Light Sharon P; Lowe Justin; Megosh Andy; Park Nalee; Miller Thomas J  
**Cc:** Zarin Roberta B; Partner Melaney J  
**Subject:** :: Some background information to today's TNT article on co mplaints against the IRS

Some background. Here is a link to the (b)(5)/DP web site, where the organization says it is a (c)(4). (b)(3)/6103 Here is a link to a Fox News interview (b)(5)/DP. And here is an article Article from CNS News.

## Tea Party Launches Group to Combat IRS

By [Elizabeth Harrington](#)  
April 11, 2012  
[Subscribe to Elizabeth Harrington's posts](#)  


(CNSNews.com) – Saying President Barack Obama is “targeting the Tea Party” and using the “IRS as a weapon,” Tea Party activists Wednesday launched a coalition to combat the federal government agency’s burdensome onerous interrogation of conservative groups to determine if they should receive tax exempt status.

Speaking at the National Press Club, two Tea Party group leaders announced the formation of the Liberty Defense Foundation, which will assist grassroots organizations in fending off long questionnaires from the IRS when filing for 501 (c) (4) non-profit status.

“I really wish I didn’t have to be here,” said Eric Wilson, director of the Kentucky 9/12 Project. “I don’t mind coming to D.C. to visit but I don’t want to be doing a press conference for the reasons I’m having to do it, because the truth is, Obama’s IRS is targeting local Tea Party, liberty groups and ordinary citizens. And that’s the reason we have to fight back.”

Wilson said his organization and hundreds of others have received letters from the IRS requesting thousands of pages of information about their activities, with a two-week deadline to respond.

“They’re trying to bury us in time, trying to bury us in paperwork, and they are making us use up resources we don’t have, especially small local organizations and small groups,” he said, referring to an IRS questionnaire with 88 inquiries. “And they’re doing this during a critical election year. This is not by accident. This is coordinated and this is targeted.”



Toby Marie Walker, president of the Waco (Texas) Tea Party, said the IRS demanded every Facebook, Twitter and social media post released by her organization over a two-and-a-half year period, as well as lists of any information about politicians the group is associated with and transcripts for their daily radio show broadcasts. Wilson said one organization had to provide "book reports" of every book recommended or read by their group.

"Tea Parties and 9/12 groups, liberty groups around the country are small," Walker said. "Some of the groups have 20, 30, 40, 50 members, others have a couple thousand. But this is a David and Goliath fight. The IRS has unlimited resources and manpower to try to silence us. We have very limited funds and very limited human resource ability."

"None of us wanted to form a new [501] (c) (4) to protect [501] (c) (4)'s," she said of the new Liberty Defense Foundation. "That's just ridiculous."

The IRS grants tax-exempt status through its 501 (c) (4) designation for groups not organized for profit and whose exclusive operation is to promote social welfare. Unlike 501 (c) (3) organizations, 501 (c) (4)'s can engage in political activity, endorse candidates and donate to campaigns.

IRS Commissioner Douglas Shulman said last month testifying before a congressional panel that the IRS is conducting its usual examination process for 501 (c) (4) applicants to determine tax-exempt status, and is not targeting the TEA Party.

"The notion that we're targeting anyone, I think, is off because, you know, these people are going through an application process that they voluntarily decide to do that isn't required under the law," he told a House Appropriations subcommittee on March 21.

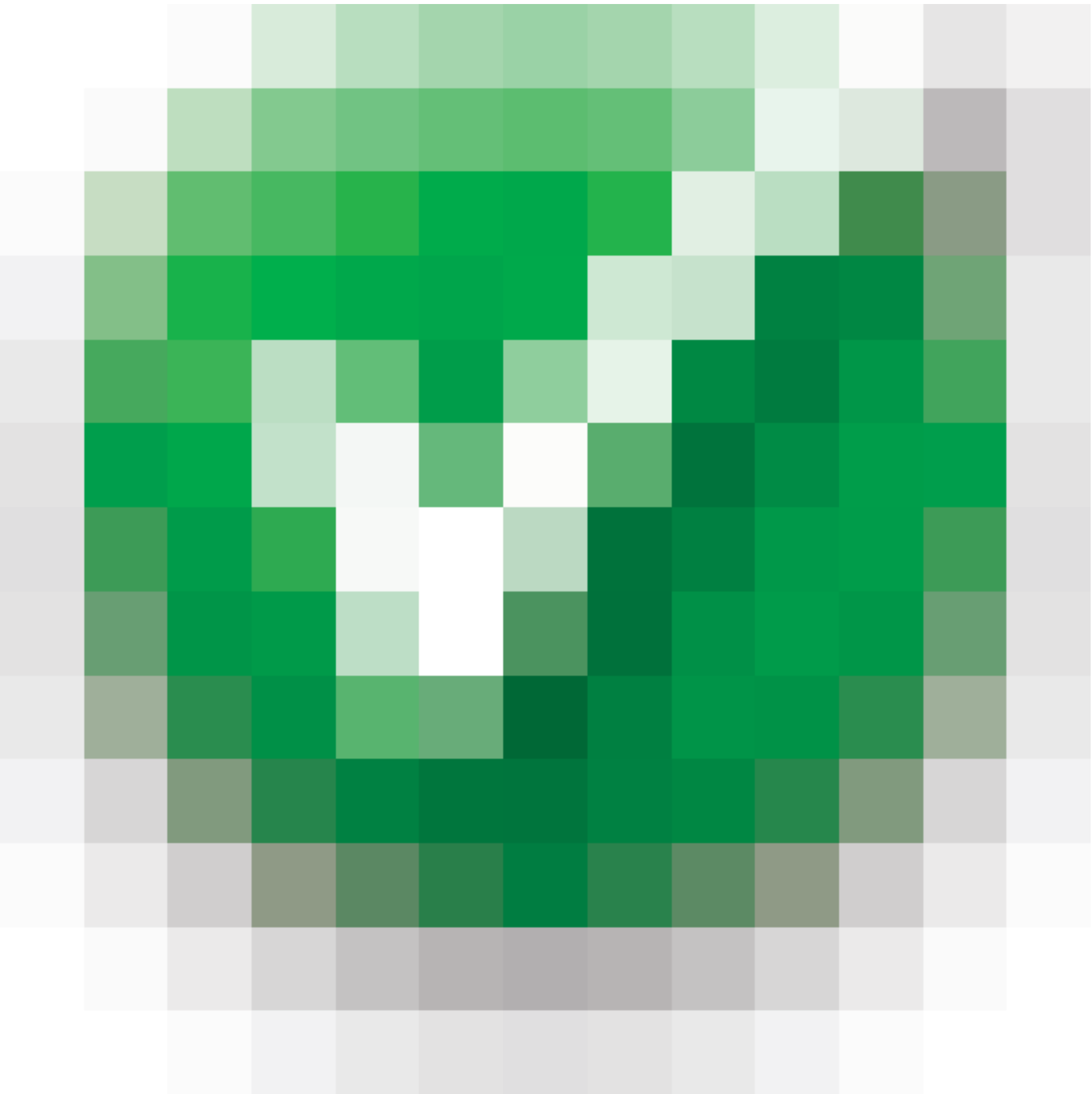
Wilson and Walker said that of the 1,700 applications for 501 (c) (4) status in 2010, 1,400 were approved. Of the remaining 300 awaiting approval, half are groups related to the Tea Party that have received the same scrutiny as the Waco Tea Party and Kentucky 9/12 Project.

During the press conference the activists promoted the Liberty Defense Foundation as a resource for like-minded groups. The organization will provide assistance in finding attorneys and accountants, help make travel arrangements, and provide "rally kits" with flyers, signs, talking points and a recommended speech for Tea Party gatherings.

The group is also aligning with the American Center for Law and Justice (ACLJ) for legal representation.

"We want to shine a light of what's going on," Wilson said. "We want to tell the general public that we're being attacked, the Obama administration is using an arm of the government to go after ordinary citizens."

"These are your neighbors, these are the people who are meeting locally and getting together and want to have a voice," he added. "That voice is being attacked and that voice is trying to be taken away."





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**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 9:09 AM  
**To:** Urban Joseph J; Grant Joseph H; Medina Moises C; Marks Nancy J; Fish David L; Paz Holly O; Kindell Judith E; Light Sharon P; Lowe Justin; Megosh Andy; Park Nalee; Miller Thomas J  
**Cc:** Marx Dawn R  
**Subject:** Re: #9 2012 TNT 71-9 TEA PARTY GROUPS DETAIL COMPLAINTS AGAINST WHITE HOUSE, IRS

I know holly and company are meeting on the guide sheet, but I'd like to set up a call. I can do it anytime. Just let me know what works.

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From:** Urban Joseph J  
**Sent:** Thursday, April 12, 2012 07:42 AM  
**To:** Lerner Lois G; Grant Joseph H; Medina Moises C; Marks Nancy J; Fish David L; Paz Holly O; Kindell Judith E; Light Sharon P; Lowe Justin; Megosh Andy; Park Nalee; Miller Thomas J  
**Cc:** Zarin Roberta B; Partner Melaney J  
**Subject:** #9 2012 TNT 71-9 TEA PARTY GROUPS DETAIL COMPLAINTS AGAINST WHITE HOUSE, IRS

**ABSTRACT:** Representatives of Tea Party organizations and other conservative groups on April 11 repeated accusations that President Obama has used the IRS to harass their organizations by needlessly delaying approval of applications for tax -exempt status, but the IRS says it processes all applications in a fair and impartial manner.

**AUTHOR:** Stokeld, Fred  
Tax Analysts

Release Date: APRIL 11, 2012

Published by Tax Analysts(R)

Representatives of Tea Party organizations and other conservative groups on April 11 repeated accusations that President Obama has used the IRS to harass their organizations by needlessly delaying approval of applications for tax -exempt status, but the IRS says it processes all applications in a fair and impartial manner.

Eric Wilson, director of the Kentucky 9/12 Project, and Toby Marie Walker, president of the Waco Tea Party, said at a press conference in Washington that the IRS is burdening groups seeking exemption as [section 501\(c\)\(4\)](#) organizations with unreasonable demands on their time and resources.

"Obama's IRS is targeting local Tea Party and Liberty groups and ordinary citizens, and that's the reason we have to fight back," Walker said. "As we continue to grow, Obama and the Democrats are going to continue to try to silence what we have to say. Right now Obama is using the IRS as a weapon." Walker called the situation "a modern-day witch hunt on the Liberty groups."

Wilson described the IRS treatment of the Tea Party groups as targeted and coordinated. The IRS received about 1,700 applications for [section 501\(c\)\(4\)](#) status in 2010, and about 1,400 of them have been approved. Of the 300 outstanding applications, more than 150 have been from Tea Party organizations,

9/12 organizations, and Liberty groups whose applications have received heavy scrutiny from the IRS, he said.

Wilson said that seventeen months after his organization filed its exemption application, it received a letter from the IRS with 88 inquiries, including questions about family members, donors, and volunteers. Thousands of pages would be required to reply to all the questions, he said. The IRS also requested that a local book club seeking exemption submit reports on every book read, he said.

Walker said the Waco Tea Party received an IRS letter asking the group to compile every Facebook, Twitter, and social media post it had put out in 30 months. The IRS also asked for transcripts of the organization's radio programs, which would have cost the group about \$ 25,000, she said.

"This is the type of scrutiny that we're getting," Wilson said. "These are targeted because we simply do not agree with the Obama administration."

Wilson and Walker said most Tea Party groups, 9/12 groups, Liberty groups, and similar organizations have limited funds and human resources. They formed the Liberty Defense Foundation to expose the IRS's actions and to help organizations find attorneys and accountants, assist with travel, and provide resources such as paper, ink, and printing, Walker said.

### **IRS Denies Bias**

By law the IRS may not comment on particular taxpayer situations or cases, but in a statement to Tax Analysts, the agency said its decisions on exemption applications are made by career civil servants "in a fair, impartial manner" and "without regard to political party affiliation or ideology." (For prior coverage, see *Doc 2012-4344* or [2012 TNT 42-3](#).)

To qualify for [section 501\(c\)\(4\)](#) status, an organization's primary purpose must be the promotion of social welfare; business and political activities are not considered as promoting social welfare but are permitted as long as they are not the group's primary activities, the IRS said. To determine whether a group's primary activity is political, the IRS may require materials in addition to the application, possibly including answers to questions, copies of documents and Web pages, and other relevant information, the IRS said.

Rep. Charles W. Boustany Jr., R-La., chair of the House Ways and Means Oversight Subcommittee, has said he plans to hold a congressional hearing to explore the IRS's activities in investigating political groups seeking tax-exempt status. (For prior coverage, see *Doc 2012-6038* or [2012 TNT 57-3](#).)

---

**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 10:06 AM  
**To:** Urban Joseph J  
**Subject:** Re: :: Some background information to today's TNT article on complaints against the IRS

It is what it is

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Joseph Urban  
To: Lois Call in Number  
Subject: RE: :: Some background information to today's TNT article on complaints against the IRS  
Sent: Apr 12, 2012 10:48 AM

[REDACTED]

[REDACTED] (b)(3); 6103 [REDACTED]

-----

From: Lerner Lois G  
Sent: Thursday, April 12, 2012 10:07 AM  
To: Urban Joseph J  
Subject: Re: :: Some background information to today's TNT article on complaints against the IR S

[REDACTED] (b)(3)/6103 [REDACTED]

Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

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**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 12:50 PM  
**To:** Flax Nikole C  
**Subject:** Fw: A Thought

Just more on why I think this could be a good thing. I could talk the whole 45 minutes so no question time Lois G. Lerner -  
----- Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Lerner Lois G  
Sent: Thursday, April 12, 2012 01:39 PM  
To: Marks Nancy J  
Subject: Re: A Thought

Me too--that's why I sent it. We'd need to know soon though to get it written and approved. This is one I'd read --no ad lib. We could also post it, as we have for past George town speeches Lois G. Lerner ----- Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Marks Nancy J  
Sent: Thursday, April 12, 2012 12:21 PM  
To: Lerner Lois G  
Subject: RE: A Thought

This will be a nikole ter ry call but I think it is a good idea personally

-----Original Message-----

From: Lerner Lois G  
Sent: Thursday, April 12, 2012 10:29 AM  
To: Flax Nikole C; Lemons Terry L  
Cc: Marks Nancy J; Grant Joseph H  
Subject: A Thought  
Importance: High

I saw today's press on the Press Club press conference by Tea party folks making allegations regarding IRS and c4 issue. I am doing th opening speech at Georgetown Conference next Wed. Should we consider whether the c4 process should be the speech topic? I would need to know soon to get it together, but a lot of it is what we are saying in the Congressional. Talk amongst those who would be interested and let me know as soon as possible.  
Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld



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**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 1:06 PM  
**To:** Marks Nancy J; Barre Catherine M  
**Subject:** Re: follow up on c4 letter

I think this has changed --Cathy's meeting isn't til next Friday, so we could do next week. I can do Friday at 330 if folks want though

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From:** Marks Nancy J  
**Sent:** Thursday, April 12, 2012 09:53 AM  
**To:** Lerner Lois G; Barre Catherine M  
**Subject:** RE: follow up on c4 letter

I can make anything friday afternoon work

---

**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 9:51 AM  
**To:** Barre Catherine M; Marks Nancy J  
**Subject:** Re: follow up on c4 letter

I am out due to my husband's surgery, but I'm sure we can find some time to get on the phone. Nan's schedule is harder than mine. I am unavailable Friday morn, but can do afternoon. L et me know once you guys have worked a time

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

---

**From:** Barre Catherine M  
**Sent:** Thursday, April 12, 2012 09:08 AM  
**To:** Marks Nancy J; Lerner Lois G  
**Subject:** follow up on c4 letter

Can we find a time to discuss the most recent Boustany response?

This week would be best if we can find 30 minutes -an hour for a call or meeting.

---

**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 1:22 PM  
**To:** Paz Holly O  
**Subject:** Re: CIC Agenda for 4-12-2012

Sometimes stuff doesn't work out

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Paz Holly O  
Sent: Wednesday, April 11, 2012 06:17 PM  
To: Lerner Lois G  
Subject: Re: CIC Agenda for 4-12-2012

She apparently cannot. She emailed just a bit ago.

-----  
Sent from my BlackBerry Wireless Device

----- Original Message -----

From: Lerner Lois G  
Sent: Wednesday, April 11, 2012 06:02 PM  
To: Paz Holly O; Downing Nanette M  
Subject: Re: CIC Agenda for 4-12-2012

Can't Nan Downing go to CIC

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Paz Holly O  
Sent: Wednesday, April 11, 2012 05:55 PM  
To: Lerner Lois G  
Subject: Re: CIC Agenda for 4-12-2012

Do you want me to skip the guidesheet meeting? Nan and Judy will be there.

-----  
Sent from my BlackBerry Wireless Device

----- Original Message -----

From: Lerner Lois G  
Sent: Wednesday, April 11, 2012 05:51 PM  
To: Paz Holly O  
Subject: Re: CIC Agenda for 4-12-2012

Ok--joseph usually expects one exec there Lois G. Lerner ----- Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Paz Holly O  
Sent: Wednesday, April 11, 2012 05:44 PM  
To: Lerner Lois G  
Cc: Marx Dawn R  
Subject: Re: CIC Agenda for 4-12-2012

No I have to attend the advocacy guide sheet meeting at 10. We agreed Lee attending would suffice. I understand from Nancy Todd that there is not much on the agenda.

-----Original Message-----

From: Lerner Lois G  
To: Paz Holly O  
Cc: Marx Dawn R  
Subject: Fw: CIC Agenda for 4-12-2012  
Sent: Apr 11, 2012 5:42 PM

Are you attending on my behalf? If not, is Nan going to be there?  
Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Todd Nancy M  
To: Rob Choi  
To: Richard Daly  
To: Nanette Downing  
To: David L Fish  
To: Clifford Gannett  
To: Christopher Giosa  
To: Golston Gidget  
To: Joseph Grant  
To: Regeina Hall  
To: Sarah H Ingram  
To: Tina Jackson  
To: Christie Jacobs  
To: Victoria Judson  
To: Lois Call in Number  
To: Leslie Louis J  
To: Marmolejo Paul A  
To: Dawn Marx  
To: McConkey Peter A  
To: Moises Medina  
To: Migdail Rhonda  
To: Paxson Kirk M  
To: Holly Paz  
To: Lee Phaup  
To: Shaw Sandra C  
To: Sweetenberg LaWan A  
To: Tackney Stephen B  
To: Templeman Monika A  
To: Todd Nancy M  
To: Joseph Urban

To: Williams Sherry F  
To: Roberta Zarin  
To: Zuckerman Andrew E  
Subject: CIC Agenda for 4-12-2012  
Sent: Apr 11, 2012 1:55 PM

Good afternoon,

Attached are the pre-reads and agenda for tomorrow's call.

Nancy Todd

TE/GE EO Financial Investigations Unit Area Manager

3251 North Evergreen Drive NE Room 231

Grand Rapids, MI 49525

Phone: (b)(6) and (b)(7)(C)

-----  
Sent from my BlackBerry Wireless Device

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**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 7:08 PM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O  
**Subject:** Fw: Questions for the Record--House FY13 Appropriations request hearing

We have a couple options for this. We start by telling him we are [REDACTED]

[REDACTED]  
[REDACTED]  
(b)(5)/DP  
[REDACTED]  
[REDACTED]

Which way do you want us to proceed. I'm guessing it would be at least a month --maybe 2 to do this if we put someone on it full time.  
Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

---

**From:** Paz Holly O  
**Sent:** Thursday, April 12, 2012 04:39 PM  
**To:** Lerner Lois G  
**Subject:** RE: Questions for the Record --House FY13 Appropriations request hearing

Lois,

The QFRs include the following requests for development letters:

Question. Will you provide this Subcommittee with copies of all inquiries sent to organizations with or applying for 501(c)(4) status since January 1, 2012?

Question. Will you also provide to this Committee a complete list of all 501(c)(4) or (c)(5) entities that have received inquiries from the IRS concerning their tax exempt status or factors bearing on their tax exempt status or requesting information about the identity of their donors since December 15, 2011, as well as copies of all such requests.

146 c4 applications falling in our full development bucket were closed between 12/15/11 and 4/11/2012. 10 c5 applications falling in our full development bucket were closed between 12/15/11 and 4/11/2012. These approved applications are available for public inspection. While we are able to obtain the number of cases approved during this time period through an automated report, we will have to manually identify the individual cases and pull copies of the development letters to comply with these requests. That will take some time. Please let me know how you would like to proceed.

Thanks,

Holly

---

**From:** Lerner Lois G  
**Sent:** Thursday, April 05, 2012 7:56 PM  
**To:** Fish David L; Paz Holly O; Megosh Andy; Kindell Judith E; Lowe Justin; Park Nalee; Miller Thomas J  
**Cc:** Urban Joseph J; Marx Dawn R  
**Subject:** FW: Questions for the Record--House FY13 Appropriations request hearing  
**Importance:** High

I have copied and pasted the part that relates to us below. There is no way in the world , we can have response ready by next Friday, but we can try. I am out Friday, but will be available to talk. I have put an invite on the calendar for Mon

Questions for the Record Submitted by Congressman Kevin Yoder

501(c)(4)'s

**Question. Commissioner Shulman:** Has the IRS recently changed its policy with respect to the process for examining an organization's application for 501(c)(4) tax exempt status? If so, What was the basis for changing procedures?

**Question.** Who authorized this change?

**Question.** Did the IRS have any communications with officials at the White House, political appointees of any part of the Administration, or Members of Congress or their staffs that prompted these changes?

**Question.** Does the IRS use one examination regime for organizations deemed to engage in political activities and those that are not?

**Question.** What types of documentation are you now requiring organizations provide as part of the application review process?

**Question.** Does the IRS balance its examination process to ensure equitable treatment among organizations across the political spectrum?

**Question.** How does the IRS target organizations for additional examination?

On March 14, twelve US Senators wrote to you about IRS inquiries of organizations in Kentucky, Ohio, Tennessee, and Texas. Are you in receipt of that letter?

**Question.** In it, the Senators note that "it is imperative that organizations applying for tax -exempt status are able to rely on a consistent and foreseeable review s tructure from the IRS." Is it your view that the IRS's process for reviewing organizations' 501(c)(4) status applications is today "consistent and foreseeable?"

**Question.** Given the importance to your agency's credibility of addressing quickly the concern that the IRS examination process is being used for blatantly political purposes, when do you expect to respond to the Senators' letter?

**Question.** I want to ask in open session one question which was put to the IRS in the Senators' March 14<sup>th</sup> letter: Will you provide this Subcommittee with copies of all IRS inquiries sent to and responses received from Priorities USA?

**Question.** Will you provide this Subcommittee with copies of all inquiries sent to organizations with or applying for 501(c)(4) status since January 1, 2012?

On February 16, 2012, you received a letter from seven Democratic Senators urging you to do two things:

- 1) Re-evaluate the IRS' longstanding test used to determine the extent to which 501(c)(4) organizations may engage in political campaigns on behalf of or in opposition to candidates for public office.
- 2) "Investigate" wholly unsubstantiated "allegations" that "some political organizations" may be violating the current primary activity test.

Subsequent to you receiving this letter, Congress started to receive reports that an array of small, local 501(c)(4) organizations that openly and forcefully opposed the policies of President Obama —especially his healthcare law—operating in political battleground states, such as Ohio, started receiving very unusual and onerous requests for information from the IRS. As noted in a letter you recently received from members of the Senate finance committee, these requests sought unusual data on an incredibly short timeline.

**Question.** Commissioner Shulman, either prior to or after February 16, 2012, did you, any member of your staff, any employee of the IRS, or any other person acting on your behalf or on behalf of the IRS, have any communications --orally or written in any form (including electronic communications), with any Senator, Senate staff person, or any official, officer, employee or agent of the Democratic National Committee, the Democratic Congressional Campaign Committee, or the Democratic Senatorial Campaign Committee about investigating 501(c)(4) entities.? If so, please provide the name of the parties to each such communication, the date of such communications, and the content of such communications.

**Question.** Commissioner Shulman, either prior to or after February 16, 2012, did you, any member of your staff, any employee of the IRS, or any other person acting on your behalf or on behalf of the IRS, have any communications --orally or written in any form (including electronic communications), with President Obama, any appointee, official, employee, agent or other person acting on behalf of the White House, the Treasury Department, or the Obama Presidential Campaign, including Advisors to President Obama's campaign, or organizations affiliated with President Obama's campaign, such as officers, employees, donors or agents of "Super PACs" supportive of the President's re-election about investigating 501(C)(4) entities? If so, please provide the name of the parties engaged in such communication, the date of such communications and the content of such communication.

**Question.** Will you take all possible steps and issue any directives necessary to ensure that no records, recordings, emails, communications, records, files or correspondence in any form whatsoever related IRS inquiries, communications with or investigations of 501(c)(4) entities are preserved, including exempting them from any recurring document destruction or other electronic communications policies that may in the ordinary course result in their destructions, alteration or loss?

Commissioner Schulman, as you know, historically, not just 501(c)(4) entities, but also 501(c)(5)(labor organizations) and (c)(6)(trade associations) have been permitted to engage in campaigns for public office so long as such intervention does not constitute the organization's primary activity. As evidenced by the letter of February 14, 2012, Congress is aware of many burdensome and unusual requests with deadlines as short as two weeks to 501(c)(4) entities that have opposed the President and his policies.

**Question.** Please provide to us any correspondence since January 1, 2011 requesting similarly detailed information on similarly short deadlines from 501(c)(4) or (c)(5) entities with history of supporting the President and or his policies that are of similar size and sophistication to the entities that have received the letter referenced in the Senate Finance Committee letter of February 14, 2012.

**Question.** Will you also provide to this Committee a complete list of all 501(c)(4) or (c)(5) entities that have received inquiries from the IRS concerning their tax exempt status or factors bearing on their tax

exempt status or requesting information about the identity of their donors since December 15, 2011, as well as copies of all such requests.

**Question.** Commissioner Schulman, if it should ever dawn on the Inspector General tasked with overseeing your agency that the matters about which I have been asking you warrant scrutiny to reassure the public that the IRS is not once again being subordinated to partisan political purposes, will you cooperate with reservation and direct every appointee, officials, employee and contractor of your agency to do so as well?

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Amato Amy

**Sent:** Thursday, April 05, 2012 4:00 PM

**To:** Gillis Ursula S; Boehmer Susan; Hedemann Janice M; O'Donnell Douglas W; Burns Stuart; Colaciello Joe; Livingston Catherine E; Ingram Sarah H; Lerner Lois G; Urban Joseph J; McField Terri; Chew Debra; Davy Monica H; Burger Michelle L; Smith Belinda (MITS)

**Cc:** Davis Jonathan M (Wash DC); Flax Nikole C; Walters Kathleen E; Norton William G Jr

**Subject:** Questions for the Record--House FY13 Appropriations request hearing

**Importance:** High

Attached are follow-up questions for the IRS from the March 23 hearing, as submitted by the House Financial Services and General Services Subcommittee on Appropriations.

Please take a look at my thoughts on who should take the lead in drafting the responses. If you disagree, please let me know as soon as possible so I may reassign them. There is a very rapid turn-around time on these responses. I need your cleared replies by next Friday, April 13, in order start the official clearance process to meet the Subcommittee's deadline. Sorry, and thanks!

Emerson

Budget: CFO

Taxpayer Service: CFO

Tax Gap: CFO with RAS

Office Space: REFM

Serrano

VDP: LB&I

BSM: MITS

Efficiency Savings: CFO

ROI: CFO

ACA: Program Office

Yoder

TEGE

Diaz-Balart

Counsel

Womack

Counsel



Lee

Diversity, first question: EDI

Diversity, second question: HCO with EDI

Budget Cuts: CFO

Effect on EITC/CTC: W&I

Pastor

Counsel

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**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 7:50 PM  
**To:** Barre Catherine M  
**Subject:** Re: follow up on c4 letter

Thanks. He's doing well  
Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

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**From:** Barre Catherine M  
**Sent:** Thursday, April 12, 2012 08:39 PM  
**To:** Lerner Lois G; Marks Nancy J  
**Cc:** Marx Dawn R  
**Subject:** Re: follow up on c4 letter

Yes. Hope all is ok with your husband.

Cathy  
-----  
Sent using BlackBerry

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**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 08:27 PM  
**To:** Barre Catherine M; Marks Nancy J  
**Cc:** Marx Dawn R  
**Subject:** Re: follow up on c4 letter

Since I haven't heard --I'm assuming we'll talk next week  
Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

---

**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 01:32 PM  
**To:** Barre Catherine M; Marks Nancy J  
**Cc:** Marx Dawn R  
**Subject:** Re: follow up on c4 letter

I'm good either way. If it would work better if I'm looking at the response, next week is better. I've included my exec asst, Dawn, on email. Work with her on setting up next week if we go that way --it's already pretty full schedule-wise.  
Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

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**From:** Barre Catherine M  
**Sent:** Thursday, April 12, 2012 12:21 PM  
**To:** Marks Nancy J; Lerner Lois G

**Subject:** RE: follow up on c4 letter

Good news. I just scheduled my hill staff call for next Friday. So, we can push our call until next week if that works better for Lois.

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**From:** Marks Nancy J  
**Sent:** Thursday, April 12, 2012 12:20 PM  
**To:** Lerner Lois G; Barre Catherine M  
**Subject:** RE: follow up on c4 letter

ok with me

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**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 10:44 AM  
**To:** Barre Catherine M; Marks Nancy J  
**Subject:** Re: follow up on c4 letter

Sure. Send me a call in number or you can call me at (b)(6); (b)(7)(C) There is a slight chance I'll have to change if they don't release my husband in the morning\_\_keep you posted.

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From:** Barre Catherine M  
**Sent:** Thursday, April 12, 2012 10:29 AM  
**To:** Marks Nancy J; Lerner Lois G  
**Subject:** RE: follow up on c4 letter

3:30 Friday?

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**From:** Marks Nancy J  
**Sent:** Thursday, April 12, 2012 9:53 AM  
**To:** Lerner Lois G; Barre Catherine M  
**Subject:** RE: follow up on c4 letter

I can make anything friday afternoon work

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**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 9:51 AM  
**To:** Barre Catherine M; Marks Nancy J  
**Subject:** Re: follow up on c4 letter

I am out due to my husband's surgery, but I'm sure we can find some time to get on the phone. Nan's schedule is harder than mine. I am unavailable Friday morn, but can do afternoon. Let me know once you guys have worked a time

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From:** Barre Catherine M  
**Sent:** Thursday, April 12, 2012 09:08 AM  
**To:** Marks Nancy J; Lerner Lois G

**Subject:** follow up on c4 letter

Can we find a time to discuss the most recent Boustany response?

This week would be best if we can find 30 minutes -an hour for a call or meeting.

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**From:** Lerner Lois G  
**Sent:** Friday, April 13, 2012 7:55 AM  
**To:** Lowe Justin; Daly Richard M  
**Cc:** Paz Holly O  
**Subject:** Fw: EO Tax Journal 2012-65

Either he is clairvoyant, or we have a mole in our midst! Do you suppose Roy and Molly are scooping us!? Or perhaps we are just so in-tune with the public pulse that these ideas just come to us! In any event, there is interest in the topic. Depending on what I hear back from Nikole though, we may move this discussion to the 1st day Governance meeting and do c4s instead of this on day 2. Stay tuned --we talk later

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From**

: paul streckfus [mailto:pstreckfus@gmail.com]

**Sent**

: Friday, April 13, 2012 06:02 AM

**To**

: paul streckfus &<pstreckfus@gmail.com&>

**Subject**

: EO Tax Journal 2012-65

*From the Desk of Paul Streckfus,  
Editor, EO Tax Journal*

**Email Update 2012-65 (Friday, April 13, 2012)**

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**1 - The**

***EOTJ***

**Mailbag**

**2 - Whither Governance?**

**3 - Tea Party Launches Group to Combat IRS**

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**1 - The**

***EOTJ***

**Mailbag**

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Meanwhile, my favorite line in Congressman Issa and Jordan's poorly addressed letter to Lois Lerner was this: "IRS Form 1040 does not require organizations applying for tax-exempt status to provide specific donor information for donors giving less than \$5,000 a year."

Ah well, it's April 12. Clearly somebody up there has Form 1040 on their mind.

John Pomeranz  
Harmon, Curran, Spielberg & Eisenberg, LLP  
Washington, D.C.

**Editor's Note:**

See also “Tea Party Launches Group to Combat IRS,” below

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Paul, I wanted to let you know about an upcoming panel of the DC Bar Exempt Organizations Committee on Wednesday, April 25 at the DC Bar Conference Center, 1101 K Street, NW, from 12:00 pm to 1:30 pm. Karin Gross (IRS), Philip Tabas (The Nature Conservancy), and Roger Colinvaux (Columbus School of Law) will discuss the administrative and policy issues concerning the charitable contribution deduction for conservation easements.

For your information, I’ve attached a copy of Roger’s recent article on the topic, which is available at this link through SSRN:

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2003964](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2003964)

If you wouldn’t mind letting your readers know, I would very much appreciate it. Thanks.

Alexander Reid  
Morgan, Lewis & Bockius LLP  
Washington, D.C.

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## **2 - Whither Governance?**

I was there over five years ago when the IRS’s Marv Friedlander almost created a riot with the surprise release of suggested, proposed “Good Governance Practices for 501(c)(3) Organizations.” For this document, see

*EOTJ*,

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“EO will continue its work in the nonprofit governance area by focusing on three areas. First, it will develop a checklist to be used by agents in examinations of exempt organizations to determine whether the organization’s governance practices impacted the tax compliance issues identified in the examination and to educate organizations about possible governance considerations. Second, EO will commence a training program to educate its employees about nonprofit governance implications in the determinations, rulings and agreements, and education and outreach areas. Third, EO will begin identifying Form 990 governance questions that could be used in conjunction with other Form 990 information in possible compliance initiatives, such as those involving executive compensation, transactions with interested persons, solicitations of noncash contributions, or diversion or misuse of exempt assets.”

The FY 2010 EO Workplan never appeared, so that’s a black hole. The FY 2011 Workplan was very cryptic about governance, stating:

“Starting in FY 2010, EO began using a checklist to capture governance practices and the related internal controls of the organizations being examined. EO will analyze the data over the long term to gain a better understanding of the intersection between governance practices and tax compliance.”

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So where are we? Is governance another EO project that has the life span of a disintegrating asteroid? Perhaps Lois Lerner can tell us when she speaks on governance.

I’d like to know what the IRS practice is when an EO agent encounters a 501(c)(3) organization that has an inactive board or a board composed of the directors of the for-profit corporation that it does business with or a board composed of family members. What if an agent spots numerous conflicts of interests between the board members and their business dealings with the (c)(3) organization? Is the answer that “EO will analyze the data over the long term to gain a better understanding of the intersection between governance practices and tax compliance”?

That likely answer sounds to me like the death knell for a serious governance initiative by the IRS. I realize some folks will applaud that result but is that really in the best interests of the EO sector? I know some say the IRS needs to wait until inurement, for example, actually happens, but does the IRS really need to be that passive? If it is clear from day one that an organization is likely to be operated for private interests, why



can't the IRS demand that the organization affirmatively show that it has taken steps to help ensure that it will be organized and operated for exempt purposes? Isn't that part of the statutory requirement?

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By Elizabeth Harrington,

*CNSNews.com,*

April 11, 2012

Saying President Barack Obama is "targeting the Tea Party" and using the "IRS as a weapon," Tea Party activists Wednesday launched a coalition to combat the federal government agency's burdensome and onerous interrogation of conservative groups to determine if they should receive tax -exempt status.

Speaking at the National Press Club, two Tea Party group leaders announced the formation of the Liberty Defense Foundation, which will assist grassroots organizations in fending off long questionnaires from the IRS when filing for 501(c)(4) nonprofit status. "I really wish I didn't have to be here," said Eric Wilson, director of the Kentucky 9/12 Project. "I don't mind coming to D.C. to visit but I don't want to be doing a press conference for the reasons I'm having to do it, because the truth is, Obama's IRS is targeting local Tea Party, liberty groups and ordinary citizens. And that's the reason we have to fight back."

Wilson said his organization and hundreds of others have received letters from the IRS requesting thousands of pages of information about their activities, with a two -week deadline to respond. "They're trying to bury us in time, trying to bury us in paperwork, and they are making us use up resources we don't have, especially small local organizations and small groups," he said, referring to an IRS questionnaire with 88 inquiries. "And they're doing this during a critical election year. This is not by accident. This is coordinated and this is targeted."

Toby Marie Walker, president of the Waco (Texas) Tea Party, said the IRS demanded every Facebook, Twitter and social media post released by her organization over a two -and-a-half year period, as well as lists of any information about politicians the group is associated with and transcripts for their daily radio show broadcasts. Wilson said one organization had to provide "ebook reports" of every book recommended or read by their group.

"Tea Parties and 9/12 groups, liberty groups around the country are small," Walker said. "Some of the groups have 20, 30, 40, 50 members, others have a couple thousand. But this is a David and Goliath fight. The

IRS has unlimited resources and manpower to try to silence us. We have very limited funds and very limited human resource ability.â€?

â€œNone of us wanted to form a new [501](c)(4) to protect [501](c)(4)â€™s,â€? she said of the new Liberty Defense Foundation. â€œThatâ€™s just ridiculous.â€?

The IRS grants tax-exempt status through its 501(c)(4) designation for groups not organized for profit and whose exclusive operation is to promote social welfare. Unlike 501(c)(3) organizations, 501(c)(4)â€™s can engage in political activity, endorse candidates and donate to campaigns.

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â€œThese are your neighbors, these are the people who are meeting locally and getting together and want to have a voice,â€? he added. â€œThat voice is being attacked and that voice is trying to be taken away.â€?

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**From:** Lerner Lois G  
**Sent:** Friday, April 13, 2012 8:06 AM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H  
**Subject:** Fw: EO Tax Journal 2012-65

**Importance:** High

We have the possibility of a "twofer" here if we want. As you can see, the 2 hot topics of the day are c4 and governance. I have a governance speech ready that addresses the "study" and what we are doing with 990 info, and planned to give that as the opening at the Georgetown conference. If we want to do the c4 process, I can re-process the governance speech to give the day before at the Georgetown Governance Conference --which would work great because my present talk is just a rehash of last year. As you might imagine though, it will take folks a bit to repackage and put together something for you to see before I give it Thursday. For that reason, I need to know whether I should get started or just let it go. Sorry to be a pain on your first day back, but if we do this, we need to start today. I realize folks over there are swamped with hearing prep, but hopefully you can get a minute in to vet the idea. I am supposed to talk to the folks preparing the speech around 10:30 Thanks

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**Sent:** Friday, April 13, 2012 06:02 AM  
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**Sent:** Friday, April 13, 2012 8:11 AM  
**To:** Flax Nikole C; Marks Nancy J  
**Cc:** (b)(6); (b)(7)(C); Marx Dawn R  
**Subject:** Re: A Thought

Yes we can meet at 10. Dawn (b)(6); (b)(7)(C)---can one of you please send my call in number and access code to Nikole and Nan Marks? I know the other code to start it. We'll have to adjust the other scheduled meetings to accommodate this. Nikole--Sorry I didn't see this before sending the other this morning.  
Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Flax Nikole C  
Sent: Friday, April 13, 2012 09:03 AM  
To: Marks Nancy J; Lerner Lois G; Lemons Terry L  
Cc: Grant Joseph H  
Subject: Re: A Thought

Can we all talk at 10?

----- Original Message -----

From: Marks Nancy J  
Sent: Friday, April 13, 2012 07:51 AM  
To: Flax Nikole C; Lerner Lois G; Lemons Terry L  
Cc: Grant Joseph H  
Subject: Re: A Thought

I'd like to be looped in to the conversation if possible I think it will help all of us to build a common understanding of how the pieces fit together and the ordering. I'm on metro this am car in shop should get the re by shprtly after 9. thanks. 3 9976 or (b)(6); (b)(7)(C)

-----  
Sent using BlackBerry

----- Original Message -----

From: Flax Nikole C  
Sent: Thursday, April 12, 2012 09:07 PM  
To: Lerner Lois G; Lemons Terry L  
Cc: Marks Nancy J; Grant Josep h H  
Subject: RE: A Thought

9 may not work as I have something with steve then, but will be in touch as soon as I can. Thanks

-----Original Message-----

From: Lerner Lois G  
Sent: Thursday, April 12, 2012 8:20 PM  
To: Flax Nikole C; Lemons Terry L

Cc: Marks Nancy J; Grant Joseph H  
Subject: Re: A Thought

Well, I agree. But I don't think we could have put the generic together until you all had seen our responses and approved. If you are good with the Hatch response, then between that and Boustany, we have the process. And as much of the law as we'd need for the speech. Then we'd just need some way to get into the discussion. I was thinking something along the lines of combining my recent experience with the ACT looking at 1023 and seemingly not knowing how we process apps, the past high profile of PACI, focus on c3s and political activity and the recent press regarding C4 orgs made me think it might be a good time to talk about our processes and how they work. I am home tomorrow --my husband had surgery. Am supposed to meet with the guys who have been working the Georgetown speech (not this topic) around 9:30. Can we talk at 9? - can call you or you can try me at (b)(6); (b)(7)(C) Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Flax Nikole C  
Sent: Thursday, April 12, 2012 04:09 PM  
To: Lerner Lois G; Lemons Terry L  
Cc: Marks Nancy J; Grant Joseph H  
Subject: Re: A Thought

Sorry, hit send too soon. what I was adding was that last I knew the point of having a comprehensive response was to help in situations like this too. I can be more helpful tomorrow when I am back in the loop.

----- Original Message -----

From: Flax Nikole C  
Sent: Thursday, April 12, 2012 04:04 PM  
To: Lerner Lois G; Lemons Terry L  
Cc: Marks Nancy J; Grant Joseph H  
Subject: Re: A Thought

I am back in the am and can get thoughts if you have not discussed already. I know I sound like a broken record and views may have changed, but the point

----- Original Message -----

From: Lerner Lois G  
Sent: Thursday, April 12, 2012 10:28 AM  
To: Flax Nikole C; Lemons Terry L  
Cc: Marks Nancy J; Grant Joseph H  
Subject: A Thought

I saw today's press on the Press Club press conference by Tea party folks making allegations regarding IRS and c4 issue. I am doing the opening speech at Georgetown Conference next Wed. Should we consider whether the c4 process should be the speech topic? I would need to know soon to get it together, but a lot of it is what we are saying in the Congressional. Talk amongst those who would be interested and let me know as soon as possible.  
Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld



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**From:** Flax Nikole C  
**Sent:** Monday, April 16, 2012 4:00 PM  
**To:** Lerner Lois G  
**Cc:** Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee  
**Subject:** RE: Hatch  
**Attachments:** Hatch Congr Ltr 4-10-2012 rev.doc

Some comments in the attached. Let me know of any issues/concerns. Issa staff was fine with later in the week.

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 10, 2012 3:04 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H; Urban Joseph J; Marks Nancy J; Park Nalee; Lerner Lois G  
**Subject:** FW: Hatch

OK--here is our draft of the Hatch letter with attachments. Please note that the language in the last paragraph to question 6 and the last paragraph to question 7 have been sent to Disclosure and approved by Margo Stevens. let us know if there is anything else you need on this one--we will all take another look as it has been adjusted numerous times. April 11th due date is to Leg affairs. I assume you'll get it to them --we weren't planning on sending it.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Tuesday, April 10, 2012 2:40 PM  
**To:** Lerner Lois G  
**Cc:** Marks Nancy J; Urban Joseph J; Fish David L; Kindell Judith E  
**Subject:** Hatch

Latest draft with enclosures.

NaLee

NaLee Park  
SE:T:EO:RA:G, Rm NCA-551  
EO Guidance, R&A  
TEGE, Washington D.C.  
(t) 202.283.9453 | (f) 202.283.9462

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

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(b)(5)/DP

(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Monday, April 16, 2012 4:01 PM  
**To:** Flax Nikole C; Marks Nancy J; Barre Catherine M  
**Cc:** Marx Dawn R  
**Subject:** RE: discussion on c4 letter

**Do we have a set time for this --Can someone send a calendar invite please\_\_I'm getting booked up!**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Saturday, April 14, 2012 10:08 AM  
**To:** Marks Nancy J; Barre Catherine M; Lerner Lois G  
**Subject:** Re: discussion on c4 letter

I am open other than 3-4.

---

**From:** Marks Nancy J  
**Sent:** Friday, April 13, 2012 10:54 PM  
**To:** Barre Catherine M; Flax Nikole C; Lerner Lois G  
**Subject:** Re: discussion on c4 letter

Thanks I could do anytime wed afternoon.

-----  
Sent using BlackBerry

---

**From:** Barre Catherine M  
**Sent:** Friday, April 13, 2012 07:56 PM  
**To:** Marks Nancy J; Flax Nikole C; Lerner Lois G  
**Subject:** Re: discussion on c4 letter

Don't move your appointment. How about the wed afternoon other than 3 -4? Or thursday after 3:30?

-----  
Sent using BlackBerry

---

**From:** Marks Nancy J  
**Sent:** Friday, April 13, 2012 07:34 PM  
**To:** Flax Nikole C; Barre Catherine M; Lerner Lois G  
**Subject:** Re: discussion on c4 letter

Is afternoon an option? If not I'll move my doc appt.

-----  
Sent using BlackBerry

---

**From:** Flax Nikole C  
**Sent:** Friday, April 13, 2012 06:03 PM  
**To:** Barre Catherine M; Lerner Lois G; Marks Nancy J  
**Subject:** Re: discussion on c4 letter

With the staff?

---

**From:** Barre Catherine M  
**Sent:** Friday, April 13, 2012 05:36 PM  
**To:** Lerner Lois G; Marks Nancy J  
**Cc:** Flax Nikole C  
**Subject:** discussion on c4 letter

How does Wednesday morning look to walk through the ways and means letter?

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 17, 2012 8:46 AM  
**To:** Flax Nikole C; Park Nalee; Paz Holly O; Urban Joseph J; Marks Nancy J  
**Cc:** Marx Dawn R  
**Subject:** Re: c4 response

Yep. You want to send a call in number?

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From:** Flax Nikole C  
**Sent:** Tuesday, April 17, 2012 08:48 AM  
**To:** Lerner Lois G; Park Nalee; Paz Holly O; Urban Joseph J; Marks Nancy J  
**Subject:** RE: c4 response

do you happen to have time today to discuss the Issa response? I had a few questions re the numbers and how they relate to what we said in the Boustany reply. Anyone free around 2?

---

**From:** Lerner Lois G  
**Sent:** Monday, April 16, 2012 2:39 PM  
**To:** Flax Nikole C; Park Nalee; Paz Holly O; Urban Joseph J; Marks Nancy J  
**Subject:** RE: c4 response

**I can't say for sure, but based on our conversation, I'm betting the last question will take longer. Having said that, we'll try.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Monday, April 16, 2012 2:26 PM  
**To:** Park Nalee; Paz Holly O; Lerner Lois G; Urban Joseph J; Marks Nancy J  
**Subject:** c4 response

I am sending comments on Hatch shortly. The hope is to get Bennett, Schumer, Hatch and Issa out this week. Do we think we can have a full Issa response this week or will the last question take longer than that? Thanks

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 17, 2012 12:08 PM  
**To:** Flax Nikole C  
**Subject:** Accepted: c4 Response Discussion...

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 17, 2012 4:10 PM  
**To:** Marks Nancy J; Paz Holly O  
**Subject:** FW: 501(c)(4)  
**Attachments:** Picture (Metafile); Picture (Metafile)

**I get more and more concerned that these cases can't properly be worked in Cincy**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, April 17, 2012 1:27 PM  
**To:** Lerner Lois G; Urban Joseph J; Marks Nancy J  
**Subject:** Fw: 501(c)(4)

---

**From:** Barre Catherine M  
**Sent:** Tuesday, April 17, 2012 01:25 PM  
**To:** Flax Nikole C  
**Subject:** Fw: 501(c)(4)

---

-----  
Sent using BlackBerry

---

**From:** Hall Eric  
**Sent:** Tuesday, April 17, 2012 01:16 PM  
**To:** Norton William G Jr; Williams Floyd L; Barre Catherine M  
**Subject:** 501(c)(4)

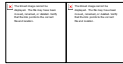
The issue is still picking up steam.

*Eric Hall*  
Internal Revenue Service  
Legislative Affairs  
(202) 622-4057

<http://thehill.com/blogs/floor-action/house/221945-gop-lawmaker-calls-for-investigation-into-irs-harassment-of-tea-party-group>

# **GOP lawmaker says IRS harassed Tea Party group, calls for investigation**

By Josh Fatzick - 04/17/12 11:21 AM ET



Rep. Tom McClintock (R-Calif.) on Tuesday asked his House colleagues to investigate what he said was the IRS's harassment of a Tea Party group in his district.

In a floor speech, McClintock said the Internal Revenue Service demanded thousands of pages of documents from the group and took steps that could only have been designed to harass the group when it applied for nonprofit status.

"I bring these facts to the attention of the House today and ask that they be rigorously investigated, and, if found accurate, that those officials responsible be exposed, disgraced, dismissed, and be barred from any position of trust or power within our government," he said on the floor.

McClintock did not identify the Tea Party group in his district, but said the IRS demanded the names of all the participants who attended group meetings for the past two years, transcripts of the meetings, and other documents pertaining to the group's status as a nonprofit organization.

He called the demands "intimidation and harassment," and compared them to the tactics used against civil rights groups during the 1950s.

"Ironically, the same tactics you now see used by the IRS against Tea Parties were once used by the most abusive of the Southern states in the 1950s to intimidate civil rights groups like the NAACP," he said.

McClintock said the leader of the Tea Party group was subject to a personal income tax audit from the IRS shortly after the group applied for its 501(c)(4) tax-exempt status.

"This administration is very clearly, very pointedly, and very deliberately attempting to intimidate, harass and threaten civic-minded groups with which they disagree using one of the most feared and powerful agencies in the United States government to do so," said McClintock.

The American Center for Law and Justice is representing almost 20 Tea Party organizations across the United States in an effort to stop what they see is an attempt to intimidate these groups. ACLJ chief counsel Jay Sekulow said last week that the demands for information from the groups are outside the scope of legitimate inquiry and violate the group's First Amendment rights.

"These organizations have followed the law and applied for tax exempt status for their activities as Americans have done for decades," Sekulow said. "The problem here is the IRS has gone beyond legitimate inquiries and is demanding that these organizations answer questions that actually violate the First Amendment rights of our clients."

The ACLJ is currently urging Congress to conduct hearings about the IRS actions involving the Tea Party groups.



Could not print file content for:

Document ID: 0.7.452.181334-000001

Attachment Name: OLEAttach\_0\_001

Locator: esa.msgfile/\*:\_loosefile\_5068473726140459:\\vp0sentshredr05\\edr13064\$\\results2\\qp0hb-1::\\vp0sentshredr05\\edr13064\$\\results2\\qp0hb-1\\p\\qp0hb\\uns\\dcw108ma4012709\\c\\documents and settings\\qp0hb\\local settings\\application data\\microsoft\\outlook\\archive\\archive folders\\sent items\\lerner lois g - fw\_501(c)(4) - [a4d92400].msg:  
:0100d41d8cd98f00b204e9800998ecf8427e12c149a929ed24c38eeb63a1e97c50e2

Reason: It is an unsupported file type

Could not print file content for:

Document ID: 0.7.452.181334-000002

Attachment Name: OLEAttach\_1\_002

Locator: esa.msgfile/\*:\_loosefile\_5068473726140459:\\vp0sentshredr05\edr13064\$\results2\qp0hb-1.:\vp0sentshredr05\edr13064\$\results2\qp0hb-1\p\qp0hb\uns\dcw108ma4012709\c\documents and settings\qp0hb\local settings\application data\microsoft\outlook\archive\archive folders\sent items\lerner lois g - fw\_501(c)(4) - [a4d92400].msg:  
.:0100d41d8cd98f00b204e9800998ecf8427e12c149a929ed24c38eeb63a1e97c50e2

Reason: It is an unsupported file type

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 18, 2012 11:40 AM  
**To:** Flax Nikole C; Urban Joseph J; Marks Nancy J  
**Cc:** Paz Holly O  
**Subject:** RE: Questions for the Record--House FY13 Appropriations request hearing

**Not sure we have anything --I only recall one conversation on these --I have left a message with the staff person working them --hopefully he'll have something I can look at and send on**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Wednesday, April 18, 2012 12:37 PM  
**To:** Lerner Lois G; Urban Joseph J; Marks Nancy J  
**Subject:** RE: Questions for the Record --House FY13 Appropriations request hearing

Lois - if you guys can send me what you have on the QFRs, I can work on the responses. They won't be as detailed as the others given the timeline.

---

**From:** Flax Nikole C  
**Sent:** Tuesday, April 17, 2012 10:22 PM  
**To:** Lerner Lois G  
**Subject:** FW: Questions for the Record--House FY13 Appropriations request hearing

Lois - have you guys started these? The others take priority, but just wanted to see status. I will work on something if we need to have something soon, but will figure out a way to make it all work.

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 17, 2012 4:13 PM  
**To:** Amato Amy  
**Cc:** Flax Nikole C  
**Subject:** RE: Questions for the Record --House FY13 Appropriations request hearing

**I think you too need to "duke" this one out (-:**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Amato Amy  
**Sent:** Tuesday, April 17, 2012 12:28 PM  
**To:** Gillis Ursula S; Boehmer Susan; Hedemann Janice M; O'Donnell Douglas W; Burns Stuart; Colaciello Joe; Livingston Catherine E; Ingram Sarah H; Lerner Lois G; Urban Joseph J; McField Terri; Chew Debra; Davy Monica H; Burger Michelle L; Smith Belinda (MITS)

**Cc:** Davis Jonathan M (Wash DC); Flax Nikole C; Walters Kathleen E; Norton William G Jr  
**Subject:** RE: Questions for the Record--House FY13 Appropriations request hearing  
**Importance:** High

Just a reminder we are working on a very tight deadline to get these cleared and returned to the Subcommittee. Could I get a status report on when I could expect responses to all outstanding QFRs?

Thank you

---

**From:** Amato Amy  
**Sent:** Thursday, April 05, 2012 4:00 PM  
**To:** Gillis Ursula S; Boehmer Susan; Hedemann Janice M; O'Donnell Douglas W; Burns Stuart; Colaciello Joe; Livingston Catherine E; Ingram Sarah H; Lerner Lois G; Urban Joseph J; McField Terri; Chew Debra; Davy Monica H; Burger Michelle L; Smith Belinda (MITS)  
**Cc:** Davis Jonathan M (Wash DC); Flax Nikole C; Walters Kathleen E; Norton William G Jr  
**Subject:** Questions for the Record--House FY13 Appropriations request hearing  
**Importance:** High

Attached are follow-up questions for the IRS from the March 23 hearing, as submitted by the House Financial Services and General Services Subcommittee on Appropriations.

Please take a look at my thoughts on who should take the lead in drafting the responses. If you disagree, please let me know as soon as possible so I may reassign them. There is a very rapid turn-around time on these responses. I need your cleared replies by next Friday, April 13, in order to start the official clearance process to meet the Subcommittee's deadline. Sorry, and thanks!

Emerson  
Budget: CFO  
Taxpayer Service: CFO  
Tax Gap: CFO with RAS  
Office Space: REFM

Serrano  
VDP: LB&I  
BSM: MITS  
Efficiency Savings: CFO  
ROI: CFO  
ACA: Program Office

Yoder  
TEGE

Diaz-Balart  
Counsel

Womack  
Counsel

Lee  
Diversity, first question: EDI  
Diversity, second question: HCO with EDI  
Budget Cuts: CFO  
Effect on EITC/CTC: W&I

Pastor



---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 18, 2012 12:10 PM  
**To:** Flax Nikole C; Urban Joseph J; Marks Nancy J  
**Subject:** RE: Bennet - 501c4 political v8 Holly (2012-29539) (2).doc

I'm good either way

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Wednesday, April 18, 2012 12:44 PM  
**To:** Lerner Lois G; Urban Joseph J; Marks Nancy J  
**Subject:** RE: Bennet - 501c4 political v8 Holly (2012-29539) (2).doc

Just thought if we are talking about what we are doing re enforcement of c4s, that part of the [REDACTED]

(b)(5)/DP

Just wanted to raise it for people to consider.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 18, 2012 12:19 PM  
**To:** Flax Nikole C; Urban Joseph J; Marks Nancy J  
**Subject:** RE: Bennet - 501c4 political v8 Holly (2012-29539) (2).doc

Well, depend on how precise you want to get. I think it is correct though. The referral committee reviews both referrals coming in and the cases we have pulled based on the risk models. As to the other project--interesting thought. [REDACTED]

(b)(5)/DP

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Wednesday, April 18, 2012 12:05 PM  
**To:** Lerner Lois G; Urban Joseph J; Marks Nancy J  
**Subject:** RE: Bennet - 501c4 political v8 Holly (2012-29539) (2).doc

one other question - is the stuff in the [REDACTED]

(b)(5)/DP

relevant here too?

---

**From:** Flax Nikole C  
**Sent:** Tuesday, April 17, 2012 9:33 PM  
**To:** Lerner Lois G; Urban Joseph J; Marks Nancy J  
**Subject:** FW: Bennet - 501c4 political v8 Holly (2012-29539) (2).doc

It isn't clear yet who will sign (could be CC, Joseph or Lois), but can you take a quick look at the edits? Is the statement re the committee correct? Thanks

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 18, 2012 2:11 PM  
**To:** Paz Holly O  
**Subject:** RE: QFRs

Huh? we did discuss and Nalee changed the language in Issa, so I assume Nikole will pick that up

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Wednesday, April 18, 2012 2:52 PM  
**To:** Lerner Lois G  
**Subject:** RE: QFRs

Yes, there have been approved full development c4s since 1/1/12, not advocacy cases but others. over 100. Nalee got numbers from Marc Morgan. This is the issue you raised to Nikole last week - they want to see development letters. We could give them these from the approved cases but it will be a lot of work and take time.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 18, 2012 1:52 PM  
**To:** Megosh Andy; Paz Holly O; Fish David L; Park Nalee; Lowe Justin; Urban Joseph J  
**Cc:** Flax Nikole C  
**Subject:** FW: QFRs

Thanks--am sending to Nikole because she needs to start getting them ready to go to b ack because they have to be put into the record with the testimony --we don't control that timing. I'll send, but everyone else should be reviewing and provide comments please

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Megosh Andy  
**Sent:** Wednesday, April 18, 2012 1:45 PM  
**To:** Fish David L; Paz Holly O; Lerner Lois G  
**Cc:** Park Nalee; Lowe Justin  
**Subject:** FW: QFRs

Here is an intial draft of the QFRs.

Andy



**From:** Lowe Justin  
**Sent:** Wednesday, April 11, 2012 11:39 AM  
**To:** Megosh Andy  
**Cc:** Park Nalee  
**Subject:** QFRs

Attached is a draft response to the questions for the record. The responses that need the most development are those asking about our outside communications. Also, as I understood it from our Monday meeting Holly was going to check with Cindy if there have been any approved applications, but am not sure if that has happened.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 18, 2012 2:12 PM  
**To:** Flax Nikole C  
**Cc:** Marks Nancy J  
**Subject:** QFRs

**Remember we talked about Issa request for development letter information on closed c4 applications with Nalee the other day. She revised Issa letter to take that intro account --when looking at QFR 7?--we should use the same language**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 18, 2012 2:25 PM  
**To:** Park Nalee; Thomas Cindy M  
**Cc:** Paz Holly O  
**Subject:** RE: tomorrow

**She won't know without going back to the agents --I think Nan Marks plans to do that while in Cincy--but we can try**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Wednesday, April 18, 2012 3:23 PM  
**To:** Thomas Cindy M  
**Cc:** Lerner Lois G; Paz Holly O  
**Subject:** tomorrow

Cindy,

I understand you'll be at 999 N Capitol NE tomorrow. We have a congressional which references specific questions/information requests from development letters some constituents received, and we need your input on why the agents were asking some of these questions or what they were looking for. We've started developing a standard response, but thought since you're here, it makes sense for you to take a look and give us your thoughts.

Thanks, and talk to you soon.

NaLee

NaLee Park  
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EO Guidance, R&A  
TEGE, Washington D.C.  
(t) 202.283.9453 | (f) 202.283.946 2

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**From:** Lerner Lois G  
**Sent:** Thursday, April 19, 2012 12:57 PM  
**To:** Lerner Lois G  
**Subject:** Issa congressional 04-17-2012 wo#7.doc  
**Attachments:** Issa congressional 04-17-2012 wo#7.doc

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*b5/dp*

*b5/dp*

*b5/dp*



*b5/dp*

*b5/dp*

*b5/dp*

*b5/dp*

*b5/dp*

*b5/dp*

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**From:** Park Nalee  
**Sent:** Thursday, April 19, 2012 2:02 PM  
**To:** Lerner Lois G  
**Cc:** Marks Nancy J; Paz Holly O; Urban Joseph J; Fish David L  
**Subject:** RE: Issa congressional 04-17-2012 wo#7.doc  
**Attachments:** Issa congressional 04-19-2012 wo#7.doc

Attached is the latest with changes per your or Nikole's comments or responses answering your questions. I am not including Nikole here yet, in case further changes are necessary before forwarding a "final" amended draft to Nikole.

Will stop by shortly...whatever you're OK with here for Issa, I'll be making similar changes to Hatch to be consistent.

NaLee  
202.283.9453

---

**From:** Marks Nancy J  
**Sent:** Thursday, April 19, 2012 2:07 PM  
**To:** Lerner Lois G  
**Cc:** Urban Joseph J; Park Nalee; Paz Holly O; Flax Nikole C  
**Subject:** RE: Issa congressional 04-17-2012 wo#7.doc

[these seem fine to me](#)

---

**From:** Lerner Lois G  
**Sent:** Thursday, April 19, 2012 1:53 PM  
**To:** Flax Nikole C; Urban Joseph J  
**Cc:** Marks Nancy J; Park Nalee; Paz Holly O  
**Subject:** Issa congressional 04-17-2012 wo#7.doc

**More edits for consideration**

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(b)(5)/DP

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(b)(5)/DP

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(b)(5)/DP



(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Thursday, April 19, 2012 3:25 PM  
**To:** Flax Nikole C; Paz Holly O; Urban Joseph J; Marks Nancy J; Lowe Justin; Park Nalee  
**Subject:** RE: QFRs

Thanks

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Thursday, April 19, 2012 3:34 PM  
**To:** Lerner Lois G; Paz Holly O; Urban Joseph J; Marks Nancy J; Lowe Justin; Park Nalee  
**Subject:** RE: QFRs

Counsel will sign Schumer bc it is just the reg issue

I think Joe was working on Bennett.

---

**From:** Lerner Lois G  
**Sent:** Thursday, April 19, 2012 3:15 PM  
**To:** Flax Nikole C; Paz Holly O; Urban Joseph J; Marks Nancy J; Lowe Justin; Park Nalee  
**Subject:** RE: QFRs

I'm looking at Issa as we type --If I'm good, Nalee will incorporate into Hatch --do we have Benett? Have we figured whose names go on Schumer --Joseph is out

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Thursday, April 19, 2012 3:11 PM  
**To:** Lerner Lois G; Paz Holly O; Urban Joseph J; Marks Nancy J; Lowe Justin; Park Nalee  
**Subject:** QFRs

Please see my edits. Let me know of any concerns. Is it possible to get what we think are close to final on Hatch, Issa and Bennett by COB? (I see I had a few typos last night).

---

**From:** Lerner Lois G  
**Sent:** Thursday, April 19, 2012 5:13 PM  
**To:** Zarin Roberta B; Combs Peggy L; Thomas Cindy M; Fish David L; Paz Holly O  
**Cc:** Marx Dawn R; Partner Melaney J  
**Subject:** RE: Voicemail message from reporter regarding advocacy case

**Good job to all involved!**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Zarin Roberta B  
**Sent:** Thursday, April 19, 2012 4:51 PM  
**To:** Lerner Lois G; Combs Peggy L; Thomas Cindy M; Fish David L; Paz Holly O  
**Cc:** Marx Dawn R; Partner Melaney J  
**Subject:** FW: Voicemail message from reporter regarding advocacy case

fyi

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Cressman William M  
**Sent:** Thursday, April 19, 2012 3:57 PM  
**To:** Jenkins Jennifer A; Kerns Chris D  
**Cc:** Zarin Roberta B  
**Subject:** FW: Voicemail message from reporter regarding advocacy case

This is a 6103 response but be careful because it probably has its roots in the 501(c)(4) and a congressional level interest story related to allegations of partisanship treatment of Tea Party orgs.

If you are not certain how to handle this please contact me.

---

**Bill Cressman (Badge # 1000212378)**  
**Ch., Field Media Relations Branch (C&L)**  
**Office: 215-861-1550 Cell: (b)(6); (b)(7)(C)**

---

**From:** Cressman William M  
**Sent:** Thursday, April 19, 2012 3:54 PM  
**To:** Zarin Roberta B; Combs Peggy L; Paz Holly O; Marx Dawn R; Thomas Cindy M  
**Subject:** RE: Voicemail message from reporter regarding advocacy case

We will cover this one. Thanks for the heads-up.

---

**Bill Cressman (Badge # 1000212378)**  
**Ch., Field Media Relations Branch (C&L)**  
**Office: 215-861-1550 Cell: (b)(6); (b)(7)(C)**

---

**From:** Zarin Roberta B  
**Sent:** Thursday, April 19, 2012 3:49 PM  
**To:** Combs Peggy L; Paz Holly O; Cressman William M  
**Cc:** Thomas Cindy M; Marx Dawn R  
**Subject:** RE: Voicemail message from reporter regarding advocacy case

thanks. I'm sure Bill or one of his folks will handle.

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Combs Peggy L  
**Sent:** Thursday, April 19, 2012 3:37 PM  
**To:** Zarin Roberta B; Paz Holly O; Cressman William M  
**Cc:** Thomas Cindy M; Marx Dawn R  
**Subject:** FW: Voicemail message from reporter regarding advocacy case  
**Importance:** High

Below is a request from a reporter on an advocacy case. Please advise if you need us to take any action.

Peggy

---

**From:** Herr Joseph R  
**Sent:** Thursday, April 19, 2012 1:51 PM  
**To:** Batey Karen A  
**Cc:** Bibb Kenneth B; Bothe Larry W; Chumney Tyler N; Seok Stephen D  
**Subject:** Voicemail message from reporter regarding advocacy case

Karen,

I received a voicemail message from a reporter regarding one of my advocacy cases. He is looking for the name of the media contact.

His name is Jeremy Kelly with the Dayton Daily News, (937) 225 -2278. He wants to talk about the (b)(3); 6103 ,  
(b)(3); 6103 (b)(3); 6103

I have not returned his call. I will also forward the voicemail message to you.

Please let me know if I need to take any other action.

Joseph

Joseph R. Herr  
Revenue Agent Group 7821  
Exempt Organizations Determinations  
(513) 263-3725  
(513) 263-4488 fax

(b)

---

**From:** Lerner Lois G  
**Sent:** Friday, April 20, 2012 9:22 AM  
**To:** Flax Nikole C; Park Nalee  
**Cc:** Marks Nancy J; Paz Holly O; Urban Joseph J; Lowe Justin; Megosh Andy  
**Subject:** RE: QFRs

Yes--there are a couple other items to discuss in QFRs and Benet letter so we can do then. Want to use my call in? 1 - 866-606-4717 access code 9482833

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Friday, April 20, 2012 10:19 AM  
To: Park Nalee  
Cc: Lerner Lois G; Marks Nancy J; Paz Holly O; Urban Joseph J; Lowe Justin; Megosh Andy  
Subject: Re: QFRs

I have gotten some questions about the [REDACTED] (b)(5) DP Does anyone have time at 12 to talk?

-----Original Message-----

From: Park Nalee  
To: Flax Nikole C  
Cc: Lerner Lois G  
Cc: Marks Nancy J  
Cc: Paz Holly O  
Cc: Urban Joseph J  
Cc: Lowe Justin  
Cc: Megosh Andy  
Subject: RE: QFRs  
Sent: Apr 20, 2012 9:58 AM

Just had a chance to take a quick look at the draft. You may have already caught them, but just in case - a couple FYIs:

1. Page 1, Q 2, 2nd paragraph re: application process: reference to [REDACTED]  
[REDACTED] (b)(5)/DP
2. Page 1, Q 2, 3rd paragraph re: application process: reference to [REDACTED] (b)(5)/DP  
[REDACTED] in Hatch and Issa based on a comment...feel free to put it back in, noting it as a FYI.

NaLee  
202.283.9453

---

From: Flax Nikole C  
Sent: Thursday, April 19, 2012 4:35 PM  
To: Marks Nancy J; Lerner Lois G; Paz Holly O; Urban Joseph J; Lowe Justin; Park Nalee  
Subject: RE: QFRs

See revised. Nan, do you have an issue with the process described or the reference to the (b)(5)/DP Also changed 8, 13 and 16. I think there is a typo in their incoming for 15.

---

From: Marks Nancy J  
Sent: Thursday, April 19, 2012 4:07 PM  
To: Flax Nikole C; Lerner Lois G; Paz Holly O; Urban Joseph J; Lowe Justin; Park Nalee  
Subject: RE: QFRs

The response to Questions 1 and 2 refers to [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
(b)(5)/DP  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

my procedural changes designed language is [REDACTED]  
[REDACTED]  
[REDACTED]  
(b)(5)/DP  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Question 15 confuses me --is there a typo in the incoming. [REDACTED]  
(b)(5)/DP  
[REDACTED] Maybe I'm just tired. If they are asking us  
to [REDACTED]  
(b)(5)/DP  
[REDACTED]  
[REDACTED]

Question 16--we say the IRS [REDACTED]  
[REDACTED]  
(b)(5) DP and AC  
[REDACTED]  
[REDACTED]

---

From: Flax Nikole C  
Sent: Thursday, April 19, 2012 3:11 PM  
To: Lerner Lois G; Paz Holly O; Urban Joseph J; Marks Nancy J; Lowe Justin;  
Park Nalee  
Subject: QFRs

Please see my edits. Let me know of any concerns. Is it possible to get what we think are close to final on Hatch, Issa and Bennett by COB? ( I see I had a few typos last night).



---

**From:** Lerner Lois G  
**Sent:** Friday, April 20, 2012 10:09 AM  
**To:** Partner Melaney J  
**Cc:** Marx Dawn R  
**Subject:** RE: Voicemail message from reporter regarding advocacy case

I have no clue what this is about??

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Partner Melaney J  
Sent: Friday, April 20, 2012 8:35 AM  
To: Lerner Lois G  
Cc: Marx Dawn R  
Subject: Fw: Voicemail message from reporter regarding advocacy case

Sorry bb will not let me open. Something about the data size. Action for me? Maybe send unencrypted?

-----Original Message-----

From: Lois Lerner  
To: Roberta Zarin  
To: Combs Peggy L  
To: Thomas Cindy M  
To: David Fish  
To: Holly Paz  
Cc: Dawn Marx  
Cc: Melaney Partner  
Subject: RE: Voicemail message from reporter regarding advocacy case  
Sent: Apr 19, 2012 6:13 PM

Melaney Partner  
(b)(6); (b)(7)(C) cell

---

**From:** Lerner Lois G  
**Sent:** Friday, April 20, 2012 10:18 AM  
**To:** Zarin Roberta B; Urban Joseph J; Marks Nancy J; Fish David L; Paz Holly O; Lowe Justin  
**Cc:** Partner Melaney J; Adam Debbie A; Egeth Hillary B; Marx Dawn R  
**Subject:** RE: Clip: EO -- Tea Party drops push on tax-exempt status; Local group president backs off claims about IRS demands -- Dayton Daily News (OH) -- 042012

## Interesting

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Zarin Roberta B  
**Sent:** Friday, April 20, 2012 8:34 AM  
**To:** Urban Joseph J; Lerner Lois G; Marks Nancy J; Fish David L; Paz Holly O; Lowe Justin  
**Cc:** Partner Melaney J; Adam Debbie A; Egeth Hillary B; Marx Dawn R  
**Subject:** FW: Clip: EO -- Tea Party drops push on tax-exempt status; Local group president backs off claims about IRS demands -- Dayton Daily News (OH) -- 042012

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Jenkins Jennifer A  
**Sent:** Friday, April 20, 2012 8:10 AM  
**To:** \*Media Relations  
**Cc:** Nielson Jacqueline R; Kerns Chris D; Cressman William M; Stose Cathy L; Zarin Roberta B; Herr Joseph R; Batey Karen A  
**Subject:** Clip: EO -- Tea Party drops push on tax-exempt status; Local group president backs off claims about IRS demands -- Dayton Daily News (OH) -- 042012

Dayton Daily News  
Dayton, OH  
042012

**Tea Party drops push on tax-exempt status**  
**Local group president backs off claims about IRS demands.**

By Jeremy P. Kelley, Staff Writer

DAYTON — The Dayton Tea Party on Thursday withdrew its application for federal tax -exempt status, calling the IRS' requests for supplemental information about the group "overly burdensome" and "possibly politically motivated."

But interviews later Thursday revealed confusion from the Dayton Tea Party about what the IRS had asked for.

Dozens of Tea Party groups nationwide have said they're being asked to provide more information than other groups applying for 501(c)(4) status, including membership lists, political endorsements and event handouts.

"I think they're asking things they should not ask of anyone, and I think those questions are only being directed at Tea Party-like organizations," said Dayton Tea Party President Don Birdsall.

When asked further, Birdsall said he had no proof that other 501(c)(4) groups were being asked for less information.

U.S. Rep. Jim Jordan, R-Urbana, questioned the IRS last month about its handling of Tea Party applications, referring to an article in the Washington, D.C., newspaper Roll Call that said some "left-leaning" organizations did not face the same scrutiny on their applications.

Jordan, a member of the House Committee on Oversight and Government Reform, said Thursday that committee staffers have been in communication with the IRS, but he has not received an official reply letter.

"We believe the IRS should follow the guidelines set for their bureau and refrain from giving preferential treatment — positive or negative — to groups of any kind," Jordan said.

IRS Commissioner Douglas Shulman told a U.S. House subcommittee last month that the IRS does not target any group for scrutiny based on political beliefs, saying that back-and-forth information requests and filings are common in the 501(c)(4) application process.

"They can be involved in political and campaign activity, but it can't be their primary purpose," Shulman said of 501(c)(4) groups. "We engage them in a number of questions so we understand their primary purpose."

In a Feb. 14 letter, the IRS asked the Dayton Tea Party for a large amount of information, ranging from its websites, news media activity and any political endorsements, to extensive detail about its public rallies, candidate forums and other meetings.

Some sections of the Feb. 14 IRS request dovetailed with Shulman's comment about understanding the group's primary purpose.

The IRS asked the Dayton Tea Party what percentage of its time and resources were spent on rallies, candidate events and other functions.

Ohio IRS officials said Thursday they could not comment specifically on the Dayton Tea Party case.

In a press release issued Thursday morning, Birdsall said some of the information the IRS asked for was "outrageous." Asked to elaborate, he said, "They're asking for the makeup of our membership, and that's none of their business. They're asking for contribution information, and that's none of their business."

But the IRS letter's only request for names of members comes when it asks who worked on rallies or public events and whether they were paid. And Birdsall agreed after reviewing the letter later Thursday that it does not ask for any contribution information.

Birdsall said the Dayton Tea Party, which has no paid staff, has filed tax returns while waiting to see if its tax-exempt status would be approved.

"We're going back to being a taxable nonprofit," he said. "We thought that was the lesser of the evils."

<http://www.daytondailynews.com/news/politics/tea-party-drops-push-on-tax-exempt-status-1362796.html>

---

**From:** Lerner Lois G  
**Sent:** Friday, April 20, 2012 2:35 PM  
**To:** Park Nalee

(b)(5) DP

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Friday, April 20, 2012 3:07 PM  
**To:** Lerner Lois G  
**Subject:** Bennet - 501c4 political v9 Megosh (2012-29539).doc  
**Attachments:** Bennet - 501c4 political v9 Megosh (2012-29539).doc

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Friday, April 20, 2012 4:14 PM  
**To:** Flax Nikole C  
**Cc:** Urban Joseph J; Marks Nancy J; Megosh Andy; Paz Holly O; Lowe Justin; Park Nalee  
**Subject:** FW: Bennet - 501c4 political v9 Megosh (2012-29539).doc  
**Attachments:** track changes.doc

**You clearly don't want me to have any fun(-: Nan and I looked at this and made one slight change to (b)(5)/DP. Otherwise we're good.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Friday, April 20, 2012 5:05 PM  
**To:** Lerner Lois G; Marks Nancy J; Urban Joseph J; Megosh Andy; Paz Holly O; Lowe Justin; Park Nalee  
**Subject:** RE: Bennet - 501c4 political v9 Megosh (2012-29539).doc

[here is a compare doc](#)

---

**From:** Lerner Lois G  
**Sent:** Friday, April 20, 2012 4:59 PM  
**To:** Flax Nikole C; Marks Nancy J; Urban Joseph J; Megosh Andy; Paz Holly O; Lowe Justin; Park Nalee  
**Subject:** RE: Bennet - 501c4 political v9 Megosh (2012-29539).doc

**do you have a redline copy--I don't see the track changes**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Friday, April 20, 2012 4:57 PM  
**To:** Lerner Lois G; Marks Nancy J; Urban Joseph J; Megosh Andy; Paz Holly O; Lowe Justin; Park Nalee  
**Subject:** RE: Bennet - 501c4 political v9 Megosh (2012-29539).doc

[see what you think](#)

---

**From:** Lerner Lois G  
**Sent:** Friday, April 20, 2012 4:07 PM  
**To:** Marks Nancy J; Urban Joseph J; Flax Nikole C; Megosh Andy; Paz Holly O; Lowe Justin; Park Nalee  
**Subject:** Bennet - 501c4 political v9 Megosh (2012-29539).doc

**OK--Here's my attempt to tell a broader story in the Bennet letter --comments please**

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Friday, April 20, 2012 5:58 PM  
**To:** Park Nalee; Flax Nikole C  
**Cc:** Kindell Judith E; Urban Joseph J; Marks Nancy J  
**Subject:** RE: Issa - last Q

**Will take home tonight**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Friday, April 20, 2012 4:51 PM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G; Kindell Judith E; Urban Joseph J; Marks Nancy J  
**Subject:** Issa - last Q

To give you a sense of our response to Issa Q7, attaching the first 12 pages (overview with subparts A-C).

Right now the whole response stands at about 44 pages - we're trying to cut it down, especially some of the footnotes to provide a tighter response. For parts b, d, e, we developed a "standard" response for consistency, but did tweak or add as necessary to be responsive to the specific question.

NaLee

NaLee Park  
SE:T:EO:RA:G, Rm NCA-551  
EO Guidance, R&A  
TEGE, Washington D.C.  
(t) 202.283.9453 | (f) 202.283.9462

---

**From:** Lerner Lois G  
**Sent:** Monday, April 23, 2012 1:04 PM  
**To:** Park Nalee  
**Subject:** Issa congressional 04-23-2012.doc  
**Attachments:** Issa congressional 04-23-2012.doc

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Monday, April 23, 2012 3:48 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee  
**Subject:** Issa congressional 04-23-2012 nlp.doc  
**Attachments:** Issa congressional 04-23-2012 nlp.doc

**See what I did on the administrative record part on p9. I know Nalee's does it up front, but there is no guarantee these folks will remember by the time they get to p.9**

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

---

**From:** Lerner Lois G  
**Sent:** Monday, April 23, 2012 4:41 PM  
**To:** Fish David L; Megosh Andy  
**Cc:** Paz Holly O  
**Subject:** FW: Flores letter  
**Attachments:** April 23 2012 501c letter to IRS Commissioner Shulman.pdf

**Another Congressional to get started please**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Barre Catherine M  
**Sent:** Monday, April 23, 2012 4:43 PM  
**To:** Flax Nikole C; Lerner Lois G  
**Subject:** Flores letter

**Congress of the United States**  
**Washington, DC 20515**

April 23, 2012

The Honorable Douglas H. Shulman  
Commissioner, Internal Revenue Service  
Room 3000 IR  
1111 Constitution Avenue, NW  
Washington, DC 20224

Dear Commissioner Shulman:

It has come to our attention that numerous nonprofit civic organizations across the country have experienced extensive delays and received excessively burdensome information requests in connection with their applications for tax-exempt status under 26 U.S.C. §501(c). These requests have included demands for complete records of every oral statement ever provided by any member of the organization, vague probes into tangential associations with private citizens and excessively long questionnaires all to be returned within unreasonably short time periods. These demands go well beyond good-faith due diligence and appear designed to be logistically and financially impossible to comply with.

Tax-exempt status exists to ensure that taxation does not hinder citizens' engagement in social welfare and civic activities. To wit, 26 U.S.C. §501(c)(4)(A) exempts "[c]ivic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare...the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes." Further, the I.R.S. has affirmed that these organizations "may carry on lawful political activities and remain exempt as long as it is primarily engaged in activities that promote social welfare." (Rev. Rule 81-95, 1981-1 C.B. 332)

These recent inquiries appear to constitute disparate treatment for no apparent reason other than the political persuasion of applicants. Such practices chill these groups' Constitutionally-guaranteed rights to civic participation, freedom of association and free speech and are better left to despotic regimes than a revenue-collection agency in a free country.

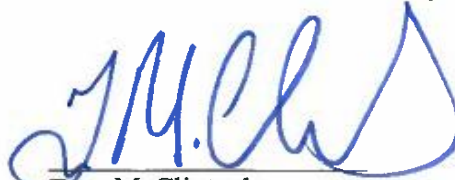
It does not appear that the missions and activities of these organizations require information beyond the scope of Form 1024 and Schedule B, which we understand to have been traditionally required. We request that you provide a response demonstrating how these recent requests by the I.R.S are consistent with precedent and supported by law. We further request that the I.R.S. refrain from any additional unwarranted and excessive information demands and other dilatory tactics.

Thank you for your attention to this matter. We look forward to your timely response.

Sincerely,



Bill Flores  
Member of Congress



Tom McClintock  
Member of Congress




Jim Renacci  
Member of Congress

The Honorable Douglas H. Shulman  
Page 2



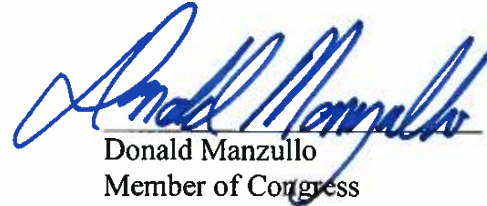
John Fleming  
Member of Congress



Tim Huelskamp  
Member of Congress



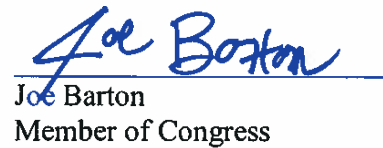
Jeff Duncan  
Member of Congress



Donald Manzullo  
Member of Congress



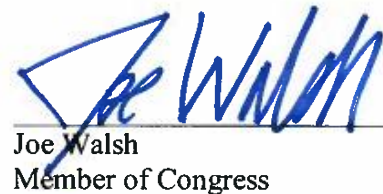
Doug Lamborn  
Member of Congress



Joe Barton  
Member of Congress



Louie Gohmert  
Member of Congress



Joe Walsh  
Member of Congress



Andy Harris  
Member of Congress



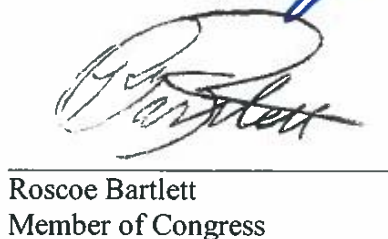
Bill Posey  
Member of Congress



Tim Walberg  
Member of Congress



Walter B. Jones  
Member of Congress

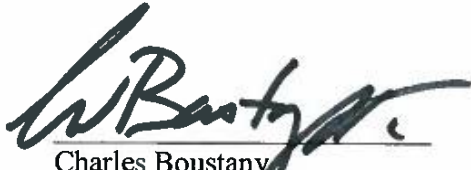


Roscoe Bartlett  
Member of Congress



Bill Johnson  
Member of Congress

The Honorable Douglas H. Shulman  
Page 3



Charles Boustany  
Member of Congress




James Lankford  
Member of Congress



Dennis Ross  
Member of Congress



Gus Bilirakis  
Member of Congress



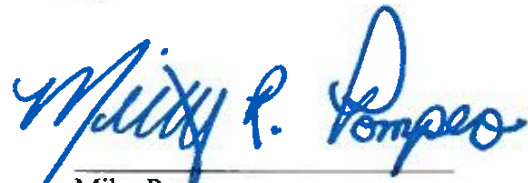
Francisco "Quico" Canseco  
Member of Congress



Lynn Westmoreland  
Member of Congress



Trent Franks  
Member of Congress




Mike Pompeo  
Member of Congress




Raúl Labrador  
Member of Congress



W. Todd Akin  
Member of Congress



Alan Nunnelee  
Member of Congress



Steve King  
Member of Congress



Joe Wilson  
Member of Congress




Lynn Jenkins  
Member of Congress





The Honorable Douglas H. Shulman


Page 4


  
John Kline  
Member of Congress


  
Ted Poe  
Member of Congress

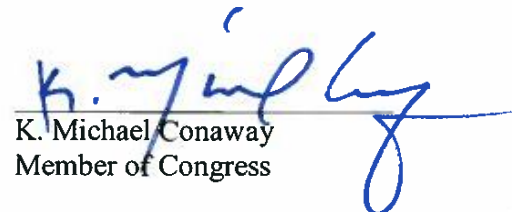
  
Diane Black  
Member of Congress

  
Michele Bachmann  
Member of Congress

  
Richard Nugent  
Member of Congress

  
Scott DesJarlais  
Member of Congress

  
Bob Goodlatte  
Member of Congress

  
K. Michael Conaway  
Member of Congress


  
Jack Kingston  
Member of Congress

  
Tom Graves  
Member of Congress

  
Mick Mulvaney  
Member of Congress

  
Randy Hultgren  
Member of Congress

  
Ann Marie Buerkle  
Member of Congress

  
Jeff Landry  
Member of Congress

The Honorable Douglas H. Shulman  
Page 5



Sam Johnson  
Member of Congress



Scott Tipton  
Member of Congress



Randy Forbes  
Member of Congress



Marsha Blackburn  
Member of Congress



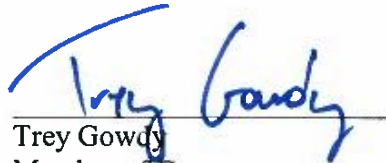
Cliff Stearns  
Member of Congress



Kenny Marchant  
Member of Congress



Robert Latta  
Member of Congress



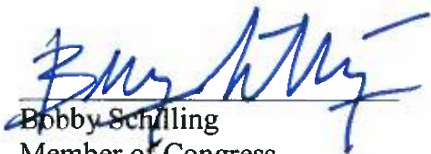
Trey Gowdy  
Member of Congress



Thaddeus McCotter  
Member of Congress



Paul Gosar  
Member of Congress



Bobby Schilling  
Member of Congress



Rob Woodall  
Member of Congress



Aaron Schock  
Member of Congress



Sandy Adams  
Member of Congress

The Honorable Douglas H. Shulman

Page 6




Jeff Miller  
Member of Congress



Connie Mack  
Member of Congress



Steve Scalise  
Member of Congress



Phil Roe  
Member of Congress

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 24, 2012 10:06 AM  
**To:** Flax Nikole C; Grant Joseph H  
**Subject:** RE: Question on Hatch

**None in my office**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, April 24, 2012 5:35 AM  
**To:** Lerner Lois G; Grant Joseph H  
**Subject:** Re: Question on Hatch

Just to be clear - I am only asking with respect to your office\$

---

**From:** Flax Nikole C  
**Sent:** Monday, April 23, 2012 06:41 PM  
**To:** Lerner Lois G; Grant Joseph H  
**Subject:** Question on Hatch

On the initial draft sent over, you stated the following

(b)(5)/DP

Thanks

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 24, 2012 10:52 AM  
**To:** Flax Nikole C; Park Nalee  
**Cc:** Fish David L  
**Subject:** FW: c4 letters - current drafts  
**Attachments:** Bennet 4-23-12.doc; Hatch Congr ltr 4-23-2012 7 pm.doc; Issa congressional 04-23-2012 6 pm with EO edits.doc; Schumer - 501c4 regs4-23-12.doc

You added the following comment in Hatch p. 5 where we mentioned (b)(5)/DP  
Can we add something on (b)(5)/DP

Not sure what you are looking for --Also, although we mention (b)(5)/DP you don't have the same comment at Issa p. 8 where (b)(5)/DP I'm thinking that will fit more appropriately in the question 7 response --which you haven't yet seen. Please clarify

I also corrected some typos.

Someone is working on the Boustany supplemental information --charts expanding what we gave him.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, April 23, 2012 7:20 PM  
**To:** Park Nalee  
**Cc:** Marks Nancy J; Lerner Lois G; Urban Joseph J; Paz Holly O; Fish David L  
**Subject:** RE: c4 letters - current drafts

See questions in Hatch. I think we are close, but this is obviously slipping another day.

---

**From:** Park Nalee  
**Sent:** Monday, April 23, 2012 4:27 PM  
**To:** Flax Nikole C  
**Cc:** Marks Nancy J; Lerner Lois G; Urban Joseph J; Paz Holly O; Fish David L  
**Subject:** RE: c4 letters

Issa attached - tracked and clean copy. Think ready to sign?

Also attached is Hatch with corresponding edits - tracked.

NaLee  
202.283.9453

**From:** Flax Nikole C  
**Sent:** Monday, April 23, 2012 1:41 PM  
**To:** Park Nalee  
**Cc:** Marks Nancy J; Lerner Lois G; Urban Joseph J; Paz Holly O  
**Subject:** RE: c4 letters

Yes, I think fine to just take out (b)(5)/DP Edits to Issa attached. Are you guys able to make corresponding changes to Hatch (if not, I can do it later). I have other edits on Hatch, but will hold off until hear back and will also be sending a revised Bennett (and I guess we need to pull together a new Boustany ).

---

**From:** Park Nalee  
**Sent:** Monday, April 23, 2012 12:30 PM  
**To:** Flax Nikole C  
**Cc:** Marks Nancy J; Lerner Lois G; Urban Joseph J; Paz Holly O  
**Subject:** RE: c4 letters

Re: the last chart for question 4 (top of page 7):

(b)(5)/DP

- would that resolve concerns? Or are you still thinking of wanting (b)(5)/DP

(b)(5)/DP for Boustany 3/23/212, I found two that would be supplementary:

- Issa, pg 4, Q3, (b)(5)/DP
- Issa, pg 6, Q3, (b)(5)/DP
- Boustany Q7 - don't think anything in Issa is an (b)(5)/DP in the Q7 response

NaLee  
202.283.9453

---

**From:** Flax Nikole C  
**Sent:** Monday, April 23, 2012 12:01 PM  
**To:** Marks Nancy J; Lerner Lois G; Park Nalee; Urban Joseph J  
**Subject:** c4 letters

I am working on compiling comments and will send, but wanted to flag two things.

On Issa, the last chart before Question 5. Is this

(b)(5)/DP

Also, I think we need to determine what info we need to provide to Boustany as an update to the earlier. I think it would be (b)(5)/DP but wanted to see what your thoughts were as well.

And to flag - sounds like request will be coming from Boustany this week for all of the educational materials the agents used in sending the letters.

(b)(5) DP

(b)(5) DP



(b)(5) DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

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*b5/dp*



*b5/dp*

*b5/dp*

*b5/dp*

*b5/dp*

*b5/dp*

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 24, 2012 12:27 PM  
**To:** Flax Nikole C; Park Nalee; Kindell Judith E  
**Subject:** RE: Levin letter response?

just met with Judy and Nalee --still not ready for you Hopefully tonight or in the morning. Requires [REDACTED] (b)(5)/DP  
[REDACTED] Can't be read separately than the allegations about the questions.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, April 23, 2012 5:57 PM  
**To:** Lerner Lois G; Park Nalee  
**Subject:** FW: Levin letter response?

any sense of timing on this one?

---

**From:** Hudson Larry D  
**Sent:** Monday, April 23, 2012 4:27 PM  
**To:** Flax Nikole C  
**Cc:** Norton William G Jr  
**Subject:** Levin letter response?

Nikole,

Floyd asked me to check with you on the status and when the response might go out on Sen. Levin's letter? Floyd is out of the office today and maybe tomorrow on sick leave.

Thanks,  
**Larry D. Hudson**  
IRS, Office of Legislative Affairs  
(202) 622-4913

---

**From:** Meier, Kaye (Levin) [mailto:[Kaye\\_Meier@levin.senate.gov](mailto:Kaye_Meier@levin.senate.gov)]  
**Sent:** Monday, April 23, 2012 02:03 PM  
**To:** Williams Floyd L  
**Subject:** Levin letter response?

Floyd: Was a response sent to Senator Levin's letter (attached)?

Thanks!

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 24, 2012 3:09 PM  
**To:** Spellmann Don R; Marks Nancy J; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy; Lowe Justin; Goehausen Hilary  
**Cc:** Judson Victoria A; Cook Janine; Brown Susan D; Marshall David L  
**Subject:** RE: Retooled Advocacy Guide Sheet

**Thanks guys! One of those "It takes a Village" things! Appreciate all the effort that has gone into this from all quarters.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Spellmann Don R [ <mailto:Don.R.Spellmann@irsounsel.treas.gov> ]  
**Sent:** Friday, April 20, 2012 10:14 PM  
**To:** Lerner Lois G; Marks Nancy J; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy; Lowe Justin; Goehausen Hilary  
**Cc:** Judson Victoria A; Cook Janine; Brown Susan D; Marshall David L  
**Subject:** Retooled Advocacy Guide Sheet

(b)(5)/AC and /DP



(b)(5) DP and AC

This is not a completely polished product from head to toe, so please excuse anything that you may find amiss. We have some final polishing and cleanup operations to complete.

Last, we attach the safe and conservative counsel draft from before, [REDACTED]

(b)(5) DP and AC

Please let us know of your questions, comments and reactions to the retooled guide sheet.

Don

Don R. Spellmann  
Senior Counsel  
Office of Division Counsel/  
Associate Chief Counsel  
(Tax Exempt and Government Entities)  
1111 Constitution Avenue, NW, Room 4409  
Washington, DC 20224  
202-927-6799  
202-622-1036 (Fax)

New Counsel Guide Sheet Draft

<< File: guide sheet master 04-20-12 (Counsel).doc >>

Prior Annotated Counsel Draft

<< File: guide sheet 04-16-12 annotated (2)(checked).doc >>

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 24, 2012 3:10 PM  
**To:** Flax Nikole C  
**Subject:** FW: Retooled Advocacy Guide Sheet

**As discussed--this is what we are planning on using.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Spellmann Don R [ <mailto:Don.R.Spellmann@irscounsel.treas.gov> ]  
**Sent:** Friday, April 20, 2012 10:14 PM  
**To:** Lerner Lois G; Marks Nancy J; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy; Lowe Justin; Goehausen Hilary  
**Cc:** Judson Victoria A; Cook Janine; Brown Susan D; Marshall David L  
**Subject:** Retooled Advocacy Guide Sheet

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5)/AC and /DP

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5)/AC and /DP

[REDACTED]

This is not a completely polished product from head to toe, so please excuse anything that you may find amiss. We have some final polishing and cleanup operations to complete.

Last, we attach the safe and conservative counsel draft from before, [REDACTED]

[REDACTED]

(b)(5)/AC and /DP

[REDACTED]

Please let us know of your questions, comments and reactions to the retooled guide sheet.

Don

Don R. Spellmann  
Senior Counsel  
Office of Division Counsel/  
Associate Chief Counsel  
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1111 Constitution Avenue, NW, Room 4409  
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202-927-6799  
202-622-1036 (Fax)

New Counsel Guide Sheet Draft



guide sheet master  
04-20-12 (C...

Prior Annotated Counsel Draft



guide sheet  
04-16-12 annotate...

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

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*(b)(5)/AC and /DP*



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**From:** Megosh Andy  
**Sent:** Tuesday, April 24, 2012 3:26 PM  
**To:** Lerner Lois G; Paz Holly O; Barre Catherine M; Marks Nancy J  
**Cc:** Park Nalee  
**Subject:** supplemental Bousanty draft  
**Attachments:** Boustany supplemental.doc

Here is Bousanty supplemental draft with the two updated charts.

Andy

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 24, 2012 4:23 PM  
**To:** Flax Nikole C; Park Nalee  
**Cc:** Megosh Andy  
**Subject:** RE: Issa

Not as easy as it sounds, but we're trying.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, April 24, 2012 5:22 PM  
To: Lerner Lois G; Park Nalee  
Cc: Megosh Andy  
Subject: Re: Issa

Just wanted a few sentences for hatch. Will be in touch in the am.

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
To: Park Nalee  
Cc: Megosh Andy  
Subject: RE: Issa  
Sent: Apr 24, 2012 5:06 PM

Fine we get it--hard to write anyway because all the stuff out there is (b)(5)/DP. I assume you want Hatch to go when Issa goes?  
I am here in AM, but probably not until 9:30 -10

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, April 24, 2012 5:02 PM  
To: Park Nalee; Lerner Lois G  
Cc: Megosh Andy  
Subject: RE: Issa

Sorry, I am confused. The comment was only to (b)(5)/DP. I have the latest draft of Issa. There were some typos that I found. I will resend, but we can't sign until all are done. Looks like will be in the am. Lois, will you be around then?

-----Original Message-----

From: Park Nalee  
Sent: Tuesday, April 24, 2012 4:47 PM  
To: Flax Nikole C; Lerner Lois G  
Cc: Megosh Andy  
Subject: Issa  
Importance: High

Worked off of draft that Lois emailed at 11:52am this morning...

(b)(5)/DP - see comment on page 8 of either attachments - first is "clean" with only the comments showing and second is tracked. If ok with clean copy (w comments), will remove comments and prep 2 originals for Lois to sign.

NaLee  
202.283.9453

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, April 24, 2012 1:24 PM  
To: Lerner Lois G; Park Nalee  
Cc: Fish David L  
Subject: Re: c4 letters - current drafts

The comment was in that place bc the question asked about (b)(5)/DP  
(b)(5)/DP If we are not going to make the change I just need to go back and explain why.

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
To: Park Nalee  
Cc: Fish David L  
Subject: FW: c4 letters - current drafts  
Sent: Apr 24, 2012 11:52 AM

You added the following comment in Hatch p. 5 where we mentioned (b)(5)/DP

(b)(5)/DP  
Can we add something on (b)(5)/DP  
(b)(5)/DP

Not sure what you are looking for --Also, although we mention (b)(5)/DP you don't have the same comment at Issa p. 8 where (b)(5)/DP  
I'm thinking that will fit more appropriately in the question 7 response --which you haven't yet seen. Please clarify

I also corrected some typos.

Someone is working on the Boustany supplemental information --charts expanding what we gave him.

Lois G. Lerner  
Director of Exempt Organizations

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Cc: Marks Nancy J; Lerner Lois G; Urban Joseph J; Paz Holly O; Fish David L  
Subject: RE: c4 letters - current drafts

See questions in Hatch. I think we are close, but this is obviously slipping another day.

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Issa attached - tracked and clean copy. Think ready to sign?

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NaLee  
202.283.9453

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Cc: Marks Nancy J; Lerner Lois G; Urban Joseph J; Paz Holly O  
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From: Park Nalee

Sent: Monday, April 23, 2012 12:30 PM  
To: Flax Nikole C  
Cc: Marks Nancy J; Lerner Lois G; Urban Joseph J; Paz Holly O  
Subject: RE: c4 letters

Re: the last chart for question 4 (top of page 7): [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] (b)(5)/DP [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] - would that resolve concerns? Or are you still  
thinking of wanting [REDACTED] (b)(5)/DP [REDACTED]

(b)(5)/DP [REDACTED] for Boustany 3/23/212, I found two that would be  
supplementary:

- Issa, pg 4, Q3, [REDACTED] (b)(5)/DP [REDACTED]
  - Issa, pg 6, Q3, [REDACTED] (b)(5)/DP [REDACTED]
- [REDACTED]
- Boustany Q7 - don't think anything in Issa is an [REDACTED] (b)(5)/DP [REDACTED] in the Q7 response

NaLee  
202.283.9453

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From: Flax Nikole C  
Sent: Monday, April 23, 2012 12:01 PM  
To: Marks Nancy J; Lerner Lois G; Park Nalee; Urban Joseph J  
Subject: c4 letters

I am working on compiling comments and will send, but wanted to flag two  
things.

On Issa, the last chart before Question 5. Is this [REDACTED]  
[REDACTED] (b)(5)/DP [REDACTED]  
[REDACTED]

Also, I think we need to determine what info we need to provide to Boustany  
as an update to the earlier. I think it would be [REDACTED] (b)(5)/DP [REDACTED]  
[REDACTED], but wanted to see what your thoughts were as well.

And to flag - sounds like request will be coming from Boustany this week for  
all of the educational materials the agents used in sending the letters.





---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 24, 2012 4:30 PM  
**To:** Eldridge Michelle L; Barre Catherine M; Norton William G Jr  
**Cc:** Lemons Terry L; Zarin Roberta B; Williams Grant; D'Amico Christina A  
**Subject:** RE: mcclintock letter

**We got the original and its in the queue for a response from us, along with several others**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Eldridge Michelle L  
**Sent:** Tuesday, April 24, 2012 4:24 PM  
**To:** Barre Catherine M; Norton William G Jr  
**Cc:** Lemons Terry L; Zarin Roberta B; Lerner Lois G; Williams Grant; D'Amico Christina A  
**Subject:** FW: mcclintock letter

FYI--We have a Hill inquiry on the latest congressional letter re: 501c4 applications...specifically tea party allegations. Just letting you know. We continue to use the statement we worked out a while back. Nothing new. This is the only inbound we have received on the letter supposedly sent yesterday. Thanks. --Michelle

---

**From:** D'Amico Christina A  
**Sent:** Tuesday, April 24, 2012 4:19 PM  
**To:** Eldridge Michelle L  
**Subject:** FW: mcclintock letter

FYI

---

**From:** Williams Grant  
**Sent:** Tuesday, April 24, 2012 4:07 PM  
**To:** D'Amico Christina A  
**Subject:** FW: mcclintock letter

---

**From:** Josh Fatzick [<mailto:jfatzick@thehill.com>]  
**Sent:** Tuesday, April 24, 2012 2:37 PM  
**To:** Williams Grant  
**Subject:** mcclintock letter

Hi Grant,

McClintock sent this letter to your office yesterday asking for answers to his questions about the harassment of tea party groups in his district, i was wondering if your office had a response to the allegations or a statement.

thanks

--

Josh Fatzick  
The Hill  
1625 K Street NW, Suite 900  
Washington, DC 20006  
(O) 202-407-8018  
(C) 843-742-7002  
[jfatzick@thehill.com](mailto:jfatzick@thehill.com)

---

**From:** Park Nalee  
**Sent:** Tuesday, April 24, 2012 11:39 PM  
**To:** Flax Nikole C; Lerner Lois G  
**Cc:** Megosh Andy; Fish David L; Kindell Judith E  
**Subject:** Hatch  
**Attachments:** Hatch Congr Ltr 4-24-2012.doc; democratic\_leadership\_counci.pdf

Attached is latest on Hatch - see Q4 starting on bottom of page 5 to top of page 6 re: (b)(5) DP

per your comment. Also attached is the case cited in this response - do we want to provide

(b)(5)/DP

Still need to check a couple things in the morning - e.g. blue book citation, maybe try to check w Counsel on verbiage (?), etc. But sending it now so you get a sense of the response and review/modify in case you're still planning to give Hatch same time as Issa.

(FYI - To be certain we're on the same page...attached copy - worked off last draft of Hatch titled "Hatch Congr Ltr 4 -23-2012 7pm" that Lois emailed with her edits at 11:52am yesterday.)

NaLee  
202.283.9453

-----Original Message-----

From: Flax Nikole C  
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To: Lerner Lois G; Park Nalee  
Cc: Megosh Andy  
Subject: Re: Issa

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To: Flax Nikole C  
To: Park Nalee  
Cc: Megosh Andy  
Subject: RE: Issa  
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Director of Exempt Organizations

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Cc: Fish David L  
Subject: Re: c4 letters - current drafts

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11058S

**Time of Request:** Tuesday, April 24, 2012 18:04:52 EST  
**Client ID/Project Name:**  
**Number of Lines:** 553  
**Job Number:** 1827:346782050

Research Information

**Service:** Terms and Connectors Search  
**Print Request:** Current Document: 2  
**Source:** Federal Courts Tax Cases  
**Search Terms:** "democratic leadership council"

**Send to:** PARK, NALEE  
IRS TAX EXEMPT/GOVERNMENT ENTITIES  
1111 CONSTITUTION AVE NW RM 2116IR  
WASHINGTON, DC 20224-0002



2 of 7 DOCUMENTS



Analysis  
As of: Apr 24, 2012

**DEMOCRATIC LEADERSHIP COUNCIL, INC. Plaintiff, v. UNITED STATES OF AMERICA, Defendant.**

**Civil Action No. 05-1067 (LFO)**

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA**

***542 F. Supp. 2d 63; 2008 U.S. Dist. LEXIS 27579; 2008-1 U.S. Tax Cas. (CCH) P50,271; 101 A.F.T.R.2d (RIA) 1597***

**April 4, 2008, Decided**

**SUBSEQUENT HISTORY:** As Amended April 7, 2008.

**CASE SUMMARY:**

**PROCEDURAL POSTURE:** Plaintiff organization sued defendant, the United States, for a refund of about \$20,000 in taxes and interest paid after the IRS retroactively revoked plaintiff's tax-exempt status under *26 U.S.C.S. § 501(c)(4)*. At issue, inter alia, was whether the IRS had violated its own regulations prohibiting retroactive revocation of tax-exempt status in the absence of certain showings. Cross motions for summary judgment were filed.

**OVERVIEW:** Plaintiff's director testified that when plaintiff was founded in 1985, its progressive agenda distinguished it from the Democratic party. In 1999, the IRS commenced an examination to determine whether it was operating in the stated manner and for stated purposes. The IRS thereafter proposed to retroactively revoke plaintiff's tax-exempt status. Plaintiff paid the

taxes and interest, then filed suit per *28 U.S.C.S. § 1346* after the IRS denied its refund claim. On cross-motions for summary judgment, the court ruled for plaintiff and against defendant. The IRS had wrongly disregarded limitations on retroactive revocations in *26 U.S.C.S. § 7805(b)* and *Treas. Reg. § 601.201(n)(6)(i)*. Rejecting a claim that *§ 601.201* did not apply in a refund suit, the court then held that even though a refund suit was a de novo proceeding, the IRS's prior exemption ruling was properly considered in a refund suit in connection with a claim that retroactive revocation was an abuse of discretion. Moreover, inasmuch as plaintiff did not omit or misstate a material fact or operate in a materially different manner from that which was originally represented, retroactive revocation was an abuse of discretion.

**OUTCOME:** The court held that the IRS abused its discretion and violated its own regulations when it retroactively revoked plaintiff's tax-exempt status and entered an order granting plaintiff's motion for summary judgment and denying that filed by defendant. It also held

542 F. Supp. 2d 63, \*; 2008 U.S. Dist. LEXIS 27579, \*\*;  
2008-1 U.S. Tax Cas. (CCH) P50,271; 101 A.F.T.R.2d (RIA) 1597

that plaintiff was entitled to a full refund of the amounts paid. The ruling, however, did not preclude the IRS seeking to prospectively revoke plaintiff's tax-exempt status.

**COUNSEL:** [\*\*1] For DEMOCRATIC LEADERSHIP COUNCIL, INC., Plaintiff: Robert Felix Bauer, LEAD ATTORNEY, PERKINS COIE, LLP, Washington, DC; Ezra W. Reese, PERKINS COIE, Washington, DC.

For UNITED STATES OF AMERICA, Defendant: Michael Joseph Martineau, LEAD ATTORNEY, U.S. DEPARTMENT OF JUSTICE, Tax Division, Washington, DC; Pat S. Genis, LEAD ATTORNEY, US Department of Justice, Washington, DC.

**JUDGES:** Louis F. Oberdorfer, UNITED STATES DISTRICT JUDGE.

**OPINION BY:** Louis F. Oberdorfer

## OPINION

### [\*64] MEMORANDUM AND OPINION

In 1985, several prominent Democrats, including then-Governor Bill Clinton, formed the Democratic Leadership Council (DLC). The IRS granted the DLC tax-exempt status as a "social-welfare" organization under *I.R.C. § 501(c)(4)*. In 2002, the IRS revoked the DLC's tax-exempt status for the years 1997, 1998, and 1999, concluding that the DLC rendered an impermissible level of private benefit during those years--namely, support to Democratic officials. The DLC paid approximately \$ 20,000 in total taxes and interest for those years, but filed this suit for a refund. The DLC contends that it acted within the bounds of *§ 501(c)(4)* for the three years in question and that, in any event, the IRS's own regulations prohibit the retroactive [\*\*2] revocation of tax-exempt status that occurred here. The parties have filed cross motions for summary judgment. Though there may be legitimate questions whether the DLC was entitled to *§ 501(c)(4)* status, the DLC did not omit or misstate a material fact in its 1985 application for that status or operate in a manner materially different from that originally represented when the IRS granted it that status. Accordingly, the IRS violated its regulations when it retroactively revoked that status, and the DLC is entitled to summary judgment and a refund of the taxes it

paid for the years in question.

## I. BACKGROUND

For purposes of the pending summary-judgment motions, the following facts are undisputed.

### A. The Founding of The DLC as a Tax-Exempt Organization

The Democratic Leadership Council was founded by prominent members of the Democratic Party and incorporated on March 4, 1985. Pl.'s Mot. for Summ. J. ("Pl.'s Mot.") [dkt # 18], Ex. B at 11--13, 161. The DLC's Articles of Incorporation designated Senator Charles S. Robb, Senator Sam Nunn, and Congressman Richard A. Gephardt as directors. *Id.* at 12. For all relevant times, Alvin From has been the DLC's President and Chief Executive Officer. *Id.* at 42. [\*\*3] As stated in its Articles of Incorporation, the DLC was founded " for the promotion of welfare within the meaning of *Section 501(c)(4)*" and "for the purpose of bringing about civil betterments and social improvements." Pl.'s Mot., Ex. A, Part II. President From described the individuals who formed the organization as "interested in pushing a different kind of agenda, sort of like a third way, which was progressive." Pl.'s Mot., Ex. B at 12. President From believed the DLC was founded on a philosophy [\*\*65] different from that under which the Democratic Party operated at the time:

We thought that the economic agenda of the Democratic Party was grounded in redistribution and not growing the economy. We believe[d] that you had to grow the economy. But we also differed from the conservatives. They were concerned only about growing the economy and not about helping ordinary people benefit from that growth.

And so we developed a set of policies grounded in fiscal discipline, investing in people, in technologies, and expanding trade that I believe had a great impact when they were actually put into place.

*Id.* at 17. The DLC uses the terms "Third Way" and "New Democrat" to refer generally to its approach [\*\*4] and policies. *E.g., id.* at 19 ("And we thought the country needed an alternative. And that's what we set out to do. I

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think that's what we did. It's called the Third Way [i]nternationally. It is a progressive agenda. And the brand here is New Democrat.").

On November 8, 1985, the DLC filed its Form 1024 application with the IRS for tax-exempt status as a "social-welfare" organization under § 501(c)(4). The application included the DLC's Articles of Incorporation. It further explained that the DLC "was organized in early 1985 by certain elected officials and others who were concerned with the formulation of national policy and with the direction of policy debate within the Democratic Party." Pl.'s Mot., Ex. A, Part III, Question 3 at 1. The application stated that "the organization was conceived as an active forum for the development of fresh policy options and approaches which could spark and advance public debate." *Id.* To further this purpose, the application stated, the DLC intended to engage in the following activities: create task forces; hold town meetings and issue forums with business, labor, civic, student, and other audiences; hold policy meetings; contract for studies; initiate [\*\*5] public-affairs programs (including press conferences, meetings with editorial boards, and press releases); and host fund-raising receptions. *Id.* at 1--2. The application also represented that the DLC would "not intervene in campaigns on behalf of any public candidate," nor "seek to influence voter perceptions indirectly, such as by establishing voting records or other ratings of candidates." *Id.* at 2--3.

The application also specifically addressed the DLC's relationship with the Democratic Party:

The Democratic Leadership Council is so named because it was founded by federal and state elected officials who are Democrats and who were concerned with the direction of the policy debate within their party, as well as within the country as a whole. Through the establishment of DLC, these officials and others with similar interests and goals expected to improve the overall contribution to Democratic leaders, in the federal and state government, to national policy debate, and to urge upon both the party and the general public new and innovative approaches to policy.

*Id.* at 2.

On February 7, 1986, based on the DLC's application for exempt status, the IRS recognized the DLC as a tax-exempt organization [\*\*6] under § 501(c)(4). Pl.'s Mot., Ex. C at 20--21. The recognition letter stated that the IRS was "assuming [the DLC's] operations will be as stated in [the] application." *Id.* It also requested that the DLC notify the IRS if its "purpose, character, or method of operation change." *Id.*

In the ensuing years, the DLC undertook to advance its mission in various ways, including "trying to attract prominent political figures," who were also Democrats. Pl.'s Mot., Ex. F at 20. The DLC held public meetings organized around [\*\*66] these Democratic officials. *Id.* at 21. Additionally, the DLC disseminated its policy positions through publications such as the *DLC Update* and *New Democrat* magazine. Def.'s Mot. for Summ. J. ("Def.'s Mot."), Ex. 2, 8.4

#### **B. The DLC's Activities During 1997, 1998, and 1999**

The DLC engaged in similar activities during the tax years in question: 1997, 1998, and 1999. Its activities continued to reflect its connections to the Democratic Party. The DLC, however, also continued to work with Republicans "wherever [it] could" to promote common issues. Pl.'s Mot., Ex. B at 14.

Speakers at the DLC's Annual Policy Conference during these years included prominent Democratic elected officials, [\*\*7] including President Clinton and Vice-President Gore, both of whom had substantial involvement in DLC activities for many years, including President Clinton's role in the founding of the DLC and serving as its Chairman. Def.'s Mot., Ex. 1, 80, 81. The DLC also held certain events that were attended exclusively, or nearly exclusively, by Democrats. In 1998, for example, the DLC designed and tested a program to teach elected officials and other rising political leaders how to develop and articulate a New Democrat governing agenda. Pl.'s Mot., Ex. D at 53--54. Every state and local official who attended these workshops was a Democrat. Likewise, in February 1999, the DLC held an orientation for the newly elected members of the House of Representatives, and only Democrat members were invited. Pl.'s Mot., Ex. B at 112.

These leadership workshops imposed a cost amounting to approximately two or three percent of the DLC's annual budget. *Id.* at 189. The DLC's chief of staff estimated that 95 to 99 percent of the budget was spent



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on materials and conferences open to and available to the public. Pl.'s Mot., Ex. D at 89. President From explained why the House orientation event was geared solely [\*\*8] to Democrats: "[T]he purpose of the DLC is to promote a new progressive agenda. Republicans aren't likely to support that. The agents for promoting it are elected officials who are Democrats. Now, sometimes Republicans also support the ideas. And when they do, we work with them." Pl.'s Mot., Ex. B at 112.

DLC publications further discussed its purposes and connection to the Democratic Party. In May 1997, for example, From wrote in the *DLC Update* that passing a balanced budget in Congress "with Democratic support is crucial to the future of our Party." Def.'s Mot., Ex. 8 at 1. That statement further noted that, otherwise, "much of the ground we have gained since 1992 achieving political parity with the Republicans will be rapidly lost as we once again get labeled as 'tax and spend' liberals unfit to guard taxpayers' money." *Id.* Additionally, in the January/February 1998 DLC magazine *The New Democrat*, From authored an essay known as the "Political Memo," in which he remarked that "the best way for Democrats to further our enduring values in the Information Age is to [sic--"promote"] New Democrat ideas and govern as New Democrats." Def.'s Mot., Ex. 2 at 2. President From wrote similar [\*\*9] statements in other issues of the magazine. *See, e.g.*, Def.'s Mot., Ex. 3 at 1 ("We began the decade hoping to end the Democratic Party's losing streak in presidential politics. We end it . . . with our sights set on returning a transformed Democratic Party to its rightful place as the majority party in American politics."). The DLC magazines *Blueprint* and *New Democrat*, however, were available to every member of Congress. Pl.'s Mot., Ex. B. at 185--86.

[\*67] President From made several speeches delivering similar messages. Some of his comments relayed efforts to shift the Democratic Party's policies closer to the DLC's policies. For example, in October 1997, at the DLC Annual Conference, From remarked on "the state of the New Democrat movement," and stated that "we've begun to reclaim the Democratic Party from the hard left and move it back into the vital center of American politics." David A. Hubbert Decl., Ex. 112 at 1. President From also noted that this shift could help Democrats at the polls. For example, in April 1998, at the Democratic Nucleus Club in Phoenix, Arizona, From remarked that the DLC's founders formed the DLC to redefine the Democratic party--something they believed

"was [\*\*10] essential to reversing our party's fortunes in presidential elections and building a New Democratic majority in national politics." Hubbert Decl., Ex. 114 at 1. And on June 13, 1999, at the Jefferson-Jackson Dinner in Boise, Idaho, From issued the following remarks:

With a young governor from Arkansas and a freshman senator from Tennessee, we formed the Democratic Leadership Council. We believed that if we held firmly to the first principles of the Democratic Party, but furthered those principles with fresh ideas and modern means; if we built a modern, centrist, progressive Democratic Party that tackles America's most difficult challenges with bold and innovative ideas, the American people would once again turn to us for national leadership.

That is what we did, and that is what they did. We built the New Democrat movement, and the American people responded.

Hubbert Decl., Ex. 117 at 1. President From also emphasized that the DLC's policies were generally designed to help Democrats, not Republicans. For example, at the July 1999 National Convention, From noted that the New Democrat agenda "has been so successful that the Republicans are trying to parrot our politics." Hubbert Decl., Ex. [\*\*11] 118 at 2. President From further stated, "After all we went through, we're not going to sit idly by and let the Republicans reclaim the political center on the cheap." *Id.* at 2--3.

#### **C. Retroactive Revocation of Tax-Exempt Status for 1997, 1998, and 1999**

On October 14, 1999, IRS Agent George T. Smith sent a letter notifying the DLC that the IRS was examining its 1997 tax return. Pl.'s Mot., Ex. H. The letter explained that the IRS "examine[s] returns to verify the correctness of income or gross receipts, deductions, and credits and to determine that the organization is operating in the manner stated and for the purpose set forth in its application for recognition of exemption." *Id.* at 1. Agent Smith's examination of the DLC occurred over the next few years. Pl.'s Mot., Ex. Q at 76.

On June 28, 2002, the IRS issued a Proposed

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Adverse Action Letter revoking the DLC's § 501(c)(4) tax-exempt status for 1997 and 1998. Pl.'s Mot., Ex. I. The IRS "conclude[d] that the DLC primarily benefits affiliated New Democrat elected officials (and secondarily the Democratic Party) rather than the community as a whole." *Id.* at 30. The IRS explained further:

The benefit to affiliated New Democrat elected officials [\*\*12] (developing ideological message, moving the Democratic party toward their position, and generating public support for their positions and themselves, using the name of a specific political party (Democrat) in the organization's name); formation, control and membership by affiliated elected officials; and the source of resources indicate that the primary activity of the [\*68] DLC is benefiting related New Democrat elected officials.

*Id.* The memorandum emphasized the DLC's relationship with the Democratic Party as key: "We finally note that the fact that elected officials from one named political party were dominant in the creation, control and policies of the DLC are the key factors in our conclusion that DLC is not described in section 501(c)(4)." *Id.* (emphasis added). The memorandum does not mention any restrictions on retroactive revocation of § 501(c)(4) status.

On August 7, 2002, the IRS issued a Notice of Deficiency, requiring that the DLC pay a tax of \$ 3,839.00 for 1997 and \$ 5,264.00 for 1998. Def.'s Answer [dkt # 6] P 21. On November 22, 2002, the IRS sent the DLC a Notice of Tax Due for these amounts plus interest, which totaled \$ 5,510.24 for tax year 1997 and \$ 6,985.82 for tax [\*\*13] year 1998. *Id.* P 22.

On February 24, 2003, the DLC paid the IRS these amounts and also submitted a claim (through Form 1120) to have them refunded. *Id.* PP 23, 24. On April 16, 2003, the DLC paid additional amounts of \$ 134.21 and \$ 176.14 for interest accrued on the tax due for those two tax years, 1997 and 1998, respectively. *Id.* P 25. On July 28, 2003, the IRS denied the DLC's refund claim. *Id.* P 26.

On August 1, 2003, the IRS issued an Examination

Report that proposed to revoke the DLC's exempt status for tax year 1999 and found a tax deficiency of \$ 5,595.00. *Id.* P 27. On August 28, 2003, the DLC appealed the Examination Report. *Id.* P 30. On October 30, 2003, the IRS sent a Notice of Deficiency to the DLC for tax year 1999, in the amount of \$ 5,595.00. *Id.* P 31. On March 22, 2004, the DLC paid \$ 7,276.50 for payment of this tax plus interest. *Id.* P 32. On April 5, 2004, the IRS denied the DLC's appeal for tax year 1999. *Id.* P 34.

The IRS has not revoked the DLC's tax-exempt status for any time period since tax year 1999. *Id.* P 35. Accordingly, since that time, the DLC has filed each year as a tax-exempt, § 501(c)(4) organization.

On May 27, 2005, the DLC filed this lawsuit under 28 U.S.C. § 1346 [\*\*14] (originally assigned to the late Honorable John Garrett Penn), contending that the IRS improperly revoked the DLC's tax-exempt status for the years 1997, 1998, and 1999, and seeking a refund of the taxes and interest it paid for those years--a total of \$ 20,082.91. In July 2006, the parties filed cross motions for summary judgment. On October 1, 2007, the District Court Calendar Committee ordered this case transferred to the undersigned.

## II. DISCUSSION

The DLC contends that it is entitled to summary judgment because (1) it qualified as a § 501(c)(4) organization during 1997, 1998, and 1999; and (2), even if it did not so qualify, the IRS improperly revoked the DLC's § 501(c)(4) status *retroactively* in violation of *Treasury Regulation 601.201(n)(6)* because the DLC did not "omit[] or misstate[] a material fact, [or] operate[] in a manner materially different from that originally represented." 26 C.F.R. § 601.201(n)(6)(i) (2006). The Government contends that it is entitled to summary judgment because (1) the DLC did not qualify as a § 501(c)(4) organization during those years; and (2) the retroactive revocation of § 501(c)(4) status was permissible, as (a) *Treasury Regulation 601.201(n)(6)* [\*\*15] does not apply in refund suits such as this one, and (b), in any event, the IRS complied with that regulation. As explained below, the court concludes that the regulation limiting retroactive revocation of tax-exempt status applies in this refund suit and that the IRS violated that [\*69] regulation. Accordingly, even assuming that the DLC did not qualify as a § 501(c)(4) organization during the years in question, the IRS was not permitted to

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retroactively revoke that status and the DLC is entitled to a full refund.

## A. Legal Framework

### 1. Summary-Judgment Standard

Summary judgment is appropriate when the pleadings and the record demonstrate that "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." *Fed. R. Civ. P. 56(c)*. "[W]hen ruling on cross-motions for summary judgment, the Court shall grant summary judgment only if one of the moving parties is entitled to judgment as a matter of law upon material facts that are not genuinely disputed." *Barr Labs., Inc. v. Thompson*, 238 F. Supp. 2d 236, 244 (D.D.C. 2002) (citing *Rhoads v. McFerran*, 517 F.2d 66, 67 (2d Cir. 1975)).

### 2. Section 501(c)(4)

Section 501(c)(4) of the Internal Revenue Code [\*\*16] exempts from taxation "social-welfare" groups, that is, "[c]ivic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare . . . and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes." *I.R.C. § 501(c)(4)* (2006).

Although the statutory language states that such organizations must operate "exclusively" for the promotion of social welfare, the Treasury Regulations state that these organizations must only be "primarily engaged" in promoting social welfare:

An organization is operated exclusively for the promotion of social welfare if it is *primarily engaged* in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated *primarily* for the purpose of bringing about civic betterments and social improvements.

26 C.F.R. § 1.501(c)(4)-1(a)(2)(i) (2006) (emphasis added).

Federal courts have long interpreted the statute consistently with the regulations: a § 501(c)(4) organization must *primarily* operate to bring about social

improvements. *See FEC v. Beaumont*, 539 U.S. 146, 150 n.1, 123 S. Ct. 2200, 156 L. Ed. 2d 179 (2003) (noting [\*\*17] that a § 501(c)(4) organization may engage in political activities "as long as it is primarily engaged in activities that promote social welfare"); *Monterey Public Parking Corp. v. United States*, 481 F.2d 175, 176 (9th Cir. 1973) ("[U]nder Section 501(c)(4) 'not organized for profit but operated exclusively for the promotion of social welfare' means that the taxpayer must be primarily engaged in promoting the common good and general welfare of the community. . . ."); *People's Educ. Camp Society, Inc. v. Comm'r*, 39 T.C. 756, 768 (1963) ("[B]oth the pertinent Treasury regulation and judicial authority recognize that the existence of a primary or predominant purpose to yield benefits to the community as a whole is an essential prerequisite to the allowance of such statutory exemptions from tax." (emphasis deleted)). Though the Supreme Court has not explicitly held that the somewhat counterintuitive definition of "exclusively" as "primarily" is permissible, the parties agree that this is the applicable definition.

Section 501(c)(4) organizations "are permitted to engage in substantial lobbying to advance their exempt purposes." *Reagan v. Taxation with Representation*, 461 U.S. 540, 543, 103 S. Ct. 1997, 76 L. Ed. 2d 129 (1983). [\*\*18] Indeed, many "of the Nation's most politically powerful organizations" are § 501(c)(4) organizations. *Beaumont*, 539 U.S. at 160 (noting, as [\*\*70] examples, the Colorado Right to Life Committee, the Christian Coalition, the AARP, the National Rifle Association, and the Sierra Club). But where an organization "provides substantial and different benefits to both the public and its private members," it is not "'primarily' devoted to the common good as required by even the most liberal reading of § 501(c)(4)." *Contracting Plumbers Coop. Restoration Corp. v. United States*, 488 F.2d 684, 687 (2d Cir. 1973).<sup>1</sup>

1 In contrast to § 501(c)(4) organizations, § 501(c)(3) organizations are not permitted to engage in substantial lobbying--but contributions to them are tax deductible. *Reagan*, 461 U.S. at 543.

### 3. Retroactive Revocation Under Treasury Regulation 601.201(n)(6)

The IRS may *prospectively* revoke an organization's tax-exempt status upon a determination that the organization no longer qualifies as exempt. 26 C.F.R. §

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601.201(n)(6)(i) (2006) ("An exemption ruling or determination letter may be revoked or modified by a ruling or determination letter addressed to the organization . . ."). If the organization [\*\*19] contests this conclusion after paying taxes due and is unsuccessful in pursuing a refund claim with the IRS, it may file a refund suit in federal court. *See generally* 15 Mertens, Law of Federal Income Taxation § 58: 4 (2008). Such a refund suit is a de novo proceeding. *Vons Cos., Inc. v. United States*, 51 Fed. Cl. 1, 5 (Ct. Fed. Cl. 2001) ("We begin with the axiomatic principle that tax refund cases are de novo proceedings." (citing *Lewis v. Reynolds*, 284 U.S. 281, 283, 52 S. Ct. 145, 76 L. Ed. 293, 1932 C.B. 130, 1932-1 C.B. 130 (1932))). Accordingly, the court's determination of the plaintiff's tax liability in that context "does not require (or even ordinarily permit) th[e] court to review findings or a record previously developed at the administrative level." *Id.* at 6.

When the IRS seeks to revoke tax-exempt status retroactively, however, it faces certain restrictions. Under 26 U.S.C. § 7805(b), the Secretary of Treasury "may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect." 26 U.S.C. § 7805(b)(8) (2006). The Supreme Court has held that the IRS Commissioner has broad [\*\*20] discretion, under section 7805(b) and its predecessor, to decide whether to revoke a ruling retroactively and that such a determination is reviewable by the courts only for abuse of that discretion. *Automobile Club of Michigan v. Comm'r*, 353 U.S. 180, 184, 77 S. Ct. 707, 1 L. Ed. 2d 746, 1957-1 C.B. 513 (1957); *see also* *Virginia Educ. Fund v. Comm'r*, 85 T.C. 743, 752 (T.C. 1985) *aff'd*, 799 F.2d 903 (4th Cir. 1986). *Treasury Regulation* 601.201(n)(6)(i), however, limits the Commissioner's discretion to revoke retroactively a favorable ruling on exempt status:

The revocation or modification may be retroactive if the organization *omitted or misstated a material fact, operated in a manner materially different from that originally represented*, or engaged in a prohibited transaction of the type described in subdivision (vii) of this subparagraph [which addresses diverting monies from the exempt purpose]. In any event, revocation or modification will

ordinarily take effect no later than the time at which the organization received written notice that its exemption ruling [or] determination letter might be revoked or modified.

§ 601.201(n)(6)(i) (emphasis added); *see also* *Buzzetta Constr. Corp. v. Comm'r*, 92 T.C. 641, 649 (1989) ("The Commissioner [\*\*21] . . . has limited his own discretion [\*\*71] to revoke retroactively a favorable ruling."); *Prince Edward Sch. Found. v. Comm'r*, 478 F. Supp. 107, 113 (D.D.C. 1979) (concluding that retroactive revocation of tax-exempt status was permissible because it was "consistent with this statement of the Service's procedural rules").

## B. Analysis

As noted, the Government contends that it is entitled to summary judgment because the DLC did not qualify as a § 501(c)(4) organization for 1997, 1998, and 1999. Although DLC engaged in "considerable policy work" and "at times worked with Republicans to advance its policies," Def.'s Br. at 23, the Government argues that the DLC did not primarily serve the public interest; rather, it impermissibly benefitted a private group, namely, Democratic elected officials:

[W]hen all the facts and circumstances are reviewed, the DLC's organization, the DLC's events that presented only elected Democrats, the statements of DLC's purpose by its leaders, the way it contrasted its policies from those of Republicans, and the way the DLC trained only Democrats to implement its policies, shows the DLC's primary purpose for its activities in 1997, 1998, and 1999. That purpose was [\*\*22] to assist individuals running for office as Democrats or elected to office as Democrats.

*Id.* at 23--24.

The DLC responds that it qualified as a § 501(c)(4) organization because it is a "think tank that makes the fruits of its labor publicly available," and it "has never had any relationship, formal or otherwise, with the Democratic National Committee or any other Democratic Party organization." (Pl.'s Opp. Br. at 1.) It is not

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necessary to resolve this dispute because, as discussed below, even if the DLC did not qualify as a § 501(c)(4) organization, the IRS improperly revoked that status retroactively.

### 1. Treasury Regulation 601.201(n)(6) Applies Here

As an initial matter, the Government contends that *Treasury Regulation 601.201*'s restrictions on retroactive revocation are simply not applicable in refund suits brought under 28 U.S.C. § 1346, including this one. Def.'s Opp. Br. at 17. Rather, the Government states, those restrictions are limited to suits for a declaratory judgment regarding exempt status: "The DLC appears to have confused the manner in which determinations on exempt status are reviewed in declaratory judgment actions under 26 U.S.C. § 7428 with how refund suits are reviewed [\*\*23] under 26 U.S.C. § 7422 [which addresses "[c]ivil actions for refund"] and 28 U.S.C. § 1346 [which provides jurisdiction over refund suits]." *Id.* at 19.

The Government's argument is not persuasive. Courts consistently apply the IRS's retroactivity restrictions in refund suits, including those brought under § 1346. *See Int'l Bus. Machines Corp. v. United States*, 343 F.2d 914, 924, 170 Ct. Cl. 357 (Ct. Cl. 1965) ("[A] refund suit lies for the past period whenever the Service has improperly made its ruling retroactive as to the suing taxpayer.") (emphasis added)); *The Phillies v. United States*, 153 F. Supp. 2d 612, 617 (E.D. Pa. 2001) (allowing refund under Federal Insurance Contribution Act where conditions required for retroactive revocation of private letter ruling under regulation 601.201 were absent); *Scottish Rite Found. v. United States*, No. 85-0613, 1986 U.S. Dist. LEXIS 29718, at \*4 (W.D. Ky. Feb. 3, 1986) (allowing retroactive revocation in § 1346 refund suit because "the facts subsequently developed are materially different from the facts upon which" the exemption determination was based); *Pittman Constr. Co. v. United States*, 436 F. Supp. 1215, 1220 (E.D. La. 1977) (allowing retroactive revocation [\*\*24] of [\*\*72] exempt status in refund suit and noting that lack of notice under regulation 601.201(n)(6) was not prejudicial); *Thomas G. Faria Corp. v. United States*, No. 109-70, 1977 U.S. Ct. Cl. LEXIS 576, at \*29 (Ct. Cl. Feb. 2, 1977) (allowing refund where government "violat[ed] its own procedural rules" when retroactively revoking tax-exempt status); *Huff-Cook Mut. Burial Ass'n v. United States*, 327 F. Supp. 1209, 1213--14 (W.D. Va.

1971) (allowing retroactive revocation in § 1346 refund suit because the organization operated in a "manner different from that originally represented" under regulation 601.201(n)(6)); *see also A. Duda & Sons Coop. Ass'n v. United States*, 504 F.2d 970, 976 (5th Cir. 1974) ("The government here contends," in a refund suit, "that it can show both an omission of material fact and operation in a manner materially different from that originally represented and hence retroactive revocation should be permitted.").

The Government's contention arises from the well-established principle, noted earlier, that refund suits generally are de novo proceedings in which the IRS's prior rulings are irrelevant. *See, e.g., Vons*, 51 Fed. Cl. at 6 ("We begin with the axiomatic principle [\*\*25] that tax refund cases are de novo proceedings."). Consistent with this principle, a federal statute specifically prohibits courts from relying on prior IRS determinations as precedent to guide a ruling on exempt status. *See 26 U.S.C. § 6110(k)(3) (2006)* ("Unless the Secretary otherwise establishes by regulations, a written determination may not be used or cited as precedent."). The Government reasons that if the IRS's prior rulings--including one granting an organization exempt status--are irrelevant in refund suits, then any restrictions on retroactive revocation of such prior rulings must not apply. But IRS rulings are irrelevant in refund suits where the revocation is *prospective*; the question there is whether, taking a fresh look at the organization, the organization simply *qualifies as exempt*--no retroactivity issue exists.

By contrast, where, as here, the organization bases its claim for refund not on its qualifications for exempt status but on *improper retroactive revocation* of exempt status, the IRS's prior exemption ruling is properly considered. *See USA Choice Internet Serv., LLC v. United States*, 73 Fed. Cl. 780, 789, 797 n.29 (Ct. Fed. Cl. 2006) (acknowledging that a "tax [\*\*26] refund suit is a de novo proceeding" but stating that "a letter ruling can be considered by a court when determining whether the IRS has abused its discretion in proscribing retroactive application of such a ruling under I.R.C. § 7805(b)(8)"). In other words, such a ruling is not considered for its substance (i.e., that the organization qualifies as exempt); rather, it is considered to show that the IRS violated its own rules--regardless of the organization's qualifications for exempt status. *See Vons*, 51 Fed. Cl. at 12 (noting that private IRS rulings "may be

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relied upon *not for their substance*, but . . . as indication . . . of the IRS' administrative practice (i.e., that it has issued rulings regarding a particular subject . . . ."); *cf. Fed. R. Evid. 801, 802* (defining as inadmissible hearsay an out-of-court statement offered "to prove the truth of the matter asserted," yet allowing the same statement if offered for a permissible purpose).

In sum, the IRS's retroactivity restrictions apply here. The remaining question is whether the IRS violated those restrictions.

## 2. The Retroactive Revocation Here Was Improper

The DLC did not "omit[] or misstate[] a material fact [or] operate[] in [\*\*27] a manner materially different" in 1997, 1998, or 1999 "from that originally represented . . . ." [\*\*73] 26 C.F.R. § 601.201(n)(6)(i).<sup>2</sup> Accordingly, the IRS abused its discretion by retroactively revoking the exempt status it originally granted to the DLC.

2 The other condition listed in the regulation for retroactive revocation (transactions diverting monies from the exempt purpose) is not at issue.

The DLC's originally stated purpose and operations are not disputed. As the original application explains, the DLC "expected to *improve the overall contribution to Democratic leaders*, in the federal and state government, to national policy debate, and to urge upon both the party and the general public new and innovative approaches to policy." Pl.'s Mot., Ex. A, Part III, Question 3, at 1 (emphasis added). Indeed, the Government (in an effort to show that the DLC does not qualify for tax-exempt status) emphasizes the DLC's *original* connections to the Democratic Party. As the Government notes, "all of the members of both task forces *cited in the application* were elected Democrats." Def.'s Br. at 4 & n.4 (listing each of the 27 Democrats) (emphasis added); *see also id.* at 6 (noting that President [\*\*28] Clinton and Vice-President Gore "have had substantial involvement in DLC activities *for many years, including President Clinton's role in the founding of DLC.* . . .") (emphasis added)). The Government further notes that the application included a copy of "Winning the World Economy" as an example of the type of publication the DLC would make available to the public. *Id.* "This publication's preface," the Government points out, "reiterates that, '[t]he Council (DLC) is an unprecedented collaboration of elected Democrats at all levels: governors, senators, representatives, state legislators and mayors.'" *Id.*

(quoting Ex. 65). The publication lists "'The Republican Record' on several economic issues and then outlines a 'Democratic Competitive Strategy' that recommends approaches 'as an alternative to Republican inaction and a point of departure for a vigorous debate on competitiveness . . . .'" *Id.* (quoting Ex. 65). The conclusion states that "the Republican Party offers no coherent response to the greatest domestic challenge facing America during the rest of this century," and that "[t]he Democratic Party--traditionally the agent of change and progress in America--must fill the leadership [\*\*29] vacuum and illuminate the way ahead." *Id.* (quoting Ex. 65).

These initial representations of the DLC's connections to the Democratic Party materialized consistently through the years, including through 1997, 1998, and 1999. As the Government itself states, this publication attached to the DLC's exemption application "hints at what became clear in 1997, 1998, and 1999: the DLC was committed to policy development as it represented in its application, but in practice it saw and presented those policies as a way for Democrats to best Republicans." *Id.* at 5 (emphasis added). Moreover, the IRS's revocation of exempt status makes no mention of restrictions on its ability to revoke exempt status retroactively; the revocation relied on the DLC's *originally disclosed* connections to the Democratic Party to conclude that DLC rendered an impermissible level of private benefit. *See* Pl.'s Mot., Ex. I ("[T]hat elected officials from one named political party were dominant in the *creation*, control and policies of the DLC are *the key factors* in our conclusion that the DLC is not described in *section 501(c)(4).*") (emphasis added).

Though the IRS failed to specify material changes in the DLC's operation [\*\*30] as a basis for the revocation, the Government now attempts to raise what it views as some differences between the application and the DLC's later operations. The Government cites to certain of DLC President From's statements and notes that the [\*\*74] DLC's exemption application "did not, for example, state that the DLC would be seeking to create policies that were as valuable for candidates running as New Democrats as campaign contributions"; the application did not state that the DLC "wanted to help elect a Democrat President . . ."; nor did the application "state as an activity stopping the Republicans from 'pilfering' its policies and reclaiming the 'political center on the cheap.'" Def.'s Opp. Br. at 20 (quoting From's

542 F. Supp. 2d 63, \*74; 2008 U.S. Dist. LEXIS 27579, \*\*30;  
2008-1 U.S. Tax Cas. (CCH) P50,271; 101 A.F.T.R.2d (RIA) 1597

statements). The Government further notes that, contrary to statements of proposed activities in the DLC's application for exemption, "there is no evidence about task forces, town meetings, issue forums for businesses, or contracts for studies on specific issues during 1997, 1998, or 1999." *Id.*

To the extent that From's statements reflect on the DLC's operations, the statements do not show a *material* change from that originally represented. As noted above, the Government [\*31] has emphasized the potential private benefits to Democrats alluded to in the DLC's *original application*. President From's comment that DLC policies could be as valuable to Democratic candidates as campaign contributions reflects the expectation, stated in the application, that such policies "could improve the overall contribution of Democratic leaders." Indeed, From's statements, on which the Government heavily relies, indicate that benefits to Democrats have been a hoped-for effect of the DLC since its *inception*. See, e.g., Hubbert Decl., Ex. 114 (stating that the DLC's "*founders formed the DLC to redefine the Democratic party*"--something they believed "was essential to reversing our party's fortunes in presidential elections and *building a New Democratic majority* in national politics") (emphasis added). Moreover, statements favoring Democrats over Republicans are entirely consistent with the publication attached to the exemption application, stating that "the Republican Party offers no coherent response to the greatest domestic challenge facing America during the rest of this century," and that "[t]he Democratic Party--traditionally the agent of change and progress in America--must [\*32] fill the leadership vacuum and illuminate the way ahead." Hubbert Decl., Ex. 65. Finally, regardless whether the DLC held certain events, such as town meetings, that it proposed in its application, nothing indicates that the DLC operated in a *materially* different manner than it proposed.

The IRS's own investigation of the DLC's activities only confirms that the retroactive revocation was improper here. Agent Smith investigated the DLC over a period of three years and unequivocally stated in his deposition that the DLC was operating within the terms of its exemption ruling during the years at issue. (Smith questioned whether the IRS should have granted the DLC exempt status *in the first place*, noting that he "personally, would have problems granting the exemption . . . ." Pl.'s Mot., Ex. Q at 58.) When asked whether the DLC was complying with its Articles of Incorporation

during the years in question, Smith stated, "I would say they were doing that, what they said they was [sic] doing, they were doing that." *Id.* at 43; see also *id.* at 44 ("*I didn't see any activities that they . . . were not doing as they stated . . . in their articles of incorporation.*") (emphasis added). Smith agreed [\*33] that the DLC's activities during 1997, 1998, and 1999 "were consistent with what they told the IRS they would be doing." *Id.* at 50. Smith reiterated these views when questioned about the exact language of the DLC's original exemption request:

[\*75] Q: Do you see--maybe you should read the--that paragraph for the record. "The Democratic Leadership Council is so named because it was founded by federal and state elected officials who are democrats and who were concerned with the direction of policy debate within their party, as well as within the country as a whole." Let's just stop there. Do you believe that's consistent with--

A: Definitely.

\* \* \*

Q: Is that consistent with what activity they engaged in?

A: Let me read it again. (Pause in the proceedings.) Yes, that's--

Q. that's consistent with?

A. What they're doing.

Q. With what they're doing?

A. Yes.

\* \* \*

Q. And the next sentence: "Through the establishment of DLC, these officials and others with similar interests and goals expected to improve the overall contribution of democratic leaders, in the federal and state government, to national policy debate, and to urge upon both the party and the general public new and

542 F. Supp. 2d 63, \*75; 2008 U.S. Dist. LEXIS 27579, \*\*33;  
2008-1 U.S. Tax Cas. (CCH) P50,271; 101 A.F.T.R.2d (RIA) 1597

innovative approaches to policy." [\*\*34]  
Is that consistent with what you reviewed  
their actual activities to be?

A. Sure, sure.

\* \* \*

Q. So is it fair to say that the DLC  
accurately described the activity it was  
going to engage in?

A. It sure is.

*Id.* at 57--58.

The Government notes, however, that Agent Smith testified that he did not receive all the information that he requested in his examination. Def.'s Opp. Br. at 21. But Agent Smith spent over 400 hours over the course of three years reviewing materials provided to him regarding the DLC. *Id.* at 76. His testimony is entitled to some weight.

In any event, as noted above, Agent Smith's testimony simply confirms what the record shows: the DLC acted in *material* conformity with, and did not otherwise omit or misstate a *material* fact in, its original application. Accordingly, the retroactive revocation of tax-exempt status for years 1997, 1998, and 1999 violated *Treasury Regulation 601.201* and was an abuse of discretion. *See Buzzetta Constr.*, 92 T.C. at 651 ("[W]hen a taxpayer has put substantial good faith reliance upon an IRS determination of its tax position and when a retroactive revocation of that determination will produce an inordinate adverse effect, *the Commissioner's failure* [\*\*35] *to abide strictly by his own regulations limiting retroactive revocation of a favorable ruling amounts to an abuse of discretion.*" (quoting *Lansons, Inc. v. Commissioner*, 622 F.2d 774 (5th Cir. 1980)) (emphasis added); *Thomas G. Faria Corp.*, 1977 U.S. Ct. Cl. LEXIS 576, at \*28--29 ("[I]t must be held that defendant's retroactive revocation in the present case constitutes a clear abuse of discretion" because the applicable IRS ruling "cannot be retroactively applied to plaintiff without the IRS's violating its own procedural rules."); cf. *Prince Edward Sch. Found. v. Comm'r*, 478 F. Supp. 107, 113 (D.D.C. 1979) (allowing retroactive revocation of

tax-exempt status because such revocation was "consistent with" *Treasury Regulation 601.201(n)(6)(i)*). Thus, the [\*\*76] DLC is entitled to a refund for each of those years.

### III. CONCLUSION

As the Government's agent acknowledged, and the undisputed facts reveal, the DLC has not omitted or misstated a material fact or operated in a manner materially different from that originally represented. Accordingly, the IRS abused its discretion when it retroactively revoked the DLC's tax-exempt status. *See 26 C.F.R. 601.201(n)(6)(i)*. In the end, the Government proves [\*\*36] too much: by emphasizing the DLC's *original* connection to the Democratic Party in an effort to show that the DLC benefits a private group, the Government reveals that the DLC did not operate in a materially different manner when it continued that connection in 1997, 1998, and 1999. It may be that the DLC is unworthy of *501(c)(4)* status. But the Government gave it that status and cannot *retroactively* revoke it in these circumstances. An accompanying order will grant the DLC's motion for summary judgment and deny the Government's motion for summary judgment.<sup>3</sup> The foregoing does not preclude the IRS from revoking *prospectively* the DLC's exempt status, should it conclude again that the DLC is not entitled to that status.

Dated: April 4, 2008.

Louis F. Oberdorfer

UNITED STATES DISTRICT JUDGE

3 The order will also deny as moot [dkt # 24] *Plaintiff's* Motion to Strike Declaration of Taylor Lincoln. That declaration does not affect the court's resolution of this matter in Plaintiff's favor.

### FINAL JUDGMENT

For the reasons set forth in the Court's Memorandum and Opinion, it is hereby ORDERED that judgment for the Plaintiff in the amount of \$20,082.91 is entered. This is a final appealable order. *See Fed. R. App. P. 4(a)*.

Dated at Washington, D.C.: April 7, 2008.



11058S

\*\*\*\*\* Print Completed \*\*\*\*\*

Time of Request: Tuesday, April 24, 2012 18:04:52 EST

Print Number: 1827:346782050

Number of Lines: 553

Number of Pages: 11

Send To: PARK, NALEE  
IRS TAX EXEMPT/GOVERNMENT ENTITIES  
1111 CONSTITUTION AVE NW RM 2116IR  
WASHINGTON, DC 20224-0002

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

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(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 25, 2012 10:58 AM  
**To:** Flax Nikole C  
**Subject:** Current Process and An issue regarding the letter.

First--you asked us to put together something regarding (b)(5) AC Because it was late, my guys contacted a field Counsel person in CA at the end of the day yesterday. They got some language and ran it by HQ Counsel this morning.

(b)(5)/AC

--I actually think (b)(5)/DP, but I'm hearing that you want one in there. Can you help a bit with what you're looking for--is it a statement that says (b)(5)/DP Don't know what we can get you, but need to understand what you're looking for.

Second--with regard to the review process:

(b)(5)/DP

(b)(5)/DP

[REDACTED]

[REDACTED]

[REDACTED] (b)(5)/DP [REDACTED]

*Leis G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 25, 2012 10:59 AM  
**To:** Flax Nikole C; Park Nalee  
**Cc:** Megosh Andy; Fish David L; Kindell Judith E  
**Subject:** RE: Hatch

See my email about Counsel's view of new paragraph --they aren't good with it

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Wednesday, April 25, 2012 11:56 AM  
To: Park Nalee; Lerner Lois G  
Cc: Megosh Andy; Fish David L; Kindell Judith E  
Subject: RE: Hatch

Latest draft. See question on the new para. Lois, you can make your edits to this version.

-----Original Message-----

From: Park Nalee  
Sent: Wednesday, April 25, 2012 12:39 AM  
To: Flax Nikole C; Lerner Lois G  
Cc: Megosh Andy; Fish David L; Kindell Judith E  
Subject: Hatch

Attached is latest on Hatch - see Q4 starting on bottom of page 5 to top of page 6 re: (b)(5) DP  
per your comment. Also attached is the case cited in this response - do we want to provide

(b)(5)DP

Still need to check a couple things in the morning - e.g. blue book citation, maybe try to check w Counsel on verbiage (?) , etc. But sending it now so you get a sense of the response and review/modify in case you're still planning to give Hatch same time as Issa.

(FYI - To be certain we're on the same page...attached copy - worked off last draft of Hatch titled "Hatch congr ltr 4-23-2012 7pm" that Lois emailed with her edits at 11:52am yesterday.)

NaLee  
202.283.9453

-----Original Message-----

From: Flax Nikole C

Sent: Tuesday, April 24, 2012 5:22 PM  
To: Lerner Lois G; Park Nalee  
Cc: Megosh Andy  
Subject: Re: Issa

Just wanted a few sentences for hatch. Will be in touch in the am.

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
To: Park Nalee  
Cc: Megosh Andy  
Subject: RE: Issa  
Sent: Apr 24, 2012 5:06 PM

Fine we get it--hard to write anyway because all the stuff out there [REDACTED] (b)(5)/DP I assume you want Hatch to go when Issa goes?  
I am here in AM, but probably not until 9:30 -10

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, April 24, 2012 5:02 PM  
To: Park Nalee; Lerner Lois G  
Cc: Megosh Andy  
Subject: RE: Issa

Sorry, I am confused. The comment was only to add [REDACTED]  
[REDACTED] (b)(5)/DP I have the latest draft of Issa. There were some typos that I found. I will resend, but we can't sign until all are done. Looks like will be in the am. Lois, will you be around then?

-----Original Message-----

From: Park Nalee  
Sent: Tuesday, April 24, 2012 4:47 PM  
To: Flax Nikole C; Lerner Lois G  
Cc: Megosh Andy  
Subject: Issa  
Importance: High

Worked off of draft that Lois emailed at 11:52am this morning...

[REDACTED] (b)(5) DP see comment on page 8 of either attachments - first is "clean" with only the comments showing and second is tracked. If ok with clean copy (w comments), will remove comments and prep 2 originals for Lois to sign.

NaLee  
202.283.9453

-----Original Message-----

From: Flax Nikole C

Sent: Tuesday, April 24, 2012 1:24 PM

To: Lerner Lois G; Park Nalee

Cc: Fish David L

Subject: Re: c4 letters - current drafts

The comment was in that place bc the question asked [REDACTED]

(b)(5)/DP [REDACTED]

If we are not going to make the change I just need to go back and explain why.



---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 25, 2012 12:00 PM  
**To:** Flax Nikole C  
**Subject:** RE: Hatch

thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Wednesday, April 25, 2012 12:13 PM  
To: Lerner Lois G  
Cc: Marx Dawn R  
Subject: Re: Hatch

Will find time and be in touch.

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Marx Dawn R  
Subject: RE: Hatch  
Sent: Apr 25, 2012 12:04 PM

I think you and I need a call to make sure we aren't talking across each other --do you have any time--I will make myself available whenever. Just cc dawn or call her at 308861 when you can

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Wednesday, April 25, 2012 11:56 AM  
To: Park Nalee; Lerner Lois G  
Cc: Megosh Andy; Fish David L; Kindell Judith E  
Subject: RE: Hatch

Latest draft. See question on the new para. Lois, you can make your edits to this version.

-----Original Message-----

From: Park Nalee  
Sent: Wednesday, April 25, 2012 12:39 AM  
To: Flax Nikole C; Lerner Lois G  
Cc: Megosh Andy; Fish David L; Kindell Judith E

Subject: Hatch

Attached is latest on Hatch - see Q4 starting on bottom of page 5 to top of page 6 re: (b)(5) DP

per your comment. Also attached is the case cited in this response - do we want to provide

(b)(5) DP

Still need to check a couple things in the morning - e.g. blue book citation, maybe try to check w Counsel on verbiage (?) , etc. But sending it now so you get a sense of the response and review/modify in case you're still planning to give Hatch same time as Issa.

(FYI - To be certain we're on the same page...attached copy - worked off last draft of Hatch titled "Hatch congr ltr 4-23-2012 7pm" that Lois emailed with her edits at 11:52am yesterday.)

NaLee  
202.283.9453

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Sent: Tuesday, April 24, 2012 5:22 PM  
To: Lerner Lois G; Park Nalee  
Cc: Megosh Andy  
Subject: Re: Issa

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From: Lerner Lois G  
To: Flax Nikole C  
To: Park Nalee  
Cc: Megosh Andy  
Subject: RE: Issa  
Sent: Apr 24, 2012 5:06 PM

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I am here in AM, but probably not until 9:30 -10

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, April 24, 2012 5:02 PM  
To: Park Nalee; Lerner Lois G  
Cc: Megosh Andy  
Subject: RE: Issa

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(b)(5)/DP I have the latest draft of Issa. There were some typos that I found. I will resend, but we can't sign until all are done. Looks like will be in the am. Lois, wil I you be around then?

-----Original Message-----

From: Park Nalee  
Sent: Tuesday, April 24, 2012 4:47 PM  
To: Flax Nikole C; Lerner Lois G  
Cc: Megosh Andy  
Subject: Issa  
Importance: High

Worked off of draft that Lois emailed at 11:52am this morning...

(b)(5) DP - see comment on page 8 of either attachments - first is "clean" with only the comments showing and second is tracked. If ok with clean copy (w comments), will remove comments and prep 2 originals for Lois to sign.

NaLee  
202.283.9453

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, April 24, 2012 1:24 PM  
To: Lerner Lois G; Park Nalee  
Cc: Fish David L  
Subject: Re: c4 letters - current drafts

The comment was in that place bc the question asked

(b)(5)/DP

if we are not going to make the change I just need to go back and explain why.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 25, 2012 2:16 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee  
**Subject:** Hatch Congr Ltr 4-25-2012 (2).doc  
**Attachments:** Hatch Congr Ltr 4-25-2012 (2).doc

**OK--I hope we got everything**

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

---

**From:** Flax Nikole C  
**Sent:** Wednesday, April 25, 2012 3:14 PM  
**To:** Orteza Cumbuka I; Lerner Lois G; Park Nalee  
**Cc:** Barre Catherine M; Williams Floyd L  
**Subject:** Issa response  
**Attachments:** Issa congressional 04-25-2012.doc

I think the doc (after being cleaned up) is ready for Lois to sign.

I would like to confirm that it is okay to deliver before we do so, but we should start the signature process (assuming EO is good).

Not sure how to work out the logistics since EO is not in 1111. Cumbuka, should they prepare the package?

(b)(5) DP



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP



(b)(5) DP

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 25, 2012 3:56 PM  
**To:** Flax Nikole C; Park Nalee  
**Cc:** Marx Dawn R  
**Subject:** RE: Issa response  
  
**Importance:** High

**Are you expecting this tonight? When reading over final of Issa and Hatch we saw some cleanups that need to happen to make consistent. Can it be first thing in the morning**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Wednesday, April 25, 2012 4:47 PM  
**To:** Lerner Lois G; Park Nalee  
**Cc:** Marx Dawn R  
**Subject:** FW: Issa response

just want to confirm you guys can work on getting Issa and Boustany signed. I think leg affairs can deal with delivery (if joseph isn't around - it is okay for issa to go first).

---

**From:** Orteza Cumbuka I  
**Sent:** Wednesday, April 25, 2012 4:32 PM  
**To:** Flax Nikole C; Lerner Lois G; Park Nalee  
**Cc:** Barre Catherine M; Williams Floyd L  
**Subject:** RE: Issa response

Hi Nikole, yes, I think it would be best for EO to prepare the package.

Thank you!

**Cumbuka Orteza**

Legislative Affairs - Congressional Correspondence and Quality Review Branch

phone: 202/622-1313

fax: 202/927-9613

---

**From:** Flax Nikole C  
**Sent:** Wednesday, April 25, 2012 4:14 PM  
**To:** Orteza Cumbuka I; Lerner Lois G; Park Nalee  
**Cc:** Barre Catherine M; Williams Floyd L  
**Subject:** Issa response

I think the doc (after being cleaned up) is ready for Lois to sign.

I would like to confirm that it is okay to deliver before we do so, but we should start the signature process (assuming EO is good).

Not sure how to work out the logistics since EO is not in 1111. Cumbuka, should they prepare the package?

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 25, 2012 4:49 PM  
**To:** Barre Catherine M; Flax Nikole C; Park Nalee  
**Cc:** Williams Floyd L; Orteza Cumbuka I; Norton William G Jr  
**Subject:** RE: Issa response

**We are trying--I will stay tonight and sign Issa, but Joseph signs Boustany and I haven't caught up with him yet Will try. Nalee's number is 202 283-9453. Call before you come (-:**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Barre Catherine M  
**Sent:** Wednesday, April 25, 2012 5:46 PM  
**To:** Lerner Lois G; Flax Nikole C; Park Nalee  
**Cc:** Williams Floyd L; Orteza Cumbuka I; Norton William G Jr  
**Subject:** Re: Issa response

So you will have the boustany supplemental and issa?

-----  
Sent using BlackBerry

---

**From:** Barre Catherine M  
**Sent:** Wednesday, April 25, 2012 05:44 PM  
**To:** Lerner Lois G; Flax Nikole C; Park Nalee  
**Cc:** Williams Floyd L; Orteza Cumbuka I; Norton William G Jr  
**Subject:** Re: Issa response

Please let us know when it is ready

-----  
Sent using BlackBerry

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 25, 2012 05:25 PM  
**To:** Flax Nikole C; Barre Catherine M; Park Nalee  
**Cc:** Williams Floyd L; Orteza Cumbuka I  
**Subject:** RE: Issa response

**Will do--Nalee will have the signed version around 8 tomorrow --I am giving a speech so won't be in the office until after lunch**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Wednesday, April 25, 2012 5:24 PM  
**To:** Barre Catherine M; Lerner Lois G; Park Nalee  
**Cc:** Williams Floyd L; Orteiz Cumbuka I  
**Subject:** Re: Issa response

Yes, plan is for lois to sign tonight and we can deliver in the am.

Lois, please let me know of any edits so I can ensure hatch is ok. Thanks

---

**From:** Barre Catherine M  
**Sent:** Wednesday, April 25, 2012 04:58 PM  
**To:** Lerner Lois G; Park Nalee  
**Cc:** Williams Floyd L; Flax Nikole C; Orteiz Cumbuka I  
**Subject:** RE: Issa response

Is TEGE putting together the package?

---

**From:** Flax Nikole C  
**Sent:** Wednesday, April 25, 2012 4:14 PM  
**To:** Orteiz Cumbuka I; Lerner Lois G; Park Nalee  
**Cc:** Barre Catherine M; Williams Floyd L  
**Subject:** Issa response

I think the doc (after being cleaned up) is ready for Lois to sign.

I would like to confirm that it is okay to deliver before we do so, but we should start the signature process (assuming EO is good).

Not sure how to work out the logistics since EO is not in 1111. Cumbuka, should they prepare the package?

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 25, 2012 5:22 PM  
**To:** Park Nalee  
**Cc:** Marx Dawn R  
**Subject:** Issa congressional 04-25-2012.doc  
**Attachments:** Issa congressional 04-25-2012.doc

**Please format so it's "pretty." (-:**

(b)(5) DP

(b)(5) DP



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP



(b)(5) DP

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 25, 2012 5:54 PM  
**To:** Lerner Lois G  
**Subject:** Hatch Congr Ltr 4-25-2012 (2).doc  
**Attachments:** Hatch Congr Ltr 4-25-2012 (2).doc

**Read Me**

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 25, 2012 6:40 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee; Marx Dawn R  
**Subject:** Hatch Congr Ltr 4-25-2012 (2).doc  
**Attachments:** Hatch Congr Ltr 4-25-2012 (2).doc

**Tracking:**

**Recipient**

Flax Nikole C  
Park Nalee  
Marx Dawn R

**Recall**

Failed: 4/25/2012 8:32 PM  
Succeeded: 4/25/2012 7:41 PM  
Failed: 4/25/2012 7:08 PM

**Consistency edits and a few others, with comments explaining**

(b)(5)/DP

(b)(5)/DP

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(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 25, 2012 7:07 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee; Marx Dawn R; Lerner Lois G  
**Subject:** Hatch Congr Ltr 4-25-2012 (2) (4).doc  
**Attachments:** Hatch Congr Ltr 4-25-2012 (2) (4).doc

**We have incorporated edits so that Hatch matches Issa. Other edits have comments so you'll know why we did them. Have fun! I've signed the other letter and Joseph has signed his. Nalee is ready for leg affairs to pick up in the morning**



(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 25, 2012 7:38 PM  
**To:** Flax Nikole C  
**Subject:** FW: Final Letters (w/out tracked changes)  
**Attachments:** Boustany supplemental.doc; Issa congressional 04-25-2012 final copy.doc; JJordan congressional 04-25-2012 final copy.doc

**For your files--this is what is going tomorrow.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Marx Dawn R  
**Sent:** Wednesday, April 25, 2012 8:35 PM  
**To:** Lerner Lois G; Park Nalee  
**Subject:** Final Letters (w/out tracked changes)

Here they are ladies.

*Dawn R. Marx*

INTERNAL REVENUE SERVICE  
ATTN: Dawn R. Marx  
TE/GE SE:T:EO  
NCA-572  
1111 Constitution Avenue, NW  
Washington, DC 20224-0002

(202) 283-8861 Phone  
(202) 283-8785 Fax  
[Dawn.R.Marx@irs.gov](mailto:Dawn.R.Marx@irs.gov)

(b)(5)/DP

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(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Thursday, April 26, 2012 3:34 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee; Kindell Judith E  
**Subject:** Issa Q#7A-C 04-20-2012.doc  
**Attachments:** Issa Q#7A-C 04-20-2012.doc

Sent you this earlier--but this is the direction we're headed. If you want something different, we need to know. Note--we've shoved a lot of information in (b)(5)/DP (b)(5)/DP  
(b)(5)/DP I'm guessing, based on our earlier discussion with Counsel, they might want to articulate some (b)(5)/DP --don't know. For the most part, we have cut and pasted stuff from other docs that are out there --CPE texts, letters, etc. It gives a brief overview of what the guidance is.

(b)(5)/DP

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(b)(5)/DP

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**From:** Flax Nikole C  
**Sent:** Thursday, April 26, 2012 4:03 PM  
**To:** Lerner Lois G; Barre Catherine M  
**Cc:** Hudson Larry D; Norton William G Jr; Kindell Judith E  
**Subject:** RE: Levin letter response?

lets all talk before we go back to them with anything.

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**From:** Lerner Lois G  
**Sent:** Thursday, April 26, 2012 4:59 PM  
**To:** Barre Catherine M  
**Cc:** Hudson Larry D; Norton William G Jr; Flax Nikole C; Kindell Judith E  
**Subject:** RE: Levin letter response?

**We've (Judy Kindell) looked at this--does someone want to talk to us?**

(b)(3)/6103 and (b)(5)/DP

**Spoke to the folks who were involved. They were trying to avoid discussing the actual content of the communication that the org was putting out.. Hence, maybe the awkward language.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Barre Catherine M  
**Sent:** Thursday, April 26, 2012 9:12 AM  
**To:** Barre Catherine M; Park Nalee; Lerner Lois G  
**Cc:** Hudson Larry D; Norton William G Jr; Flax Nikole C  
**Subject:** RE: Levin letter response?

I have a copy of the (b)(3)/6103 now.

See attached.

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**From:** Barre Catherine M  
**Sent:** Wednesday, April 25, 2012 6:25 PM

**To:** Park Nalee; Lerner Lois G  
**Cc:** Hudson Larry D; Norton William G Jr; Flax Nikole C  
**Subject:** RE: Levin letter response?

The Levin letter to Doug on 3/30/12 references a [REDACTED] b(3)/6103 [REDACTED] (b)(3)/6103 [REDACTED] I hate to have to call them at this point and tell them that we didn't get the attachment.

Please let me know if we have it or if there is a way to get it.

Thanks

Cathy

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**From:** Flax Nikole C  
**Sent:** Tuesday, April 24, 2012 9:08 AM  
**To:** Hudson Larry D; Norton William G Jr  
**Cc:** Barre Catherine M  
**Subject:** FW: Levin letter response?

I don't think we will be able to have a draft this week. I think we can tell them that we hope to send something next week (but I suspect it won't be a complete response).

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**From:** Park Nalee  
**Sent:** Tuesday, April 24, 2012 9:04 AM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G  
**Subject:** RE: Levin letter response?

Have a prelim draft...still missing pieces - waiting for folks to get parts. Will see when can get those missing pieces...hopefully by tomorrow or Thurs can get a complete draft to you.

NaLee  
202.283.9453

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**From:** Flax Nikole C  
**Sent:** Monday, April 23, 2012 5:57 PM  
**To:** Lerner Lois G; Park Nalee  
**Subject:** FW: Levin letter response?

any sense of timing on this one?

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**From:** Hudson Larry D  
**Sent:** Monday, April 23, 2012 4:27 PM  
**To:** Flax Nikole C  
**Cc:** Norton William G Jr  
**Subject:** Levin letter response?

Nikole,

Floyd asked me to check with you on the status and when the response might go out on Sen. Levin's letter? Floyd is out of the office today and maybe tomorrow on sick leave.



Thanks,

**Larry D. Hudson**

IRS, Office of Legislative Affairs

(202) 622-4913

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**From:** Meier, Kaye (Levin) [ [mailto:Kaye\\_Meier@levin.senate.gov](mailto:Kaye_Meier@levin.senate.gov) ]

**Sent:** Monday, April 23, 2012 02:03 PM

**To:** Williams Floyd L

**Subject:** Levin letter response?

Floyd: Was a response sent to Senator Levin's letter (attached)?

Thanks!

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**From:** Flax Nikole C  
**Sent:** Friday, April 27, 2012 7:07 AM  
**To:** Lerner Lois G  
**Cc:** Park Nalee  
**Subject:** RE: Hatch  
**Attachments:** Hatch Congr FINAL 4-26-2012.doc

[here you go](#)

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**From:** Lerner Lois G  
**Sent:** Thursday, April 26, 2012 7:08 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee  
**Subject:** Hatch

**Did you say it went out? If so, can I get a copy of the final? Thanks**

*Lois G. Lerner*  
Director of Exempt Organizations

April 25, 2012

The Honorable Orrin G. Hatch  
Ranking Member  
Senate Committee on Finance  
U.S. Senate  
Washington, D.C. 20515

Dear Senator Hatch:

I am responding to your letter to Commissioner Shulman dated March 14, 2012, requesting information about the procedures to obtain tax exemption under section 501(c)(4) of the Internal Revenue Code. We appreciate your interest and support of the IRS efforts in the administration of the tax law as it applies to tax-exempt organizations.

**Question 1. What is the IRS's process for approval and renewal of a tax -exempt designation under section 501(c)(4)?**

The law allows section 501(c)(4) organizations to self-declare and hold themselves out as tax-exempt. Organizations also can apply for IRS recognition as tax-exempt. An organization determined by the IRS to be tax -exempt can rely on that determination if their exempt status is ever questioned, so long as the organization has not deviated from the organizational structure and operational activities set forth in its application.

Once an organization that has applied to the IRS receives recognition of section 501(c)(4) status, it is not required to renew that recognition. If an organization's tax - exemption is later revoked, either through the examination process or automatically for failure to file the annual information return or notice for three consecutive years<sup>1</sup>, it may reapply and the process is the same as the initial application process, as described in Revenue Procedure 2012-9, 2012-2 I.R.B 261 and below. As set forth in Revenue Procedure 2012-9, the organization has the burden of proving that it meets the particular requirements of the Code section under which it claims exemption through information in its application and supporting materials. Enclosure A is a copy of the Revenue Procedure.

All applications for tax-exempt status, including applications for status under section 501(c)(4), are filed with a centralized IRS Submission Processing Center, which enters the applications into the EP/EO Determination System and processes the attached user fees. The application is then sent to the Exempt Organizations ("EO") Determinations office in Cincinnati, Ohio for initial technical screening.

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<sup>1</sup> IRC § 6033(j)(1).

This technical screening is conducted by EO Determinations' most experienced revenue agents who review the applications and, based on that review, separate the applications into the following four categories:

- Applications that can be approved immediately based on the completeness of the application and the information submitted;
- Applications that need only minor additional required information in the file in order to approve the application;
- Applications that do not contain the information needed to be considered substantially complete; and
- Applications that require further development by an agent in order to determine whether the application meets the requirements for tax -exempt status.

Organizations whose applications fall into the fourth category are sent letters informing them that more development of their application is needed, and that they will be contacted once their application has been assigned to a revenue agent. The applications are sent to unassigned inventory, where they are held until a revenue agent with the appropriate level of experience for the issues involved in the matter is available to further develop the case.<sup>2</sup>

Once the case is assigned, the revenue agent notifies the organization and reviews the application. Based upon established precedent and the facts and circumstances set forth in the application, the revenue agent requests additional information and documentation to complete the file pertaining to the exempt status application materials<sup>3</sup> (the so-called "administrative record") and makes a determination. Where an application for exemption presents issues that require further development to complete the administrative record, the revenue agent engages in a back and forth dialogue with the organization in order to obtain the needed information. This back and forth dialogue helps applicants better understand the requirements for exemption and what is needed to meet them, and it helps the IRS obtain all the information relevant to the determination.

Tools are available to promote consistent handling of full development cases. For example, in situations where there are a number of cases involving similar issues (such as credit counseling organizations, down payment assistance organizations, organizations that were automatically revoked and are seeking retroactive reinstatement, and most recently, advocacy organizations), the IRS will assign cases to designated employees to promote consistency. Additionally, in these cases, EO

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<sup>2</sup> Enclosure B describes the criteria used to determine the appropriate level of experience.

<sup>3</sup> This includes the application for recognition of tax exempt status, any papers submitted in support of the application, and any letter or other document issued by the IRS with respect to the application. See IRC § 6104(a), (d)(5); Tax Court Rule 210(b)(12).

Technical (an office of specialists in Exempt Organizations) works with the IRS Office of Chief Counsel to develop educational materials to assist the revenue agents in issue spotting and crafting questions to develop cases consistently.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it supports either exemption or denial. If the application is approved, not only is the administrative record made publicly available (with certain limited exceptions outlined below), but organizations that act as described in the administrative record have reliance on the IRS determination. If the application is denied, the organization may seek review from the Office of Appeals. The Appeals Office, which is independent of Exempt Organizations, reviews the complete administrative record and makes its own independent determination of whether the organization meets the requirements for tax-exempt status. It is to the organization's benefit to have all of their materials in the file in the event that EO Determinations denies exemption and the organization seeks Appeals review. If, based on the information in the administrative record, the Appeals Office decides the organization meets the requirements for tax-exempt status, the application will be approved. If the Appeals Office agrees that the application should be denied, the 501(c)(4) applicant may pay the tax owed as a taxable entity and seek a refund in federal court.

In those cases where the application raises issues for which there is no established published precedent or for which non-uniformity may exist, EO Determinations refers the application to EO Technical. In EO Technical, the applications are reviewed by tax law specialists, whose job is to interpret and provide guidance on the law and who work closely with IRS Chief Counsel attorneys on the issues.

Similar to the process in EO Determinations, EO Technical tax law specialists develop cases based on the facts and circumstances of the issues in the specific application. EO Technical staff engages in a back and forth dialogue with the organization in order to obtain the information needed to complete the administrative record. If, upon review of all of the information submitted, it appears that an organization does not meet the requirements for tax-exempt status, a proposed denial explaining the reasons the organization does not meet the requirements is issued. The organization is then entitled to a "conference of right" where it may provide additional information. Following the conference of right, a final determination is issued. If the application is approved, the administrative record is made publicly available, and if the organization acts as described in the application filed, it has reliance on the IRS determination. If the application is denied, the applicant may seek relief by paying the tax owed as a taxable entity and seek a refund in federal court.

**Question 2. Are all 501(c)(4) applicants required to provide responses and information beyond the questions specified in Form 1024 and Schedule B? If not, when and on what basis does the IRS require an applicant to make disclosures not described in Form 1024 and Schedule B?**

In order for the IRS to make a proper determination of an organization's exempt status, the Form 1024 instructs the applicant to report, among other things, all of its activities –

past, present, and planned. The Form and instructions tell the organization that it must provide a detailed description of each individual activity, including the purpose of the activity and how it furthers the organization's exempt purpose, when the activity is initiated, and where and by whom the activity will be conducted. If the Form 1024 questions are answered with sufficient detail to make a favorable determination, the applicant will not be asked additional questions. If, however, issues remain, then the IRS contacts the organization and solicits the information needed to establish or deny tax exemption.

The range of organizations eligible for tax-exempt status under section 501(c)(4), the requirements they must meet, and the diversity of the facts and circumstances presented by the applications, require individualized consideration, and each development letter will vary depending on the facts and circumstances of the application.

**Question 3. Which IRS officials develop and approve the list of questions and requests for information (beyond the questions specified in Form 1024 and Schedule B) which are sent to 501(c)(4) organizations? What are the objective standards by which the responses to such requests for information are evaluated?**

As noted in question 2, the IRS contacts the organization and solicits additional information when there is not sufficient information upon which to make a determination of tax exempt status. When an application needs further development, the case is assigned to a revenue agent with the appropriate level of experience for the issues involved in the application.

The general procedures for requesting additional information to develop an application are included in section 7.20.2 of the Internal Revenue Manual. Although there is a template letter that describes the general information on the case development process, the letter does not, and could not, specify the information to be requested from any particular organization because of the broad range of possible facts possible. Enclosure C is a copy of the template letter.

The amount and nature of development necessary to process an application to ensure that the legal requirements of tax-exemption are satisfied depends on several factors, which include the comprehensiveness of the information provided in the application and the issues raised by the application. Consequently, revenue agents prepare individualized questions and requests for documents relevant to the application, which are attached to the above described general template letter. With certain types of applications where the issues are similar or more complex, EO Technical, in coordination with Chief Counsel, develops educational materials to assist the revenue agents in issue spotting and crafting questions to develop those cases consistently.

The revenue agent uses sound reasoning based on tax law training and his or her experience to review the application and identify the additional information needed to make a proper determination of the organization's exempt status. The revenue agent prepares individualized questions and requests for documents based on the facts and circumstances set forth in the particular application.

Once responses are received, the entire application file is evaluated based upon the requirements in the Code and regulations.<sup>4</sup>

**Question 4. How do additional requests for information sent by the IRS to 501(c)(4) applicant organizations (beyond the information required by IRS Form 1024 and Schedule B) relate to a specific standard of review previously established by the IRS? Has the IRS published such standards? Does the decision to approve or deny applications for tax -exempt status adhere to these standards, particularly if these standards have not been published and are not readily known?**

As noted in question 2, the IRS contacts the organization and solicits additional information if there is insufficient information to make a determination or if issues are raised by the application. All information gathered during the application process is evaluated based upon the requirements of the Code and regulations.<sup>5</sup>

The general procedures for reviewing applications for tax -exempt status, which include requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, which is made available to the public on the IRS website.<sup>6</sup> Enclosure D is a copy of IRM 7.20.2.

**Question 5. Is every 501(c)(4) applicant required to provide the IRS with copies of all social media posts, speeches and panel presentations, names and qualifications of speakers and participants, and any written materials distributed for all public events conducted or planned to be conducted by the organization? If not, which 501(c)(4) applicants must meet this disclosure requirement and on the basis of what objective criteria are they selected?**

The nature of any development letter will vary depending on the facts and circumstances of a given application. Therefore, organizations receive different questions. As indicated earlier, in situations where there are a number of cases involving similar issues (such as, for example, credit counseling organizations, down payment assistance organizations, and advocacy organizations), educational materials may be developed to assist the revenue agents in issue spotting and crafting questions to develop cases consistently.

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<sup>4</sup> IRC § 501(c)(4); Treas. Reg. § 501(c)(4)-1.

<sup>5</sup> IRC § 501(c)(4); Treas. Reg. § 501(c)(4)-1.

<sup>6</sup> IRM 7.20.2 is available at [http://www.irs.gov/irm/part7/irm\\_07-020-002.html](http://www.irs.gov/irm/part7/irm_07-020-002.html).

As to the specific matters you raised in your letter, Question 16 of Part II of Form 1024 asks organizations whether they publish pamphlets, brochures, newsletters, journals, or similar printed material. This includes material that may be used to publicize the organization's activities, or as an informational item to members or potential members. If so, the Form instructs organizations to attach a recent copy of each. If the organization's application indicates that it does publish such materials but it did not provide this material with the application, the material will be requested in further development.

The IRS recognizes that many organizations communicate through the internet and social media as well as through paper. Where relevant to the issues raised in an application, the IRS will ask for those materials as well. To ensure a complete administrative record for reliance and review purposes, copies of relevant internet materials must be included. The extent of any required submission depends upon the facts and circumstances of a given case and the professional judgment of the revenue agent involved.

As noted above, with regard to other activities such as public events, in order for the IRS to make a proper determination of an organization's exempt status, the Form 1024 requires organizations to provide a detailed narrative description of all of the activities of the organization - past, present, and planned, listing each activity separately. Each description should include, at a minimum, a detailed description of the activity including its purpose and how each activity furthers the organization's exempt purpose, when the activity was or will be initiated, and where and by whom the activity will be conducted. If the organization does not provide this information or if it does not provide sufficient detail, more information may be requested as part of the development process in order to complete its application record. As previously discussed, EO staff engages in a back and forth dialogue with the organization in order to obtain the information needed to complete the administrative record and make a determination. If an organization believes that the legal requirements can be satisfied without the requested documentation or the organization needs additional time to respond, the organization can discuss an alternative approach or timing with their agent. The IRS will consider whether compliance with the legal requirements can be satisfied in the alternative manner proposed and whether an extension of time is warranted.

As explained above, a complete application record is important for both the IRS and the organization. The administrative record must be complete so that it supports either exemption or denial.



**Question 6. Form 1040 does not require specific donor information, as the instructions for the form indicate that the statement of revenue need not include “amounts received from the general public...for the exercise or performance of the organization’s exempt function.” In addition, the annual schedule of contributors required by the IRS for 501(c)(4) organizations is limited to donors giving the organization \$5,000 or more for the year, and the names and addresses of contributors are not required to be made available for public inspection (according to IRS Form 990, schedule B). However, some of the IRS letters recently sent to 501(c)(4) applicant organizations specifically ask for the names of all donors and the amounts of each of the donations, and furthermore state that this information will in fact be made available for public inspection. These specific requests for donor information appear to contradict the published IRS policy. Given this discrepancy, please provide any correspondence (including emails, written notes, and electronic documents) generated with respect to the decision to send letters in 2012 requesting all donor information from 501(c)(4) applicant organizations, including correspondence between IRS employees, or between or among the IRS, the Department of Treasury, and the White House.**

In answering this question, we assumed that the language referred to in the question relates to the Form 1024 rather than the Form 1040. The quoted language refers to the fact that amounts received for the performance of an exempt function should be reported on line 3 rather than line 2 of the Form 1024.

As explained above, when a Form 1024 application needs further development, the IRS contacts the organization and solicits additional information in order to have a complete administrative record on which the IRS can make a determination as to whether the requirements of the Code and regulations are met. There are instances where donor information may be needed for the IRS to make a proper determination of an organization’s exempt status, such as when the application presents possible issues of inurement or private benefit. Nevertheless, the IRS takes privacy very seriously, and makes an effort to work with the organization to obtain the needed information so that the confidentiality of any potentially sensitive or privileged information is taken into account. We have advised applicant organizations that if they believe that the requested information required to demonstrate eligibility for section 501(c)(4) status can be provided through alternative information, they should contact the revenue agent assigned to their application. As discussed above, we will consider whether compliance with the legal requirements can be satisfied in the alternative manner proposed. We have also granted applicants additional time to respond.

IRS policy or practice does not govern whether or not donor information is made public. This matter is governed by statute. Public disclosure regarding tax exempt organization filings is principally governed by sections 6104 and 6110 of the Internal Revenue Code.

Section 6104 of the Code requires the IRS to make certain materials related to tax-exempt organizations available for public inspection, including an organization's application for recognition of tax exemption and Form 990 annual information returns.<sup>7</sup> If the IRS approves an organization's application for tax-exempt status, section 6104(a) requires that the application and supporting materials be made available for public inspection. The only exception to that requirement is found in section 6104(a)(1)(D), which exempts from disclosure information that the IRS determines is related to any "trade secret, patent, process, style of work, or apparatus of the organization" that would adversely affect the organization, or information that could adversely affect national defense.

The long-standing statutory requirements regarding the disclosure of exemption applications, including Form 1024, are separate from those requiring public availability of Form 990 annual information returns, which are contained in section 6104(b). Under section 6104(b), Form 990 annual information returns also are subject to disclosure for public inspection, with the sole exception of donor information contained in Schedule B of the Form 990.<sup>8</sup> The withholding of donor information from public disclosure applies only to Form 990; this exception does not extend to information obtained from Form 1024 and supporting materials.

In light of the statutory requirement to make approved applications public, page 2 of the Form 1024 instructions notifies organizations that information they provide will be available for public inspection. This notice is reiterated in any development letters sent to the organizations. Although the statute requires the administrative record to be made available for public inspection, the IRS does not affirmatively publish this information. It is available only upon request.

Additionally, under section 6110 of the Code, if the IRS ultimately denies the application for recognition of tax-exempt status, the denial letter and background information are subject to public inspection, with certain identifying and other information redacted, to assist the public understand the IRS reasoning while also protecting the identity of the organization and any person identified in the file (including individual donors).

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<sup>7</sup> The disclosure rules have been in place since 1958, and the legislative history provided the following rationale for public disclosure of exemption applications: "[the] committee believes that making these applications available to the public will provide substantial additional aid to the Internal Revenue Service in determining whether organizations are actually operating in the manner in which they have stated in their applications for exemption." H.R. Rep. No. 85 -262, at 41-42 (1957). In 1987, Congress added what is now section 6104(d) to the Code, that requires organizations to make their returns available to the public, and in 1996 extended this rule to application materials.

<sup>8</sup> The withholding exception does not apply to donor information for organizations that file Form 990-PF or to those section 527 organizations that are required to file Form 990 or 990-EZ.

In response to your specific question, having inquired, I am informed that there have been no communications between IRS employees and the Department of Treasury or the White House with respect to requests for donor information from any 501(c)(4) applicant organizations. Requests for information, including donor information, of specific organizations that are currently in the application process are subject to the requirements of section 6103 of the Code. Section 6103(f) sets forth the means by which congressional committees may obtain access to return and return information (that is not otherwise made publicly available under sections 6104 and 6110). We are available to discuss these rules in more detail with your staff.

**Question 7. Many applicant organizations have stated that the IRS gave them less than 3 weeks to produce a significant volume of paperwork, including copies of virtually all internal and public communications. What is the typical deadline for responses to an IRS inquiry for additional information under section 501(c)(4)?**

Section 7.20.2.7.1 of the Internal Revenue Manual provides that a revenue agent seeking additional information from an organization applying for tax -exempt status, will give that organization 21 days to provide a response. Accordingly , this 21 day response time is given to all organizations whose application requires further development. Enclosure D contains the IRM provision.

Organizations can request more time to respond and if an organization fails to respond by the specified date the agent will contact the organization to inquire about the status of the information request and whether additional time is needed. These procedures are specified in section 7.20.2.7.1 of the IRM.

Organizations that may be engaged in advocacy activities, and have recently received development letters as part of the exemption application process have been advised that they have additional time to respond . We sent a follow-up letter advising the organizations that they have an additional 60 days to respond ; and that if they believe that the requested information required to demonstrate eligibility for tax-exempt status can be provided through alternative information, they should contact the revenue agent assigned to their application. If they need more than the additional 60 days to respond, they should contact their revenue agent to request a further extension.

**Question 8. Form 1024 and related disclosures by 501(c)(4) organizations are generally “open for public inspection.” In the interest of addressing any concerns about uneven IRS enforcement of section 501(c)(4) eligibility requirements, can you please provide us with copies of all IRS inquiries sent to and responses received from Priorities USA? Those documents would provide a useful basis for comparison to other inquiries the IRS has addressed to section 501(c)(4) applicants.**

Section 6104(a) of the Code permits public disclosure of an application for recognition of tax exempt status of organizations that have been recognized as exempt. Our records do not indicate that any organization with the name Priorities USA has been recognized as tax-exempt.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Cathy Barre at (202) 622-3720.

Sincerely,

Steven T. Miller  
Deputy Commissioner  
for Services and Enforcement

Enclosures

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**From:** Lerner Lois G  
**Sent:** Friday, April 27, 2012 1:21 PM  
**To:** Flax Nikole C  
**Subject:** RE: Issa Follow up

**Did you want me in on that or just you guys**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Friday, April 27, 2012 1:21 PM  
**To:** Barre Catherine M; Lerner Lois G  
**Cc:** Davis Jonathan M (Wash DC); Miller Steven T  
**Subject:** RE: Issa Follow up

**we should just all talk- I am free the rest of the day**

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**From:** Barre Catherine M  
**Sent:** Friday, April 27, 2012 1:19 PM  
**To:** Flax Nikole C; Lerner Lois G  
**Cc:** Davis Jonathan M (Wash DC); Miller Steven T  
**Subject:** Issa Follow up

I had a conversation with Issa staff to day about our response letter. Among other things, the staff requested the names of the employees that made the decisions that follow up was appropriate for recent c4 applications. They are thinking at the level of the person who handled the individual files.

How would you like to handle the response?

Thanks.

Cathy

---

**From:** Lerner Lois G  
**Sent:** Friday, April 27, 2012 1:37 PM  
**To:** Paz Holly O  
**Subject:** RE: Debrief

**Basically--all hell is breaking loose. If Nan wants to come by when you're done so I can catch her up--you and I can talk later**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paz Holly O  
**Sent:** Friday, April 27, 2012 2:34 PM  
**To:** Lerner Lois G  
**Subject:** Re: Debrief

Ok still meeting with Nan et al. Also have a 3 re: Joseph's site visit. Will come by as soon as I can.

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Sent from my BlackBerry Wireless Device

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**From:** Lerner Lois G  
**Sent:** Friday, April 27, 2012 02:33 PM  
**To:** Paz Holly O  
**Subject:** RE: Debrief

**If Nan can come great--if not, stop by**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Friday, April 27, 2012 11:50 AM  
**To:** Lerner Lois G  
**Subject:** Re: Debrief

Ok. Just me or should I try to get Nan too?

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Lerner Lois G  
**Sent:** Friday, April 27, 2012 11:47 AM  
**To:** Paz Holly O  
**Cc:** Marx Dawn R; (b)(6); (b)(7)(C)

**Subject:** RE: Debrief

**Let's just do it when you're done.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Friday, April 27, 2012 5:59 AM  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R; (b)(6); (b)(7)(C)  
**Subject:** RE: Debrief

Nan, Rob, Joe, Sharon, Judy and I have set aside 12-2 to debrief amongst ourselves over our file review and discussions with folks. I could step out of that around 1ish or I am free 2-3. Would you like Nan to join us?

---

**From:** Lerner Lois G  
**Sent:** Thursday, April 26, 2012 6:16 PM  
**To:** Paz Holly O  
**Cc:** Marx Dawn R; (b)(6); (b)(7)(C)  
**Subject:** Debrief

**If we can on Friday would like to hear about Cincy and tell you what's been happening here**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Friday, April 27, 2012 2:52 PM  
**To:** Flax Nikole C; Lerner Lois G  
**Cc:** Kindell Judith E; Fish David L; Paz Holly O  
**Subject:** Issa # 7  
**Attachments:** Issa Q#7 04-27-2012 w comments.doc

Per your request, working draft attached.

Will eventually try to re-order cited authorities/precedent so the numbering makes some sense, but if you're thinking of wanting to delete (b)(5)/DP please let me know so no more time is spent on those.

NaLee

NaLee Park  
SE:T:EO:RA:G, Rm NCA-551  
EO Guidance, R&A  
TEGE, Washington D.C.  
(t) 202.283.9453 | (f) 202.283.9462



(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Friday, April 27, 2012 4:10 PM  
**To:** Park Nalee  
**Subject:** RE: FYI

**Are you still here--can you come by**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Friday, April 27, 2012 4:53 PM  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** FYI

Leaving office in about 10 mins, but will have my laptop so will be checking email over the email.

Already forwarded working draft of Issa Q7 to you and Nikole per request. Also, emailed you latest Levin draft (also gave you printed copy of same earlier, but have not emailed to Nikole yet) - assume you want to review first. I'll continue looking over Issa Q7 - see if anything more specific can be added for certain questions that so far only has the general "templated" responses. Will be finishing up QFRs and will send you when ready - probably early next week if not sooner.

NaLee

NaLee Park  
SE:T:EO:RA:G, Rm NCA-551  
EO Guidance, R&A  
TEGE, Washington D.C.  
(t) 202.283.9453 | (f) 202.283.9462



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**From:** Lerner Lois G  
**Sent:** Friday, April 27, 2012 4:11 PM  
**To:** Park Nalee; Flax Nikole C  
**Cc:** Kindell Judith E; Fish David L; Paz Holly O  
**Subject:** RE: Issa # 7

**David--please look at the disclosure stuff relating to Congressional rules**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Friday, April 27, 2012 3:52 PM  
**To:** Flax Nikole C; Lerner Lois G  
**Cc:** Kindell Judith E; Fish David L; Paz Holly O  
**Subject:** Issa # 7

Per your request, working draft attached.

Will eventually try to re-order cited authorities/precedent so the numbering makes some sense, but if you're thinking of wanting to delete (b)(5)/DP please let me know so no more time is spent on those.

NaLee

NaLee Park  
SE:T:EO:RA:G, Rm NCA-551  
EO Guidance, R&A  
TEGE, Washington D.C.  
(t) 202.283.9453 | (f) 202.283.9462

---

**From:** Lerner Lois G  
**Sent:** Friday, April 27, 2012 5:29 PM  
**To:** Megosh Andy; Fish David L; Paz Holly O  
**Cc:** Park Nalee  
**Subject:** RE: 6103 (c)(4) Congressional  
  
**Importance:** High

I need the incoming--can't recall what it said. I think the 3rd paragraph confuses more than it helps --sorry--don't rely on me seeing email--bring these by when they are ready for me to see.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Megosh Andy  
Sent: Tuesday, April 24, 2012 9:31 AM  
To: Fish David L; Paz Holly O; Lerner Lois G  
Cc: Park Nalee  
Subject: FW: 6103 (c)(4) Congressional  
Importance: High

The Schmidt congressional is due tomorrow and the staffer was a little reluctant to even accept an extension to that date so it could be hard to get a further extension.

Lois has already seen a prior version of this. We added the third paragraph at the urging of Floyd.

Thanks, Andy

-----Original Message-----

From: Lowe Justin  
Sent: Tuesday, April 17, 2012 9:48 AM  
To: Megosh Andy  
Cc: Park Nalee; Fish David L  
Subject: RE: 6103 (c)(4) Congressional

After talking to Andy, I added a better transition to the third paragraph.

-----Original Message-----

From: Lowe Justin  
Sent: Monday, April 16, 2012 4:43 PM  
To: Megosh Andy  
Cc: Park Nalee; Fish David L

Subject: FW: 6103 (c)(4) Congressional

How does this look for a draft of the Schmidt letter? The language is taken from the Hatch letter's description of the (b)(5)/DP though rearranged a bit to suit these purposes.

-----Original Message-----

From: Lerner Lois G  
Sent: Wednesday, April 11, 2012 4:39 PM  
To: Lowe Justin; Paz Holly O; Fish David L  
Cc: Megosh Andy; Park Nalee  
Subject: Re: 6103 (c)(4) Congressional

Talk to Nalee--we were working on something slightly different, but it might work. I would not go (b)(5)/DP

By the way--Nikole needs to see this one too --all roads lead to Nikole Lois G. Lerner ----- Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Justin Lowe  
To: Lois Call in Number  
To: Holly Paz  
To: David L Fish  
Cc: Megosh Andy  
Cc: Nalee Park  
Subject: 6103 (c)(4) Congressional  
Sent: Apr 11, 2012 4:08 PM

Floyd has taken a look at the Schmidt letter and would really like to include something that says (b)(5)/DP

(b)(5)/DP or something to that effect, perhaps from the general language we have in the other congressional responses. I outlined our concerns with that approach (b)(5)/DP but told him we would work on the idea and see if we could come up with anything and that after discussing we might call him back for a followup conversation.

Based on previous discussions, I'm not sure if we can include the sort of language he has in mind, but David what do you think?

An alternative would be to soften the letter a little by calling the staffer first and explaining (b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Monday, April 30, 2012 10:00 AM  
**To:** Marks Nancy J; Light Sharon P; Urban Joseph J  
**Cc:** Paz Holly O  
**Subject:** RE: Revised Guide Sheet

(b)(5)/AC and /DP

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Marks Nancy J  
**Sent:** Monday, April 30, 2012 10:21 AM  
**To:** Light Sharon P; Urban Joseph J  
**Cc:** Paz Holly O; Lerner Lois G  
**Subject:** Fw: Revised Guide Sheet

-----  
Sent using BlackBerry

---

**From:** Lerner Lois G  
**Sent:** Thursday, April 26, 2012 06:28 PM  
**To:** Paz Holly O  
**Cc:** Marks Nancy J  
**Subject:** FW: Revised Guide Sheet

**FYI--Nikole,Vickie,me,Janine and Erik had a call on this today. Vickie gave her caution and hopefully, all are comfortable.**

*Lois G. Lerner*

Director of Exempt Organizations

**From:** Cook Janine [mailto:Janine.Cook@irsounsel.treas.gov]  
**Sent:** Thursday, April 26, 2012 6:18 PM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G; Judson Victoria A; Corwin Erik H  
**Subject:** Revised Guide Sheet

Nikole,

Here is the revised guidesheet we sent to Lois' shop yesterday. It reflects some fine-tuning on the 4/20 version. The changes were predominantly clean-up, more consistency in language, added precision and clarity, and better conformity to the (b)(5)/AC and /DP

Let us know if you have any specific questions. (Erik, you already have this version)  
Janine

<<guide sheet master 04-25-12 (counsel).doc>>

---

**From:** Lerner Lois G  
**Sent:** Monday, April 30, 2012 12:27 PM  
**To:** Urban Joseph J  
**Subject:** RE: :: Levin Q-3

**Importance:** High

**I need you to come down for the 1:30 please**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Urban Joseph J  
**Sent:** Monday, April 30, 2012 1:25 PM  
**To:** Fish David L; Miller Thomas J; Lowe Justin; Kindell Judith E; Light Sharon P; Flax Nikole C; Lerner Lois G; Marks Nancy J  
**Subject:** :: Levin Q-3

Thanks to David's research skills, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)(3)/6103

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
(b)(3)/6103

[REDACTED]

---

**From:** Lerner Lois G  
**Sent:** Monday, April 30, 2012 2:42 PM  
**To:** Flax Nikole C  
**Subject:** RE: Specific Questions.

Too many cooks here. Sharon Light just came by--she showed me the email Cathy Livingston sent you. Nan has asked Sharon to "follow-up" with Cathy. I don't see the need to do that--for what purpose--we know what Cathy said. We have pushed Counsel to the max and they haven't moved. So, what is the next step --where's STM on all this? Do you want us to send Cathy the one we and Counsel put together before they balked?

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, April 30, 2012 3:00 PM  
**To:** Lerner Lois G  
**Subject:** RE: Specific Questions.

1. I think we need to provide something on each this week. How far along are we on Levin?
2. We should expect the Boustany follow-up to ask for the same info so I suggest that we work on writing up what happened. If this is going to take more time, we may have to say that we are in the process of gathering written guidance and will follow-up.
3. On delay, I think we would tell how to [REDACTED] (b)(5)/DP  
[REDACTED] It may be part of the story from #2.
4. this one seems difficult to answer without knowing the facts of the application. let me know when you want to talk.

---

**From:** Lerner Lois G  
**Sent:** Monday, April 30, 2012 12:22 PM  
**To:** Flax Nikole C  
**Subject:** Specific Questions.

### Couple Questions

1. Which do you want first--Issa #7 or Levin--Nalee is doing both.
2. I assume we want to respond to Levin's request to provide "written guidance provided to agents..." (question 12) by giving him the [REDACTED] (b)(5)/DP  
[REDACTED] Need to know how to draft it.
3. Question 2(c) asks typically how many days after an application is sent are the questionnaires sent. We took the language from the general responses about process in the other letters. [REDACTED] (b)(5)/DP



(b)(5)/DP

4. On Issa question 7 K they ask why we would request a list of all issues important to the org, indicating your position regarding each issue. We should probably talk about this one -- not sure I have any precedent for the second part of the question.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, April 30, 2012 9:30 AM  
**To:** Lerner Lois G; Marx Dawn R  
**Subject:** touching base

Lois - I am at home today, but wanted to touch base on a few things/questions. Can you let me know if you have a few minutes and I can give you a call or you can call me at (b)(6); (b)(7)(C)

---

**From:** Lerner Lois G  
**Sent:** Monday, April 30, 2012 2:52 PM  
**To:** Flax Nikole C  
**Subject:** RE: Specific Questions.

## Can you talk in 10 minutes

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, April 30, 2012 3:50 PM  
**To:** Lerner Lois G  
**Subject:** RE: Specific Questions.

I think it would be helpful to see what you have re Levin knowing that it is still in flux. I need to get views on the guidesheet when I am back in the office tomorrow.

5 is fine, but I will only be around until 5:30. I am at (b)(6); (b)(7)(C)

---

**From:** Lerner Lois G  
**Sent:** Monday, April 30, 2012 3:37 PM  
**To:** Flax Nikole C  
**Subject:** FW: Specific Questions.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, April 30, 2012 3:00 PM  
**To:** Lerner Lois G  
**Subject:** RE: Specific Questions.

1. I think we need to provide something on each this week. How far along are we on Levin? **We went over Levin as well--there are some edits and Judy needs to take a stab at one piece. I can send you what we have or wait until tomorrow --I think we can have both to you cob tomorrow or Wed morning at the latest--we're also copying all the guidance we site to a disk.**

2. We should expect the Boustany follow-up to ask for the same info so I suggest that we work on writing up what happened. If this is going to take more time, we may have to say that we are in the process of gathering written guidance and will follow-up. **Are you guys set on (b)(5)/DP I saw Cathy's email on the issue. Everyone is in the same boat --none of us think this is the (b)(5)/DP**

(b)(5)/DP but your call on how much more you want to fight over that and predict when it might be done. I can pint it round or flat--just need instructions.

3. On delay, I think we would tell how to [REDACTED]

(b)(5)/DP

It may be part of the story from #2.

4. this one seems difficult to answer without knowing the facts of the application. let me know when you want to talk. **Can we chat around 5:00. I'll call you.**

---

**From:** Lerner Lois G  
**Sent:** Monday, April 30, 2012 12:22 PM  
**To:** Flax Nikole C  
**Subject:** Specific Questions.

### Couple Questions

1. Which do you want first--Issa #7 or Levin--Nalee is doing both.

2. I assume we want to respond to Levin's request to provide "written guidance provided to agents..." (question 12)by giving him the [REDACTED]

(b)(5)/DP

Need to know how to draft it.

3. Question 2(c) asks typically how many days after an application is sent are the questionnaires sent. We took the language from the general responses about process in the other letters. [REDACTED]

(b)(5)/DP

4. On Issa question 7 K they ask why we would request a list of all issues important to the org, indicating your position regarding each issue. We should probably talk about this one -- not sure I have any precedent for the second part of the question.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, April 30, 2012 9:30 AM  
**To:** Lerner Lois G; Marx Dawn R  
**Subject:** touching base

Lois - I am at home today, but wanted to touch base on a few things/questions. Can you let me know if you have a few minutes and I can give you a call or you can call me at [REDACTED]

(b)(6); (b)(7)(C)

---

**From:** Lowe Justin  
**Sent:** Monday, April 30, 2012 3:47 PM  
**To:** Flax Nikole C; Lerner Lois G  
**Cc:** Kindell Judith E  
**Subject:** FW: New Guidesheet Version  
**Attachments:** Guide Sheet 3-27-12.doc; Guide Sheet 3-27-12 clean.doc

[As requested, here is the prior version of the guide sheet.](#)

[Justin](#)

---

**From:** Lowe Justin  
**Sent:** Tuesday, March 27, 2012 1:41 PM  
**To:** Cook Janine; Spellmann Don R; Brown Susan D  
**Cc:** Lerner Lois G; Kindell Judith E; Paz Holly O; Fish David L; Megosh Andy; Goehausen Hilary  
**Subject:** New Guidesheet Version

All,

Attached are clean and redline versions of the guidesheet, reflecting Lois's comments and additional tweaks. Please review and let us know what additional changes you'd like to see.

Thanks,

Justin

***Justin Lowe***

Internal Revenue Service  
TEGE, Exempt Organizations  
Rulings and Agreements  
Phone: (202)-283-9486  
Fax: (202)-283-8937

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**From:** Lerner Lois G  
**Sent:** Monday, April 30, 2012 4:46 PM  
**To:** Flax Nikole C; Park Nalee  
**Subject:** RE: Issa #9

**good catch**

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, April 30, 2012 4:22 PM  
**To:** Lerner Lois G; Park Nalee  
**Subject:** Issa #9

Just a minor issue, in the footnotes, I know we are following the guidance, but we need to say [REDACTED]  
[REDACTED] (b)(5)/DP [REDACTED] thanks

---

**From:** Lerner Lois G  
**Sent:** Monday, April 30, 2012 5:23 PM  
**To:** Park Nalee  
**Cc:** Lowe Justin; Marx Dawn R  
**Subject:** FW: Levin letter response?

Do you need me to get Justin or someone else involved? Nikole wants both docs by tomorrow and I know you don't have time to all that needs to be done> I can talk to him about Levin and what we need to try and do.  
done> I'm  
trying not to kill you! (-: let us know

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Lerner Lois G  
Sent: Monday, April 30, 2012 6:19 PM  
To: Barre Catherine M  
Cc: Flax Nikole C  
Subject: RE: Levin letter response?

Maybe later in the week. [REDACTED]

(b)(3)/6103 & (b)(5)/DP  
[REDACTED]  
[REDACTED]

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Barre Catherine M  
Sent: Monday, April 30, 2012 6:14 PM  
To: Lerner Lois G  
Cc: Flax Nikole C  
Subject: Re: Levin letter response?

Do you have availability for a call with staff?

-----  
Sent using BlackBerry

-----Original Message-----

From: Lerner Lois G  
To: Barre Catherine M  
Cc: Nikole Flax  
Subject: RE: Levin letter response?  
Sent: Apr 30, 2012 6:00 PM

We are trying to get a draft to Nikole by the end of the day tomorrow. But there will be review after that --we are still working on the # 7 to Issa.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Barre Catherine M  
Sent: Monday, April 30, 2012 5:57 PM  
To: Lerner Lois G  
Cc: Flax Nikole C  
Subject: Re: Levin letter response?

Yes. We need to set a time for a call with the levin staff, preferably this week. Can you offer times?

They will also be looking for the written re sponse since it is "late" from their perspective.

-----  
Sent using BlackBerry

-----Original Message-----

From: Lerner Lois G  
To: Barre Catherine M  
Cc: Larry Hudson  
Cc: Norton William G Jr  
Cc: Nikole Flax  
Cc: Kindell Judith E  
Subject: RE: Levin letter response?  
Sent: Apr 26, 2012 4:59 PM

We've (Judy Kindell) looked at this --does someone want to talk to us?

(b)(3)/6103 & (b)(5)/DP

Lois G. Lerner  
Director of Exempt Organizations

-----  
From: Barre Catherine M

Sent: Thursday, April 26, 2012 9:12 AM  
To: Barre Catherine M; Park Nalee; Lerner Lois G  
Cc: Hudson Larry D; Norton William G Jr; Flax Nikole C  
Subject: RE: Levin letter response?

I have a copy of the (b)(3)/6103 now.

See attached.

---

From: Barre Catherine M  
Sent: Wednesday, April 25, 2012 6:25 PM  
To: Park Nalee; Lerner Lois G  
Cc: Hudson Larry D; Norton William G Jr; Flax Nikole C  
Subject: RE: Levin letter response?

The Levin letter to Doug on 3/30/12 references a (b)(3)/6103. I hate to have to call them at this point and tell them that we didn't get the attachment.

Please let me know if we have it or if there is a way to get it.

Thanks

Cathy

---

From: Flax Nikole C  
Sent: Tuesday, April 24, 2012 9:08 AM  
To: Hudson Larry D; Norton William G Jr

Cc: Barre Catherine M  
Subject: FW: Levin letter response?

I don't think we will be able to have a draft this week. I think we can tell them that we hope to send something next week (but I suspect it won't be a complete response).

---

From: Park Nalee  
Sent: Tuesday, April 24, 2012 9:04 AM  
To: Flax Nikole C  
Cc: Lerner Lois G  
Subject: RE: Levin letter response?

Have a prelim draft...still missing pieces - waiting for folks to get parts.  
Will see when can get those missing pieces...hopefully by tomorrow or Thurs can get a complete draft to you.

NaLee

202.283.9453

---

From: Flax Nikole C  
Sent: Monday, April 23, 2012 5:57 PM  
To: Lerner Lois G; Park Nalee  
Subject: FW: Levin letter response?

any sense of timing on this one?

---

From: Hudson Larry D  
Sent: Monday, April 23, 2012 4:27 PM  
To: Flax Nikole C  
Cc: Norton William G Jr  
Subject: Levin letter response?

Nikole,

Floyd asked me to check with you on the status and when the response might go out on Sen. Levin's letter? Floyd is out of the office today and maybe tomorrow on sick leave.

Thanks,

Larry D. Hudson

IRS, Office of Legislative Affairs

(202) 622-4913

---

From: Meier, Kaye (Levin) [mailto:Kaye\_Meier@levin.senate.gov]

Sent: Monday, April 23, 2012 02:03 PM

To: Williams Floyd L

Subject: Levin letter response?

Floyd: Was a response sent to Senator Levin's letter (attached)?

Thanks!

---

**From:** Lerner Lois G  
**Sent:** Monday, April 30, 2012 5:39 PM  
**To:** Flax Nikole C; Barre Catherine M  
**Subject:** RE: Levin letter response?

Nikole--I will send you the latest draft with comments they are working on.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Monday, April 30, 2012 6:35 PM  
To: Barre Catherine M; Lerner Lois G  
Subject: RE: Levin letter response?

We can set up time with Lois. I am not sure what the expectation is, but

(b)(3)/6103 and (b)(5)/DP

-----Original Message-----

From: Barre Catherine M  
Sent: Monday, April 30, 2012 6:24 PM  
To: Lerner Lois G  
Cc: Flax Nikole C  
Subject: Re: Levin letter response?

Yes- they will want answers. Nikole, should I try to get something on steve's calendar to discuss or do you all have another time that you can sort it out?

Thanks

Cathy

-----  
Sent using BlackBerry

-----Original Message-----

From: Lerner Lois G  
To: Barre Catherine M  
Cc: Nikole Flax  
Subject: RE: Levin letter response?  
Sent: Apr 30, 2012 6:19 PM

Maybe later in the week.

(b)(3)/6103 and (b)(5)/DP

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Barre Catherine M  
Sent: Monday, April 30, 2012 6:14 PM  
To: Lerner Lois G  
Cc: Flax Nikole C  
Subject: Re: Levin letter response?

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-----Original Message-----

From: Lerner Lois G  
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Subject: RE: Levin letter response?  
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We are trying to get a draft to Nikole by the end of the day tomorrow. But there will be review after that --we are still working on the # 7 to Issa.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Barre Catherine M  
Sent: Monday, April 30, 2012 5:57 PM  
To: Lerner Lois G  
Cc: Flax Nikole C  
Subject: Re: Levin letter response?

Yes. We need to set a time for a call with the levin staff, preferably this week. Can you offer times?

They will also be looking for the written re sponse since it is "late" from their perspective.

-----  
Sent using BlackBerry

-----Original Message-----

From: Lerner Lois G  
To: Barre Catherine M  
Cc: Larry Hudson  
Cc: Norton William G Jr  
Cc: Nikole Flax  
Cc: Kindell Judith E  
Subject: RE: Levin letter response?  
Sent: Apr 26, 2012 4:59 PM



We've (Judy Kindell) looked at this --does someone want to talk to us?

(b)(3)/6103 & (b)(5)/DP

Spoke to the folks who were involved. They were trying to avoid discussing the actual content of the communication that the org was putting out..  
Hence, maybe the awkward language.

Lois G. Lerner  
Director of Exempt Organizations

---

From: Barre Catherine M  
Sent: Thursday, April 26, 2012 9:12 AM  
To: Barre Catherine M; Park Nalee; Lerner Lois G  
Cc: Hudson Larry D; Norton William G Jr; Flax Nikole C  
Subject: RE: Levin letter response?

I have a copy of the (b)(3)/6103 now.

See attached.

---

From: Barre Catherine M  
Sent: Wednesday, April 25, 2012 6:25 PM  
To: Park Nalee; Lerner Lois G  
Cc: Hudson Larry D; Norton William G Jr; Flax Nikole C  
Subject: RE: Levin letter response?

The Levin letter to Doug on 3/30/12 references a [REDACTED]

(b)(3)/6103

hate to

have to call them at this point and tell them that we didn't get the attachment.

Please let me know if we have it or if there is a way to get it.

Thanks

Cathy

---

From: Flax Nikole C  
Sent: Tuesday, April 24, 2012 9:08 AM  
To: Hudson Larry D; Norton William G Jr  
Cc: Barre Catherine M  
Subject: FW: Levin letter response?

I don't think we will be able to have a draft this week. I think we can tell them that we hope to send something next week (but I suspect it won't be a complete response).

---

From: Park Nalee  
Sent: Tuesday, April 24, 2012 9:04 AM  
To: Flax Nikole C  
Cc: Lerner Lois G  
Subject: RE: Levin letter response?

Have a prelim draft...still missing pieces - waiting for folks to get parts.  
Will see when can get those missing pieces...hopefully by tomorrow or Thurs can get a complete draft to you.

NaLee

202.283.9453

---

From: Flax Nikole C  
Sent: Monday, April 23, 2012 5:57 PM  
To: Lerner Lois G; Park Nalee  
Subject: FW: Levin letter response?

any sense of timing on this one?

---

From: Hudson Larry D  
Sent: Monday, April 23, 2012 4:27 PM  
To: Flax Nikole C  
Cc: Norton William G Jr  
Subject: Levin letter response?

Nikole,

Floyd asked me to check with you on the status and when the response might go out on Sen. Levin's letter? Floyd is out of the office today and maybe tomorrow on sick leave.

Thanks,

Larry D. Hudson

IRS, Office of Legislative Affairs

(202) 622-4913

---

From: Meier, Kaye (Levin) [mailto:Kaye\_Meier@levin.senate.gov]  
Sent: Monday, April 23, 2012 02:03 PM  
To: Williams Floyd L  
Subject: Levin letter response?

Floyd: Was a response sent to Senat or Levin's letter (attached)?

Thanks!

I

---

**From:** Lerner Lois G  
**Sent:** Monday, April 30, 2012 5:43 PM  
**To:** Flax Nikole C  
**Subject:** Levin 04-27-2012 CLEAN.doc  
**Attachments:** Levin 04-27-2012 CLEAN.doc

**It isn't just that question I'm worried about, but I'll just give the line in the response --see #4 and 7 with the Counsel response.**

(b)(5)/DP

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---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 01, 2012 9:59 AM  
**To:** Barre Catherine M; Flax Nikole C  
**Subject:** RE: Question from organization applying for exempt status

**fine**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Barre Catherine M  
**Sent:** Tuesday, May 01, 2012 10:58 AM  
**To:** Lerner Lois G; Flax Nikole C  
**Subject:** RE: Question from organization applying for exempt status

Ok, I'll call but am running into some meetings. Will catch you this afternoon

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 01, 2012 10:57 AM  
**To:** Flax Nikole C; Barre Catherine M  
**Subject:** RE: Question from organization applying for exempt status

**Cathy call me--I am lost 202 283-8848**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 01, 2012 10:18 AM  
**To:** Barre Catherine M; Lerner Lois G  
**Subject:** RE: Question from organization applying for exempt status

Cathy - I'll let Lois opine, but I think the word doc should be okay. I know she is tied up this am. We should delete the pdf from the email chains. That is a TP specific latter that the hill sent.

---

**From:** Barre Catherine M  
**Sent:** Tuesday, May 01, 2012 10:13 AM  
**To:** Lerner Lois G  
**Cc:** Flax Nikole C  
**Subject:** FW: Question from organization applying for e exempt status

We continue to get emails from the GLs on this topic. The team has been using the attached to respond. Is this the best document to use? Just wanted to confirm.

thanks

---

**From:** Hall Eric  
**Sent:** Tuesday, May 01, 2012 10:04 AM  
**To:** Barre Catherine M  
**Subject:** FW: Question from organization applying for exempt status

Here's what we've been using. Let me know if there is an updated version and I'll get it out to the GLs.

*Eric Hall*  
Internal Revenue Service  
Legislative Affairs  
(202) 622-4057

---

**From:** Williams Floyd L  
**Sent:** Thursday, March 01, 2012 11:12 AM  
**To:** Hall Eric  
**Subject:** FW: Question from organization applying for exempt status  
**Importance:** High

Eric, as this came up through GL ranks, why don't you hand le getting this to Senator McConnell's staff and copy Jackie Nielson. (You might want to talk to her before you do it.) I think you have the e mail that shows who requested the information?

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 01, 2012 10:58 AM  
**To:** Williams Floyd L  
**Cc:** Fish David L; Flax Nikole C  
**Subject:** FW: Question from organization applying for exempt status  
**Importance:** High

OK--we've now put together the attached WORD document for your use in getting back to the McConnell folks. I've included the entire email strand because I know you weren't initially included. (The ZIP file is what they asked us about) If you need to talk before going back to them, give me a call. This issue has been front and center in the press so there is some sensitivity attached. Let me know if you need more.

Don't know if Jackie Nielson is your staff or someone else, but you'll need to let her know you've responded. Thanks!

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 7:29 PM  
**To:** Flax Nikole C  
**Subject:** FW: Question from organization applying for exempt status

This is the incoming--it is from McConnell's staff. I planned to give the written piece to Floyd. I wrote it so it could be passed on, but it could also just be used by Floyd to give them an oral response. The attachment is just a copy of one of the requests for more information to a c4 org

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Wednesday, February 29, 2012 10:44 AM  
**To:** Lerner Lois G  
**Subject:** FW: Question from organization applying for exempt status

[email chain below](#)

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 11:56 AM  
**To:** Nielson Jacqueline R; Williams Floyd L  
**Cc:** Paz Holly O; Eldridge Michelle L  
**Subject:** FW: Question from organization applying for exempt status

This is a very sensitive area and Floyd just accompanied me to the Hill last week to discuss with some folks there. I feel more comfortable if he is in the loop on these requests so we are being consistent. We have put something together for media relations to use when press come in--let me make sure it has been blessed and then I think it might be the best thing to send on. I'll get back to you later today

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Tuesday, February 28, 2012 11:48 AM  
**To:** Lerner Lois G  
**Subject:** Fw: Question from organization applying for exempt status

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Nielson Jacqueline R  
**Sent:** Tuesday, February 28, 2012 11:40 AM  
**To:** Paz Holly O  
**Subject:** FW: Question from organization applying for exempt status

Holly, I just talked to Sarah Arbes in Senator Mitch McConnell's office. They are asking if the questions in the attached notice are ones we commonly ask organizations applying for exempt status under 501(c)(4). This case is similar to the one you worked on last week for Rep. Jordan. If you're in today, I can call and give you a little more explanation about this. Thanks. Jackie Nielson, GL, OH and KY, 614-280-8739

---

**From:** Arbes, Sarah (McConnell) [mailto:Sarah\_Arbes@mcconnell.senate.gov]  
**Sent:** Tuesday, February 28, 2012 11:19 AM  
**To:** Nielson Jacqueline R  
**Subject:** RE: Question from organization applying for exempt status

Attached are the questions we discussed. Without getting into the specifics of the individual case, we were hoping you could tell us whether these are standard questions for organizations applying for 501(c)(4) status

Thank you for your help!

Sarah

Sarah Arbes  
U.S. Senator Mitch McConnell  
317 Russell Senate Office Building  
Washington, DC 20510  
(202) 224-2541  
sarah\_arbes@mcconnell.senate.gov

Sign up for Senator McConnell's [e-newsletter](#)

---

**From:** Nielson Jacqueline R [mailto:Jacqueline.R.Nielson@irs.gov]  
**Sent:** Tuesday, February 28, 2012 9:51 AM  
**To:** Arbes, Sarah (McConnell)  
**Subject:** Question from organization applying for exempt status

Hi, Sarah,

Marsha in the Taxpayer Advocate office asked me to contact you about the organization that applied for exempt status under IRC 501(c)(4) and has not received their determination yet. If you have an e-mail or letter from that group that I can share with our Exempt Organization Division, would you please send it to me in reply to this e-mail, or by fax to 614-280-8735, Attn: Jackie Nielson? If they signed a privacy release that you could send me, that would be great. If they didn't furnish that, I can reply in more general terms.

Thanks, Sarah. Please call if you want to discuss.

Jackie Nielson  
IRS Governmental Liaison  
Phone (614) 280-8739  
Fax (614) 280-8735



---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 01, 2012 12:49 PM  
**To:** Flax Nikole C; Barre Catherine M  
**Cc:** Miller Steven T; Urban Joseph J  
**Subject:** RE: IRS letter denying exempt status to (b)(3)/6103

And....?

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Tuesday, May 01, 2012 1:27 PM  
**To:** Lerner Lois G; Barre Catherine M  
**Cc:** Miller Steven T; Urban Joseph J  
**Subject:** Re: IRS letter denying exempt status to (b)(3)/6103

I talked to margo about this today.

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 01, 2012 12:59 PM  
**To:** Flax Nikole C; Barre Catherine M  
**Cc:** Miller Steven T; Urban Joseph J  
**Subject:** RE: IRS letter denying exempt status to (b)(3)/6103

So, (b)(3)/6103

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 01, 2012 12:49 PM  
**To:** Barre Catherine M; Lerner Lois G  
**Cc:** Miller Steven T; Urban Joseph J  
**Subject:** RE: IRS letter denying exempt status to (b)(3)/6103

Thanks. Joe has looked at this as well.

---

**From:** Barre Catherine M  
**Sent:** Tuesday, May 01, 2012 12:47 PM  
**To:** Flax Nikole C; Lerner Lois G  
**Cc:** Miller Steven T  
**Subject:** FW: IRS letter denying exempt status to (b)(3)/6103

Background on (b)(3)... letter

---

**From:** Kiser Ross T  
**Sent:** Tuesday, May 01, 2012 12:31 PM  
**To:** Barre Catherine M  
**Subject:** IRS letter denying exempt status to (b)(3)/6103

Cathy:

(b)(3)/6103

(b)(3)/6103

Ross Kiser  
Librarian, Legislative Affairs  
Internal Revenue Service  
1111 Constitution Avenue, NW, Room 3243  
Washington, DC 20224  
(202) 622-5741

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 01, 2012 5:10 PM  
**To:** Park Nalee  
**Subject:** RE: Issa Q7

**great! don't worry about things until they've had time to digest**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Tuesday, May 01, 2012 6:08 PM  
**To:** Lerner Lois G  
**Subject:** RE: Issa Q7

Ok...

FYI - will send Levin shortly. Melinda is finishing up, and I'll do a cursory once-over once I receive it before sending.

NaLee  
202.283.9453

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 01, 2012 6:07 PM  
**To:** Park Nalee  
**Subject:** RE: Issa Q7

**Thanks--it may be they want more specific answers, we'll have to wait and see.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Tuesday, May 01, 2012 5:55 PM  
**To:** Flax Nikole C; Lerner Lois G  
**Cc:** Kindell Judith E; Fish David L; Urban Joseph J; Marks Nancy J  
**Subject:** Issa Q7

Latest draft attached. FYI - templated verbiage in subparts b, d, e have been slightly revised. Enclosures are on a CD.

NaLee

NaLee Park  
SE:T:EO:RA:G, Rm NCA-551

EO Guidance, R&A  
TEGE, Washington D.C.  
(t) 202.283.9453 | (f) 202.283.9462

---

**From:** Lerner Lois G  
**Sent:** Wednesday, May 02, 2012 9:40 AM  
**To:** Miller Steven T  
**Subject:** A Question

I'm wondering if you might be able to give me a better sense of your expectations regarding roles and responsibilities for the c4 matters. I understand you have asked Nan to take a deep look at the what is going on and make recommendations. I'm fine with that. Then there was the discussion yesterday about how we plan to approach the issues going forward. That is where the confusion lies. What are your expectations as to who is implementing the plan?

Prior to that meeting, unbeknownst to me, Cathy had made comments regarding the guidance - which Nan knew about. Nan then directed one of my staff to meet with Cathy and start moving in a new direction. The staff person came to me and I talked to Nan, suggesting before we moved, we needed to hear from you, which is where we are now.

We're all on good terms and we all want to do the best, but I fear that unless there's a better understanding of roles, we may step on each others toes without intending to.

Your thoughts please. Thanks

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 03, 2012 8:50 AM  
**To:** Barre Catherine M; Flax Nikole C  
**Subject:** Re: Congressional 2012-31070 - Extension Request

Am checking status, but don't think I've seen a draft Lois G. Lerner ----- Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Barre Catherine M  
To: Nikole Flax  
To: Lois Call in Number  
Subject: FW: Congressional 2012 -31070 - Extension Request  
Sent: May 3, 2012 9:00 AM

Nikole and Lois-

What is your thinking on timing for the Welch letter? Please be aware that of the signatories, Lloyd Doggett and Charles Rangel are on the subcommittees for the ID theft hearing Steve is doing Tuesday 5/8.

Thanks.

Cathy

---

From: Williams Marcie V  
Sent: Wednesday, May 02, 2012 3:19 PM  
To: Barre Catherine M  
Subject: FW: Congressional 2012 -31070 - Extension Request

Cathy -

EO is looking for an extension on this case concerning 501(c)(4) social welfare organizations. This one is from 32 members. They want an extension to May 29. Please advise...

Marcie Williams

IRS, Legislative Affairs

(202) 622-5197

(202) 927-9613 fax

---

From: Megosh Andy  
Sent: Wednesday, May 02, 2012 2:15 PM  
To: Williams Marcie V; Clauson Jacob  
Subject: RE: Congressional 2012 -31070 - Extension Request

Marcie,

Actually its seven sets of eyes in EO. After the EO Director looks at it, we send it to Nikole.

We currenttly are trying to get Levin (2012 -30794) and the QFRs out -  
2012-31070 is the next 'big' one we will be focusing on.

Andy

---

From: Williams Marcie V  
Sent: Wednesday, May 02, 2012 2:03 PM  
To: Clauson Jacob  
Cc: Megosh Andy  
Subject: RE: Congressional 2012 -31070 - Extension Request

Hi Jacob - I will check with our director on the extension. Nikole Flax has already reviewed the draft fo r this package?  
When you say 10+ signatures, does that include the DCSE, COS, and Leg Affairs or is that just to clear TEGE?

Marcie Williams

IRS, Legislative Affairs

(202) 622-5197

(202) 927-9613 fax

---

From: Clauson Jacob  
Sent: Tuesday, May 01, 2012 4:55 PM  
To: Williams Marcie V  
Cc: Megosh Andy  
Subject: Congressional 2012 -31070 - Extension Request

Marcie,

I am working on this congressional to Congressman Welch and 31 others. Our response will be based on another recent letter that I just got today, so I will not have a draft until tomorrow. The due date is today (5/1) and this is an LA tracking case, which says it requires special handling.

Since it has to go up the chain for 10+ signatures, I would like to request an extension of 4 weeks to May 29, 2012.

Thanks,

Jacob Clauson

Tax Law Specialist, Technical Group 3

Internal Revenue Service

SE:T:EO:RA:T:3

(202) 283-9487



---

**From:** Park Nalee  
**Sent:** Thursday, May 03, 2012 11:29 AM  
**To:** Lerner Lois G  
**Cc:** Megosh Andy; Williams Melinda G; Fish David L  
**Subject:** Levin latest  
**Attachments:** Levin 05-03-2012.doc

Latest draft attached - changes tracked.

Q2 - Used BPR numbers for consistency. (Rechecked previous FY data, and realized we ended up going with SOI and/or BPR numbers.)

Q10 - Added language per Joe's comment - it's tracked.

NaLee  
202.283.9453

---

**From:** Williams Melinda G  
**Sent:** Wednesday, May 02, 2012 10:20 PM  
**To:** Park Nalee  
**Cc:** Megosh Andy  
**Subject:** RE: data needed for Congressional

NaLee-

Here is the update to the Levin letter with the changes I discussed with Lois this afternoon. I think we need Marc's numbers as well, but I have not made any changes to the numbers in the document.

Melinda

---

**From:** Park Nalee  
**Sent:** Wednesday, May 02, 2012 5:03 PM  
**To:** Williams Melinda G  
**Subject:** FW: data needed for Congressional  
**Importance:** High

Melinda,

Please check that chart again, and see if it responsive to Q2, taking Marc's comment below into account. I think we need Marc's numbers, but maybe we need to use the BPR numbers instead for this letter - please double-check...I will too. If still need the ones Marc provided, just let me know and will follow -up with him tomorrow a.m. for FY 2012.

Thanks,

NaLee  
202.283.9453

**From:** Morgan Marc J  
**Sent:** Monday, March 19, 2012 10:53 AM  
**To:** Park Nalee  
**Cc:** Paz Holly O; Fish David L; Megosh Andy; Neuhart Paige; Williams Melinda G  
**Subject:** RE: data needed for Congressional

The screening rates are all different because the BPR reflects the screening rate as a percentage of cases closed. The congressional request wanted to know something different. It asked how many receipts are not screened out but are forwarded for full development. Therefore, we needed to calculate the screening rate as a percentage of cases received to determine that value, not as a percentage of cases closed like we report in the BPR.

---

**From:** Park Nalee  
**Sent:** Monday, March 19, 2012 10:23 AM  
**To:** Morgan Marc J  
**Cc:** Paz Holly O; Fish David L; Megosh Andy; Neuhart Paige; Williams Melinda G  
**Subject:** RE: data needed for Congressional

Hi Marc,

Thank you very much for getting all this to us so quickly. We presented an initial response with the numbers you provided to Lois on Friday, and she had a follow-up question. Lois was wondering why the screening rate on the third tab of the second attachment/Full Development Closures differed slightly from the BPR percentages. Except for FY 2010, all these others are off by a couple or percentage points, i.e.,

	Friday's spreadsheet	vs. BPR
FY 2008	57%	59%
FY 2009	61%	57%
FY 2010	56%	same
FY 2011	56%	60%

Thanks,

NaLee  
202.283.9453

---

**From:** Morgan Marc J  
**Sent:** Thursday, March 15, 2012 1:55 PM  
**To:** Park Nalee; Williams Melinda G  
**Cc:** Paz Holly O; Fish David L; Megosh Andy; Neuhart Paige  
**Subject:** RE: data needed for Congressional

NaLee and Melinda,

Attached is the additional information you requested during our phone call earlier today.

First, attached is an additional spreadsheet concerning Receipts. The first page is a summary and the following tabs are the raw data receipts reports in the event you wish to view the data in further detail.

Second, attached is an update to the Full Development Closures workbook previously sent but with the additional information you requested on initial (new applications) and screening rates.

---

**From:** Park Nalee  
**Sent:** Thursday, March 15, 2012 10:43 AM

**To:** Morgan Marc J  
**Cc:** Paz Holly O; Fish David L; Megosh Andy; Williams Melinda G; Neuhart Paige  
**Subject:** RE: data needed for Congressional

Hi Marc,

As briefly mentioned on the phone, we will also need the number of new applications **received** for 501(c)(3) and (c)(4) from FYs 2008-2011 - broken down by year and type (c3 vs c4).

Thanks so much!

NaLee  
202.283.9453

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**From:** Lerner Lois G  
**Sent:** Thursday, May 03, 2012 4:30 PM  
**To:** Paz Holly O; Thomas Cindy M  
**Cc:** Kindell Judith E; Flax Nikole C  
**Subject:** RE: Cinci Guidesheet

**The only one we have given to Cincy. Steve wants to see it**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Thursday, May 03, 2012 5:28 PM  
**To:** Lerner Lois G; Thomas Cindy M  
**Cc:** Kindell Judith E; Flax Nikole C  
**Subject:** Re: Cinci Guidesheet

Which version? I am on metro but can email from home later. Ju dy is out of town.

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 03, 2012 05:24 PM  
**To:** Paz Holly O; Thomas Cindy M  
**Cc:** Kindell Judith E; Flax Nikole C  
**Subject:** Cinci Guidesheet

**do you have this--can you send a copy to Nikole ASAP? Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 03, 2012 5:15 PM  
**To:** Park Nalee  
**Cc:** Lerner Lois G  
**Subject:** Issa Q#7 05-03-2012 rev 3 40.doc  
**Attachments:** Issa Q#7 05-03-2012 rev 3 40.doc

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**From:** Paz Holly O  
**Sent:** Thursday, May 03, 2012 5:59 PM  
**To:** Flax Nikole C; Lerner Lois G  
**Cc:** Kindell Judith E; Thomas Cindy M  
**Subject:** guidesheet sent to Determs  
**Attachments:** Advocacy Org Guidesheet 11-3-2011 (2).doc

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**From:** Lerner Lois G  
**Sent:** Thursday, May 03, 2012 6:20 PM  
**To:** Flax Nikole C  
**Subject:** FW: Levin 05-03-2012.doc  
**Attachments:** Levin 05-03-2012.doc

**Made changes in prep for tomorrow --still not done though**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 03, 2012 7:15 PM  
**To:** Park Nalee; Williams Melinda G  
**Cc:** Lerner Lois G; Megosh Andy  
**Subject:** Levin 05-03-2012.doc

**5/3/12 7:14**

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**From:** Lerner Lois G  
**Sent:** Thursday, May 03, 2012 9:03 PM  
**To:** Flax Nikole C  
**Subject:** Fw: Congressional 2012-31070 - Extension Request

Fyi. By the way, any word on the short ones --a couple relating to a reg change and the one asking about the specific person?

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Megosh Andy  
To: Lois Call in Number  
To: Nalee Park  
Subject: RE: Congressional 2012 -31070 - Extension Request  
Sent: May 3, 2012 10:10 AM

Draft has been prepared by Jacob. Is being reviewed now.

-----Original Message-----

From: Lerner Lois G  
Sent: Thursday, May 03, 2012 9:23 AM  
To: Park Nalee; Megosh Andy  
Subject: Fw: Congressional 2012 -31070 - Extension Request

Welch letter status please

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Barre Catherine M  
To: Nikole Flax  
To: Lois Call in Number  
Subject: FW: Congressional 2012 -31070 - Extension Request  
Sent: May 3, 2012 9:00 AM

Nikole and Lois-

What is your thinking on timing for the Welch letter? Please be aware that of the signatories, Lloyd Doggett and Charles Rangel are on the subcommittees for the ID theft hearing Steve is doing Tuesday 5/8.

Thanks.

Cathy



---

From: Williams Marcie V  
Sent: Wednesday, May 02, 2012 3:19 PM  
To: Barre Catherine M  
Subject: FW: Congressional 2012 -31070 - Extension Request

Cathy -

EO is looking for an extension on this case concerning 501(c)(4) social welfare organizations. This one is from 32 members. They want an extension to May 29. Please advise...

Marcie Williams

IRS, Legislative Affairs

(202) 622-5197

(202) 927-9613 fax

---

From: Megosh Andy  
Sent: Wednesday, May 02, 2012 2:15 PM  
To: Williams Marcie V; Clauson Jacob  
Subject: RE: Congressional 2012 -31070 - Extension Request

Marcie,

Actually its seven sets of eyes in EO. After the EO Director looks at it, we send it to Nikole.

We currenttly are trying to get Levin (2012 -30794) and the QFRs out -  
2012-31070 is the next 'big' one we will be focusing on.

Andy

---

From: Williams Marcie V  
Sent: Wednesday, May 02, 2012 2:03 PM  
To: Clauson Jacob  
Cc: Megosh Andy  
Subject: RE: Congressional 2012 -31070 - Extension Request

Hi Jacob - I will check with our director on the extension. Nikole Flax has already reviewed the draft for this package? When you say 10+ signatures, does that include the DCSE, COS, and Leg Affairs or is that just to clear TEGE?

Marcie Williams

IRS, Legislative Affairs

(202) 622-5197

(202) 927-9613 fax

---

From: Clauson Jacob  
Sent: Tuesday, May 01, 2012 4:55 PM  
To: Williams Marcie V  
Cc: Megosh Andy  
Subject: Congressional 2012 -31070 - Extension Request

Marcie,

I am working on this congressional to Congressman Welch and 31 others. Our response will be based on another recent letter that I just got today, so I will not have a draft until tomorrow. The due date is today (5/1) and this is an LA tracking case, which says it requires special handling.

Since it has to go up the chain for 10+ signatures, I would like to request an extension of 4 weeks to May 29, 2012.

Thanks,

Jacob Clauson

Tax Law Specialist, Technical Group 3

Internal Revenue Service

SE:T:EO:RA:T:3

(202) 283-9487

---

**From:** Flax Nikole C  
**Sent:** Friday, May 04, 2012 10:46 AM  
**To:** Park Nalee; Lerner Lois G  
**Cc:** Barre Catherine M  
**Subject:** FW: Issa Q#7  
**Attachments:** Issa Q#7 05-04-2012.doc

**Importance:** High

two more changes (page 3 and 23 - see highlighted section). there may be a few more nits, but think we are close.

I have to run out until 3 or so, but Cathy may be in touch if there are other changes and to coordinate getting the signed version.

---

**From:** Park Nalee  
**Sent:** Friday, May 04, 2012 8:27 AM  
**To:** Lerner Lois G; Flax Nikole C  
**Cc:** Megosh Andy; Goehausen Hilary; Fish David L  
**Subject:** RE: Issa Q#7  
**Importance:** High

Worked off last night's "clean" draft with comments only...found some typographical corrections, added a sentence from Levin draft, added (b)(5)/DP Q7(H), etc - they are all tracked. So if haven't had a chance to read yet...this should be latest.

NaLee  
202.283.9453

---

**From:** Park Nalee  
**Sent:** Thursday, May 03, 2012 7:08 PM  
**To:** Lerner Lois G; Flax Nikole C  
**Cc:** Marx Dawn R; Megosh Andy; Goehausen Hilary  
**Subject:** Issa Q#7

Made the changes that was needed throughout document.

Attached both tracked and "clean" copy with comments only (so we all get a sense of what it would look like if accepted all the redlining).

NaLee  
202.283.9453

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 03, 2012 6:15 PM  
**To:** Park Nalee

**Cc:** Lerner Lois G

**Subject:** Issa Q#7 05-03-2012 rev 3 40.doc

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**From:** Lerner Lois G  
**Sent:** Friday, May 04, 2012 11:01 AM  
**To:** Barre Catherine M; Flax Nikole C; Park Nalee  
**Cc:** (b)(6); (b)(7)(C)  
**Subject:** Issa Q#7 05-04-2012.doc  
**Attachments:** Issa Q#7 05-04-2012.doc  
  
**Importance:** High

**OK--this is final unless we get any comments from you. As I have to sign, we're going to put into final form starting now --one copy for Jordan and one for Issa. Cathy is someone coming over here to pick up the letters and disks, and when do you think that will be?**

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**From:** Lerner Lois G  
**Sent:** Friday, May 04, 2012 11:03 AM  
**To:** Barre Catherine M; Flax Nikole C  
**Subject:** FW: Private benefit denial

**The redacted private benefit denial of a c4 who was involved in partisan political activity. Read the whole thing and you may want to share it --I think it explains the issues better.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Fish David L  
**Sent:** Friday, May 04, 2012 11:49 AM  
**To:** Lerner Lois G  
**Subject:** Private benefit denial

<http://www.irs.gov/pub/irs-wd/1128032.pdf>

---

**From:** Lerner Lois G  
**Sent:** Friday, May 04, 2012 12:49 PM  
**To:** Park Nalee; Barre Catherine M  
**Cc:** (b)(6); (b)(7)(C); Flax Nikole C; Smith Kevin E  
**Subject:** RE: Issa Q#7 05-04-2012.doc

**Thanks Nalee**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Friday, May 04, 2012 1:45 PM  
**To:** Barre Catherine M  
**Cc:** (b)(6); (b)(7)(C); Lerner Lois G; Flax Nikole C; Smith Kevin E  
**Subject:** RE: Issa Q#7 05-04-2012.doc

Spoke with Kevin...all set. Will see him in about a half hour.

NaLee  
202.283.9453

---

**From:** Barre Catherine M  
**Sent:** Friday, May 04, 2012 1:18 PM  
**To:** Park Nalee  
**Cc:** (b)(6); (b)(7)(C); Lerner Lois G; Flax Nikole C; Smith Kevin E  
**Subject:** RE: Issa Q#7 05-04-2012.doc

Please email [Kevin.e.smith2@irs.gov](mailto:Kevin.e.smith2@irs.gov) or 2-3423 when you are ready for the pick up. Kevin is going to come get it. Which office should he come to? Please connect to direct him.

Thanks!

---

**From:** Park Nalee  
**Sent:** Friday, May 04, 2012 1:13 PM  
**To:** Barre Catherine M  
**Cc:** (b)(6); (b)(7)(C); Lerner Lois G; Flax Nikole C  
**Subject:** RE: Issa Q#7 05-04-2012.doc

Guessing from last week's pickup, you would like us to make a copy of the signed letter for Leg Affairs's record....but would you also like a CD copy of enclosures for your records (we made only two CDs to accompany the two originals for each congressional signatory)?

NaLee

202.283.9453

---

**From:** Barre Catherine M  
**Sent:** Friday, May 04, 2012 1:01 PM  
**To:** Lerner Lois G; Flax Nikole C; Park Nalee  
**Cc:** (b)(6); (b)(7)(C)  
**Subject:** RE: Issa Q#7 05-04-2012.doc

We will come as soon as you have it ready.

---

**From:** Lerner Lois G  
**Sent:** Friday, May 04, 2012 12:01 PM  
**To:** Barre Catherine M; Flax Nikole C; Park Nalee  
**Cc:** (b)(6); (b)(7)(C)  
**Subject:** Issa Q#7 05-04-2012.doc  
**Importance:** High

OK--this is final unless we get any comments from you. As I have to sign, we're going to put into final form starting now --one copy for Jordan and one for Issa. Cathy is someone coming over here to pick up the letters and disks, and when do you think that will be?

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 08, 2012 8:46 AM  
**To:** Flax Nikole C  
**Subject:** RE: QFRs

[Did you see my other comment?](#)

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, May 07, 2012 7:35 PM  
**To:** Lerner Lois G; Marks Nancy J; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** Re: QFRs

I just took out [REDACTED] (b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Monday, May 07, 2012 07:33 PM  
**To:** Marks Nancy J; Flax Nikole C; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** Re: QFRs

I'll take a look again tonite

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From:** Marks Nancy J  
**Sent:** Monday, May 07, 2012 07:11 PM  
**To:** Lerner Lois G; Flax Nikole C; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

[REDACTED] (b)(5)/DP [REDACTED]

---

**From:** Lerner Lois G  
**Sent:** Monday, May 07, 2012 7:08 PM  
**To:** Flax Nikole C; Marks Nancy J; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

[REDACTED] (b)(5)/DP [REDACTED]

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, May 07, 2012 6:56 PM  
**To:** Marks Nancy J; Lerner Lois G; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

I agree - will tone it down a bit.

---

**From:** Marks Nancy J  
**Sent:** Monday, May 07, 2012 6:29 PM  
**To:** Flax Nikole C; Lerner Lois G; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

(b)(5)/DP A few thoughts for those more immerse d in the detail--In the wake of our more detailed conversations in Cinncinatti I'm wondering if we could [REDACTED]  
[REDACTED]  
(b)(5)/DP [REDACTED]  
Also the way we've written the bottom of page 3 I'm wondering if it [REDACTED]  
(b)(5)/DP [REDACTED]  
[REDACTED]

---

**From:** Flax Nikole C  
**Sent:** Monday, May 07, 2012 5:30 PM  
**To:** Lerner Lois G; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O; Marks Nancy J  
**Subject:** QFRs

Attached are the QFR responses. These will probably have to be submitted in the next few days. Nan, I think that you had an issue, but I can't remember if I caught it (sorry, it is all blending together). I took out the [REDACTED]

[REDACTED] (b)(5)/DP [REDACTED]

Thanks

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 08, 2012 8:47 AM  
**To:** Flax Nikole C; Marks Nancy J; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

I know we added something about -- (b)(5)/DP

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 08, 2012 8:59 AM  
**To:** Lerner Lois G; Marks Nancy J; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

I'll clarify, but that is the same lanaguge we used for hatch (for the same question).

---

**From:** Lerner Lois G  
**Sent:** Monday, May 07, 2012 10:44 PM  
**To:** Marks Nancy J; Flax Nikole C; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** Re: QFRs

One more comment. P. 5--question 11, clarify that (b)(5)/DP

Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

---

**From:** Marks Nancy J  
**Sent:** Monday, May 07, 2012 07:11 PM  
**To:** Lerner Lois G; Flax Nikole C; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Monday, May 07, 2012 7:08 PM  
**To:** Flax Nikole C; Marks Nancy J; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

(b)(5)/DP

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, May 07, 2012 6:56 PM  
**To:** Marks Nancy J; Lerner Lois G; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

I agree - will tone it down a bit.

---

**From:** Marks Nancy J  
**Sent:** Monday, May 07, 2012 6:29 PM  
**To:** Flax Nikole C; Lerner Lois G; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

(b)(5)/DP A few thoughts for those more immersed in the detail --In the wake of our more detailed conversations in Cincinnati I'm wondering if we could (b)(5)/DP

(b)(5)/DP

Also the way we've written the bottom of page 3 I'm wondering if it

(b)(5)/DP

---

**From:** Flax Nikole C  
**Sent:** Monday, May 07, 2012 5:30 PM  
**To:** Lerner Lois G; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O; Marks Nancy J  
**Subject:** QFRs

Attached are the QFR responses. These will probably have to be submitted in the next few days. Nan, I think that you had an issue, but I can't remember if I caught it (sorry, it is all blending together). I took out the

Thanks

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 08, 2012 8:48 AM  
**To:** Flax Nikole C; Marks Nancy J; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

Opps--sorry--wrong question. I agree it is what we used --when I saw it last night though, it occurred to me that there might be (b)(5)/DP

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 08, 2012 8:59 AM  
**To:** Lerner Lois G; Marks Nancy J; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

I'll clarify, but that is the same lanaguge we used for hatch (for the same question).

---

**From:** Lerner Lois G  
**Sent:** Monday, May 07, 2012 10:44 PM  
**To:** Marks Nancy J; Flax Nikole C; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** Re: QFRs

One more comment. P. 5--question 11, clarify that

(b)(5)/DP

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

---

**From:** Marks Nancy J  
**Sent:** Monday, May 07, 2012 07:11 PM  
**To:** Lerner Lois G; Flax Nikole C; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Monday, May 07, 2012 7:08 PM  
**To:** Flax Nikole C; Marks Nancy J; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

(b)(5)/DP

*Lois G. Lerner*



Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, May 07, 2012 6:56 PM  
**To:** Marks Nancy J; Lerner Lois G; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

I agree - will tone it down a bit.

---

**From:** Marks Nancy J  
**Sent:** Monday, May 07, 2012 6:29 PM  
**To:** Flax Nikole C; Lerner Lois G; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

(b)(5)/DP A few thoughts for those more immersed in the detail --In the wake of our more detailed conversations in Cincinnati I'm wondering if we could (b)(5)/DP

(b)(5)/DP Also the way we've written the bottom of page 3 I'm wondering if it (b)(5)/DP

---

**From:** Flax Nikole C  
**Sent:** Monday, May 07, 2012 5:30 PM  
**To:** Lerner Lois G; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O; Marks Nancy J  
**Subject:** QFRs

Attached are the QFR responses. These will probably have to be submitted in the next few days. Nan, I think that you had an issue, but I can't remember if I caught it (sorry, it is all blending together). I took out the (b)(5)/DP

Thanks

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 08, 2012 8:53 AM  
**To:** Lerner Lois G; Marks Nancy J; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs  
**Attachments:** QFRs 5-7-12.doc

Lois - you said two spots. I replaced one sentence with the sentence from Hatch. [REDACTED]

[REDACTED] (b)(5)/DP [REDACTED]

Is there something else to change? Draft attached.

Also, are you all still okay with the response for 17?

---

**From:** Lerner Lois G  
**Sent:** Monday, May 07, 2012 10:39 PM  
**To:** Marks Nancy J; Flax Nikole C; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** Re: QFRs

Perhaps I am missing your point. I looked at it again and stand by the [REDACTED]

[REDACTED] (b)(5)/DP [REDACTED]

I saw 2 other spots where I think we need an edit. On pps. 2 and 3, we talk about Appeals. We say if [REDACTED]

[REDACTED] (b)(5)/DP [REDACTED]

I think Joe Urban edit the sentence to [REDACTED] (b)(5)/DP We used it in Hatch, I believe. If you can't find it, let me know I'll look for it.

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

---

**From:** Marks Nancy J  
**Sent:** Monday, May 07, 2012 07:11 PM  
**To:** Lerner Lois G; Flax Nikole C; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

[REDACTED] (b)(5)/DP [REDACTED]

---

**From:** Lerner Lois G  
**Sent:** Monday, May 07, 2012 7:08 PM  
**To:** Flax Nikole C; Marks Nancy J; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

[REDACTED] (b)(5)/DP [REDACTED]

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, May 07, 2012 6:56 PM  
**To:** Marks Nancy J; Lerner Lois G; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

I agree - will tone it down a bit.

---

**From:** Marks Nancy J  
**Sent:** Monday, May 07, 2012 6:29 PM  
**To:** Flax Nikole C; Lerner Lois G; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O  
**Subject:** RE: QFRs

(b)(5)/DP A few thoughts for those more immerse d in the detail--In the wake of our more detailed conversations in Cinncinatti I'm wondering if we could [REDACTED]  
[REDACTED] (b)(5)/DP [REDACTED]  
Also the way we've written the bottom of page 3 I'm wondering if it [REDACTED]  
[REDACTED] (b)(5)/DP [REDACTED]

---

**From:** Flax Nikole C  
**Sent:** Monday, May 07, 2012 5:30 PM  
**To:** Lerner Lois G; Park Nalee; Lowe Justin; Urban Joseph J; Paz Holly O; Marks Nancy J  
**Subject:** QFRs

Attached are the QFR responses. These will probably have to be submitted in the next few days. Nan, I think that you had an issue, but I can't remember if I caught it (sorry, it is all blending together). I took out the [REDACTED]

Thanks

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(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Tuesday, May 08, 2012 9:37 AM  
**To:** Flax Nikole C; Park Nalee  
**Subject:** QFRs 5-7-12.doc  
**Attachments:** QFRs 5-7-12.doc

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**From:** Lerner Lois G  
**Sent:** Tuesday, May 08, 2012 9:51 AM  
**To:** Flax Nikole C  
**Subject:** QFRs 5-3-12.doc  
**Attachments:** QFRs 5-3-12.doc

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---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 08, 2012 11:29 AM  
**To:** Lerner Lois G; Park Nalee  
**Subject:** QFRs  
**Attachments:** QFRs 5-7-12.doc

sorry to drag this out, but on 12, 16 and 17 - I added the figures in brackets, but in general, I don't think they fit as they don't really relate to what they ask. Can we discuss briefly?

Are you guys following up on the statement used in 17 - seems that it could be correct for other cases.

(b)(5)/DP



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**From:** Lerner Lois G  
**Sent:** Tuesday, May 08, 2012 12:05 PM  
**To:** Flax Nikole C; Park Nalee  
**Cc:** Lerner Lois G  
**Subject:** QFRs 5-7-12.doc  
**Attachments:** QFRs 5-7-12.doc

**OK--mixed bag--agree on 12--have edited other as a possibility. Call when you can**



(b)(5)/DP

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(b)(5)/DP



---

**From:** Lerner Lois G  
**Sent:** Wednesday, May 09, 2012 8:18 AM  
**To:** Megosh Andy  
**Subject:** Re: correspondence requesting guidance in c4 political activity area

THanks

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

---

**From:** Megosh Andy  
**Sent:** Wednesday, May 09, 2012 08:47 AM  
**To:** Lerner Lois G  
**Subject:** RE: correspondence requesting guidance in c4 political activity area

Lois,

Here's the proposed language to address the three correspondence. The language was cut and pasted from the Schumer letter that Counsel sent out. Only change - [REDACTED]  
[REDACTED] I'm attaching the Schumer response and a draft response of one of the three outstanding letters.

(b)(5)/DP

Andy

---

**From:** Lerner Lois G  
**Sent:** Wednesday, May 09, 2012 8:37 AM  
**To:** Megosh Andy  
**Subject:** Re: correspondence requesting guidance in c4 political activity area

No. I explained that we have to respond to everything we get. I see her this morning and will ask if they are OK with what it says. Please send me the language

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

---

**From:** Megosh Andy  
**Sent:** Wednesday, May 09, 2012 08:12 AM  
**To:** Lerner Lois G  
**Subject:** FW: correspondence requesting guidance in c4 political activity area

I'm not sure what we want to do here. We normally respond to all letters and have previously responded to general requests for guidance. We currently have three overdue correspondence requesting guidance in the c4 political activity area. I can get extensions.

Andy

---

**From:** Flax Nikole C  
**Sent:** Friday, May 04, 2012 9:38 AM  
**To:** Lerner Lois G  
**Cc:** Megosh Andy  
**Subject:** RE: correspondence requesting guidance

I don't think anyone needs to respond. Isn't this just someone from the public?

---

**From:** Lerner Lois G  
**Sent:** Friday, May 04, 2012 9:36 AM  
**To:** Flax Nikole C  
**Cc:** Megosh Andy  
**Subject:** Re: correspondence requesting guidance

So should we send to Counsel? Right now it is I tracked for us

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From:** Flax Nikole C  
**Sent:** Friday, May 04, 2012 08:07 AM  
**To:** Lerner Lois G  
**Subject:** RE: correspondence requesting guidance

This is the one that I don't think we need to respond to.

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**From:** Lerner Lois G  
**Sent:** Wednesday, May 02, 2012 11:44 AM  
**To:** Flax Nikole C  
**Subject:** FW: correspondence requesting guidance

**Let me know whether you want to send all three to Counsel**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Megosh Andy  
**Sent:** Wednesday, May 02, 2012 10:48 AM  
**To:** Lerner Lois G  
**Subject:** correspondence requesting guidance

Lois,

Here is the incoming and draft outgoing for 2012 -30710.

There are two other controls with the same issue - 2012-30503 and 2012-30512.

Andy

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**From:** Lerner Lois G  
**Sent:** Wednesday, May 09, 2012 1:20 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee; Williams Melinda G; Lerner Lois G  
**Subject:** Levin 05-08-2012 nlp.doc  
**Attachments:** Levin 05-08-2012 nlp.doc

**My edits to Melinda's draft--one comment--does question 2c track it says in the incoming--it doesn't make sense to me**

(b)(5)/DP

(b)(5)/DP

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(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

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**From:** Urban Joseph J  
**Sent:** Wednesday, May 09, 2012 1:38 PM  
**To:** Lerner Lois G; Kindell Judith E; Light Sharon P; Fish David L; Paz Holly O; Marks Nancy J; Flax Nikole C  
**Subject:** FW: ABA EO Committee May Meeting -- Political & Lobbying Activities Subcommittee Breakfast  
**Attachments:** Proposed IRC 501(t) - revised 5-4-12 (00403722).DOC; PLR 201214035 (denial of c4 status- foreign electioneering was primary purpose) (00404196).PDF; Recommendations for Areas Requiring Guidance for Inclusion in IRS Priority List (00404208).DOC

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**From:** Lowe Justin  
**Sent:** Wednesday, May 09, 2012 10:09 AM  
**To:** Urban Joseph J  
**Subject:** FW: ABA EO Committee May Meeting -- Political & Lobbying Activities Subcommittee Breakfast

Not sure if you get this stuff or not, but fyi Colvin has written language for a proposed 501(t), limit on political expenditures by 501(c) orgs.

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**From:** Rosemary E. Fei [mailto:rfei@adlercolvin.com]  
**Sent:** Monday, May 07, 2012 10:17 PM  
**To:** Akins Benjamin W; jmallan@jonesday.com; jaltman@mckennalong.com; ellen.aprill@lls.edu; jbarrie@bryancave.com; wbird@birdlawfirm.com; jmb@capdale.com; blackb@ldschurch.org; eve@bamlawoffice.com; susan.brown@morganlewis.com; Buller Siri; lebutzel@pbwt.com; ellis@canternonprofitlaw.com; mcerny@mcguirewoods.com; mclark@sidley.com; Gregory L. Colvin; dgary@gcfa.org; ddessingue@usccb.org; adickens@studentsfirst.org; pjd@sdlaw.com; tdougherty@aclu.org; sarah.duniway@gpmlaw.com; mwd@capdale.com ; bill@wdelliott.com; cherie@evansrosen.com; miranda.fleischer@colorado.edu; tfoster@lawmh.com; franklab@georgetown.edu; marion\_fremont-smith@harvard.com; nicola@toubialaw.com; rgallagher@foley.com; mgalston@law.gwu.edu; rgilpin@kgmlegal.com; Glass Michael D; graves@brownwinick.com; nef@capdale.com; eag@capdale.com; dhadden@rc.com; handelr@sctax.org; mheen@richmond.edu; fhill@law.miami.edu; dmh@capdale.com; rholmes@tristerross.com; tinbar@morganlewis.com; hjones@tax.org; james.joseph@aporter.com; Kindell Judith E; nok@capdale.com; greg.larson@gpmlaw.com; klazier@millerthompson.com; bleff@wcl.american.edu; alevine@afj.org; David Levitt; olion@hunton.com; Livingston Catherine E; lonshein@frick.org; cmlott@mindspring.com; Lowe Justin; bill.manne@millernash.com; jill.manny@nyu.edu; smanwaring@millerthomson.com; amattison@tristerross.com; lmayer@nd.edu; smcdowell@steptoe.com; Nancy McGlamery; mmcmmorrow@nutter.com; brian.menkes@kochps.com; pmurphy@harmoncurran.com; kmnilles@hklaw.com; snokes@capdale.com; mso@capdale.com; rphillip@rphilliplaw.com; jpomeranz@harmoncurran.com; drew.porter@gatesfoundation.org; arappaport@citizensforethics.org; ereese@perkinscoie.com; jreynoso@stblaw.com; rieser.joseph@arentfox.com; rriley@foley.com; rritchey@kgmlegal.com; steveroberts@davisbrownlaw.com; emily.d.robertson@gmail.com; rsaunders@brookspierce.com; hschadler@itsrlaw.com; melissa@scholznprofit.com; esellers@bernsteinshur.com; kshortill@cov.com; jbsiegel@charitygovernance.com; simok@cof.org; larry.spitzer@ropesgray.com; mmstockton@sandiego.edu; fstokeld@tax.org; jltom@pbwt.com; jtorchinsky@holtzmanlaw.net; karin.werner@marquette.edu; wetmore@gc.adventist.org; bzall@bzall.com  
**Cc:** Beth Kingsley; Martina Gallegos; Rosemary E. Fei  
**Subject:** ABA EO Committee May Meeting -- Political & Lobbying Activities Subcommittee Breakfast

**E-mail below from Rosemary Fei and Beth Kingsley, Co -chairs – ABA EO Committee – Political and Lobbying Activities Subcommittee**

Dear once and hopefully future Subcommittee attendees:

Please join us on Friday morning, May 11, in D.C. at the convening of the ABA EO Committee, for the Political and Lobbying Activities Subcommittee breakfast\* meeting. We've come up with an informal agenda to give some shape to the advertised "current developments roundtable discussion". We hope to discuss these items and any others the group cares to tackle. Background information is attached, for those of you with a plane ride beforehand to occupy.

1) Update on Subcommittee's portion of EO Committee's submission to ABA Tax Section for its request for priority guidance to the IRS for 2012 -2013. Attached is a document that excerpts the recommendation relevant to our subcommittee as submitted April 19, 2012, by the EO Committee to the ABA Tax Section, plus the prior year's items as submitted by the ABA Tax Section to the IRS on July 25, 2011, for comparison.

2) Implications of the Van Hollen case for nonprofits. Here are links to the FEC website, and the more friendly Harmon, Curran article, for more information:

[http://www.fec.gov/law/litigation/van\\_hollen.shtml](http://www.fec.gov/law/litigation/van_hollen.shtml)

<http://www.harmoncurran.com/?fuseaction=eUpdate.getNewsletter>

3) 501(c)(4) exemption determinations processing: government conspiracy, or tempest in a tea pot? (no materials)

4) Private letter ruling on foreign elections, and related thoughts (PLR attached).

5) Proposal for Section 501(t) to reform political activity limits for 501(c)s from Greg Colvin (attached).

We hope to see you there.

Rosemary Fei and Beth Kingsley, Co-Chairs

\* Remember, "breakfast" as used here refers to a time of day, not the availability of anything to eat or drink.

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You're receiving this email because you have attended a previous meeting of the Subcommittee within the past year. We apologize if you are not interested; please reply to Rosemary's assistant, Martina Gallegos, who is cc'ed above, if you prefer not to receive updates relating to the Subcommittee in the future.

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Any tax advice contained in this email was not intended to be used, and cannot be used, for the purpose of avoiding penalties that may be imposed under federal tax law. A taxpayer may rely on our advice to avoid penalties only if the advice is reflected in a more formal tax opinion that conforms to IRS standards. Please contact us if you would like to discuss the preparation of a legal opinion that conforms to these rules.

Rosemary E. Fei  
Adler & Colvin  
235 Montgomery Street, Suite 1220  
San Francisco, CA 94104  
415/421-7555 (phone)  
415/421-0712 (fax)  
rfei@adlercolvin.com  
www.adlercolvin.com



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SAN FRANCISCO  
GREEN  
BUSINESS





TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

Number: **201214035**  
Release Date: 4/6/2012

Date: January 11, 2012

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.04-00; 501.04-03

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(4). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, you should follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

Letter 4040 (CG) (11-2005)  
Catalog Number 47635Z

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1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner  
Director, Exempt Organizations

Enclosure  
Notice 437  
Redacted Proposed Adverse Determination Letter  
Redacted Final Adverse Determination Letter

Letter 4040 (CG) (11-2005)  
Catalog Number 47635Z



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Date: November 10, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

**LEGEND:**

B = Board Member  
M = Political Candidate  
N = Political Party in P  
O = State where Organization is Incorporated  
P = Nation where M is a Candidate  
Q = Date Form 1024 received by IRS  
R = Date of Organization's Incorporation  
S = Election Date  
T = Autobiography of M  
U = Book about M  
V = Book on M's Policies  
W = Book Promoting P's Patriotism  
X = Applicant's Website  
Y = Location of Applicant's Related Group  
Z = Location of Applicant's Related Group

**UIL:**

501.04-00  
501.04-03

Dear :

We have considered your application for recognition of exemption from federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(4). The basis for our conclusion is set forth below.

Letter 4034 (CG) (11-2005)  
Catalog Number 47628K

## Issues

- Do you qualify for exemption under section 501(c)(4) of the Code?

No, for the reasons set forth below.

## Facts

The Form 1024, Application for Recognition for Exemption Under Section 501(a) of the Internal Revenue Code was received on date Q. With the Form 1024, you are applying for tax exempt status under IRC Section 501(c)(4). You were incorporated under the laws of the state of O on date R.

Your Certificate of Incorporation states that your purpose is, "To create, form, and establish an organization to disseminate information regarding national elections to [citizens of P] residing in the United States; to promote, foster, and advance their voting rights in P by providing access to information concerning political topics of interest to [citizens of P] residing in the United States; to research economic and social policies which may affect the [citizens of P] population in the United States; to survey and study the [citizens of P] population in the United States regarding their opinions on issues relevant to the [citizens of P] community; to provide information on all matters of political concern to the [citizens of P] population; to provide information regarding the availability of P governmental and social services in the U.S.; to provide an avenue of information between [citizens of P] residing in the United States and their homeland."

Your board of directors is comprised of three unrelated individuals, who do not receive compensation.

Your website, X, states that you were formed to support M, former Chairman of the N, which is a political party in P. The percentage of time that will be directed toward providing any kind of support to M is 80%. You will support M's policies and make the public aware of M's policies and ideas. You indicated through your website that you will do your best to support and patriotically advise M in the upcoming presidential election. You believe that increasing the interest and voting rates of the citizens of P in the U.S. will lead to the development of P's (green card holders, citizens, and following generations) rights, interests, and pride for their mother land. For this purpose, you believe that M is the most reliable and suitable politician, and you will devote your efforts to form a pro-M public opinion and help elect M in the coming presidential election.

You will support M's policies and make the public aware of M's policies and ideas by having a website which updates all M related information, such as personal information, policies and plans, media articles, etc. in real time. You will introduce and distribute M related books. These related books include T, an autobiography of M, U, V and W, which present favorable views of M's policies. You purchase these books from various companies and publishers. T and U are given away for free to promote a better understanding of M. V highlights M through the great achievements, patriotism, and philosophy of M's father. W is given away for free to promote patriotism among the citizens of P living in the United States. You will solicit concerns about the conditions in P from student citizens of P through seminars. You will then deliver their desires and opinions to M. You also plan to provide rides to the voting center for voters on S, and will remain

Letter 4034 (CG) (11-2005)  
Catalog Number 47628K

neutral without supporting a specific candidate or political party while providing transportation. You stated that your goal is to turn out a high rate of voters by having advertisements in periodicals and through book purchases, which will help develop the interests of P's citizens in the U.S.

Your revenue will come from individual and group donations and gross dues and assessments of members. Your budgets indicate that your annual revenues range from less than \$9,000 in 2010 to approximately \$30,000 expected in 2012. Your expenditures included the \$850 user fee paid for the processing of your Form 1024 application. Most of your expenses will be for publicity through advertising in periodicals and for book purchases.

## Law

Section 501(c)(4) of the Code provides for the exemption from federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organizations is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations provides that the promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.

In Rev. Rul. 67-293, 1967-2 C.B. 185, an organization already exempt under section 501(c)(4) of the Code, and substantially engaged in promoting legislation to protect or otherwise benefit animals, is not exempt from federal income tax under section 501(c)(3) of the Code, even though the legislation it advocates may be beneficial to the community, and even though most of the attempts to influence legislation may be indirect. The organization has not, however, participated or intervened in any political campaigns on behalf of or in opposition to any candidate for public office, and therefore, it remains exempt under section 501(c)(4) of the Code.

In Rev. Rul. 67-368, 1967-2 C.B. 194, the Service held that an organization, formed for the purpose of promoting an enlightened electorate, whose primary activity was rating candidates for public office, was not exempt under IRC 501(c)(4) because such activity is not "the promotion of social welfare." The ruling stated that comparative rating of candidates, even though on a non-partisan basis, is participation or intervention on behalf of candidates favorably rated and in opposition to those less favorably rated.

In Rev. Rul. 81-95, 1981-1 C.B. 332, the Service considered the effect of engaging in political campaign activities on an IRC 501(c)(4) organization. The organization was primarily engaged in activities designed to promote social welfare. In addition, it conducted activities involving participation and intervention in political campaigns on behalf of or in opposition to candidates for nomination or election to public office. The ruling concluded that since the organization's primary activities promoted social welfare, its lawful participation or intervention in political campaigns on behalf of or in opposition to candidates for public office would not adversely affect its exempt status under IRC 501(c)(4). However, the organization was subject to the tax imposed by IRC 527 on

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expenditures for political activities as defined in IRC 527(e)(2), pursuant to IRC 527(f)(1).

Rev. Rul. 2004-6, 2004-4 I.R.B. 328, presents several scenarios involving 501(c)(4) organizations in which the [(c)(4)] organization engages in activities related to encouraging and supporting a particular public policy outcome or decision by associating the desired policy outcome with a specific elected official or candidate for public office. The individual scenarios are then differentiated in terms of whether the activities qualify for tax exemption. The Revenue Ruling held that expenditures by a 501(c)(4) organization were subject to tax under section 527(b)(1) of the Code when the actions of the organization do not identify and are not timed to coincide with a specific event or decision outside the control of the organization that it hopes to influence. Rather, expenditures and actions of the organization support or encourage the election of the specific public official or candidate in order to accomplish its public policy goal.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), a school that trained individuals as campaign managers was denied exemption under IRC 501(c)(3) because it operated for the substantial nonexempt purpose of benefiting the private interests of Republican Party entities and candidates. Although the school had a legitimate educational program, the Tax Court held that it conducted its educational activities with the partisan objective of benefiting Republican interests. The court noted that the school's partisan purpose distinguished its activities from the educational organization in Rev. Rul. 76-456, supra.

### Application of Law

You fail to meet the requirements of Section 501(c)(4) of the Code because you are not operated exclusively for the promotion of social welfare. The percentage of your time that will be devoted toward supporting M's political interests is 80%. Your activities are primarily political in nature in that you influence citizens of P to vote for M by distributing the books U, V, and W, supporting M's policies and making the public aware of M's policies and ideas by maintaining a website, which updates all M related information, such as personal information, M's policies and plans, media articles, etc. in real time.

You are not an organization described under 1.501(c)(4)-1(a)(2)(i) – (ii) of the regulations because you are not operating exclusively for the promotion of social welfare because you are not primarily engaged in promoting the common good and general welfare of the people of the community. Instead, you are engaged primarily in influencing or attempting to influence the selection, election, or appointment of M in P's upcoming presidential election. As noted above, 80% of your activities will be devoted to providing support to the political candidate, M. A document taken from your website and submitted with your response states that you are "organized throughout the United States to inspire our [P-Americans] (excluding US citizens) to exercise their rights to vote during P's elections, and especially to vote for the right leaders who will further develop our home country." The document further states, "Because the image of the association and chapter is closely related to and seriously influences that of candidate M, this association will endeavor to enhance and protect the image of the association." You also stated that you want to influence all citizens of P eligible to vote in P (those with green cards and/or visiting visas) that are in the U.S., and [P-American] leaders who are interested in the expansion of rights and interests for the next generation, but not voters located in P.

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You are unlike the organization in Rev. Rul. 67-293 because you do participate and intervene in political campaigns on behalf of a candidate for public office, and therefore, are not exempt under section 501(c)(4) of the Code.

You are similar to the organization described in Rev. Rul. 67-368 because you are participating or intervening on behalf of M. A statement on your website, that has been shared with you in our correspondence, states that you were, "formed and [are] officially active in supporting M, former Chairman of N." Your website also states that, "the association will be in close ties with M, play an important role in connecting with the P-American Society, and support M in the upcoming presidential election." Your website further quotes your board member, B, who said, "This association is a nationwide association, expanding from pre-existing groups in O, Y, and Z who support M, and will do its best to support and patriotically advise M for M's victory in the upcoming presidential election." Finally, to reiterate, you also indicated in your most recent response that 80% of your time will be devoted to supporting M as a political candidate.

You are unlike the organization in Rev. Rul. 81-95 because your activities are primarily engaged in campaigning for M. Your website updates all M related information, such as personal information, M's policies and plans, media articles, etc. in real time. You will introduce M related books such as M's autobiography, T, as well as U, V and W, which present favorable views of M and M's policies. You also boost concerns about the conditions of P among P's citizens through seminars, and then report their desires and opinions to M.

Your activities in support of the policies and election of M are similar to activities of the organizations described in Rev. Rul. 2004-6 that are subject to tax because these activities and expenditures support or encourage the election of a specific public official or candidate in order to accomplish public policy goals.

You are similar to the organization described in American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), in that you conducted your activities with the partisan objective of benefiting M's interests. You stated that the purpose of advertising in periodicals and the book purchases is to attract citizens of P's attention to the politics in P and to create a high turnout of voters, thus supporting homeland prosperity and advanced politics through M, and to further the development of rights and interests of citizens of P in the U.S. for the next generation. You will promote M's political campaign by providing information of M's economic and political views and by providing information to the public of M's background and character. As stated earlier, your website updates all M related information including personal information, policies and plans, media articles, etc. in real time. Although this court case is about an organization being denied under 501(c)(3) because it operated for the substantial nonexempt purpose of benefiting the private interests of Republican party entities and candidates, the same concept would apply for a section 501(c)(4) organization because promoting a political candidate also does not serve social welfare purposes as described under section 501(c)(4) of the Code.

### **Applicant's Position**

You state that your primary activity is involved in promoting M's political campaign. You believe that

Letter 4034 (CG) (11-2005)  
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increasing the interest and voting rates of citizens of P in the U.S. will lead to the development of the rights, interests, and pride for the mother land among these individuals (green card holders, citizens, and following generations). For this purpose, M is the most reliable and suitable politician. You will devote your efforts to form a pro-M public opinion and help elect M in the coming presidential election. You want to influence all citizens of P who are in the U.S. (those with green cards and/or visiting visas) to vote, and to influence [P-American] leaders who are interested in the expansion of rights and interests for the next generation, not just the voters in P. You plan to provide rides to the voting center for voters on S, the election date, while remaining neutral and without supporting a specific candidate or political party while providing transportation. Your goal is to create a high turnout of voters, which will support homeland prosperity and advanced politics through M, and further the development of rights and interests of citizens of P in the U.S. for the next generation.

### **Service Response to Applicant's Position**

Your stated primary activity, promoting an individual's political campaign is not a qualifying tax-exempt purpose under IRC section 501(c)(4). Political educational organizations must conduct their activities in a non-partisan manner. Your activities are not conducted in a non-partisan manner because they serve primarily to support M's political presidential campaign. Therefore, you do not have a social welfare purpose consistent with section 501(c)(4) of the Code.

### **Conclusion**

You do not qualify for exemption under section 501(c)(4), or any other section of the Code, because you primarily support M in the contest for the presidential election in P by influencing voters in the United States who are eligible to vote.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter.

We will consider your statement and decide if that information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

*Types of information that should be included in your appeal can be found on page 2 of Publication 892, under the heading "Regional Office Appeal". The statement of facts (item 4) must be declared true under penalties of perjury. This may be done by adding to the appeal the following signed declaration:*

*"Under penalties of perjury, I declare that I have examined the statement of facts presented in this appeal and in any accompanying schedules and statements and, to the best of my knowledge and belief, they are true, correct, and complete."*

Letter 4034 (CG) (11-2005)  
Catalog Number 47628K



*Your appeal will be considered incomplete without this statement.*

*If an organization's representative submits the appeal, a substitute declaration must be included stating that the representative prepared the appeal and accompanying documents; and whether the representative knows personally that the statements of facts contained in the appeal and accompanying documents are true and correct.*

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. To be represented during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at [www.irs.gov](http://www.irs.gov), Forms and Publications. If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter to you. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service  
EO Determinations Quality Assurance  
Room 7-008  
P.O. Box 2508  
Cincinnati, OH 45201

Deliver to:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Room 7-008  
Cincinnati, OH 45202

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Lois G. Lerner  
Director, Exempt Organizations

Enclosure, Publication 892

Letter 4034 (CG) (11-2005)  
Catalog Number 47628K

Proposed new Internal Revenue Code Section 501(t)

version 5-4-12

Greg Colvin

(t) LIMIT ON POLITICAL EXPENDITURES

- (1) IN GENERAL.--No organization shall be exempt from tax under subsection (a) if its expenditures to 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, exceed the lesser of \$250,000 or 10% of its total expenditures for any taxable year.
- (2) PROHIBITED POLITICAL EXPENDITURES.--This section shall not be interpreted to sanction or permit any political expenditure described in subsection (1) above if the organization is otherwise prohibited from making such expenditures under section 501(c).
- (3) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to
  - (a) define the political expenditures described in subsection (1) above to maximize clear and consistent interpretations of this and similar provisions throughout the Internal Revenue Code,
  - (b) clarify that the expenditures limited by subsection (1) do not include those not taxed under section 527(f), and
  - (c) allow organizations that fail to qualify as exempt under subsection (a) due to expenditures that exceed the limit stated in subsection (1) to qualify instead as section 527 political organizations.
- (4) EFFECTIVE DATE.--This section shall apply to all taxable years of an organization that begin after the date this section is enacted.

**AMERICAN BAR ASSOCIATION SECTION OF TAXATION  
EXEMPT ORGANIZATIONS COMMITTEE**

**RECOMMENDATIONS FOR AREAS REQUIRING GUIDANCE FOR INCLUSION  
IN THE INTERNAL REVENUE SERVICE GUIDANCE PRIORITY LIST**

**As submitted to the IRS by the ABA Tax Section for 2011-2012**

2. Guidance regarding what constitutes non-deductible political campaign activity under sections 162(e) and 6033(e), consistent with interpretations of the legislative lobbying limit and the candidate electioneering prohibition under section 501(c)(3). In the wake of the Supreme Court's decision in *Citizens United v. Federal Election Commission*,<sup>20</sup> we have seen a substantial increase in corporate political expenditures by section 501(c)(6) trade associations and section 501(c)(4) social welfare organizations, raising issues not addressed by the existing Regulations, which focus mainly on lobbying activity rather than electioneering.
3. Guidance regarding the measurement and extent of political campaign activity by section 501(c)(4) social welfare organizations, section 501(c)(6) trade associations, and other organizations exempt under subsections in section 501(c) other than subsection 501(c)(3), as applicable, to assist in applying the requirements that their non-political exempt activities remain primary following the decision in *Citizens United*.
4. Guidance concerning the application of reserved Regulation section 1.527-6(b)(3), "Expenditures allowed by Federal Election Campaign Act" in light of the *Citizens United* decision, which broadens the scope of activity that must be constitutionally permitted under existing law.
5. Guidance regarding when statements that propose to voters an issue-based "litmus test" for choosing candidates to support or oppose, but do not refer to any specifically identified candidate or political party, would violate the prohibition against intervention in a political campaign for organizations described in section 501(c)(3), or violate the primary purpose test for organizations described in sections 501(c)(4), 501(c)(5), and 501(c)(6).

**DRAFT as submitted to the ABA Tax Section by the EO Committee for 2012-2013**

1. Guidance regarding the measurement and extent of political campaign activity by section 501(c) exempt organizations other than those exempt under subsection 501(c)(3), specifically including guidance concerning the application of reserved Regulation section 1.527-6(b)(3), "Expenditures allowed by Federal Election Campaign Act," in light of the *Citizens United* decision, which broadens the scope of activity that must be constitutionally permitted under FECA.

---

<sup>20</sup> 130 S. Ct. 876, 175 L. Ed. 2d 753 (2010).

---

**From:** Lerner Lois G  
**Sent:** Wednesday, May 09, 2012 5:26 PM  
**To:** Williams Melinda G; Flax Nikole C  
**Cc:** Park Nalee  
**Subject:** RE: Levin 05-08-2012 nlp.doc

Thanks

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Williams Melinda G  
**Sent:** Wednesday, May 09, 2012 3:14 PM  
**To:** Lerner Lois G; Flax Nikole C  
**Cc:** Park Nalee  
**Subject:** RE: Levin 05-08-2012 nlp.doc

Just have one quick change that I think we need to make to the letter. [REDACTED]

[REDACTED] (b)(5) DP [REDACTED]

[REDACTED] so I think we need to [REDACTED] I'm just pasting the paragraph here in this email so you don't need to search through the entire document for it. Please let me know if you have any questions or concerns about this change and I apologize for not noticing this problem sooner.

Melinda

**Question 8. If the IRS were to deny an entity's request to be treated as tax-exempt under Section 501(c)(4) would the IRS automatically apply**

**corporate income taxes to that entity or would it allow the entity to apply for tax -exempt status on other grounds?**

[REDACTED] (b)(5)/DP [REDACTED]

[REDACTED] Enclosure [REDACTED] is a copy of this standard final denial letter.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, May 09, 2012 2:20 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee; Williams Melinda G; Lerner Lois G  
**Subject:** Levin 05-08-2012 nlp.doc

**My edits to Melinda's draft--one comment--does question 2c track it says in the incoming--it doesn't make sense to me**

---

**From:** Lerner Lois G  
**Sent:** Monday, May 14, 2012 10:44 AM  
**To:** Paz Holly O  
**Cc:** Park Nalee; Marx Dawn R  
**Subject:** FW: Congressional Requests  
  
**Importance:** High

**TIGTA should get them from Leg. Affairs. they have the "agency" copies. I prefer not to have to make sure we've given them the correct drafts. NaLee has a contact at Leg. Affairs and that person can help TIGTA. Thanks**

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Monday, May 14, 2012 10:20 AM  
**To:** Lerner Lois G  
**Subject:** FW: Congressional Requests

NaLee  
202.283.9453

---

**From:** Paz Holly O  
**Sent:** Monday, May 14, 2012 7:53 AM  
**To:** Park Nalee  
**Cc:** Megosh Andy; Williams Melinda G; Fish David L  
**Subject:** FW: Congressional Requests

NaLee,

Can you please get me electronic versions of the responses listed below? The supplemental to Issa - what is that?

Thanks!

Holly

---

**From:** Medina Cheryl J TIGTA [mailto:[Cheryl.Medina@tigta.treas.gov](mailto:Cheryl.Medina@tigta.treas.gov)]  
**Sent:** Monday, May 14, 2012 7:44 AM  
**To:** Paz Holly O  
**Subject:** Congressional Requests

Hi Holly,

We would like to request the responses to other recent Congressional requests related to Exempt Organizations. We have identified the following requests:

October 6, 2011, House Ways and Means, Charles Boustany

March 1, 2012, House Ways and Means, Charles Boustany (follow -up to October 6, 2011 request)

February 16, 2012, Senate

March 14, 2012, Senate

In addition, the response you provided to us for the Representative Issa request stated that a supplemental response was still being prepared. Once this is completed, we are also requesting a copy of this response.

Thanks for your help with this.

Cheryl Medina

Treasury Inspector General for Tax Administration

Phone: 781-835-4278

Fax: 781-279-0336

---

**From:** Lerner Lois G  
**Sent:** Monday, May 14, 2012 11:20 AM  
**To:** Park Nalee  
**Cc:** Marx Dawn R; Paz Holly O  
**Subject:** RE: Congressional Requests

Thanks

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Monday, May 14, 2012 12:19 PM  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** FW: Congressional Requests  
**Importance:** High

FYI

NaLee  
202.283.9453

---

**From:** Park Nalee  
**Sent:** Monday, May 14, 2012 12:18 PM  
**To:** Williams Marcie V  
**Cc:** Paz Holly O; Fish David L  
**Subject:** FW: Congressional Requests  
**Importance:** High

Hi Marcie,

I received clarification that TIGTA should receive their requested congresssionals directly f rom Legislative Affairs. My understanding is that as the ones who close these e -traks, Legis Affairs has ownership over the final/signed "Agency" copies. Apologies for any confusion. Forwarding the email request below from the TIGTA contact person for the documents.

Besides the last two Boustany letters, TIGTA wants the (Bennet) response to the Senate's February 16th letter and (Hatch) response dated April 26 (to the Sentate March 14th letter) as well as the Issa supplemental/Q# 7 response dated May 4, 2012 - so it looks like they are requesting a total of five letters.

Please let me know if you have any questions.

Thank you!



NaLee  
202.283.9453

---

**From:** Medina Cheryl J TIGTA [<mailto:Cheryl.Medina@tigta.treas.gov>]  
**Sent:** Monday, May 14, 2012 7:44 AM  
**To:** Paz Holly O  
**Subject:** Congressional Requests

Hi Holly,

We would like to request the responses to other recent Congressional requests related to Exempt Organizations. We have identified the following requests:

October 6, 2011, House Ways and Means, Charles Boustany  
March 1, 2012, House Ways and Means, Charles Boustany (follow -up to October 6, 2011 request)  
February 16, 2012, Senate  
March 14, 2012, Senate

In addition, the response you provided to us for the Representative Issa request stated that a supplemental response was still being prepared. Once this is completed, we are also requesting a copy of this response.

Thanks for your help with this.

Cheryl Medina  
Treasury Inspector General for Tax Administration  
Phone: 781-835-4278  
Fax: 781-279-0336

---

**From:** Flax Nikole C  
**Sent:** Monday, May 14, 2012 6:59 PM  
**To:** Park Nalee; Lerner Lois G  
**Subject:** levin edits  
**Attachments:** Levin 05-14-2012.doc

see what you think

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 11:10 AM  
**To:** Park Nalee  
**Cc:** Flax Nikole C  
**Subject:** Levin 05-14-2012.doc  
**Attachments:** Levin 05-14-2012.doc

**Nikole--Not done yet, but have added you in case you want to take a look. I'm still working-- the "other than denial" closures.**

**Nalee--I still need to work on the question about closures other than denials that aren't approved. Please bring me a copy of the SOI page on closures.**

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

---

**From:** Park Nalee  
**Sent:** Tuesday, May 15, 2012 11:45 AM  
**To:** Lerner Lois G  
**Cc:** Fish David L  
**Subject:** RE: QFRs 5-8-12.doc  
**Attachments:** QFRs 5-15-12.doc

FYI - David has reviewed this draft.

NaLee  
202.283.9453

---

**From:** Flax Nikole C  
**Sent:** Monday, May 14, 2012 7:25 PM  
**To:** Lerner Lois G; Park Nalee  
**Subject:** RE: QFRs 5-8-12.doc

Sounds like the other QFRs came back so we need to send soon. I think we just have this one open issue re (b)(5)/DP  
(b)(5)/DP

Joe tells me the following (so seems to me we need to add something) -

[REDACTED]  
(b)(5)/DP  
[REDACTED]

[REDACTED]  
(b)(5)/DP  
[REDACTED]  
[REDACTED]

Sent from Blackberry

---

**From:** Flax Nikole C  
**Sent:** Monday, May 14, 2012 6:48 PM  
**To:** Lerner Lois G; Park Nalee  
**Subject:** RE: QFRs 5-8-12.doc

A few other edits. I emailed with David and Joe today on a question re [REDACTED]  
(b)(5)/DP add that to question 12/16/17. What do you think?

---

**From:** Lerner Lois G  
**Sent:** Monday, May 14, 2012 6:31 PM  
**To:** Park Nalee; Flax Nikole C  
**Subject:** FW: QFRs 5-8-12.doc

## A couple comments

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Monday, May 14, 2012 1:42 PM  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** RE: QFRs 5-8-12.doc

[Tracked changes attached.](#)

NaLee  
202.283.9453

---

**From:** Lerner Lois G  
**Sent:** Friday, May 11, 2012 4:12 PM  
**To:** Park Nalee  
**Subject:** QFRs 5-8-12.doc

**Just got these--she is looking at Levin over the weekend**

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 12:29 PM  
**To:** Flax Nikole C; Park Nalee; Fish David L  
**Subject:** QFRs 5-15-12.doc  
**Attachments:** QFRs 5-15-12.doc  
  
**Importance:** High

David has looked at disclosure language --except one piece. David please confirm the way we articulate the we [REDACTED] (b)(5)/DP

[REDACTED] Question 11

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 1:54 PM  
**To:** Paz Holly O  
**Subject:** RE: question

**This is what I am working on**

*Lois G.*

*Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Tuesday, May

15, 2012 2:53 PM

**To:** Lerner Lois G

**Subject:** Fw:

question

Do

you want me to respond to Nikole or should I not because that is what you are

working on. Did Cindy's and my last emails answer your questions?

---

Sent from my BlackBerry Wireless Device

---

**From:** Flax

Nikole C

**Sent:** Tuesday, May 15, 2012 02:50 PM

**To:** Paz Holly

O

**Subject:** question

Holly

-

Lois may have passed

along that I asked, but just wanted to make sure that I understand the usage of the bolo sheet (or whatever it is called) in the process in ensuring that our responses are accurate. Is it used in determining if cases go into the 4th bucket as well as generally so that cases end up in the appropriate place?

Thanks



---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 2:50 PM  
**To:** Flax Nikole C  
**Subject:** RE: QFRs 5-15-12.doc

**call me again 202 283-8848**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 15, 2012 3:46 PM  
**To:** Lerner Lois G; Park Nalee  
**Subject:** RE: QFRs 5-15-12.doc

Nalee - can you take a quick look? First is clean. 2nd is tracked with your latest. 3rd is tracked with last night. Thanks much.

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 3:15 PM  
**To:** Flax Nikole C  
**Subject:** RE: QFRs 5-15-12.doc

**202 283-8848 now please NaLee is here**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 15, 2012 3:13 PM  
**To:** Lerner Lois G; Park Nalee  
**Cc:** Fish David L  
**Subject:** RE: QFRs 5-15-12.doc

yes please. Does now work?

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 2:57 PM  
**To:** Park Nalee; Flax Nikole C  
**Cc:** Fish David L  
**Subject:** RE: QFRs 5-15-12.doc

## Thanks NaLee Would it be easier to get on the phone

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Tuesday, May 15, 2012 2:51 PM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G; Fish David L  
**Subject:** RE: QFRs 5-15-12.doc

Yes,...

- 3 has been slightly redrafted for clarity...see the

(b)(5)/DP

- 12 and 16: added

(b)(5)/DP

- 17: deleted

(b)(5)/DP

Latest draft attached - accepted and got rid of most of the redlining so it's easier to read. The comments/redlining that were left in are ones that I thought may need your particular attention or addressed the above specific Q redraft points. The last sentence in Q12 - tracked reflects the sentence you wanted added in.

The second attachment includes the full track changes in case you wanted to compare - otherwise it's the same as the first and you can ignore.

NaLee  
202.283.9453

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 15, 2012 2:26 PM  
**To:** Lerner Lois G; Fish David L; Park Nalee  
**Subject:** RE: QFRs 5-15-12.doc

If I am following - 3, 12, 16 and 17 are redrafted. On the later ones, does the former way work with adding the new sentence (if it is correct)?

If I have to get these re-

approved we won't make it today and I don't see why we need to change (if there is a reason, we should of course). Thanks

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 2:17 PM  
**To:** Flax Nikole C; Fish David L; Park Nalee  
**Subject:** RE: QFRs 5-15-12.doc

Don't think we intended to change back --we're good with the sentence. We don't really think we made very many changes --the one I made related to the

(b)(5)/DP

(b)(5)/DP --call me if we need to talk --NaLee--go ahead and add the sentence and send to us again

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 15, 2012 2:04 PM  
**To:** Fish David L; Lerner Lois G; Park Nalee  
**Subject:** RE: QFRs 5-15-12.doc

I am confused - I thought you wanted to change 11 from what we said in Hatch. Do you want to change it back now?

I am worried about making too many changes now that it has been reviewed and not sure why we need to make some of these.

My question was whether when we say "

(b)(5)/DP

- we should also say something like "

(b)(5)/DP

I can give you a call if easier to discuss.

---

**From:** Fish David L  
**Sent:** Tuesday, May 15, 2012 1:57 PM  
**To:** Lerner Lois G; Flax Nikole C; Park Nalee  
**Subject:** RE: QFRs 5-15-12.doc

Q11 is fine.

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 1:29 PM  
**To:** Flax Nikole C; Park Nalee; Fish David L  
**Subject:** QFRs 5-15-12.doc  
**Importance:** High

David has looked at disclosure language --except one piece. David please confirm the way we articulate the we (b)(5)/DP

Question 11

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 2:54 PM  
**To:** Flax Nikole C  
**Subject:** FW: question

**It's complicated. I'll send you the email trail and then you may want to talk.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Tuesday, May 15, 2012 2:53 PM  
**To:** Lerner Lois G  
**Subject:** Fw: question

Do you want me to respond to Nikole or should I not because that is what you are working on. Did Cindy's and my last emails answer your questions?

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 15, 2012 02:50 PM  
**To:** Paz Holly O  
**Subject:** question

Holly -

Lois may have passed along that I asked, but just wanted to make sure that I understand the usage of the bolo sheet (or whatever it is called) in the process in ensuring that our responses are accurate. Is it used in determining if cases go into the 4th bucket as well as generally so that cases end up in the appropriate place?

Thanks

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 2:56 PM  
**To:** Flax Nikole C  
**Subject:** FW: process

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Tuesday, May 15, 2012 2:21 PM  
To: Lerner Lois G; Thomas Cindy M  
Subject: Re: process

No, bolo is used by screeners too in deciding what goes to full development. Screeners use case assignment guide and bolo. All staff have access to bolo. It is used throughout the process by all.

-----  
Sent from my BlackBerry Wirele ss Device

----- Original Message -----

From: Lerner Lois G  
Sent: Tuesday, May 15, 2012 02:01 PM  
To: Paz Holly O; Thomas Cindy M  
Subject: RE: process

So, just to be sure I understand --Bolo is used ONLY after a case has been selected for full development? All staff have access to Bolo? The answer doesn't matter as much as me stating it correctly --thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Tuesday, May 15, 2012 1:40 PM  
To: Lerner Lois G; Thomas Cindy M  
Subject: Re: process

Cindy correct me if I get any of this wrong. The list of categories of cases that have to go to full development is separate from bolo. Bolo is in addition to that list. Bolo came about to consolid ate in one place watch outs that used to get sent in various emails as new things not captured by the case assignment guide came up. Bolo gets used by screeners and they do not screen those cases out. Bolo gets used by other specialists who may get the c ase that should have been sent from screeners to a particular group and was not or if whoever gets the case is instructed by bolo to coordinate with a particular person or group such as eot.

-----Original Message-----

From: Lois Lerner

To: Paz Holly O

To: Thomas Cindy M

Subject: process

Sent: May 15, 2012 10:41 AM

BOLO list--can you give me a better sense when it is used? I realize it has lots of parts, which might play into the process at different points. For example, we have a list of topics that must be fully developed so they get sent to full development. That is before they are sent for full development --is that part of BOLO or something different?. How is BOLO used after they are sent for full development? We need to be sure we are describing correctly--thanks

Lois G. Lerner

Director of Exempt Organizations

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Park Nalee  
**Sent:** Tuesday, May 15, 2012 3:17 PM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G  
**Subject:** RE: QFRs 5-15-12.doc  
**Attachments:** QFRs 5-15-2012 clean - nlp.doc

Worked off your first/clean attachment - made a few very minor typographical changes and slightly changed last paragraph of Q16 (top of page 8) to be consistent with Q12's last paragraph (e.g. took out [REDACTED])

(b)(5)/DP

NaLee  
202.283.9453

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 15, 2012 3:46 PM  
**To:** Lerner Lois G; Park Nalee  
**Subject:** RE: QFRs 5-15-12.doc

Nalee - can you take a quick look? First is clean. 2nd is tracked with your latest. 3rd is tracked with last night. Thanks much.

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 3:15 PM  
**To:** Flax Nikole C  
**Subject:** RE: QFRs 5-15-12.doc

**202 283-8848 now please NaLee is here**

*Lois G. Lerner*

Director of Exempt Organizations

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 4:15 PM  
**To:** Flax Nikole C; Park Nalee  
**Subject:** RE: QFRs 5-15-12.doc

**Once again--it takes a village! Thanks NaLee and Nikole**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 15, 2012 4:52 PM  
**To:** Park Nalee  
**Cc:** Lerner Lois G  
**Subject:** RE: QFRs 5-15-12.doc

I think we are good on this. Thanks again.

---

**From:** Park Nalee  
**Sent:** Tuesday, May 15, 2012 4:48 PM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G  
**Subject:** RE: QFRs 5-15-12.doc

Ok, thanks.

Also, FYI- heading in the incoming QFR was the following

(b)(5)/DP

**Questions for the Record Submitted by Congressman Kevin Yoder**

501(c)(4)'s

I'll be here for about another 10 mins or so...can stay later, but please let me know before then if that is the case. Otherwise, g'night!

NaLee  
202.283.9453

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 15, 2012 4:41 PM  
**To:** Park Nalee  
**Cc:** Lerner Lois G  
**Subject:** RE: QFRs 5-15-12.doc



I'll send it.

---

**From:** Park Nalee  
**Sent:** Tuesday, May 15, 2012 4:22 PM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G  
**Subject:** RE: QFRs 5-15-12.doc

Nikole,

By the way, we're assuming you'll be pushing this through the next step...or will you be sending final for us to push through? If you want us to do so, I'm guessing we forward to Legis Affairs?

NaLee  
202.283.9453

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 15, 2012 3:46 PM  
**To:** Lerner Lois G; Park Nalee  
**Subject:** RE: QFRs 5-15-12.doc

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---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 3:15 PM  
**To:** Flax Nikole C  
**Subject:** RE: QFRs 5-15-12.doc

**202 283-8848 now please NaLee is here**

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 4:18 PM  
**To:** Flax Nikole C; Park Nalee  
**Subject:** RE: QFRs 5-15-12.doc

**When you have a chance, can we get a copy of the final?**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 15, 2012 4:52 PM  
**To:** Park Nalee  
**Cc:** Lerner Lois G  
**Subject:** RE: QFRs 5-15-12.doc

I think we are good on this. Thanks again.

---

**From:** Park Nalee  
**Sent:** Tuesday, May 15, 2012 4:48 PM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G  
**Subject:** RE: QFRs 5-15-12.doc

Ok, thanks.

Also, FYI- heading in the incoming QFR was the following

(b)(5)/DP

**Questions for the Record Submitted by Congressman Kevin Yoder**

501(c)(4)'s

I'll be here for about another 10 mins or so...can stay later, but please let me know before then if that is the case. Otherwise, g'night!

NaLee  
202.283.9453

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 15, 2012 4:41 PM  
**To:** Park Nalee  
**Cc:** Lerner Lois G  
**Subject:** RE: QFRs 5-15-12.doc

I'll send it.

---

**From:** Park Nalee  
**Sent:** Tuesday, May 15, 2012 4:22 PM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G  
**Subject:** RE: QFRs 5-15-12.doc

Nikole,

By the way, we're assuming you'll be pushing this through the next step...or will you be sending final for us to push through? If you want us to do so, I'm guessing we forward to Legis Affairs?

NaLee  
202.283.9453

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 15, 2012 3:46 PM  
**To:** Lerner Lois G; Park Nalee  
**Subject:** RE: QFRs 5-15-12.doc

Nalee - can you take a quick look? First is clean. 2nd is tracked with your latest. 3rd is tracked with last night. Thanks much.

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 3:15 PM  
**To:** Flax Nikole C  
**Subject:** RE: QFRs 5-15-12.doc

**202 283-8848 now please NaLee is here**

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 5:25 PM  
**To:** Williams Grant; Zarin Roberta B  
**Cc:** Eldridge Michelle L; D'Amico Christina A  
**Subject:** RE: Proposed statement on c4s

**I am very sensitive to how we say things, so I have lifted language straight from the QFRs we're preparing. See changes below**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Williams Grant  
**Sent:** Tuesday, May 15, 2012 5:36 PM  
**To:** Lerner Lois G; Zarin Roberta B  
**Cc:** Eldridge Michelle L; D'Amico Christina A  
**Subject:** Proposed statement on c4s

Hi Lois and Bobby,

Would the following proposed statement work out?

Thank you,

Grant

Grant Williams  
IRS National Media Relations  
(202) 622-4000

PROPOSED IRS STATEMENT:

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Wednesday, May 16, 2012 2:19 PM  
**To:** Kindell Judith E; Munroe David  
**Cc:** Cook Janine  
**Subject:** Re: EO Coordinator on (c)(4) questions

Thanks Judy--I agree, that would be me. We have several folks working on requests, but I see them all.

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

---

**From:** Kindell Judith E  
**Sent:** Wednesday, May 16, 2012 03:14 PM  
**To:** Munroe David  
**Cc:** Cook Janine; Lerner Lois G  
**Subject:** RE: EO Coordinator on (c)(4) questions

Lois has been actively involved in all of the responses.

---

**From:** Munroe David [<mailto:David.Munroe@IRSCOUNSEL.TREAS.GOV>]

**Sent:** Wednesday, May 16, 2012 2:58 PM

**To:** Kindell Judith E

**Cc:** Cook Janine

**Subject:** EO Coordinator on (c)(4) questions

Someone on the CC's staff called us regarding a (c)(4) question on the statutory authority to require donor names during the application process. The person had been contacted by Leg Affairs. Was wondering who in your office is coordinating the (c)(4) Congressional questions. It seems to us the Leg Affairs person should be talking to that person so everything is coming through 1 channel. Can you please let us know who that person in EO would be. Thanks. Dave  
622-4799

---

**From:** Lerner Lois G  
**Sent:** Wednesday, May 16, 2012 2:24 PM  
**To:** Flax Nikole C  
**Subject:** Fw: EO Coordinator on (c)(4) questions

Am on Blackberry and don't know Cathy Barrie's email. Could you please forward to her? Perhaps an email to all Leg Affairs folks about point persons makes sense in this area? Thanks

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

---

**From:** Kindell Judith E  
**Sent:** Wednesday, May 16, 2012 03:14 PM  
**To:** Munroe David  
**Cc:** Cook Janine; Lerner Lois G  
**Subject:** RE: EO Coordinator on (c)(4) questions

Lois has been actively involved in all of the responses.

---

**From:** Munroe David [<mailto:David.Munroe@IRSCOUNSEL.TREAS.GOV>]

**Sent:** Wednesday, May 16, 2012 2:58 PM

**To:** Kindell Judith E

**Cc:** Cook Janine

**Subject:** EO Coordinator on (c)(4) questions

Someone on the CC's staff called us regarding a (c)(4) question on the statutory authority to require donor names during the application process. The person had been contacted by Leg Affairs. Was wondering who in your office is coordinating the (c)(4) Congressional questions. It seems to us the Leg Affairs person should be talking to that person so everything is coming through 1 channel. Can you please let us know who that person in EO would be. Thanks. Dave  
622-4799



---

**From:** Park Nalee  
**Sent:** Wednesday, May 16, 2012 3:27 PM  
**To:** Lerner Lois G  
**Subject:** Levin 5/16  
**Attachments:** Levin 05-16-2012 semi-t.doc

I made changes with full redlining, but thought it difficult to read so I went ahead and accepted the changes that didn't seem to be an issue and got rid of the comments that were no longer relevant (i.e. old or had been responded). I have the full tracking if you or Nikole wants a copy, but the attached is a semi-accepted/tracked version. Most of the redlining left is in the second half of the draft - thought it most relevant to keep in so everyone could see the previous and new changes/comments.

NaLee  
202.283.9453

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 12:10 PM  
**To:** Park Nalee  
**Cc:** Flax Nikole C  
**Subject:** Levin 05-14-2012.doc

**Nikole--Not done yet, but have added you in case you want to take a look. I'm still working-- the "other than denial" closures.**

**Nalee--I still need to work on the question about closures other than denials that aren't approved. Please bring me a copy of the SOI page on closures.**

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Wednesday, May 16, 2012 4:03 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee  
**Subject:** RE: QFRs

Yes--we just weren't comfortable trying to pin down (b)(5)/DP

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Wednesday, May 16, 2012 2:22 PM  
**To:** Lerner Lois G  
**Cc:** Park Nalee  
**Subject:** RE: QFRs

but are you good with the new sentence on page 1?

---

**From:** Lerner Lois G  
**Sent:** Wednesday, May 16, 2012 2:13 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee  
**Subject:** FW: QFRs

NaLee and I edited the (b)(5)/DP sentence --it was very awkward--see what you think

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Wednesday, May 16, 2012 2:00 PM  
**To:** Park Nalee; Lerner Lois G  
**Subject:** RE: QFRs

see new langauge

---

**From:** Park Nalee  
**Sent:** Wednesday, May 16, 2012 1:30 PM  
**To:** Flax Nikole C; Lerner Lois G  
**Subject:** RE: QFRs

Don't see this in Q 1 - or do you mean you want to add in? And I'm assuming you mean

(b)(5)/DP

(b)(5)/DP

Will check and send copy of RP

90-27

NaLee  
202.283.9453

---

**From:** Flax Nikole C  
**Sent:** Wednesday, May 16, 2012 1:11 PM  
**To:** Lerner Lois G; Park Nalee  
**Subject:** QFRs

On question 1 - is it correct to say that "

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Wednesday, May 16, 2012 4:09 PM  
**To:** Barre Catherine M; Munroe David  
**Cc:** Flax Nikole C; Cook Jeannie M; McField Terri; Kindell Judith E; Schneiderman Henry S  
**Subject:** RE: EO Coordinator on (c)(4) questions

Great--just as long as we're all on the same page --thanks for  
checking

*Lois G.*

*Lerner*

Director of Exempt Organizations

---

**From:** Barre Catherine M  
**Sent:**

Wednesday, May 16, 2012 3:35 PM

**To:** Munroe David

**Cc:** Lerner

Lois G; Flax Nikole C; Cook Jeannie M; McField Terri; Kindell Judith E;

Schneiderman Henry S

**Subject:** FW: EO Coordinator on (c)(4)

questions

I contacted Terri

McField for her assistance in reaching out to counsel on a statutory authority

issue that has been raised related to a c4 congressional staff inquiry. I

had already raised the same issue with Lois but, we agree d that counsel, most

likely P&&A, could be helpful.

If counsel has helpful

insight on this issue please come back to Terri and to

me.

Thanks.

Cathy

Barré

**From:** Kindell

Judith E

**Sent:** Wednesday, May

16, 2012 03:14 PM

**To:** Munroe

David

**Cc:** Cook Janine; Lerner

Lois G

**Subject:** RE: EO

Coordinator on (c)(4) questions

Lois

has been actively involved in all of the responses.

---

**From:**

Munroe David [ <mailto:David.Munroe@IRSCOUNSEL.TREAS.GOV> ]

**Sent:**

Wednesday, May 16, 2012 2:58

PM

**To:**

Kindell Judith E

**Cc:**

Cook Janine

**Subject:**

EO

Coordinator on (c)(4) questions

Someone on the CC's staff called us regarding a (c)(4) question on the statutory authority to require donor names during the application process. The person had been contacted by Leg Affairs. Was wondering who in your office is coordinating the (c)(4) Congressional questions. It seems to us the Leg Affairs person should be talking to that person so everything is coming through 1 channel. Can you please let us know who that person in EO would be. Thanks. Dave

622-4799



---

**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 9:04 AM  
**To:** Lerner Lois G  
**Subject:** FW: : donor names?

[Looping you into this discussion...](#)

---

**From:** Fish David L  
**Sent:** Thursday,  
May 17, 2012 9:22 AM  
**To:** Urban Joseph J; Paz Holly O; Light Sharon P;

Marks Nancy J  
**Cc:** Miller Thomas J  
**Subject:** RE: : donor

names?

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] [Probably need to](#)

[meet.](#)

**From:** Urban Joseph J

**Sent:** Thursday,

May 17, 2012 9:06 AM

**To:** Paz Holly O; Light Sharon P; Marks Nancy

J

**Cc:** Fish David L; Miller Thomas J

**Subject:** RE:: donor

names?

*(b)(5) DP & AC; (b)(3)/6103*

*(b)(5)/DP*

[REDACTED]

[REDACTED] (b)(5)/DP

[REDACTED]

David and Tom: Any thoughts on this?

---

**From:** Paz Holly O

**Sent:** Thursday, May 17, 2012 8:42 AM

**To:** Light Sharon P;

Marks Nancy J

**Cc:** Urban Joseph J; Fish David L

**Subject:** Re:

donor names?

[REDACTED] (b)(5)/DP

Looping in David and Joe for

their thoughts.

-----  
Sent from my BlackBerry

Wireless Device

---

**From:** Light

Sharon P

**Sent:** Thursday, May 17, 2012 08:24 AM

**To:** Paz

---

Holly O; Marks Nancy J

**Subject:** donor names?

Some orgs have given

us donor names in response to our development letter. What do we do

with it? Daniel points out that their disclosure folks may not be the best

at understanding the redaction issue here. Left side? Right

side?

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 9:59 AM  
**To:** Flax Nikole C  
**Cc:** Park Nalee  
**Subject:** (c)(4) QFRs 5-16-2012.doc  
**Attachments:** (c)(4) QFRs 5-16-2012.doc

**Typo-publically is wrong--it is publicly--Q. 11**

**Q.16- added a sentence showing** [REDACTED] *(b)(5)/DP*

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 10:23 AM  
**To:** Flax Nikole C  
**Subject:** RE: (c)(4) QFRs 5-16-2012.doc

ok

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Thursday, May 17, 2012 11:22 AM  
**To:** Lerner Lois G  
**Cc:** Park Nalee  
**Subject:** Re: (c)(4) QFRs 5-16-2012.doc

I think they already were sent.

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 10:58 AM  
**To:** Flax Nikole C  
**Cc:** Park Nalee  
**Subject:** (c)(4) QFRs 5-16-2012.doc

**Typo-publically is wrong--it is publicly--Q. 11**

**Q.16- added a sentence showing**

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 12:04 PM  
**To:** Flax Nikole C; Barre Catherine M  
**Cc:** Park Nalee  
**Subject:** RE: Levin C4 Letter

**I am out tomorrow so would like to get you our "final" comments by end of today**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Thursday, May 17, 2012 12:39 PM  
**To:** Barre Catherine M; Lerner Lois G  
**Subject:** RE: Levin C4 Letter

**can you tell them early next week?**

---

**From:** Barre Catherine M  
**Sent:** Thursday, May 17, 2012 12:06 PM  
**To:** Flax Nikole C; Lerner Lois G  
**Subject:** Levin C4 Letter

Levin staff has contacted me for a status on the letter – what's the prognosis?

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 1:16 PM  
**To:** Flax Nikole C; Park Nalee  
**Subject:** Levin 05-16-2012 semi-t.doc  
**Attachments:** Levin 05-16-2012 semi-t.doc

**see my discussion on question 12 --** [REDACTED]

[REDACTED]  
(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

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(b)(5)/DP

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(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 3:55 PM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O; Marks Nancy J  
**Subject:** FW: Emailing: bolo memo.doc  
**Attachments:** bolo memo.doc

FYI--this is the memo that will go out tonight --process will be added to IRM

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Thursday, May 17, 2012 4:50 PM  
To: Lerner Lois G  
Subject: Emailing: bolo memo.doc

Attached is the memo to Determs re: BOLO procedures. I have to leave shortly but will be back online this evening and can send this out if it is approved.

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 4:41 PM  
**To:** Marks Nancy J; Light Sharon P; Kindell Judith E; Paz Holly O; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

I made the same comment but Holly pointed out [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] (b)(5)/DP  
[REDACTED]

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Marks Nancy J  
**Sent:** Thursday, May 17, 2012 5:23 PM  
**To:** Light Sharon P; Kindell Judith E; Paz Holly O; Lerner Lois G; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

I think [REDACTED] (b)(5)/DP

---

**From:** Light Sharon P  
**Sent:** Thursday, May 17, 2012 5:11 PM  
**To:** Kindell Judith E; Paz Holly O; Lerner Lois G; Marks Nancy J; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

[REDACTED] (b)(5)/DP

---

**From:** Kindell Judith E  
**Sent:** Thursday, May 17, 2012 5:01 PM  
**To:** Paz Holly O; Lerner Lois G; Marks Nancy J; Light Sharon P; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

Looks fine to me

---

**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 4:59 PM  
**To:** Lerner Lois G; Marks Nancy J; Kindell Judith E; Light Sharon P; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

I would like your thoughts on the language below. I would like this language to replace the current advocacy org language on the BOLO as well as the separate references to ACORN successors and Occupy groups.

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 5:39 PM  
**To:** Paz Holly O  
**Subject:** RE: Emailing: bolo memo.doc

I assume you aren't waiting to hear back from Nikole to send as we edited?

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Thursday, May 17, 2012 4:50 PM  
To: Lerner Lois G  
Subject: Emailing: bolo memo.doc

Attached is the memo to Determs re: BOLO procedures. I have to leave shortly but will be back online this evening and can send this out if it is approved.

---

**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 10:00 PM  
**To:** Thomas Cindy M  
**Cc:** Lerner Lois G  
**Subject:** BOLO  
**Attachments:** bolo memo.doc

Cindy,

Please see the attached memo setting forth procedures regarding the BOLO list. The procedures provide that any new entries and updates to the BOLO list must first be approved by the Emerging Issues group manager, then the EO Determinations manager and finally the EO R&A director. Please share this information with your staff.

Thanks,

Holly





TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

May 17, 2012

**MEMORANDUM FOR MANAGER, EO DETERMINATIONS**

**FROM:** Holly Paz /s/ *Holly Paz*  
Director, EO Rulings and Agreements

**SUBJECT:** Be On the Look Out (BOLO) Spreadsheet

The purpose of this memorandum is to set forth the procedures to be used with regard to the Be On the Look Out (BOLO) spreadsheet.

Abusive Transactions and Fraud Issues, Emerging Issues, and Coordinated Processing<sup>1</sup> cases will all be tracked on a single combined Be On the Look Out (BOLO) spreadsheet.

- (a) The spreadsheet is maintained to enable EO Determinations specialists to be informed about the current status of abusive transactions and fraud issues, emerging issues, coordination, and watch issues, and to process cases in a consistent manner.
- (b) Abusive Transactions and Fraud Issues, Emerging Issues, and Coordinated Processing will each occupy a separate tab of the spreadsheet.
- (c) A fourth tab, the "Watch List" will list recent developments such as changes in the law, current events, or specific issues that EO Determinations management believes has the potential to impact the filing of applications.

The Emerging Issues coordinator will maintain the combined spreadsheet including:

- (a) Creating original entries for new emerging issues and entering them on the appropriate tab of the spreadsheet.
- (b) Creating original entries for new coordinated processing cases and entering them on the appropriate tab of the spreadsheet.
- (c) Receiving issue updates from the abusive transaction and fraud group and entering them on the appropriate tab of the spreadsheet.

---

<sup>1</sup> Coordinated Processing cases are cases that present similar issues and thus are to be handled by a single team or group in order to facilitate consistency.

(d) Receiving "Watch List" updates from senior management and entering them on the appropriate tab of the spreadsheet.

(e) Updating the spreadsheet as necessary.

All original entries and updates to the BOLO must be approved by the group manager of the Emerging Issues Coordinator. The group manager of the Emerging Issues Coordinator must obtain the approval of the Manager, EO Determinations to all original entries and updates to the BOLO. The Manager, EO Determinations must obtain the approval of the Director, EO Rulings & Agreements to all original entries and updates to the BOLO.

Only after the approval of the group manager of the Emerging Issues Coordinator, the Manager, EO Determinations and Director, EO Rulings & Agreements have been obtained will EO Determinations groups be notified of new or updated Watch List items, Potential Abusive Transaction and Fraud Issues, Emerging Issues, and Coordinated Processing cases through single e-mail alerts. The Emerging Issues coordinator is responsible for issuing all e-mail alerts after all of the required approvals have been obtained.

The most recent updated copy of the spreadsheet will be posted on the EO Determinations shared drive folder.

The content of this memorandum will be incorporated in IRM 7.20.4.

---

**From:** Marks Nancy J  
**Sent:** Thursday, May 17, 2012 10:21 PM  
**To:** Paz Holly O; Lerner Lois G  
**Cc:** Light Sharon P  
**Subject:** Re: next steps

Thanks.

-----  
Sent using BlackBerry

---

**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 11:07 PM  
**To:** Lerner Lois G; Marks Nancy J  
**Cc:** Light Sharon P  
**Subject:** RE: next steps

Quality reviews the closing docs such as the favorable letter as well as the application file. The combined 2-day numbers are below. I will ask Donna how many she thinks Quality can handle. The favorables that QA is not reviewing can go out next week. Just need to script out call to the applicants telling them it is coming and draft educational language insert language for favorable letter.

Added to yesterday,

that's a total of:

24

approvals

12 focused

development

10 general

development

11

denials

---

**From:** Lerner Lois G

**Sent:** Thursday, May 17, 2012 6:34 PM

**To:** Paz Holly O; Marks

Nancy J

**Cc:** Light Sharon P

**Subject:** RE: next

steps

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

*Lois G.*

*Lerner*

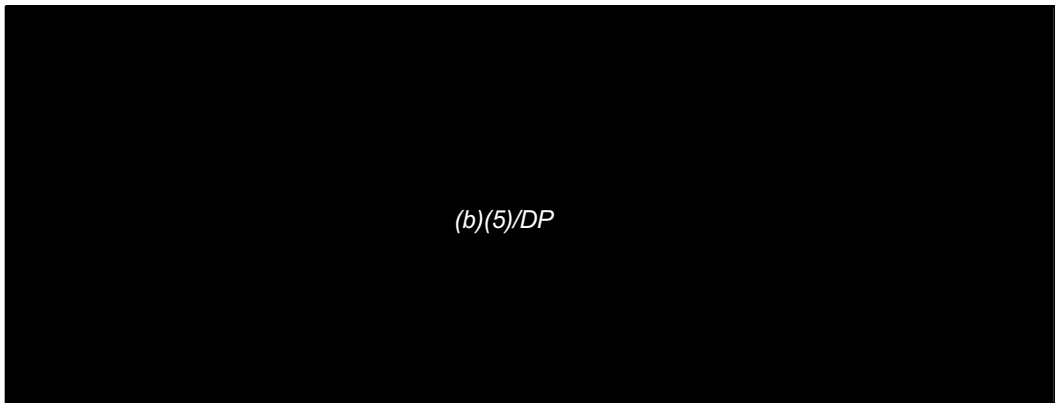
Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Thursday, May

17, 2012 5:52 PM  
**To:** Lerner Lois G; Marks Nancy J  
**Cc:** Light

Sharon P  
**Subject:** Re: next steps



(b)(5)/DP

Sent from my

BlackBerry Wireless Device

---

**From:** Lerner

Lois G  
**Sent:** Thursday, May 17, 2012 05:36 PM  
**To:** Paz Holly

O; Marks Nancy J  
**Cc:** Light Sharon P  
**Subject:** RE: next

steps

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (b)(5)/DP [REDACTED]

[REDACTED]

*Lois G.*

*Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Thursday, May

17, 2012 5:33 PM  
**To:** Lerner Lois G; Marks Nancy J  
**Cc:** Light

Sharon P  
**Subject:** Fw: next steps

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (b)(5)/DP [REDACTED]

[REDACTED]

[REDACTED] Will get updated bucket numbers tonight or

tomorrow morning.

-----  
Sent from my BlackBerry

Wireless Device

---

**From:** Light

Sharon P

**Sent:** Thursday, May 17, 2012 05:15 PM

**To:** Paz

Holly O

**Cc:** Thomas Cindy M

**Subject:** next steps

Holly -- Cindy and I

agreed that we will give her four stacks of cases (corresponding to the four

buckets). As I understand it, the first cases to be worked are the

approvals. [REDACTED]

[REDACTED] (b)(5)DP [REDACTED]

[REDACTED]

sharon

---

From: Holton Winonna F </o=internal revenue service/ou=washington dc/cn=recipients/cn=xmzdb> on behalf of Miller Steven T </o=internal revenue service/ou=washington dc/cn=recipients/cn=user mailboxes/cn=stmill00>

To: Flax Nikole C </o=internal revenue service/ou=washington dc/cn=recipients/cn=kkzmb>; Grant Dianne </o=internal revenue service/ou=washington dc/cn=recipients/cn=user mailboxes/cn=dxgran00>; Lerner Lois G </o=internal revenue service/ou=washington dc/cn=recipients/cn=user mailboxes/cn=lglern00>; Grant Joseph H </o=internal revenue service/ou=washington dc/cn=recipients/cn=user mailboxes/cn=vrglb>; Marks Nancy J </o=internal revenue service/ou=andover/cn=recipients/cn=tbdbb>; Paz Holly O </o=internal revenue service/ou=washington dc/cn=recipients/cn=p1dmb>; Urban Joseph J </o=internal revenue service/ou=washington dc/cn=recipients/cn=user mailboxes/cn=jjurba00>

Cc:

Bcc:

Subject: Determinations Conf. Call

Date: Mon May 21 2012 08:31:59 CDT

Attachments:

---



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From: Holton Winonna F </o=internal revenue service/ou=washington dc/cn=recipients/cn=xmzdb> on behalf of Miller Steven T </o=internal revenue service/ou=washington dc/cn=recipients/cn=user mailboxes/cn=stmill00>  
To: Flax Nikole C </o=internal revenue service/ou=washington dc/cn=recipients/cn=kkzmb>; Grant Dianne </o=internal revenue service/ou=washington dc/cn=recipients/cn=user mailboxes/cn=dxgran00>; Lerner Lois G </o=internal revenue service/ou=washington dc/cn=recipients/cn=user mailboxes/cn=lglern00>; Grant Joseph H </o=internal revenue service/ou=washington dc/cn=recipients/cn=user mailboxes/cn=vrglb>; Marks Nancy J </o=internal revenue service/ou=andover/cn=recipients/cn=tbdbb>; Paz Holly O </o=internal revenue service/ou=washington dc/cn=recipients/cn=p1dmb>; Urban Joseph J </o=internal revenue service/ou=washington dc/cn=recipients/cn=user mailboxes/cn=jjurba00>  
Cc:  
Bcc:  
Subject: Determinations Conf. Call  
Date: Mon May 21 2012 08:31:59 CDT  
Attachments:

---

When: Thursday, May 24, 2012 12:30 PM-1:00 PM (GMT-05:00) Eastern Time (US & Canada).  
Where: Rm. 3308/IR| 1-866-606-4717 code 6216994 (host: STM)

Note: The GMT offset above does not reflect daylight saving time adjustments.

\*~\*~\*~\*~\*~\*~\*~\*~\*

Scheduled per notification from Nikole. WH

---

**From:** Cook Janine <Janine.Cook@irs.counsel.treas.gov>  
**Sent:** Monday, May 21, 2012 1:33 PM  
**To:** Lerner Lois G  
**Subject:** FW: EO Coordinator on (c)(4) questions

This was the email Cathy sent around last week (you and Nikole were copied).

---

**From:** Barre Catherine M [ <mailto:Catherine.M.Barre@irs.gov> ]  
**Sent:** Wednesday, May 16, 2012 3:35 PM  
**To:** Munroe David  
**Cc:** Lerner Lois G; Flax Nikole C; Cook Jeannie M; McField Terri; Kindell Judith E; Schneiderman Henry S  
**Subject:** FW: EO Coordinator on (c)(4) questions

I contacted Terri McField for her assistance in reaching out to counsel on a statutory authority issue that has been raised related to a c4 congressional staff inquiry. I had already raised the same issue with Lois but, we agreed that counsel, most likely P&A, could be helpful.

If counsel has helpful insight on this issue please come back to Terri and to me.

Thanks.

Cathy Barré

---

**From:** Kindell Judith E  
**Sent:** Wednesday, May 16, 2012 03:14 PM  
**To:** Munroe David  
**Cc:** Cook Janine; Lerner Lois G  
**Subject:** RE: EO Coordinator on (c)(4) questions

Lois has been actively involved in all of the responses.

---

**From:** Munroe David [ <mailto:David.Munroe@IRSCOUNSEL.TREAS.GOV> ]  
**Sent:** Wednesday, May 16, 2012 2:58 PM  
**To:** Kindell Judith E  
**Cc:** Cook Janine  
**Subject:** EO Coordinator on (c)(4) questions

Someone on the CC's staff called us regarding a (c)(4) question on the statutory authority to require donor names during the application process. The person had been contacted by Leg Affairs. Was wondering who in your office is coordinating the (c)(4) Congressional questions. It seems to us the Leg Affairs person should be talking to that person so everything is coming through 1 channel. Can you please let us know who that person in EO would be. Thanks. Dave 622-4799

---

**From:** Judson Victoria A <Victoria.A.Judson@irsounsel.treas.gov>  
**Sent:** Monday, May 21, 2012 1:36 PM  
**To:** Lerner Lois G  
**Cc:** Cook Janine  
**Subject:** Re: Hatch Staff

Yes, Lois. I have been concerned that the question came to us from Cathy and I couldn't figure it out when I heard it was coming from you via leg. affairs. We didn't want them going off solo and wanted a better idea of what you needed.

-----  
Sent using BlackBerry

---

**From:** Cook Janine  
**To:** Lerner Lois G  
**Cc:** Judson Victoria A  
**Sent:** Mon May 21 14:32:20 2012  
**Subject:** RE: Hatch Staff

That's our concern. [REDACTED] (b)(5) DP and AC Cathy Barre said they asked you this question on a call. Do you recall getting the question? Wonder if the question is getting confused with the questions Joseph responded to below?

---

**From:** Lerner Lois G [<mailto:Lois.G.Lerner@irs.gov>]  
**Sent:** Monday, May 21, 2012 2:18 PM  
**To:** Cook Janine  
**Cc:** Judson Victoria A  
**Subject:** RE: Hatch Staff

**I would say** [REDACTED] (b)(5)/DP  
[REDACTED] **Let me check with Nikole to see whether the expectation is for you or us to respond.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Cook Janine [<mailto:Janine.Cook@irsounsel.treas.gov>]  
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**Cc:** Judson Victoria A  
**Subject:** RE: Hatch Staff

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Please confirm whether you want us to handle getting an answer to this question back to Cathy or whether you think you covered it separately.

Thanks.

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**From:** Barre Catherine M  
**Sent:** Friday, May 18, 2012 12:25 PM  
**To:** Grant Joseph H  
**Cc:** Flax Nikole C; Davis Jonathan M (Wash DC); Lerner Lois G  
**Subject:** RE: Hatch Staff

Thanks, Joseph. I think I should go back on this with a conversation rather than a written response. I will touch base with Nikole and Jonathan on this as well.

Cathy

---

**From:** Grant Joseph H  
**Sent:** Thursday, May 17, 2012 9:45 AM  
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**Cc:** Flax Nikole C; Davis Jonathan M (Wash DC); Lerner Lois G  
**Subject:** RE: Hatch Staff

Cathy,

- 1) *What is the IRS process with respect to the 990 schedule B – is there a document identification number placed on the schedule B by the IRS?*

(b)(5)/DP

- 2) *Does the IRS share 990 Schedule B information with any party such as, under an ex change of information with the State taxing authorities?*

(b)(5)/DP

I hope this helps. Please let me know if TE/GE can provide you with any further assistance in this matter.

Thanks as always - Joseph

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**From:** Barre Catherine M  
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**To:** Grant Joseph H  
**Subject:** FW: Hatch Staff

Any status on the answers to these questions?

Thanks.

---

**From:** Barre Catherine M  
**Sent:** Monday, May 14, 2012 4:40 PM  
**To:** Grant Joseph H  
**Cc:** Flax Nikole C; Davis Jonathan M (Wash DC); Stevens Margo  
**Subject:** Hatch Staff

I had a conversation with Hatch staff today. They have 2 general questions:

- 1) What is the IRS process with respect to the 990 schedule B – is there a document identification number placed on the schedule B by the IRS?
- 2) Does the IRS share 990 Schedule B information with any party such as, under an exchange of information with the State taxing authorities?

Thanks.

Cathy

---

**From:** Lerner Lois G  
**Sent:** Monday, May 21, 2012 1:40 PM  
**To:** Cook Janine  
**Subject:** Re: Hatch Staff

I was on the phone with them I think what we wanted from Counsel was a [REDACTED]

[REDACTED] (b)(5)DP & ACP

Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

---

**From:** Cook Janine [<mailto:Janine.Cook@irscounsel.treas.gov>]  
**Sent:** Monday, May 21, 2012 02:32 PM  
**To:** Lerner Lois G  
**Cc:** Judson Victoria A  
**Subject:** RE: Hatch Staff

That's our concern. [REDACTED] (b)(5)DP & ACP Cathy Barre said they asked you this question on a call. Do you recall getting the question? Wonder if the question is getting confused with the questions Joseph responded to below?

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**Sent:** Monday, May 21, 2012 2:18 PM  
**To:** Cook Janine  
**Cc:** Judson Victoria A  
**Subject:** RE: Hatch Staff

**I would say** [REDACTED] (b)(5)DP  
**Let me check with Nikole to see whether the expectation is for you or us to respond.**

*Lois G. Lerner*  
Director of Exempt Organizations

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Cathy

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(b)(5)/DP

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I hope this helps. Please let me know if TE/GE can provide you with any further assistance in this matter.

Thanks as always - Joseph

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Thanks.

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- 2) Does the IRS share 990 Schedule B information with any party such as, under an exchange of information with the State taxing authorities?

Thanks.

Cathy



---

**From:** Lerner Lois G  
**Sent:** Monday, May 21, 2012 3:19 PM  
**To:** Cook Janine  
**Subject:** RE: Hatch Staff

**Can I get what you gave Cathy for future reference? Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Cook Janine [mailto:Janine.Cook@irsounsel.treas.gov]  
**Sent:** Monday, May 21, 2012 4:08 PM  
**To:** Lerner Lois G; Flax Nikole C; Barre Catherine M  
**Cc:** Judson Victoria A  
**Subject:** RE: Hatch Staff

If this is all you were looking to provide, CC:PA provided an answer about general authority to Cathy last week. Our staff here is looking to see if there is anything else to offer up and we will copy everyone on the response; will try and do so by tomorrow. Thanks for the additional background regarding everybody's involvement and what is still needed here.

---

**From:** Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]  
**Sent:** Monday, May 21, 2012 2:46 PM  
**To:** Flax Nikole C; Barre Catherine M  
**Cc:** Cook Janine; Judson Victoria A  
**Subject:** Re: Hatch Staff

Recall we were looking for some general statement that the Secretary has authority to ask for information necessary to administer the tax laws. What gives us authority to ask for info on 990 and 1023/4? We thought perhaps P and A?

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From:** Flax Nikole C  
**Sent:** Monday, May 21, 2012 02:38 PM  
**To:** Lerner Lois G; Barre Catherine M  
**Subject:** Re: Hatch Staff

I am confused - where are the cc questions coming from?

---

**From:** Lerner Lois G  
**Sent:** Monday, May 21, 2012 02:19 PM  
**To:** Flax Nikole C; Barre Catherine M  
**Cc:** Grant Joseph H  
**Subject:** FW: Hatch Staff

**Not trying to stick my nose in it--Janine called about the Hatch response so I sent her what we recently sent Cathy. She has a different question "assigned." Thought I'd feed you both in in**

**the event we want the response to look like what we've said on the topic in our other Congressionals?**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Monday, May 21, 2012 2:18 PM  
**To:** Cook Janine  
**Cc:** Judson Victoria A  
**Subject:** RE: Hatch Staff

**I would say** [REDACTED]  
[REDACTED] **Let me check with Nikole to see whether the expectation is for you or us to respond.**

*Lois G. Lerner*

Director of Exempt Organizations

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**Cc:** Judson Victoria A  
**Subject:** RE: Hatch Staff

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Thanks.

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**Sent:** Friday, May 18, 2012 12:25 PM  
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**Cc:** Flax Nikole C; Davis Jonathan M (Wash DC); Lerner Lois G  
**Subject:** RE: Hatch Staff

Thanks, Joseph. I think I should go back on this with a conversation rather than a written response. I will touch base with Nikole and Jonathan on this as well.

Cathy

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**Sent:** Thursday, May 17, 2012 9:45 AM  
**To:** Barre Catherine M  
**Cc:** Flax Nikole C; Davis Jonathan M (Wash DC); Lerner Lois G  
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Cathy,

- 1) *What is the IRS process with respect to the 990 schedule B – is there a document identification number placed on the schedule B by the IRS?*

(b)(5) DP

- 2) *Does the IRS share 990 Schedule B information with any party such as, under an exchange of information with the State taxing authorities?*

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I hope this helps. Please let me know if TE/GE can provide you with any further assistance in this matter.

Thanks as always - Joseph

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**From:** Barre Catherine M  
**Sent:** Thursday, May 17, 2012 8:45 AM  
**To:** Grant Joseph H  
**Subject:** FW: Hatch Staff

[Any status on the answers to these questions?](#)

[Thanks.](#)

---

**From:** Barre Catherine M  
**Sent:** Monday, May 14, 2012 4:40 PM  
**To:** Grant Joseph H  
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Thanks.

Cathy

---

**From:** Lerner Lois G  
**Sent:** Monday, May 21, 2012 3:57 PM  
**To:** Flax Nikole C  
**Subject:** FW: BOLO Spreadsheets  
**Attachments:** BOLO Iterations Sheet 04302012.xls

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Monday, May 21, 2012 4:20 PM  
**To:** Lerner Lois G  
**Subject:** FW: BOLO Spreadsheets

[revised version](#)

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Monday, May 21, 2012 3:59 PM  
**To:** Barre Catherine M; Flax Nikole C  
**Subject:** RE: Hatch Staff

**It's OK--we're all just trained to keep the other office apprised --especially if an inconsistency could occur. Can I get the general cite you got from P &A?**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Barre Catherine M  
**Sent:** Monday, May 21, 2012 4:57 PM  
**To:** Lerner Lois G; Flax Nikole C  
**Subject:** RE: Hatch Staff

Sorry, I have been behind getting back to you on this. This whole email chain is a round trip of the question that Hatch staff raised on our call – what is the statutory authority for asking for the names with respect to the c4 applications.

I went to P&A and they have sent me something general. They suggested that I also go to tege counsel, so I did. That was my downfall. The TEGE counsel chain email has been nonstop.

---

**From:** Lerner Lois G  
**Sent:** Monday, May 21, 2012 2:46 PM  
**To:** Flax Nikole C; Barre Catherine M  
**Subject:** Re: Hatch Staff

Yep

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

---

**From:** Flax Nikole C  
**Sent:** Monday, May 21, 2012 02:42 PM  
**To:** Lerner Lois G; Barre Catherine M  
**Subject:** Re: Hatch Staff

Or is this the question related to our authority to ask questions related to the rules for tax exemption?

---

**From:** Flax Nikole C  
**Sent:** Monday, May 21, 2012 02:38 PM  
**To:** Lerner Lois G; Barre Catherine M  
**Subject:** Re: Hatch Staff

I am confused - where are the cc questions coming from?

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*Lois G. Lerner*

Director of Exempt Organizations

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**Sent:** Monday, May 21, 2012 2:18 PM  
**To:** Cook Janine  
**Cc:** Judson Victoria A  
**Subject:** RE: Hatch Staff

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*Lois G. Lerner*

Director of Exempt Organizations

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(b)(5)/DP

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Thanks.

Cathy

Director of Exempt Organizations

**From:** Barre Catherine M  
**Sent:** Monday, May 21, 2012 5:18 PM  
**To:** Lerner Lois G; Flax Nikole C  
**Subject:** FW: EO Coordinator on (c)(4) questions

**From:** Schneiderman Henry S [<mailto:Henry.S.Schneiderman@irscounsel.treas.gov>]  
**Sent:** Friday, May 18, 2012 5:51 PM  
**To:** Barre Catherine M  
**Cc:** Butler Deborah A; Schneiderman Henry S; McField Terri; Munroe David  
**Subject:** RE: EO Coordinator on (c)(4) questions

I spoke with Dave Munroe about this matter. TEGE will take the lead with respect to Counsel. [REDACTED]

(b)(5)/AC



(b)(5)/AC

---

**From:** Barre Catherine M [ <mailto:Catherine.M.Barre@irs.gov> ]  
**Sent:** Wednesday, May 16, 2012 3:35 PM  
**To:** Munroe David  
**Cc:** Lerner Lois G; Flax Nikole C; Cook Jeannie M; McField Terri; Kindell Judith E; Schneiderman Henry S  
**Subject:** FW: EO Coordinator on (c)(4) questions

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**Cc:** Cook Janine; Lerner Lois G  
**Subject:** RE: EO Coordinator on (c)(4) questions

Lois has been actively involved in all of the responses.

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---

**From:** Paz Holly O  
**Sent:** Tuesday, May 22, 2012 10:33 AM  
**To:** Lerner Lois G; Marks Nancy J  
**Cc:** Kindell Judith E  
**Subject:** Advocacy case documents  
**Attachments:** ltr confirming phone call favorable advocacy cases.doc; Phone Script favorable advocacy case.doc; favorable c4 ltr with educational language re political activity.doc

Attached are the following drafts:

1. script for phone call to c4 advocacy org applicants where we are going favorable - I assume we will not be calling orgs that did not receive any development or orgs that responded to all development letters (please confirm).

2. letter confirming the phone call or saying we tried to reach you and providing the info that would have been given in the call

3. standard favorable c4 letter that includes an addendum to appear on page 2 referring orgs to the part of the pub on political activity - please note

- The standard letter contains a paragraph noting that the pub is included. I think [REDACTED]

[REDACTED]  
(b)(5)/DP  
[REDACTED]

- The language of the addendum appears at the very end of the attached draft after the various optional pattern paragraphs.

- The pub (<http://www.irs.gov/pub/irs-pdf/p4221nc.pdf>) at page 4 discusses "factors that tend to show an advocacy communication is political campaign activity"

Once I have received your comments, I will make any needed revisions and send the documents to Cindy to see if she has any comments.

Thanks,

Holly

**Internal Revenue Service**

P.O. Box 2508  
Cincinnati OH 45201

Date:

Name of Organization  
Address

**Department of the Treasury**

Employer Identification Number:

Person to Contact and ID Number:

Toll Free Contact Number:

(877) 829-5500

Accounting Period Ending: [8010]

(Variable)

Form 990 Required: [8012]

(Variable)

Effective Date of Exemption: [8013]

(Variable)

Contribution Deductibility: [8014]

(Variable)

Addendum Applies: [8015]

(Variable)

Dear Applicant:

---

[1] We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code. **Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.**

**(Required – Variable)**

---

[4] Please see enclosed Publication 4221-NC, Compliance Guide for Tax-Exempt Organizations (other than 501(c)(3) Public Charities and Private Foundations), for some helpful information about your responsibilities as an exempt organization.

**(Automatic)**

---

[5999]

Sincerely,

**(Automatic)**

---

[8500]

Lois G. Lerner  
Director, Exempt Organizations

**(Automatic)**

---

[8610] Enclosure: Publication 4221-NC

**(Automatic)**

---

**[3223]** "Based on information you supplied, we recognize you as exempt from Federal income tax for the period ^^^^^^^^^^^^^^^^^^^^^^^, your formation or incorporation"

**[3224]** "date, to ^^^^^^^^^^^^^^^^^^^^^^^, your dissolution date. You are not required to file Federal income tax returns for that period."

**(Selective – Variable Needed – Related Paragraphs)**

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**[3225]** "Exemption under section 501(c)(4) is recognized as of ^^^^^^^^^^^^^^^^^^^^^^^,"

**[3226]** "your date of formation or incorporation, to ^^^^^^^^^^^ ^^^^^^^^^^^, the effective date of your exemption under section 501(c)(3)."

**(Selective – Variable Needed – Related Paragraphs)**

---

**[3231]** "Contributions to you are deductible only to the extent that they are gifts and no consideration is received in return. Depending on the circumstances, ticket purchases and similar payments in conjunction with fund-raising events may not qualify as fully deductible contributions.

Donors must have written substantiation from the charity for any charitable contribution of \$250 or more. Although it is the donor's responsibility to obtain written substantiation from the charity, you can assist donors by providing a written statement listing any cash contribution or describing any

**[3232]** donated property.

This written statement must be provided at the time of the contribution. There is no prescribed format for the written statement. Letters, postcards or computer-generated forms are acceptable.

The donor is responsible for the valuation of donated property. However, your written statement must provide a sufficient description to support the donor's contribution. For additional information regarding donor substantiation, see Publication 1771, Charitable Contributions - Substantiation and Disclosure

**[3233]** Requirements. For information about the valuation of donated property see Publication 561, Determining the Value of Donated Property.

You must provide a written disclosure statement to donors who receive goods or services from you in exchange for contributions in excess of \$75.

Contribution deductions are allowable to donors only to the extent that their contributions exceed the value of the goods or services received in exchange. Ticket purchases and similar payments in conjunction with fund-raising events may not necessarily qualify as fully deductible contributions, depending on

**[3234]** the circumstances. If your organization conducts fund -raising events such as benefit dinners, shows, membership drives, etc., where something of value is received, you are required to provide a written statement informing donors of the fair market value of the specific items or services you provided in exchange for contributions of more than \$75.

You should provide the written disclosure statement in advance of any event, determine the fair market value of any benefit received, determine the amount of the contribution that is deductible, and state this information in your fund -raising materials such as solicitations, tickets, and receipts. The amount

**[3235]** of the contribution that is deductible is limited to the excess of any money (and the value of any property other than money) contributed by the donor less the value of goods or services provided by the charity. Your disclosure statement should be made, at the latest, at the time payment is received. Subject to certain exceptions, your disclosure responsibility applies to any fund -raising circumstance where each complete payment, including the contribution portion, exceeds \$75. For additional information, see Publication 1771 and Publication 526, *Charitable Contributions*."

**(Selective – Related Paragraphs)**

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**[3277]** "If you are a wholly-owned instrumentality of a state or political subdivision of a state, wages paid for services performed for you are not subject to unemployment tax es under the Federal Unemployment Tax Act (FUTA). Wages may be subject to social security taxes under the Federal Insurance Contributions Act (FICA) if a section 218 agreement with the Social Security Administration covers the positions. Consult with you r State Social Security Administrator to determine if your organization is responsible for FICA coverage. All employees hired after March 31, 1986, are subject to mandatory Medicare coverage."

**(Selective)**

---

**[3307]** "Contributions to you are not deductibl e by donors under section 170(c)(2) of the Code."

**(Selective)**

---

**[3308]** "You are required under section 6113 to include an express statement (in a conspicuous and easily recognizable format) in any fundraising solicitation (including a solicitation for membership dues payment) that contributions and gifts are not deductible as charitable contributions for federal income tax purposes. Section 6113 does not apply, however, if your annual gross receipts are normally \$100,000 or less, or if your solicitations are made to no more than ten persons during a calendar year. The law provides penalties for failure to comply with this requirement, unless the failure is due to reasonable cause."

**(Selective)**

---

**[3325]** "Cash and non-cash benefits realized by a person on ac count of your activities must be included in gross income to the extent provided in the Code. No opinion is expressed or implied as to whether there is any provision available under the Code to exclude from

gross income contributions to you or payments made by you. Further, no opinion is expressed or implied as to whether you are liable for taxes under the Federal Insurance Contributions Act (social security taxes) or the Federal Unemployment Tax Act on the payment of benefits."

**(Selective)**

---

**[3326]** "No opinion is expressed or implied as to whether employer contributions to you are deductible under the Code."

**(Selective)**

---

**[3335]** "Under the provisions of section 170 of the Code, donors may deduct contributions to you if such funds are used exclusively for charitable or public purposes."

**(Selective)**

---

**[5998]** "We have sent a copy of this letter to your representative as indicated in your power of attorney."

(Selective)

---

#### **Addendum for Use in Favorable Advocacy Org C4 Cases**

*(b)(5)/DP*

(b)(5)/DP

(b)(5) DP



---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 22, 2012 12:41 PM  
**To:** Paz Holly O  
**Subject:** RE: Conversation with Troy Patterson

**If I don't hear back from them before you leave= -stop by.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Tuesday, May 22, 2012 1:40 PM  
**To:** Lerner Lois G  
**Subject:** Re: Conversation with Troy Patterson

Walking back from grabbing lunch. Free anytime

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 22, 2012 01:33 PM  
**To:** Grant Joseph H; Paz Holly O; Marks Nancy J  
**Subject:** Conversation with Troy Patterson

**Troy called to day re Cincinnati --nothing earth shattering, but if you have some time, perhaps we can all get together so I don't have to catch you all separately?**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Tuesday, May 22, 2012 2:34 PM  
**To:** Lerner Lois G  
**Subject:** Documents for review  
**Attachments:** ltr confirming phone call favorable advocacy cases.doc; Phone Script favorable advocacy case.doc; favorable c4 ltr with educational language re political activity.doc

Attached are revised versions of the phone script, letter confirming phone call and favorable letter with reference to section of pub re: political activity (see very last page of letter) to be used in the favorable advocacy cases. These versions incorporate Nan's and Judy's comments.

**Internal Revenue Service**

P.O. Box 2508  
Cincinnati OH 45201

Date:

Name of Organization  
Address

**Department of the Treasury**

Employer Identification Number:

Person to Contact and ID Number:

Toll Free Contact Number:

(877) 829-5500

Accounting Period Ending: [8010]

(Variable)

Form 990 Required: [8012]

(Variable)

Effective Date of Exemption: [8013]

(Variable)

Contribution Deductibility: [8014]

(Variable)

Addendum Applies: [8015]

(Variable)

Dear Applicant:

---

[1] We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code. **Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.**

**(Required – Variable)**

---

[4] Please see enclosed Publication 4221-NC, Compliance Guide for Tax-Exempt Organizations (other than 501(c)(3) Public Charities and Private Foundations), for some helpful information about your responsibilities as an exempt organization.

**(Automatic)**

---

[5999]

Sincerely,

**(Automatic)**

---

[8500]

Lois G. Lerner  
Director, Exempt Organizations

**(Automatic)**

---

[8610] Enclosure: Publication 4221-NC

**(Automatic)**

---

[3223] "Based on information you supplied, we recognize you as exempt from Federal income tax for the period ^^^^^^^^^^^^^^^^^^^^^^^, your formation or incorporation"

[3224] "date, to ^^^^^^^^^^^^^^^^^^^^^^^, your dissolution date. You are not required to file Federal income tax returns for that period."

**(Selective – Variable Needed – Related Paragraphs)**

---

[3225] "Exemption under section 501(c)(4) is recognized as of ^^^^^^^^^^^^^^^^^^^^^^^,"

[3226] "your date of formation or incorporation, to ^^^^^^^^^^^^^^^^^^^^^^^, the effective date of your exemption under section 501(c)(3)."

**(Selective – Variable Needed – Related Paragraphs)**

---

[3231] "Contributions to you are deductible only to the extent that they are gifts and no consideration is received in return. Depending on the circumstances, ticket purchases and similar payments in conjunction with fund-raising events may not qualify as fully deductible contributions.

Donors must have written substantiation from the charity for any charitable contribution of \$250 or more. Although it is the donor's responsibility to obtain written substantiation from the charity, you can assist donors by providing a written statement listing any cash contribution or describing any

[3232] donated property.

This written statement must be provided at the time of the contribution. There is no prescribed format for the written statement. Letters, postcards or computer-generated forms are acceptable.

The donor is responsible for the valuation of donated property. However, your written statement must provide a sufficient description to support the donor's contribution. For additional information regarding donor substantiation, see Publication 1771, Charitable Contributions - Substantiation and Disclosure

[3233] Requirements. For information about the valuation of donated property see Publication 561, Determining the Value of Donated Property.

You must provide a written disclosure statement to donors who receive goods or services from you in exchange for contributions in excess of \$75.

Contribution deductions are allowable to donors only to the extent that their contributions exceed the value of the goods or services received in exchange. Ticket purchases and similar payments in conjunction with fund-raising events may not necessarily qualify as fully deductible contributions, depending on

**[3234]** the circumstances. If your organization conducts fund-raising events such as benefit dinners, shows, membership drives, etc., where something of value is received, you are required to provide a written statement informing donors of the fair market value of the specific items or services you provided in exchange for contributions of more than \$75.

You should provide the written disclosure statement in advance of any event, determine the fair market value of any benefit received, determine the amount of the contribution that is deductible, and state this information in your fund-raising materials such as solicitations, tickets, and receipts. The amount

**[3235]** of the contribution that is deductible is limited to the excess of any money (and the value of any property other than money) contributed by the donor less the value of goods or services provided by the charity. Your disclosure statement should be made, at the latest, at the time payment is received. Subject to certain exceptions, your disclosure responsibility applies to any fund-raising circumstance where each complete payment, including the contribution portion, exceeds \$75. For additional information, see Publication 1771 and Publication 526, *Charitable Contributions*."

**(Selective – Related Paragraphs)**

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**[3277]** "If you are a wholly-owned instrumentality of a state or political subdivision of a state, wages paid for services performed for you are not subject to unemployment taxes under the Federal Unemployment Tax Act (FUTA). Wages may be subject to social security taxes under the Federal Insurance Contributions Act (FICA) if a section 218 agreement with the Social Security Administration covers the positions. Consult with your State Social Security Administrator to determine if your organization is responsible for FICA coverage. All employees hired after March 31, 1986, are subject to mandatory Medicare coverage."

**(Selective)**

---

**[3307]** "Contributions to you are not deductible by donors under section 170(c)(2) of the Code."

**(Selective)**

---

**[3308]** "You are required under section 6113 to include an express statement (in a conspicuous and easily recognizable format) in any fundraising solicitation (including a solicitation for membership dues payment) that contributions and gifts are not deductible as charitable contributions for federal income tax purposes. Section 6113 does not apply, however, if your annual gross receipts are normally \$100,000 or less, or if your solicitations are made to no more than ten persons during a calendar year. The law provides penalties for failure to comply with this requirement, unless the failure is due to reasonable cause."

**(Selective)**

---

**[3325]** "Cash and non-cash benefits realized by a person on account of your activities must be included in gross income to the extent provided in the Code. No opinion is expressed or implied as to whether there is any provision available under the Code to exclude from

gross income contributions to you or payments made by you. Further, no opinion is expressed or implied as to whether you are liable for taxes under the Federal Insurance Contributions Act (social security taxes) or the Federal Unemployment Tax Act on the payment of benefits."

**(Selective)**

---

**[3326]** "No opinion is expressed or implied as to whether employer contributions to you are deductible under the Code."

**(Selective)**

---

**[3335]** "Under the provisions of section 170 of the Code, donors may deduct contributions to you if such funds are used exclusively for charitable or public purposes."

**(Selective)**

---

**[5998]** "We have sent a copy of this letter to your representative as indicated in your power of attorney."

(Selective)

---

#### **Addendum for Use in Favorable Advocacy Org C4 Cases**

(b)(5)/DP

(b)(5)/DP

(b)(5) DP



---

**From:** Paz Holly O  
**Sent:** Tuesday, May 22, 2012 5:06 PM  
**To:** Lerner Lois G  
**Subject:** Re: potential revised BOLO language

Yes

-----Original Message-----

From: Lerner Lois G  
To: Paz Holly O  
Subject: RE: potential revised BOLO language  
Sent: May 22, 2012 6:05 PM

I would take off the (b)(5)/DP --are you good with that?

Lois G. Lerner  
Director of Exempt Organizations

---

From: Paz Holly O  
Sent: Tuesday, May 22, 2012 3:38 PM  
To: Lerner Lois G  
Subject: FW: potential revised BOLO language

Here is a revised version of the new advocacy org BOLO language. It reflects comments from Sharon, Judy, Nan and Cindy:

(b)(5)/DP

Please let me know if you are OK with the new language.

Thanks.

---

From: Paz Holly O  
Sent: Thursday, May 17, 2012 4:59 PM  
To: Lerner Lois G; Marks Nancy J; Kindell Judith E; Light Sharon P; Thomas Cindy M  
Subject: RE: potential revised BOLO language

I would like your thoughts on the language below. I would like this language to replace the current advocacy org language on the BOLO as well as the separate references to ACORN successors and Occupy groups.

[REDACTED]  
[REDACTED] (b)(5)/DP [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

-----Original Message Truncated -----

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 01, 2012 3:26 PM  
**To:** Miller Steven T; Flax Nikole C; Barre Catherine M  
**Cc:** Urban Joseph J  
**Subject:** RE: IRS letter denying exempt status to (b)(3)/6103

I sent the following to Cathy when this first arose:

We've (Judy Kindell) looked at this --does someone want to talk to us? [REDACTED]

(b)(3)/6103 & (b)(5)/DP

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Miller Steven T  
**Sent:** Tuesday, May 01, 2012 3:27 PM  
**To:** Flax Nikole C; Barre Catherine M; Lerner Lois G  
**Cc:** Urban Joseph J  
**Subject:** RE: IRS letter denying exempt status to (b)(3)/6103

need to know the substance of the (b)(3) work as well as the disclosure angle. thanks

---

**From:** Flax Nikole C  
**Sent:** Tuesday, May 01, 2012 12:49 PM  
**To:** Barre Catherine M; Lerner Lois G  
**Cc:** Miller Steven T; Urban Joseph J  
**Subject:** RE: IRS letter denying exempt status to (b)(3)/6103

Thanks. Joe has looked at this as well.

---

**From:** Barre Catherine M  
**Sent:** Tuesday, May 01, 2012 12:47 PM  
**To:** Flax Nikole C; Lerner Lois G

**Cc:** Miller Steven T

**Subject:** FW: IRS letter denying exempt status to (b)(3)/6103

[Background on \(b\)\(3\)/...](#) letter

---

**From:** Kiser Ross T

**Sent:** Tuesday, May 01, 2012 12:31 PM

**To:** Barre Catherine M

**Subject:** IRS letter denying exempt status to (b)(3)/6103

Cathy:

(b)(3)/6103

(b)(3)/6103

(b)(3)/6103

Ross Kiser  
Librarian, Legislative Affairs  
Internal Revenue Service  
1111 Constitution Avenue, NW, Room 3243  
Washington, DC 20224  
(202) 622-5741

---

**From:** Marx Dawn R  
**Sent:** Friday, April 06, 2012 12:38 PM  
**To:** Paz Holly O  
**Cc:** Lerner Lois G  
**Subject:** FW: Planning/Research Activities: Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations

FYI.

*Dawn R. Marx*

INTERNAL REVENUE SERVICE  
ATTN: Dawn R. Marx  
TE/GE SE:T:EO  
NCA-572  
1111 Constitution Avenue, NW  
Washington, DC 20224-0002

(202) 283-8861 Phone  
(202) 283-8785 Fax  
[Dawn.R.Marx@irs.gov](mailto:Dawn.R.Marx@irs.gov)

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**From:** Seidell Thomas F TIGTA [ <mailto:Thomas.Seidell@tigta.treas.gov> ]  
**Sent:** Friday, April 06, 2012 1:32 PM  
**To:** Lerner Lois G  
**Cc:** Medina Cheryl J TIGTA  
**Subject:** RE: Planning/Research Activities: Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations

Lois,

Any information on the stats would be appreciated and we're glad to have Holly along.

Have a nice weekend.

Tom

Thomas Seidell  
Audit Manager  
TIGTA - Office of Audit  
(b)(6); (b)(7)(C)

---

**From:** Lerner Lois G [ <mailto:Lois.G.Lerner@irs.gov> ]  
**Sent:** Thursday, April 05, 2012 4:15 PM  
**To:** Seidell Thomas F TIGTA; Paz Holly O  
**Cc:** Marx Dawn R; Medina Cheryl J TIGTA; Paterson Troy D TIGTA  
**Subject:** RE: Planning/Research Activities: Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations

A couple follow-ups from today's call.

First, we may be able to give you specific numbers on inventory for c4,5,and 6 advocacy cases as we are tracking on a spread sheet --one caveat--that would be limited because other similar cases that cam in early on would not show up on the spreadsheet. Al so, the spreadsheet would not cover non-advocacy c4, 5, and 6 applications during the same period.

Second, I have asked Holly to go out to Cincinnati when you meet with staff out there. As acting director of R & A, those staff report to her chain and it would be a good learning experience for her. If that creates problems for you, let me know.

*Leis J. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Monday, April 09, 2012 6:08 PM  
**To:** Urban Joseph J; Fish David L  
**Cc:** Park Nalee; Paz Holly O; Kindell Judith E; Miller Thomas J; Lowe Justin  
**Subject:** FW: FW: Hatch  
**Attachments:** Hatch Congr Ltr 4-9-2012 rev.doc

**Importance:** High

I have made several edits to clarify and cut this down. What I need from Joe and David is to ensure we are good on the disclosure pieces. I put notes in the text where I want you to look -- i.e., [REDACTED]

(b)(5)/DP

Also, with regard to [REDACTED] I need you to look at this ASAP as I should have had it to Nikole already!

if anyone sees something that gives them major heartburn speak up --otherwise it is going as is. Thanks

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Monday, April 09, 2012 3:57 PM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O; Fish David L; Urban Joseph J; Miller Thomas J; Kindell Judith E; Megosh Andy; Lowe Justin  
**Subject:** FW: Hatch

Latest draft attached - accepted your edits and new changes are tracked.

Also, just to recap so we're all on the same page/friendly reminder of your "to -do" list from this morning's meeting:

1. Discuss with/remind Nikole:

- due date for Bennett, Schumer and Hatch letters are Wednesday, April 11. She already has Bennett and Schumer. Hatch is attached.
- Yoder question re: communication with WH, Treasury, etc - still "no, no records/communication" - [REDACTED] (b)(5)/DP
- Yoder question re: steps/directives to "preserve" documents

2. Yoder - Check with TIGTA re: opening letter for investigation

3. Levin - Check with Counsel where are they with congressional questions # 4 and 7. (Judy's working on question 5 in the Levin letter.)

NaLee  
202.283.9453

---

**From:** Lerner Lois G  
**Sent:** Monday, April 09, 2012 10:52 AM  
**To:** Park Nalee; Urban Joseph J; Fish David L  
**Cc:** Paz Holly O; Lowe Justin  
**Subject:** FW: Hatch

**Look at the clean copy version --I put my edits on it**

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Monday, April 09, 2012 6:12 AM  
**To:** Lerner Lois G; Paz Holly O; Fish David L; Kindell Judith E; Megosh Andy; Lowe Justin  
**Cc:** Marx Dawn R; Urban Joseph J  
**Subject:** Hatch

Attached is the latest draft - first attachment is a clean copy with changes reflecting Friday's discussion, and second has the changes tracked.

Response to question 6 probably has the most changes. The structure of the response ended up being slightly different from our discussion, but we can move up the (b)(5)/DP if you still prefer.

I believe this one is due Wednesday, April 11 - assume we'll be discussing this one at 10am today so to send up to Nikole soon.

NaLee

NaLee Park  
SE:T:EO:RA:G, Rm NCA-551  
EO Guidance, R&A  
TEGE, Washington D.C.  
(t) 202.283.9453 | (f) 202.283.9462



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP



(b)(5) DP

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 11, 2012 4:53 PM  
**To:** Paz Holly O  
**Subject:** Re: CIC Agenda for 4-12-2012

What happened when you talked to Celia?

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Paz Holly O  
Sent: Wednesday, April 11, 2012 05:44 PM  
To: Lerner Lois G  
Cc: Marx Dawn R  
Subject: Re: CIC Agenda for 4 -12-2012

No I have to attend the advocacy guide sheet meeting at 10. We agreed Lee attending would suffice. I understand from Nancy Todd that there is not much on the agenda.

-----Original Message-----

From: Lerner Lois G  
To: Paz Holly O  
Cc: Marx Dawn R  
Subject: Fw: CIC Agenda for 4 -12-2012  
Sent: Apr 11, 2012 5:42 PM

Are you attending on my behalf? If not, is Nan going to be there?

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Todd Nancy M  
To: Rob Choi  
To: Richard Daly  
To: Nanette Downing  
To: David L Fish  
To: Clifford Gannett  
To: Christopher Giosa  
To: Golston Gidget  
To: Joseph Grant  
To: Regeina Hall  
To: Sarah H Ingram  
To: Tina Jackson  
To: Christie Jacobs  
To: Victoria Judson  
To: Lois Call in Number  
To: Leslie Louis J  
To: Marmolejo Paul A  
To: Dawn Marx  
To: McConkey Peter A

To: Moises Medina  
To: Migdail Rhonda  
To: Paxson Kirk M  
To: Holly Paz  
To: Lee Phaup  
To: Shaw Sandra C  
To: Sweetenberg LaWan A  
To: Tackney Stephen B  
To: Templeman Monika A  
To: Todd Nancy M  
To: Joseph Urban  
To: Williams Sherry F  
To: Roberta Zarin  
To: Zuckerman Andrew E  
Subject: CIC Agenda for 4-12-2012  
Sent: Apr 11, 2012 1:55 PM

Good afternoon,

Attached are the pre-reads and agenda for tomorrow's call.

Nancy Todd

TE/GE EO Financial Investigations Unit Area Manager

3251 North Evergreen Drive NE Room 231

Grand Rapids, MI 49525

Phone: 616-365-4706

-----  
Sent from my BlackBerry Wireless Device

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**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 9:20 AM  
**To:** Fish David L; Paz Holly O; Megosh Andy; Park Nalee  
**Subject:** Re: data needed for Congressionals

None of these have yet been approved as far as I know  
Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

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**From:** Fish David L  
**Sent:** Thursday, April 12, 2012 10:15 AM  
**To:** Lerner Lois G; Paz Holly O; Megosh Andy; Park Nalee  
**Subject:** RE: data needed for Congressionals

If they are in approved application files anyone could get them

---

**From:** Lerner Lois G  
**Sent:** Thursday, April 12, 2012 10:12 AM  
**To:** Paz Holly O; Fish David L; Megosh Andy; Park Nalee  
**Subject:** Re: data needed for Congressionals

If I recall, these guys are not entitled to case specific info. If you are giving numbers of letters sent, that's OK. But they don't get the letters.  
Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

---

**From:** Paz Holly O  
**Sent:** Thursday, April 12, 2012 06:41 AM  
**To:** Lerner Lois G; Fish David L; Megosh Andy; Park Nalee  
**Subject:** FW: data needed for Congressionals

First two questions I asked Marc were designed to figure out how many full development c4 and c5 closures we have had since mid-Dec 2011 so we could figure out what to do about the two QFRs that ask to see all development letters sent in those cases. We have had 146 full development c4 cases close since mid-December so doesn't seem feasible to me to provide development letters for that many cases unless we have no choice.

Nalee, the last two questions have the info needed for the Issa letter (pending apps and receipts/closures Oct 2011 - present).

---

**From:** Morgan Marc J  
**Sent:** Wednesday, April 11, 2012 1:34 PM  
**To:** Paz Holly O  
**Cc:** Neuhart Paige  
**Subject:** RE: data needed for Congressionals

Holly, attached is the data you requested. The first tab is all of the data summarized. The additional tabs are the raw data reports I ran from Business Objects. Two important caveats are stated below and noted in the summary of data.

First, with regards to question 3, the number of pending applications by subsection, the data is through April 2, 2012 instead of March 31, 2012. This is because the WebETS cycle ended Friday evening March 31 but the Business Objects report for open inventory was not run by me until Monday morning April 2nd when all other end-of-period reports were generated. Unlike other reports, Open Inventory is what it is at the point in time that it is run. There is no way to go back to March 31st and generate the results. This shouldn't be an issue really, but wanted you to understand why the dates don't match exactly as requested. It is unlikely any cases were added over the weekend but some may have been added Monday morning before I generated the report.

Second, question 4 requested data book data through March 31st but because this is a standard parameterized report, it can only be run for a fiscal year. Therefore, it will always give fiscal year information from the beginning of the fiscal year WebETS cycle to the date that the report was generated, in this case, today. So the end date is April 11, 2012 instead of March 31, 2012. Again, the difference should be of no great significance but wanted you to understand why the dates here are also slightly different from the request.

---

**From:** Paz Holly O  
**Sent:** Wednesday, April 11, 2012 11:03 AM  
**To:** Morgan Marc J  
**Cc:** Neuhart Paige  
**Subject:** data needed for Congressionals  
**Importance:** High

Hi Marc. As you've probably seen in the press, we are a bit deluged with requests for various bits of information from members of Congress. Can you please get me data on the following questions ASAP? Thank you!

How many full development c4 applications have been approved since 12/15/11?

How many full development c5 applications have been approved since 12/15/11?

How many pending c3, c4, c5, and c6 applications did we have as of 3/31/12?

How many c3, c4, c5, and c6 applications were received, approved, disapproved, and "other" closures (to use SOI data book language) from Oct 1, 2011 through March 31, 2012?

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 18, 2012 12:52 PM  
**To:** Megosh Andy; Paz Holly O; Fish David L; Park Nalee; Lowe Justin; Urban Joseph J  
**Cc:** Flax Nikole C  
**Subject:** FW: QFRs  
**Attachments:** Qs for the R 4-11.doc

**Thanks--am sending to Nikole because she needs to start getting them ready to go to back because they have to be put into the record with the testimony --we don't control that timing. I'll send, but everyone else should be reviewing and provide comments pl ease**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Megosh Andy  
**Sent:** Wednesday, April 18, 2012 1:45 PM  
**To:** Fish David L; Paz Holly O; Lerner Lois G  
**Cc:** Park Nalee; Lowe Justin  
**Subject:** FW: QFRs

Here is an intial draft of the QFRs.

Andy

---

**From:** Lowe Justin  
**Sent:** Wednesday, April 11, 2012 11:39 AM  
**To:** Megosh Andy  
**Cc:** Park Nalee  
**Subject:** QFRs

Attached is a draft response to the questions for the record. The responses that need the most development are those asking about our outside communications. Also, as I understood it from our Monday meeting Holly was going to check with Cindy if there have been any approved applications, but am not sure if that has happened.

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Thursday, April 19, 2012 12:53 PM  
**To:** Flax Nikole C; Urban Joseph J  
**Cc:** Marks Nancy J; Park Nalee; Paz Holly O  
**Subject:** Issa congressional 04-17-2012 wo#7.doc  
**Attachments:** Issa congressional 04-17-2012 wo#7.doc

**More edits for consideration**



*b5/dp*

*b5/dp*

*b5/dp*

*b5/dp*

*b5/dp*

*b5/dp*

*b5/dp*

*b5/dp*



*b5/dp*

*b5/dp*

---

**From:** Flax Nikole C  
**Sent:** Friday, April 20, 2012 9:01 AM  
**To:** Park Nalee  
**Cc:** Lerner Lois G; Marks Nancy J; Paz Holly O; Urban Joseph J; Lowe Justin; Megosh Andy  
**Subject:** Re: QFRs

Thanks - I will make the changes.

-----Original Message-----

From: Park Nalee  
To: Flax Nikole C  
Cc: Lerner Lois G  
Cc: Marks Nancy J  
Cc: Paz Holly O  
Cc: Urban Joseph J  
Cc: Lowe Justin  
Cc: Megosh Andy  
Subject: RE: QFRs  
Sent: Apr 20, 2012 9:58 AM

Just had a chance to take a quick look at the draft. You may have already caught them, but just in case - a couple FYIs:

1. Page 1, Q 2, 2nd paragraph re: application process: reference to [REDACTED]  
[REDACTED] (b)(5)/DP
2. Page 1, Q 2, 3rd paragraph re: application process: reference to [REDACTED] (b)(5)/DP  
[REDACTED] in Hatch and Issa based on a comment...feel free to put it back in, noting it as a FYI.

NaLee  
202.283.9453

---

From: Flax Nikole C  
Sent: Thursday, April 19, 2012 4:35 PM  
To: Marks Nancy J; Lerner Lois G; Paz Holly O; Urban Joseph J; Lowe Justin; Park Nalee  
Subject: RE: QFRs

See revised. Nan, do you have an issue with the process described or the reference to the [REDACTED] (b)(5)/DP Also changed 8, 13 and 16. I think there is a typo in their incoming for 15.

---

From: Marks Nancy J  
Sent: Thursday, April 19, 2012 4:07 PM

To: Flax Nikole C; Lerner Lois G; Paz Holly O; Urban Joseph J; Lowe Justin;  
Park Nalee  
Subject: RE: QFRs

The response to Questions 1 and 2 refers to [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
*(b)(5)/DP*  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

my procedural changes designed language is [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
*(b)(5)/DP*  
[REDACTED]  
[REDACTED]  
[REDACTED]

Question 15 confuses me --is there a typo in the incoming. [REDACTED]

[REDACTED]  
*(b)(5)/DP*  
[REDACTED]

Maybe I'm just tired. If they are asking us  
to [REDACTED]

[REDACTED]  
*(b)(5)/DP*  
[REDACTED]

Question 16--we say the IRS [REDACTED]

[REDACTED]  
[REDACTED]  
*(b)(5) DP and AC*  
[REDACTED]  
[REDACTED]

---

From: Flax Nikole C  
Sent: Thursday, April 19, 2012 3:11 PM  
To: Lerner Lois G; Paz Holly O; Urban Joseph J; Marks Nancy J; Lowe Justin;  
Park Nalee  
Subject: QFRs

Please see my edits. Let me know of any concerns. Is it possible to get what we think are close to final on Hatch, Issa and Bennett by COB? ( I see I had a few typos last night).

---

**From:** Spellmann Don R <Don.R.Spellmann@irsounsel.treas.gov>  
**Sent:** Wednesday, April 25, 2012 2:48 PM  
**To:** Lerner Lois G; Marks Nancy J; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy; Lowe Justin; Goehausen Hilary; Urban Joseph J  
**Cc:** Judson Victoria A; Cook Janine; Brown Susan D; Marshall David L  
**Subject:** Clean-ups & Revisions to Guide Sheet

We just can't seem to keep our hands off this thing (or stop thinking about it). You'll see a fair amount of red here. But it's predominantly clean-up, more consistency in language, some rephrasing added precision and clarity (we hope), and better conformity to the (b)(5)/DP

(b)(5)/AC and /DP

The first document is clean, only containing the discrete comment windows from before.

The second is red, white and black.

Please let us know if you have questions or would like to discuss anything.

Don & Crew



guide sheet master  
04-25-12 (c...



guide sheet master  
compare 04-...

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*



*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

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*(b)(5)/AC and /DP*

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**From:** Lerner Lois G  
**Sent:** Thursday, April 26, 2012 5:29 PM  
**To:** Paz Holly O  
**Cc:** Marks Nancy J  
**Subject:** FW: Revised Guide Sheet

**FYI--Nikole,Vickie,me,Janine and Erik had a call on this today. Vickie gave her caution and hopefully, all are comfortable.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Cook Janine [ <mailto:Janine.Cook@irsounsel.treas.gov> ]  
**Sent:** Thursday, April 26, 2012 6:18 PM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G; Judson Victoria A; Corwin Erik H  
**Subject:** Revised Guide Sheet

Nikole,

Here is the revised guidesheet we sent to Lois' shop yesterday. It reflects some fine -tuning on the 4/20 version. The changes were predominantly clean-up, more consistency in language, added precision and clarity, and better conformity to the [REDACTED] (b)(5)/AC and /DP [REDACTED]

Let us know if you have any specific questions. (Erik, you already have this version)  
Janine



guide sheet master  
04-25-12 (c...

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*



*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

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*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*



---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 08, 2012 9:42 AM  
**To:** Paz Holly O  
**Subject:** RE: In meeting to

thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Tuesday, May 08, 2012 10:41 AM  
To: Lerner Lois G  
Subject: In meeting to

Assess folks' availability for advocacy work next few weeks. Will come by as soon as done. Should be done soon.

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 2:55 PM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O  
**Subject:** FW: process

It is a multi-purpose list

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Thomas Cindy M  
Sent: Tuesday, May 15, 2012 2:22 PM  
To: Lerner Lois G; Paz Holly O  
Subject: RE: process

No - all EOD specialists and managers use the BOLO spreadsheet. Screeners use it to determine if cases need to go to designated groups, if we are "watching for" a specific case to coordinate with EOT, EO Exam, CI, etc., and others use it because they could get information when completing research or based on information they receive in response to an additional information letter.

I use the BOLO too. We receive requests from various offices asking us to "watch for" certain specific cases.

-----Original Message-----

From: Lerner Lois G  
Sent: Tuesday, May 15, 2012 2:01 PM  
To: Paz Holly O; Thomas Cindy M  
Subject: RE: process

So, just to be sure I understand --Bolo is used ONLY after a case has been selected for full development? All staff have access to Bolo? The answer doesn't matter as much as me stating it correctly --thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Tuesday, May 15, 2012 1:40 PM  
To: Lerner Lois G; Thomas Cindy M  
Subject: Re: process

Cindy correct me if I get any of this wrong. The list of categories of cases that have to go to full development is separate from bolo. Bolo is in addition to that list. Bolo came about to consolidate in one place watch outs that u sed to get sent in various emails as new things not captured by the case assignment guide came up. Bolo gets used by screeners and they do not screen those cases out. Bolo gets used by other specialists who may get the case that should have been sent from screeners to a particular group and was not or if whoever gets the case is instructed by bolo to coordinate with a particular person or group such as eot.

-----Original Message-----

From: Lois Lerner  
To: Paz Holly O  
To: Thomas Cindy M  
Subject: process  
Sent: May 15, 2012 10:41 AM

BOLO list--can you give me a better sense when it is used? I realize it has lots of parts, which might play into the process at different points. For example, we have a list of topics that must be fully developed so they get sent to full development. That is before they are sent for full development --is that part of BOLO or something different?. How is BOLO used after they are sent for full development? We need to be sure we are describing correctly --thanks

Lois G. Lerner  
Director of Exempt Organizations

-----  
Sent from my BlackBerry Wireless Device

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**From:** Lerner Lois G  
**Sent:** Tuesday, May 15, 2012 3:39 PM  
**To:** Thomas Cindy M; Paz Holly O  
**Subject:** RE: process

The way we have described screening is that the cases are screened and if they need further development, they go to unassigned inventory. Then when an agent of the appropriate grade level for the case is available, it gets assigned to the agent. That is why I am a bit confused. If it goes to unassigned inventory, why do screeners need to know which group is handling the issue?

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Thomas Cindy M  
Sent: Tuesday, May 15, 2012 2:39 PM  
To: Lerner Lois G; Paz Holly O  
Subject: RE: process

Lois,

Attached is the latest BOLO spreadsheet that was sent to all EOD specialists/managers. If you look at the Coordinated Processing or the Watch List tab, you'll see that there are certain types of cases that need to go to designated groups. When a screener is reviewing a case, he/she needs to know this so that the case is flagged for the correct group regardless of whether the case is full development or not.

-----Original Message-----

From: Lerner Lois G  
Sent: Tuesday, May 15, 2012 2:32 PM  
To: Thomas Cindy M; Paz Holly O  
Subject: RE: process

But why would screeners need to know what group a case goes to --don't they just send things to unassigned inventory? Or do you mean they use it to determine which types of cases have to go to full development.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Thomas Cindy M

Sent: Tuesday, May 15, 2012 2:22 PM  
To: Lerner Lois G; Paz Holly O  
Subject: RE: process

No - all EOD specialists and managers use the BOLO spreadsheet. Screeners use it to determine if cases need to go to designated groups, if we are "watching for" a specific case to coordinate with EOT, EO Exam, CI, etc., and others use it because they could get information when completing research or based on information they receive in response to an additional information letter.

I use the BOLO too. We receive requests from various offices asking us to "watch for" certain specific cases.

-----Original Message-----

From: Lerner Lois G  
Sent: Tuesday, May 15, 2012 2:01 PM  
To: Paz Holly O; Thomas Cindy M  
Subject: RE: process

So, just to be sure I understand --Bolo is used ONLY after a case has been selected for full development? All staff have access to Bolo? The answer doesn't matter as much as me stating it correctly --thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Tuesday, May 15, 2012 1:40 PM  
To: Lerner Lois G; Thomas Cindy M  
Subject: Re: process

Cindy correct me if I get any of this wrong. The list of categories of cases that have to go to full development is separate from bolo. Bolo is in addition to that list. Bolo came about to consolidate in one place watch outs that used to get sent in various emails as new things not captured by the case assignment guide came up. Bolo gets used by screeners and they do not screen those cases out. Bolo gets used by other specialists who may get the case that should have been sent from screeners to a particular group and was not or if whoever gets the case is instructed by bolo to coordinate with a particular person or group such as eot.

-----Original Message-----

From: Lois Lerner  
To: Paz Holly O  
To: Thomas Cindy M

Subject: process

Sent: May 15, 2012 10:41 AM

BOLO list--can you give me a better sense when it is used? I realize it has lots of parts, which might play into the process at different points. For example, we have a list of topics that must be fully developed so they get sent to full development. That is before they are sent for full development--is that part of BOLO or some thing different?. How is BOLO used after they are sent for full development? We need to be sure we are describing correctly--thanks

Lois G. Lerner

Director of Exempt Organizations

-----  
Sent from my BlackBerry Wireless Device

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**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 1:58 PM  
**To:** Paz Holly O; Fish David L  
**Subject:** RE: donor names?

I have gone to Margo Stevens with the question. She understands very well the difference between the right and left sides of the file. She will try to get back to me by Monday. So, I assume then, that we can start getting some of the approvals out early next week?

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 2:14 PM  
**To:** Lerner Lois G; Fish David L  
**Subject:** FW: donor names?

FYI

---

**From:** Light Sharon P  
**Sent:** Thursday, May 17, 2012 1:30 PM  
**To:** Paz Holly O  
**Subject:** RE: donor names?

(b)(3)/6103

So no problem there.

Of the others,

b(3)\6103

(b)(3); 6103

I can put a sticky note on the file noting that donor names are included and to be sure to check on the issue before closing the case. And we can ask Cindy to watch for it, too.

---

**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 1:05 PM  
**To:** Light Sharon P  
**Subject:** RE: donor names?

We cannot close any of the ones with donor names until we sort this issue out.

---

**From:** Light Sharon P  
**Sent:** Thursday, May 17, 2012 1:04 PM  
**To:** Paz Holly O  
**Subject:** RE: donor names?

Don't know. I'll go back and look at the pile I'm giving to Cindy.

I amended the worksheet.

---

**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 12:50 PM  
**To:** Light Sharon P  
**Subject:** RE: donor names?

Yes, please do. We are going to reach out to Disclosure counsel to see if we cannot disclose it per David's theory. Are any of the 7 favorables from yesterday in this boat?

---

**From:** Light Sharon P  
**Sent:** Thursday, May 17, 2012 11:57 AM  
**To:** Paz Holly O  
**Subject:** RE: donor names?

While great minds are weighing this issue, should we note it when we see an answer that includes donor names? There will be other places along the way to catch it but it might not hurt to start identifying the m now.

---

**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 8:42 AM  
**To:** Light Sharon P; Marks Nancy J  
**Cc:** Urban Joseph J; Fish David L  
**Subject:** Re: donor names?

(b)(5) DP

Looping in David and Joe for their thoughts.

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Light Sharon P  
**Sent:** Thursday, May 17, 2012 08:24 AM  
**To:** Paz Holly O; Marks Nancy J  
**Subject:** donor names?

Some orgs have given us donor names in response to our development letter.

(b)(5)/DP

Left side? Right side?



---

**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 4:00 PM  
**To:** Paz Holly O; Marks Nancy J; Kindell Judith E; Light Sharon P; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

I'm good

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 4:59 PM  
**To:** Lerner Lois G; Marks Nancy J; Kindell Judith E; Light Sharon P; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

I would like your thoughts on the language below. I would like this language to replace the current advocacy org language on the BOLO as well as the separate references to ACORN successors and Occupy groups.

[REDACTED]  
[REDACTED]  
[REDACTED] (b)(5)/DP [REDACTED]  
[REDACTED]

---

**From:** Paz Holly O  
**Sent:** Monday, May 21, 2012 8:56 AM  
**To:** Lerner Lois G; Grant Joseph H  
**Subject:** FW: Briefing Paper on c3/c4 advocacy

FYI

---

**From:** Seidell Thomas F TIGTA [ <mailto:Thomas.Seidell@tigta.treas.gov> ]  
**Sent:** Monday, May 21, 2012 9:21 AM  
**To:** Paz Holly O  
**Cc:** Paterson Troy D TIGTA; Medina Cheryl J TIGTA  
**Subject:** Briefing Paper on c3/c4 advocacy

Holly,

I informed my Director (Troy Paterson) about the c3/c4 advocacy briefing paper and our discussion on Thursday. He will be briefing the Inspector General and told me he will contact Joseph Grant and Lois to let them know.

Thanks

Tom

Thomas Seidell  
Audit Manager  
TIGTA - Office of Audit  
(781) 835-4286

---

**From:** Paz Holly O  
**Sent:** Monday, May 21, 2012 2:40 PM  
**To:** Lerner Lois G  
**Subject:** BOLO  
**Attachments:** BOLO Iterations Sheet 04302012.xls  
  
**Importance:** High

A column was added to the "BOLO Iterations Sheet 04302012.xls" document to reflect the names of those who were involved in writing the description or otherwise making changes.

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP



(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Monday, May 21, 2012 3:23 PM  
**To:** Paz Holly O  
**Subject:** RE: BOLO Spreadsheets

who in EO tech told them to make the change?

(b)(5)/DP

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Monday, May 21, 2012 4:20 PM  
**To:** Lerner Lois G  
**Subject:** FW: BOLO Spreadsheets

[revised version](#)

---

**From:** Paz Holly O  
**Sent:** Tuesday, May 22, 2012 2:46 PM  
**To:** Kindell Judith E; Lerner Lois G; Marks Nancy J  
**Subject:** RE: Advocacy case documents

Thanks Judy! Nan and I talked about the letter confirming the phone call or attempted call. [REDACTED]

[REDACTED]  
(b)(5) DP  
[REDACTED]  
[REDACTED]  
[REDACTED]

-----Original Message-----

From: Kindell Judith E  
Sent: Tuesday, May 22, 2012 12:38 PM  
To: Paz Holly O; Lerner Lois G; Marks Nancy J  
Subject: RE: Advocacy case documents

I made some minor changes to the phone script, but I don't feel strongly about them.

[REDACTED]  
(b)(5) DP  
[REDACTED]

-----Original Message-----

From: Paz Holly O  
Sent: Tuesday, May 22, 2012 11:33 AM  
To: Lerner Lois G; Marks Nancy J  
Cc: Kindell Judith E  
Subject: Advocacy case documents

Attached are the following drafts:

1. script for phone call to c4 advocacy org applicants where we are going favorable - I assume we will not be calling orgs that did not receive any development or orgs that responded to all development letters (please confirm).
2. letter confirming the phone call or saying we tried to reach you and providing the info that would have been given in the call

3. standard favorable c4 letter that includes an addendum to appear on page 2 referring orgs to the part of the pub on political activity - please note

- The standard letter contains a paragraph noting that the pub is included. I think [REDACTED]

[REDACTED]  
(b)(5)/DP  
[REDACTED]

- The language of the addendum appears at the very end of the attached draft after the various optional pattern paragraphs.

- The pub (<http://www.irs.gov/pub/irs-pdf/p4221nc.pdf>) at page 4 discusses "factors that tend to show an advocacy communication is political campaign activity"

Once I have received your comments, I will make any needed revisions and send the documents to Cindy to see if she has any comments.

Thanks,

Holly

---

**From:** Lerner Lois G  
**Sent:** Tuesday, May 22, 2012 5:54 PM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O  
**Subject:** FYI

**Below is the language we will be using to describe cases that should be sent to the dedicated groups and coordinated with EON Technical.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Tuesday, May 22, 2012 3:38 PM  
**To:** Lerner Lois G  
**Subject:** FW: potential revised BOLO language

Here is a revised version of the new advocacy org BOLO language. It reflects comments from Sharon, Judy, Nan and Cindy:

501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria.

Please let me know if you are OK with the new language.

Thanks.

---

**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 4:59 PM  
**To:** Lerner Lois G; Marks Nancy J; Kindell Judith E; Light Sharon P; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

I would like your thoughts on the language below. I would like this language to replace the current advocacy org language on the BOLO as well as the separate references to ACORN successors and Occupy groups.

(b)(5)/DP

---

**To:** Flax Nikole C  
**Cc:** Paz Holly O; Grant Joseph H; Marks Nancy J  
**Subject:** FW: Oversight letter to Lois Lerner  
**Attachments:** 2012-03-27 DEI Jordan to Lerner re tax exempt status.pdf

they appear to be mixing apples and oranges --the c4,5, and 6 project is not

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Williams Floyd L  
**Sent:** Tuesday, March 27, 2012 5:39 PM  
**To:** Williams Floyd L; Miller Steven T; Lerner Lois G; Flax Nikole C; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L; Eldridge Michelle L; Grant Joseph H; Paz Holly O  
**Cc:** Dash Mary L; Hinton Irma D; Williams Marcie V; Norton William G Jr; Landes Scott S; Ortez Cumbuka I; Rodriguez Christinne; Barre Catherine M  
**Subject:** RE: Oversight letter to Lois Lerner

This time, with the attachment. I should have t his mastered by the time I retire!!!!

---

**From:** Williams Floyd L  
**Sent:** Tuesday, March 27, 2012 5:34 PM  
**To:** Miller Steven T; Lerner Lois G; Flax Nikole C; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L; Eldridge Michelle L; Grant Joseph H; Paz Holly O  
**Cc:** Dash Mary L; Hinton Irma D; Williams Marcie V; Norton William G Jr; Landes Scott S; Ortez Cumbuka I; Rodriguez Christinne; Barre Catherine M  
**Subject:** FW: Oversight letter to Lois Lerner

Here's a letter from full committee chair Issa and subcommittee chair Jordan asking detailed questions about the questions that we have been asking of organizations applying for 501(c)(4), (5), and (6) organizations, among other questions. They have asked for a response by April 16.

---

**From:** Blase, Brian [<mailto:Brian.Blase@mail.house.gov>]  
**Sent:** Tuesday, March 27, 2012 5:01 PM  
**To:** Williams Floyd L  
**Subject:** Oversight letter to Lois Lerner

Hi Floyd:

Congressmen Darrell Issa and Jim Jordan have drafted a letter to Director Lerner regarding IRS's initiative to send 501(c)(4), 501(c)(5), and 501(c)(6) lengthy and detailed questionnaires.

Please let me know if you have any questions. Thanks very much.

Best,  
Brian

Brian Blase  
Professional Staff Member  
Oversight and Government Reform Committee  
Darrell E. Issa, Chairman  
202-225-5074

DARRELL E. ISSA, CALIFORNIA  
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STAFF DIRECTOR

ONE HUNDRED TWELFTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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FACSIMILE (202) 225-3974  
MINORITY (202) 225-5051

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March 27, 2012

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GERALD E. CONNOLLY, VIRGINIA  
MIKE QUIGLEY, ILLINOIS  
DANNY K. DAVIS, ILLINOIS  
BRUCE L. BRALEY, IOWA  
PETER WELCH, VERMONT  
JOHN A. YARMUTH, KENTUCKY  
CHRISTOPHER S. MURPHY, CONNECTICUT  
JACKIE SFEIER, CALIFORNIA

Ms. Lois G. Lerner  
Director, Exempt Organizations Division  
Internal Revenue Service  
11 Constitution Avenue N.W., Room 3000  
Washington, D.C. 20224

Dear Ms. Lerner:

Over the past several weeks the Internal Revenue Service (IRS) sent many organizations, operating under tax exempt status, lengthy and detailed questionnaires.<sup>1</sup> These questionnaires ask for information well beyond the scope of typical disclosures required under IRS Form 1024. These questionnaires may be connected to IRS's 2012 work plan.<sup>2</sup> The work plan indicates that the IRS is initiating a review of certain 501(c)(4), 501(c)(5), and 501(c)(6) organizations "to ensure that they have classified themselves correctly and that they are complying with applicable rules."<sup>3</sup> According to the Internal Revenue Code, it is permissible for certain tax-exempt organizations to lobby and engage in political activity:

Seeking legislation germane to the organization's programs is a permissible means of attaining social welfare purposes. Thus, a section 501(c)(4) social welfare organization may further its exempt purposes through lobbying as its primary activity without jeopardizing its exempt status. . . . [A] section 501(c)(4) social welfare organization may engage in some political activities, so long as that is not its primary activity.<sup>4</sup>

The IRS should provide appropriate scrutiny of organizations applying for tax exempt status. However, several experts suggest that these recent IRS questionnaires exceed appropriate scrutiny. For example, Marcus Owens, who ran the IRS's exempt organizations department for a decade, called the IRS initiative an "overreach."<sup>5</sup> Moreover, the IRS must apply the same criteria for all organizations applying for tax exempt status. News reports, however, indicate that

<sup>1</sup> Janie Lorber, "IRS Oversight Reignites Tea Party Ire: Agency's Already Controversial Role Is in Dispute After Questionnaires Sent to Conservative Groups," Roll Call, March 8, 2012; Susan Jones, "IRS Accused of 'Intimidation Campaign' Against Tea Party Groups," CNSNews.com, March 7, 2012.

<sup>2</sup> IRS Tax Exempt and Government Entities, "Exempt Organizations - 2011 Annual Report and 2012 Work Plan."

<sup>3</sup> *Id.*

<sup>4</sup> IRS, Social Welfare Organizations. Available at: <http://www.irs.gov/charities/nonprofits/article/0,,id=96178,00.html>.

<sup>5</sup> Janie Lorber, "IRS Oversight Reignites Tea Party Ire: Agency's Already Controversial Role Is in Dispute After Questionnaires Sent to Conservative Groups," Roll Call, March 8, 2012.



The Honorable Lois G. Lerner  
March 27, 2011  
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the IRS effort lacks balance, with conservative organizations being the target of the IRS's heightened scrutiny. *Roll Call* contacted several liberal groups, including Protect-YourCare, a 501(c)(4) set up to defend the new health care law, and reported that none had received the recently-sent questionnaire.<sup>6</sup>

Given the potentially serious implications of IRS overreach and selective enforcement of IRS's 2012 work plan pertaining to 501(c)(4), 501(c)(5), and 501(c)(6) organizations, the Committee on Oversight and Government Reform requests that the IRS provide information about the IRS's 2012 work plan for 501(c)(4), 501(c)(5), and 501(c)(6) organizations and the questionnaire. We respectfully request that you provide the following information to the Committee by April 16, 2012:

1. All documents and communications referring or relating to the IRS's 2012 work plan for 501(c)(4), 501(c)(5), and 501(c)(6) organizations.
2. All documents and communications between IRS officials and elected officials or any employee of a federal agency or department, referring or relating to the 2012 IRS work plan for 501(c)(4), 501(c)(5), and 501(c)(6) organizations.
3. A chart showing the number of applications for tax exempt status for all 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) applications, filed by organizations since January 1, 2009. This chart should include the number of applications that have been approved, the number that have been denied, and the number that are still pending for each application type.
4. A list of all the organizations that the IRS sent these types of questionnaires to this year, the date the questionnaire was sent by the IRS, the date the IRS asked for a response, and the date the organizations sent their initial application for tax exempt status.
5. A list of the objective criteria the IRS used for determining which groups would be sent these types of questionnaires.
6. IRS Form 1040 does not require organizations applying for tax exempt status to provide specific donor information for donors giving less than \$5,000 a year. In addition, the names and addresses of donors giving the organization at least \$5,000 were not made public by the IRS. However, many of the IRS questionnaires sent to organizations seeking 501(c)(4) status specifically ask for all the organization's donors and the amounts of each of the donations. The IRS has informed the organizations that it plans to make this donor information public. Provide all documents and communications referring or relating to the decision to ask for this type of donor information and to make this information public.

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<sup>6</sup> *Id.*

The Honorable Lois G. Lerner  
March 27, 2011  
Page 3

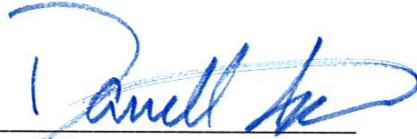
7. Each of the requests for information, listed below, that has appeared on an IRS questionnaire is beyond the scope of IRS Form 1024. For each of these requests, listed below, please state: a) the IRS's authority for asking for the information; b) the IRS's rationale for needing this piece of information; c) whether any precedent exists for the IRS asking for this type of information; d) the objective standards the IRS will use when reviewing the response; and e) how the IRS will use the information to determine tax-exempt status.
  - A) For all the events you have conducted or will conduct for 2012 and 2013, provide the date of each event, issues presented at the event, copies of material provided, speakers invited, details of speeches made at the event and actions promoted by the speakers, and expenses incurred.
  - B) Provide the time, location, and content of each of your meetings, copies of any material provided at the meeting, lists of speakers who have attended the meetings, topics discussed, contents of speeches, and expenses incurred on these meetings.
  - C) Provide copies of any lease or rental agreements.
  - D) Provide copies of any materials or other communications prepared by another person or individual that you have or will distribute, when the distribution was or will be conducted, and who has distributed or will distribute the materials.
  - E) Provide copies of all solicitations your organization has made regarding fundraising, including pamphlets, flyers, brochures, and webpage solicitations. Provide all sources of fundraising expenses.
  - F) Provide all newsletters, emails and other items distributed to your members or other interested individuals.
  - G) Provide all copies of your corporate and meeting minutes from your organization's inception to present.
  - H) Provide the names of all donors, contributors, and grantors and the amounts of each donation, contribution, and grant.
  - I) Provide the details of how your organization will use the donations, contributions, and grants.
  - J) Provide a resume, total compensation package, and rationale for how each compensation package was determined for your past and present directors, officers, and key employees.
  - K) Provide a list of all issues that are important to your organization, indicating your position regarding each issue.
  - L) Provide details regarding all training your organization has provided or will provide, indicating who has received or will receive the training and providing all copies of the training material.
  - M) Provide the member application and registration form, the membership agreement and rules that govern members, and copies of your website that only members can access.
  - N) Provide a vendor list, a list of all merchandise items sold, your cost for each item, and the selling price for each item.
  - O) Provide all activities your organization has engaged in with the new media, including copies of articles printed or transcripts of items aired because of that activity.

The Honorable Lois G. Lerner  
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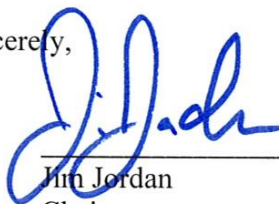
- P) Provide copies of all direct or indirect communication with members of legislative bodies.

In preparing your answers to these questions, please answer each question individually and include the text of each question along with your response. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. If you have any questions about this request, please contact Brian Blase of the Committee on Oversight and Government Reform at 202-225-5074. Thank you for your attention to this matter.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

  
\_\_\_\_\_  
Darrell Issa  
Chairman

Sincerely,

  
\_\_\_\_\_  
Jim Jordan  
Chairman  
Subcommittee on Regulatory Affairs,  
Stimulus Oversight and Government Spending

Enclosure

cc: The Honorable Elijah Cummings, Ranking Minority Member  
Committee on Oversight and Government Reform

The Honorable Dennis Kucinich, Ranking Minority Member, Subcommittee on  
Regulatory Affairs, Stimulus Oversight and Government Spending

DARRELL E. ISSA, CALIFORNIA  
CHAIRMAN

ELIJAH E. CUMMINGS, MARYLAND  
RANKING MINORITY MEMBER

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
2157 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6143

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

**Responding to Committee Document Requests**

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
  - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when they were requested.
8. When you produce documents, you should identify the paragraph in the Committee's request to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.



17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might

otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.

---

**From:** Ghougasian Laurice A  
**Sent:** Friday, February 24, 2012 11:42 AM  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** (c)(4) notes  
**Attachments:** Lois' notes 2-24-12.doc

Laurice A. Ghougasian  
Management and Program Analyst  
Program Management Staff  
TE/GE, Exempt Organizations  
Internal Revenue Service  
SE:T:EO NCA 570-12  
Phone: 202-283-9456  
Fax: 202-283-8858



Please consider the environment before printing this e-mail



EO –

Exam

CE&O

R&A --

- Determinations – Cincy # RAs
- Technical - 1<sup>st</sup> impression, complex, potential abuse, other
- Guidance

1.9 million organizations

60k new applications / year –

- Approved immediately based on submission
- Need minor additional information
- Obsolete forms submitted
- Require further development
  - May not have answered all questions or incomplete answers

#1-3 – get either determination letter or a request for more information within 90 days

FY2011 – 60% completed that way

#4 – get letter within 90 days give or take notifying need full development

May have to wait

Case / agent grading

In addition:

Screening Process may highlight need for development

- Uptick in type of application – needs to develop facts for consistency
- Potential abuse
- Area of 1<sup>st</sup> impression

## DESIRE CONSISTENCY

Send to DC small # of cases to develop to provide generic guidance for RAs in Cincy – EO lawyers and chief counsel coordinate for consistency

## VERY FACT INTENSIVE

Sometimes FTE and have to start over

Once Guidance complete, sent to Cincy to send out questions

Longer than we'd like but (c)(4) orgs not harmed in the meantime

- Not required to come in
- Can hold out as (c)(4) during process
- IN FACT – MUST file 990 while awaiting determination
  - Often ask same information in 1024 and 990
  - TRANSPARENCY

Appeals process – If denied

Importance of full record on facts

If approved – Law requires IRS to make application file PUBLIC

Don't PUBLISH, just provide if asked for

Denied – redacted copy

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**From:** Lerner Lois G  
**Sent:** Friday, February 24, 2012 2:51 PM  
**To:** Grant Joseph H; Marks Nancy J  
**Subject:** FW: Congressional Follow-Up

**Importance:** High

Sorry--haven't kept you in the loop. Met with Miller and Nikole yesterday on this and went to Hill today with Urban, Floyd and Nikole to talk to House staffers about some c4 org applications that are in the news. The applicants are complaining that it has taken us forever to work their applications and now that we are, we're asking too many questions. We went up and explained the process and why there had been a more than usual delay. Below is the follow-up they want. I'm guessing we'll be hearing more on this issue.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Friday, February 24, 2012 3:46 PM  
**To:** Spellmann Don R; Cook Janine; Paz Holly O  
**Cc:** Kindell Judith E; Lowe Justin; Flax Nikole C; Urban Joseph J  
**Subject:** Congressional Follow-Up  
**Importance:** High

Just came back from the meeting and they have asked for several things.

1. Don/Janine-- The guidance provided to Cincy that Don reviewed -- I'm hoping you can let us know your concerns as soon as possible so we can finalize the draft. We will be sending it over to them and putting it out on the web with other check sheets/guide sheets.

2. Holly--a timeline relating to the uptick --that is, about when did we notice there were enough of these that we needed guidance from R & A and then when did we get cases up here to look at. If there is info regarding development and FTEs and replacement cases, give me that too.

3. Case Grading Guide--I think (b)(5) DP let me know the basis.

Thanks to all who got me ready for today--I think it went as well as it could.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Friday, February 24, 2012 3:08 PM  
**To:** Flax Nikole C  
**Subject:** RE: Congressional Follow-Up

**I absolutely plan to show you first!**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Friday, February 24, 2012 4:07 PM  
**To:** Lerner Lois G  
**Subject:** RE: Congressional Follow-Up

Lois - I think you were planning to anyway, but please let us see #1 before it goes out.

---

**From:** Lerner Lois G  
**Sent:** Friday, February 24, 2012 3:46 PM  
**To:** Spellmann Don R; Cook Janine; Paz Holly O  
**Cc:** Kindell Judith E; Lowe Justin; Flax Nikole C; Urban Joseph J  
**Subject:** Congressional Follow-Up  
**Importance:** High

Just came back from the meeting and they have asked for several things.

1. Don/Janine-- The guidance provided to Cincy that Don reviewed -- I'm hoping you can let us know your concerns as soon as possible so we can finalize the draft. We will be sending it over to them and putting it out on the web with other check sheets/guide sheets.

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3. Case Grading Guide--I think [REDACTED] let me know the basis.

Thanks to all who got me ready for today--I think it went as well as it could.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Burke Anthony  
**Sent:** Monday, February 27, 2012 2:32 PM  
**To:** Zarin Roberta B  
**Cc:** Lerner Lois G; Kindell Judith E; Eldridge Michelle L; Lemons Terry L; Keith Frank  
**Subject:** Roll Call, 501c4 questions

Bobby, here is a media inquiry from Roll Call asking how common it is to ask certain questions during the application process. Please see the list below.

Anthony Burke, IRS Media Relations (202) 622-3031

---

**From:** Janie Lorber  
**Sent:** Monday, February 27, 2012 2:46 PM  
**To:** Burke Anthony  
**Subject:** Janie Lorber at Roll Call, 501c4 questions

Anthony, Below you will find a sampling of the questions contained in letters requesting additional information from 501c4 applicants.. I think it might be easiest if you could put me on the phone with one of your specialists who handles this kinds of queries. I've been contacted by several Tea Party groups who think these questions go far beyond necessary protocol. How common these kinds of questions? Why should a 501c4 group have to disclose their donors? How does the IRS define "close relationship?" How does the IRS define Tea Party?

1. detailed explanation of donations including, donor names, dates and amounts. Have any of those donors run for office? If so what office?
2. Names of volunteers
3. Detailed content of past speeches, forums with names of speakers and their credentials
4. Disclose any "close relationships" with elected officials, candidates or political parties
5. Resumes for each member of governing body
6. Please explain in detail your organization's involvement with the Tea Party?

--

Janie Lorber  
Reporter  
CQ Roll Call

---

**From:** Eguren Sara L  
**Sent:** Monday, February 27, 2012 3:08 PM  
**To:** Grant Joseph H; Zarin Roberta B; Lerner Lois G  
**Subject:** FW: Sarah - here is the email i've received; i'm at 202-641-9563, thanks - Alan Fram, AP

---

**From:** Fram, Alan [<mailto:AFram@ap.org>]  
**Sent:** Monday, February 27, 2012 3:38 PM  
**To:** Eguren Sara L  
**Subject:** Sarah - here is the email i've received; i'm at 202 -641-9563, thanks - Alan Fram, AP

NEWS ADVISORY  
For Immediate Release  
February 27, 2012

Contact: Eric Wilson  
Cell Phone: 859-983-5190  
Email: [ericwilson@ky912.com](mailto:ericwilson@ky912.com)

***LIBERTY GROUPS UNDER ATTACK BY THE IRS!***

**Kentucky 9/12 Project, Ohio Liberty Council, Unite in Action, an Numerous Tea Parties across the nation square off against the IRS.**

Kentucky — On February 14, 2012 the Kentucky 9/12 Project joined close to 80 liberty groups from around the country the IRS has targeted and is attempting to regulate out of existence. Even though many of these groups have filed for Not -for-Profit status at various times (over the past three years) all have received IRS inquiries and responses in just the last three months.

“This is nothing more than a governmental witch hunt on freedom speaking Americans” Said Eric Wilson director of Kentucky 9/12 Project. “It is their attempt to either drown groups like ours in unnecessary paper work and time or you survive and give them everything they want only to be hung.”

The Kentucky 9/12 Project filed for a 501(c)(4) status in December of 2010. They received their first correspondence almost immediately back from their application saying there would be a determination within 90 days. Since then all of their activities, relations, and dealings have falling well within the bonds of that which defines this status. Despite this and with no reference to any issues with its original application or specific concerns almost 14 months later they received a letter (dated February 14) requesting detailed documentation to answer 30 questions with sub-bullets (88 total separate inquiries) and only a two -week period to comply. Even more alarming to directors of the group were the personal information the IRS were requesting and overreaching questions.

Various Tea Parties, 9/12 Project, and Liberty groups around the country are coming forward with very similar oppressive demands being sent to them from the IRS as well.

Ohio Liberty Council Released a statement February 16 <http://www.ohiolibertycouncil.org/?p=3839>

Richmond Virginia Tea Party is sued a similar statement on the same day <http://www.richmondteaparty.com/2012/02/press-release-irs-demanding-unreasonable-documentation-to-satisfy-rtps-tax-exempt-request/>

Ohio Liberty Council President, Tom Zawistowski said in his statement “I defy any American to read this list of demands by the IRS and not be outraged. This is the kind of personal information that this government is going to be demanding from your church, your doctor, your hospital, your business and your favorite charity going forward.”

It is now the collective hope of these organizations that this issue is highlighted as an example of the clear and obvious overreach of a federal agency beyond its authority. **The Kentucky 9/12 Project now stands with other liberty groups across the nation demanding an official congressional investigation for the arbitrary and capricious use of governmental power.**

The Kentucky 9/12 Project operates a civic organization for the purpose of charity, education, and recreational purposes. Their mission is to provide a forum for individuals grounded in the 9 Principles and 12 Values, and to foster an environment to inspire and empower Self-Governing Leaders through the process of education, independence, sacrifice, with a firm reliance on Divine providence.

For more information about The Kentucky 9/12 Project, please visit their website at [www.ky912.com](http://www.ky912.com)

####

If you'd like more information about this topic, or to schedule an interview with:  
The Kentucky 9/12 Project - Eric Wilson (Executive Director KY912) at 859 -983-5190  
Unite in Action - Stephani Scruggs (President of UinA) at 616 -698-3132  
Ohio Liberty Council – Tom Zawistowski (President of OLC) at 303 -592-1848

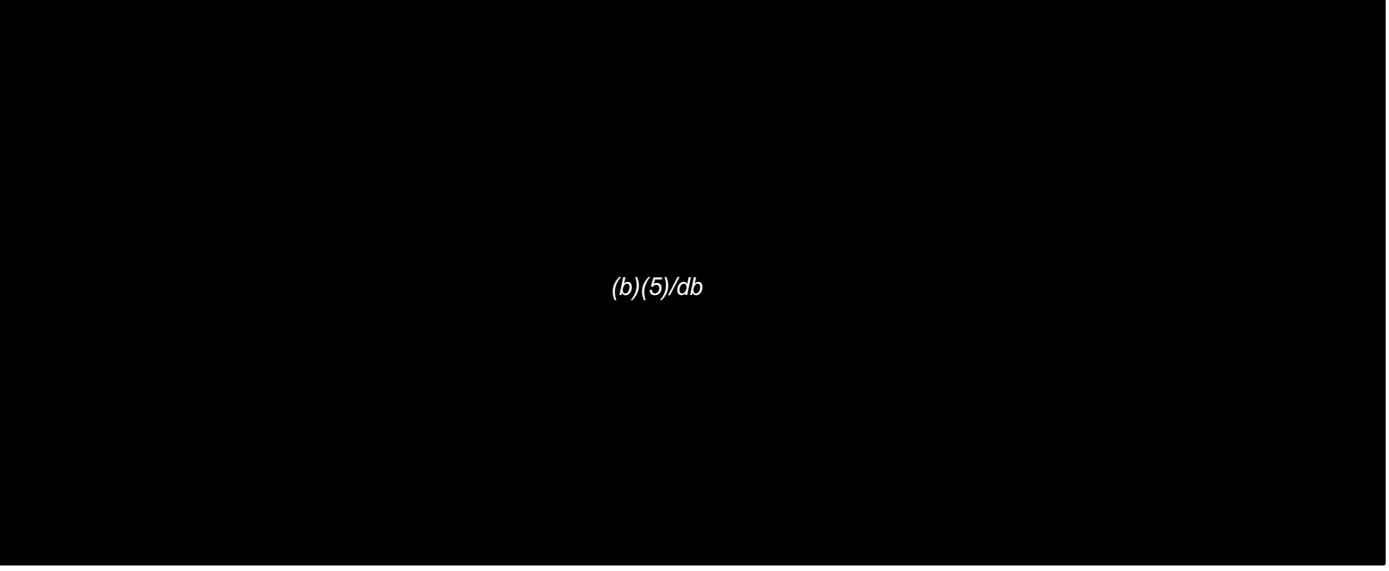
The information contained in this communication is intended for the use of the designated recipients named above. If the reader of this communication is not the intended recipient, you are hereby notified that you have received this communication in error, and that any review, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify The Associated Press immediately by telephone at +1 -212-621-1898 and delete this email. Thank you.

[IP\_US\_DISC]

msk dccc60c6d2c3a6438f0cf467d9a4938

---

**From:** Eldridge Michelle L  
**Sent:** Monday, February 27, 2012 3:29 PM  
**To:** Lerner Lois G; Zarin Roberta B  
**Subject:** current (very) Draft statement



*(b)(5)/db*



---

**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 4:13 PM  
**To:** Eldridge Michelle L  
**Subject:** Document1  
**Attachments:** Document1.doc

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 4:15 PM  
**To:** Eldridge Michelle L  
**Subject:** Document1  
**Attachments:** Document1.doc

**Opps--a typo in the last on--didn't make sense**

(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 4:15 PM  
**To:** Lerner Lois G; Zarin Roberta B; Kindell Judith E  
**Subject:** Document1  
**Attachments:** Document1.doc

(b)(5)/db

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**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 4:30 PM  
**To:** Eldridge Michelle L  
**Subject:** Number

(b)(6); (b)(7)(C)

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Eldridge Michelle L  
**Sent:** Monday, February 27, 2012 4:19 PM  
**To:** Lerner Lois G; Grant Dianne; Zarin Roberta B  
**Subject:** (very) Draft statement

(b)(5)/db

---

**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 4:36 PM  
**To:** Cook Janine  
**Cc:** Paz Holly O  
**Subject:** RE: Advocacy Guidance

**Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Cook Janine [<mailto:Janine.Cook@irscounsel.treas.gov>]  
**Sent:** Monday, February 27, 2012 11:59 AM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O  
**Subject:** RE: Advocacy Guidance

will handle as quickly as we can.

---

**From:** Lerner Lois G [<mailto:Lois.G.Lerner@irs.gov>]  
**Sent:** Monday, February 27, 2012 10:58 AM  
**To:** Cook Janine  
**Cc:** Paz Holly O  
**Subject:** Advocacy Guidance

**Not sure it was clear in my email last week --we do need to get this in proper shape relatively quickly. There is no basis to withhold it from the Hill folks, so we need to give it over. We have a little time, but not much. We will put someone with Don --probably Judy to move it, but we really need his overall input soon. Thanks**

*Lois G. Lerner*

Director of Exempt Organizations



---

**From:** Eldridge Michelle L  
**Sent:** Monday, February 27, 2012 4:49 PM  
**To:** Davis Jonathan M (Wash DC); Flax Nikole C; Lerner Lois G; Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Patterson Dean J; Zarin Roberta B  
**Subject:** Use this version: 501c4 repsonse for AP and roll call  
**Attachments:** Document1.doc

Sorry--text got copied twice--TRY THIS:

[REDACTED]

[REDACTED]  
(b)(5)/DP

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5)/db

---

**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 4:54 PM  
**To:** Paz Holly O  
**Subject:** FW: Another article--please read

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Zarin Roberta B  
**Sent:** Monday, February 27, 2012 5:45 PM  
**To:** Eldridge Michelle L; Lerner Lois G; Kindell Judith E; Paz Holly O; Burke Anthony  
**Subject:** Another article--please read

[Is The IRS Attempting to Intimidate Local Tea Parties ?](#)

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 4:59 PM  
**To:** Zarin Roberta B  
**Subject:** RE: Another article--please read

**This will go on and on and on**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Zarin Roberta B  
**Sent:** Monday, February 27, 2012 5:56 PM  
**To:** Lerner Lois G  
**Subject:** RE: Another article--please read

I did!

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 5:55 PM  
**To:** Zarin Roberta B  
**Subject:** RE: Another article--please read

**Please put Holly on these too--she needs to understand the impact. Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Zarin Roberta B  
**Sent:** Monday, February 27, 2012 5:45 PM  
**To:** Eldridge Michelle L; Lerner Lois G; Kindell Judith E; Paz Holly O; Burke Anthony  
**Subject:** Another article--please read

**Is The IRS Attempting to Intimidate Local Tea Parties ?**

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 5:17 PM  
**To:** Davis Jonathan M (Wash DC); Flax Nikole C; Eldridge Michelle L; Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Eguren Sara L; Patterson Dean J; Miller Steven T  
**Subject:** RE: 501c4 repsonse for AP and roll call

**It takes a village! The changes make it better.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Davis Jonathan M (Wash DC)  
**Sent:** Monday, February 27, 2012 6:10 PM  
**To:** Lerner Lois G; Flax Nikole C; Eldridge Michelle L; Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Eguren Sara L; Patterson Dean J; Miller Steven T  
**Subject:** RE: 501c4 repsonse for AP and roll call

[a few edits from Steve and me.](#)

[thanks](#)

---

**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 5:59 PM  
**To:** Flax Nikole C; Eldridge Michelle L; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Eguren Sara L; Patterson Dean J; Miller Steven T  
**Subject:** RE: 501c4 repsonse for AP and roll call

**Your right--but I think it's just a duplicate of the first one. Stop after any other relevant information**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, February 27, 2012 5:50 PM  
**To:** Eldridge Michelle L; Davis Jonathan M (Wash DC); Lerner Lois G; Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Eguren Sara L; Patterson Dean J; Miller Steven T  
**Subject:** Re: 501c4 repsonse for AP and roll call

[I am reading on the bb, but seems to be a lot of repetition of the same language. Maybe it isn't showing up right.](#)

---

**From:** Eldridge Michelle L  
**Sent:** Monday, February 27, 2012 05:31 PM  
**To:** Davis Jonathan M (Wash DC); Flax Nikole C; Lerner Lois G; Keith Frank; Lemons Terry L; Grant Joseph H

**Cc:** Eguren Sara L; Patterson Dean J

**Subject:** 501c4 repsonse for AP and roll call

Here is the statement we plan to give AP and Roll call. The inbound is asking about c4's and tea party affiliations. I have been working this with Lois & co. Sorry for short time frame but I need to respond back to AP in just a few minutes. Thanks. --Michelle

(b)(5)/DP

[REDACTED]

[REDACTED]

[REDACTED]  
(b)(5)/DP  
[REDACTED]

[REDACTED]

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 10:47 AM  
**To:** Paz Holly O  
**Subject:** FW: Document1 (6).doc FINAL Version 6:20PM  
**Attachments:** Document1 (6).doc

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 6:19 PM  
**To:** Lerner Lois G  
**Subject:** Document1 (6).doc FINAL Version 6:20PM



(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 10:56 AM  
**To:** Paz Holly O  
**Subject:** FW: 501c4 response for AP

fyi

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 11:05 AM  
**To:** Miller Steven T; Eldridge Michelle L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Cc:** Kindell Judith E  
**Subject:** RE: 501c4 response for AP

Well, that's why we put in the piece about (b)(5)/DP but I agree --it would be useful to put the (b)(5)/DP --Judy and I will add a piece and send it back

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Miller Steven T  
**Sent:** Tuesday, February 28, 2012 8:02 AM  
**To:** Eldridge Michelle L; Davis Jonathan M (Wash DC); Lerner Lois G; Flax Nikole C; Keith Frank; Lemons Terry L  
**Subject:** Re: 501c4 response for AP

The one thing that occurred to me late was that (b)(5)/DP Not sure we need to say it but fact is (b)(5)/DP

Sent using BlackBerry

---

**From:** Eldridge Michelle L  
**Sent:** Monday, February 27, 2012 06:17 PM  
**To:** Miller Steven T; Davis Jonathan M (Wash DC); Lerner Lois G; Grant Joseph H; Flax Nikole C; Keith Frank; Lemons Terry L; Zarin Roberta B  
**Subject:** FW: 501c4 response for AP

OK--Here is final I'm using. Edits were incorporated. Thanks. --Michelle

(b)(5)/DP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 11:58 AM  
**To:** Flax Nikole C  
**Subject:** RE: 501c4 response for AP

**we can talk. Let me send you the email that started this and then tell me when to call you. I'll send the piece right after I send this**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, February 28, 2012 12:56 PM  
**To:** Lerner Lois G  
**Subject:** RE: 501c4 response for AP

Lois, before you respond, what is the congressional/TAS issue?

I need to get some additional facts on the advocacy stuff - do you want me to go to Holly or should we talk?

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 12:02 PM  
**To:** Eldridge Michelle L; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Subject:** FW: 501c4 response for AP  
**Importance:** High

**Let me know if the addition (in bold red) does what you want. I'd like to share this with doc. on a Congressional coming in through TAS.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Eldridge Michelle L  
**Sent:** Monday, February 27, 2012 06:17 PM  
**To:** Miller Steven T; Davis Jonathan M (Wash DC); Lerner Lois G; Grant Joseph H; Flax Nikole C; Keith Frank; Lemons Terry L; Zarin Roberta B  
**Subject:** FW: 501c4 response for AP

OK--Here is final I'm using. Edits were incorporated. Thanks. --Michelle

(b)(5)/DP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
(b)(5)/DP  
[REDACTED]

[REDACTED]

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 1:40 PM  
**To:** Paz Holly O  
**Cc:** Marx Dawn R  
**Subject:** RE: Document1 (6).doc FINAL Version 6:20PM

**Am waiting for Nikole to talk to STM --about the request that started this today. I'll remind her that we have other TAS responses to make**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Tuesday, February 28, 2012 2:13 PM  
**To:** Lerner Lois G  
**Subject:** RE: Document1 (6).doc FINAL Version 6:20PM

**Can you please send me the approved version once you get the go -ahead? I will pull from that for the response to TAS' request for a status update and estimated completion date on three cases. Thanks!**

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 11:47 AM  
**To:** Paz Holly O  
**Subject:** FW: Document1 (6).doc FINAL Version 6:20PM

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 6:19 PM  
**To:** Lerner Lois G  
**Subject:** Document1 (6).doc FINAL Version 6:20PM

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 2:10 PM  
**To:** Kindell Judith E  
**Subject:** RE: 501c4 response for AP

Thanks, but I don't think that is the point Miller wanted to make --he was trying to [REDACTED]  
[REDACTED] (b)(5) DP --did you see the stuff that came after --we have  
agreement

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Kindell Judith E  
**Sent:** Tuesday, February 28, 2012 3:07 PM  
**To:** Lerner Lois G  
**Subject:** FW: 501c4 response for AP

How about this (the first sentence may be all you want to add):

[REDACTED]  
(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 11:05 AM  
**To:** Miller Steven T; Eldridge Michelle L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Cc:** Kindell Judith E  
**Subject:** RE: 501c4 response for AP

Well, that's why we put in the piece about [REDACTED] (b)(5)/DP but I agree --it would be  
useful to put the [REDACTED] (b)(5) DP  
[REDACTED] --Judy and I will add a piece and send it  
back

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Miller Steven T  
**Sent:** Tuesday, February 28, 2012 8:02 AM  
**To:** Eldridge Michelle L; Davis Jonathan M (Wash DC); Lerner Lois G; Flax Nikole C; Keith Frank; Lemons Terry L  
**Subject:** Re: 501c4 response for AP

The one thing that occurred to me late was that [REDACTED]  
[REDACTED] (b)(5)/DP Not sure we need to say it but fact is [REDACTED]  
[REDACTED] (b)(5)/DP [REDACTED] (b)(5)/DP

-----  
Sent using BlackBerry

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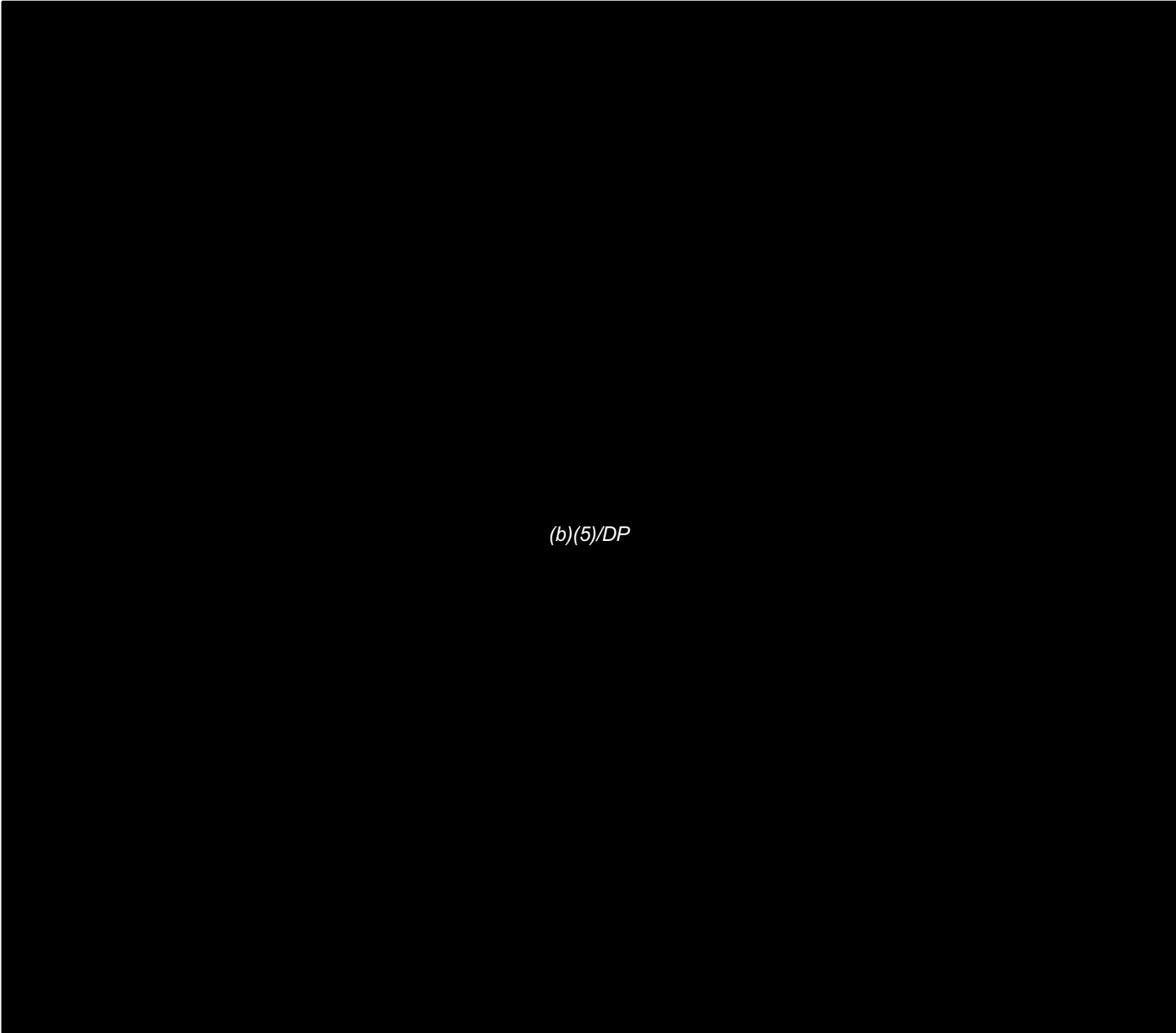
**From:** Eldridge Michelle L

**Sent:** Monday, February 27, 2012 06:17 PM

**To:** Miller Steven T; Davis Jonathan M (Wash DC); Lerner Lois G; Grant Joseph H; Flax Nikole C; Keith Frank; Lemons Terry L; Zarin Roberta B

**Subject:** FW: 501c4 response for AP

OK--Here is final I'm using. Edits were incorporated. Thanks. --Michelle



(b)(5)/DP



---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 2:57 PM  
**To:** Flax Nikole C  
**Subject:** RE: 501c4 response for AP

Thanks--I was intending to add the (b)(5)/DP --just wanted the meat to be the statement. I may add something gentle about how the (b)(5)/DP --which has been the case in the ones I'm looking at. Not sure you saw, but I went back on this and said all this should go through Floyd for consistency sake and I cc:ed him. I guess what I'm trying to say is I'm being VERY cautious every step of the way and will keep you looped in--no surprises we can avoid on this one!

I will have Holly get you the details on the cases. Meanwhile, she will draft a response based on the statement to go back to TAS in the specific cases she owes a response --we'll share before it goes out.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, February 28, 2012 3:48 PM  
**To:** Lerner Lois G  
**Subject:** RE: 501c4 response for AP

Fine to use the language, but it doesn't really answer their question so just need to add a few sentence in the beginning - something like the following:

(b)(5)/DP

And also send them the reg if we can.

Who would be communicating to them? Probably should go back through leg affairs.

Can you get more facts on the status of the cases in question (not the cases specifically) - e.g., how many letters went out and when, were they similar, how many more are expected, etc. Steve would like to meet on this and the guide sheet when CC is okay so let me know. Thanks

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 3:30 PM  
**To:** Flax Nikole C  
**Subject:** RE: 501c4 response for AP

ok

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, February 28, 2012 3:26 PM  
**To:** Lerner Lois G  
**Subject:** RE: 501c4 response for AP

please hold off. Steve had some suggestions on that. I am in a meeting, but can get back to you soon.

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 3:04 PM  
**To:** Flax Nikole C; Eldridge Michelle L; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

**Thanks--I want to use it to respond to the Congressional/TAS inquiry so I will -**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, February 28, 2012 3:01 PM  
**To:** Eldridge Michelle L; Lerner Lois G; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

The change is fine, but I don't think we need to update the response just for the one addition. Just include it next time we use it.

---

**From:** Eldridge Michelle L  
**Sent:** Tuesday, February 28, 2012 1:22 PM  
**To:** Lerner Lois G; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

Yes--I think that is better. Works for us if it works for you. Thanks --Michelle

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 12:29 PM  
**To:** Eldridge Michelle L; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

**I think the point Steve was trying to make is -- (b)(5)/DP You don't get that unless you add the red language.. I don't think the rest of the paragraph does go**

to this. Is says you can [REDACTED] (b)(5)/DP [REDACTED]  
[REDACTED] would you be more comfortable if we say:

[REDACTED] (b)(5)/DP [REDACTED]  
[REDACTED]

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Eldridge Michelle L  
**Sent:** Tuesday, February 28, 2012 12:23 PM  
**To:** Lerner Lois G; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

Any chance that we can delete the language at the end -- and just say: [REDACTED]  
[REDACTED] (b)(5)/DP [REDACTED] I am  
concerned that the phrase [REDACTED] (b)(5)/DP [REDACTED] is a bit challenging for a  
statement. Given the context of the rest of the paragraph, I think the message gets across without it.

[REDACTED] (b)(5)/DP [REDACTED]  
[REDACTED]

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 12:02 PM  
**To:** Eldridge Michelle L; Miller Steven T; Lemons Terry L; Dav is Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Subject:** FW: 501c4 response for AP  
**Importance:** High

**Let me know if the addition (in bold red) does what you want. I'd like to share this with doc. on a Congressional coming in through T AS.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Eldridge Michelle L  
**Sent:** Monday, February 27, 2012 06:17 PM  
**To:** Miller Steven T; Davis Jonathan M (Wash DC); Lerner Lois G; Grant Joseph H; Flax Nikole C; Keith Frank; Lemons Terry L; Zarin Roberta B  
**Subject:** FW: 501c4 response for AP

OK--Here is final I'm using. Edits were incorporated. Thanks. --Michelle

[REDACTED] (b)(5)/DP [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5)/DP

[REDACTED]

[REDACTED]

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 5:10 PM  
**To:** Zarin Roberta B; Fish David L  
**Subject:** RE: IRS response

**Nope--that's all we give out**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Zarin Roberta B  
**Sent:** Tuesday, February 28, 2012 6:07 PM  
**To:** Fish David L; Lerner Lois G  
**Subject:** FW: IRS response

[where do we get this?](#)

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Patterson Dean J  
**Sent:** Tuesday, February 28, 2012 3:45 PM  
**To:** Zarin Roberta B  
**Cc:** Eldridge Michelle L  
**Subject:** FW: IRS response

[Hi Bobby,](#)

[Can we get more up-to-date data than what's in the current data book regarding EO applications and numbers that exist?](#)

**Dean Patterson**  
IRS Media Relations  
(202) 622-4000

---

**From:** Eldridge Michelle L  
**Sent:** Tuesday, February 28, 2012 3:38 PM  
**To:** Patterson Dean J  
**Subject:** FW: IRS response

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 2:55 PM  
**To:** Eldridge Michelle L; Zarin Roberta B  
**Cc:** Grant Joseph H; Keith Frank; Lemons Terry L; Eguren Sara L; Marx Dawn R; Paz Holly O; Flax Nikole C  
**Subject:** RE: IRS response

**Mr... Fish tells me Table 24 and table 25 of SOI information I'm told --not as up to date as reporter would like, but official IRS info.**

**By the way, until further notice, I think we should put Nikole on emails re: these type issues. There's an interest**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Eldridge Michelle L  
**Sent:** Tuesday, February 28, 2012 2:50 PM  
**To:** Lerner Lois G; Zarin Roberta B  
**Cc:** Grant Joseph H; Keith Frank; Lemons Terry L; Eguren Sara L  
**Subject:** FW: IRS response

FYI--This is the first e-mail back from AP since I sent the statement last night. Do we have the data available that Alan is asking for? Please advise. Thanks. --Michelle

---

**From:** Fram, Alan [mailto:AFram@ap.org]  
**Sent:** Tuesday, February 28, 2012 2:45 PM  
**To:** Eldridge Michelle L; Eguren Sara L  
**Subject:** RE: IRS response

Thanks Michelle, Sara. Who can I speak to who could give me the latest data on how many groups have tax-exempt status, including 501 (c)(4) groups, plus figures on how many applications for such status you received in the most recent year available? Thanks again -- Alan

Alan Fram  
The Associated Press  
House Press Gallery  
The Capitol  
Washington, D.C.  
O 202-641-9563  
C 202-253-8115

The AP, founded in 1846, has a global network of 240 bureaus, providing news in text, audio, video, graphics and photos to more than 15,000 news outlets with a daily reach of 1 billion people worldwide.

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**From:** Eldridge Michelle L [mailto:MICHELLE.L.ELDRIDGE@irs.gov]  
**Sent:** Monday, February 27, 2012 6:22 PM  
**To:** Fram, Alan  
**Subject:** IRS response

Here is the response you can use for your question posted to Sara this afternoon. Thanks. --Michelle

IRS Response:

By law, the IRS cannot discuss any specific taxpayer situation or case. Generally however, when determining whether an organization is eligible for tax -exempt status, including 501(c)(4) social welfare organizations, all the facts and circumstances of that specific organization must be considered to determine whether it is eligible for tax -exempt status. To be tax-exempt as a social welfare organization described in Internal Revenue Code (IRC) section 501(c)(4), an organization must be primarily engaged in the promotion of social welfare.

The promotion of social welfare does not include any unrelated business activities or [intervention in political campaigns](#) on behalf of or in opposition to any candidate for public office. However, the law allows a section 501(c)(4) social welfare organization to engage in some political activities and some business activities, so long as, in the aggregate, these non -exempt activities are not its primary activities. Even where the non -exempt activities are not the primary activities, they may be taxed. Unrelated business income may be subject to tax under section 511-514, and expenditures for political activities may be subject to tax under section 527(f). For further information regarding political campaign intervention by section 501(c) organizations, see [Election Year Issues](#), [Political Campaign and Lobbying Activities of IRC 501\(c\)\(4\), \(c\)\(5\), and \(c\)\(6\) Organizations](#), and [Revenue Ruling 2004-6](#).

Unlike 501(c)(3) organizations, 501(c)(4) organizations are not required to apply to the IRS for recognition of their tax -exempt status. Organizations may self-declare and if they meet the statutory and regulatory requirements they will be treated as tax-exempt. If they do want reliance on an IRS determination of their status, they can file an application for exemption.

In cases where an application for exemption under 501 (c)(4) present issues that require further development before a determination can be made, the IRS engages in a back and forth dialogue with the applicant. For example, if an application appears to indicate that the organization has engaged in political activities or may engage in political activities, the IRS will request additional information about those activities to determine whether they, in fact, constitute political activity. If so, the IRS will look at the rest of the organization's activities to determine whether the primary activities are social welfare activities or whether they are non -exempt activities. In order to make this determination, the IRS must build an administrative record of the case. That record could include answers to questions, copies of documents, copies of web pages and any other relevant information.

Career civil servants make all decisions on exemption applications in a fair, impartial manner and do so without regard to political party affiliation or ideology.

The information contained in this communication is intended for the use of the designated recipients named above. If the reader of this communication is not the intended recipient, you are hereby notified that you have received this communication in error, and that any review, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify The Associated Press immediately by telephone at +1 -212-621-1898 and delete this email. Thank you.

[IP\_US\_DISC]

msk dccc60c6d2c3a6438f0cf467d9a4938

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 5:13 PM  
**To:** Paz Holly O  
**Cc:** Marx Dawn R  
**Subject:** Data on c4 cases  
  
**Importance:** High

**Miller asked if we can get stats on number in house and number where we've sent letter to TP -  
-I said about 200, but have no idea how many we've sent a letter to --not trying to get them all  
out--just wondering--anything else you can say about where they are in process**

*Lois G. Lerner*

Director of Exempt Organizations



---

**From:** Miller Steven T  
**Sent:** Tuesday, February 28, 2012 6:03 PM  
**To:** Lerner Lois G; Eldridge Michelle L; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank  
**Subject:** Re: 501c4 response for AP

Don't wait on me--Nikole has my vote-I may have lost the train of email here but am fine with "otherwise able to operate..."

-----  
Sent using BlackBerry

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 01:32 PM  
**To:** Eldridge Michelle L; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

**Just FYI--I am having a separate discussion with Nik ole on this issue but with different players. I've asked her to get Steve's OK on the redrafted one below, so I think we need to get that OK before sending out**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Eldridge Michelle L  
**Sent:** Tuesday, February 28, 2012 1:22 PM  
**To:** Lerner Lois G; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

Yes--I think that is better. Works for us if it works for you. Thanks --Michelle

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**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 12:29 PM  
**To:** Eldridge Michelle L; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

**I think the point Steve was trying to make is -- (b)(5)/DP You don't get that unless you add the red language.. I don't think the rest of the paragraph does go to this. Is says you can (b)(5)/DP would you be more comfortable if we say:**

(b)(5)/DP

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Eldridge Michelle L

**Sent:** Tuesday, February 28, 2012 12:23 PM

**To:** Lerner Lois G; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L

**Cc:** Burke Anthony; Patterson Dean J

**Subject:** RE: 501c4 response for AP

Any chance that we can delete the language at the end -- and just say:

(b)(5)/DP I am  
concerned that the phrase (b)(5)/DP is a bit challenging for a  
statement. Given the context of the rest of the paragraph, I think the message gets across without it.

(b)(5)/DP

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**From:** Lerner Lois G

**Sent:** Tuesday, February 28, 2012 12:02 PM

**To:** Eldridge Michelle L; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L

**Subject:** FW: 501c4 response for AP

**Importance:** High

**Let me know if the addition (in bold red) does what you want. I'd like to share this with doc. on a Congressional coming in through TAS.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Eldridge Michelle L

**Sent:** Monday, February 27, 2012 06:17 PM

**To:** Miller Steven T; Davis Jonathan M (Wash DC); Lerner Lois G; Grant Joseph H; Flax Nikole C; Keith Frank; Lemons Terry L; Zarin Roberta B

**Subject:** FW: 501c4 response for AP

OK--Here is final I'm using. Edits were incorporated. Thanks. --Michelle

(b)(5)/DP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5)/DP

[REDACTED]

[REDACTED]

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**From:** Zarin Roberta B  
**Sent:** Wednesday, February 29, 2012 7:54 AM  
**To:** Eldridge Michelle L; Lerner Lois G; Partner Melaney J; Kindell Judith E; Paz Holly O  
**Subject:** FW: [spam] EO Tax Journal 2012-38

fyi

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

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**From:** paul streckfus [mailto:pstreckfus@gmail.com]  
**Sent:** Wednesday, February 29, 2012 6:09 AM  
**To:** paul streckfus  
**Subject:** [spam] EO Tax Journal 2012-38

*From the Desk of Paul Streckfus,  
Editor, EO Tax Journal*

**Email Update 2012-38 (Wednesday, February 29, 2012)**  
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- 1 - The EOTJ Mailbag**
- 2 - Webcast on Pitfalls of Nonprofit Law Announced**
- 3 - Is the IRS Attempting to Intimidate Local Tea Parties?**
- 4 - News from the IRS and Department of Treasury (Part 2)**

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**1 - The EOTJ Mailbag**

Paul, as a follow-up to Monday's email update in which you discussed section 501(c)(4) and state, "Even the IRS, in its 1981 EO CPE textbook, admits that 'social welfare is inherently an abstruse concept that continues to defy precise definition,'" I suspect that I am the author of that particular piece of wisdom (if not, I almost certainly reviewed it and let it pass). It was probably unwise to put such an admission so baldly in print. Maybe I was still naive enough to believe that the legislature could somehow be prodded into some effort at clarification. Silly me.

Conrad Rosenberg, Silver Spring, Maryland [former IRS Branch Chief, Exempt Organizations Division]

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Paul, in regard to yesterday's email update in which you included an article by Fred Wertheimer ["How *Citizens United* Unleashed Campaign Spending in Federal Elections by Tax -Exempt Organizations"], Wertheimer must

mean those giant corporations secretly trying to meddle in elections like those of Foster Friess and Sheldon Adelson. But just like Grover Norquist, Wertheimer has set up himself with a nice little niche from which he likely makes a nice more than little living in pursuing his dream of folks like him controlling the political process. Also, I must've missed your reprint of Robert Samuelson's recent *Newsweek/Washington Post* column on this topic; no conservative megaphone, Samuelson provides a contrast to Wertheimer's preaching.

And the Heartland Institute story? Shame on the Institute for not behaving honorably like Media Matters. But then where are the 'quotes' in the Heartland article by OMB Watch from those tax professionals that spoke about how unclear and difficult revocation of the Media Matters exemption would be -- only addressing a point I've made for years: those protecting the 'sanctity' of the intersection of taxes and political money are only interested in punishing those with whom they have political differences.

Kip Dellinger, Van Nuys, California

**Editor's note:** I assume Kip is referring to Samuelson's article, "The Super PAC Confusion," *Newsweek*, Feb. 20, 2012, which I had not seen prior to his mentioning it.

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## 2 - Webcast on Pitfalls of Nonprofit Law Announced

ALI-ABA will be presenting "Top Ten Pitfalls of Non-Profit Law" on April 5 from 1:00 to 3:00 EDT as a live video webcast (\$249) featuring Virginia Sikes, Donald Kramer, and Karl Emerson of Montgomery McCracken, Philadelphia. Phone: 800-CLE-NEWS, Course Code: VCT0405.

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## 3 - Is the IRS Attempting to Intimidate Local Tea Parties?

by Colleen Owens, *Big Government*, Feb. 27, 2012

In January and February of this year, the Internal Revenue Service began sending out letters to various local Tea Parties across the country. Mailed from the same Cincinnati, Ohio IRS office, these letters have reached Tea Parties in Virginia, Hawaii, Ohio, and Texas (we are hearing of more daily). There are several common threads to these letters: all are requesting more information from these independent Tea Parties in regard to their nonprofit 501(c)(4) applications (for this type of nonprofit, donations are not deductible). While some of the requests are reasonable, much of them are strikingly onerous and, dare I say, Orwellian in nature.

What are local Tea Parties to think with requests like "Please identify your volunteers" or "are there board members or officers who have run or will run for office (including relatives)"? What possible reason would the IRS have for Tea Parties to "name your donors" when said donations are non-deductible? These are just a few of the questions asked by the IRS in these letters, and one cannot help but suspect an intrinsic threat encompassing all these demands.

The other question is the timing of these IRS letters requesting reams of copies and hundreds of hours of work and potentially thousands of dollars in accounting/legal fees (all due in two weeks). Some of these Tea Party groups have not received anything concerning their nonprofit status since 2010 prior to these letters.

These documents are further undermined by a letter sent to IRS Commissioner Shulman. Signed by six Senators, it requests that the commissioner investigate 501(c)(4) groups to determine whether they are engaging in substantial campaign activity, including opposition to any candidate. Who signed this letter? Senators Schumer, Franken, Udall, Shaheen, Whitehouse, Merkley and Bennet -- all Democrats.

Could it be that these Senators want the IRS to investigate the nonprofit status of Media Matters and its

coordinated political activity with the White House? Or perhaps they are concerned with nonprofit ACO RN groups' record of voter fraud, and other previous campaign abuses including alleged close ties with President Obama's Project Vote? No, when these Senators sent this letter to the IRS commissioner, the message would be very clear. The 501(c)(4) groups they want investigated are not those with Democratic liberal ties.

But why would a department like the IRS cave to Democrat demands? Could it be because this Democratic administration proposed a budget earlier this month that would result in "\$1.1 billion in new funds for the Internal Revenue Service ... that would translate to 5,112 new hires, or a 5 percent expansion of enforcement operations"? Colleen Kelley, president of the National Treasury Employees Union, couldn't contain her glee at the prospect of over 5,000 new union hires, exclaiming in response to the announcement that "the administration's 2012 funding level for the IRS would permit the agency to improve services through increasing response rates to inquiries, deploying enforcement resources to what the White House called high-return integrity activities and by modernizing information technology systems."

The IRS is already focusing on "deploying enforcement resources," as Kelley put it, toward targeting small, local Tea Parties; we're sorry to report that these "high-return integrity activities" are generating a higher fear factor, not necessarily higher returns.

In the near future, the Affordable Healthcare Act mandate and all things related to healthcare are to be policed and enforced by the IRS. This means thousands more IRS agents will be added, but the actual number is yet unknown. Considering that healthcare accounts for 1/6th of the U.S. economy, it will probably be a significant number of additional agents. According to the tax administration inspector general, Russell George, "The new Affordable Care Act provisions represents the largest set of tax law changes in 20 years." That's an overwhelming thought considering there are over 70,000 pages of federal tax code.

The Tea Party movement is well known for wanting to shrink the size of government and decrease government spending because of the ballooning deficit. This means that unionized government employees that may be out of a job if the Tea Party is successful also have the power to choose whether or not Tea Party groups get nonprofit status. And those same employees are also requesting names and information of board members, volunteers, donors, invited speakers (and party affiliation) and just about anyone that has had any association with the Tea Party.

It is apparent that there is a potential conflict of interest and it could be used to stifle the right to free speech of the Tea Party members, or any other citizen willing to question the system and powers that be.

Many Tea Party boards are afraid to speak out publicly about these intrusive requests because of fear of being personally targeted and singled out by the IRS. This is especially scary to citizens of modest incomes that don't have the financial means to hire accountants or tax attorneys. And that is probably the point. Cower and fade away, or face possible persecution at the hands of government bureaucrats.

Some people may read this article about this possibly -coordinated effort against Tea Parties and be glad. But, the tables can easily be turned if and when another party takes control. The potential of using the IRS as a weapon against those that disagree with the people in power is exactly why the Tea Party fears the growth of government.

If your Tea Party has received similar letters, please let me know (Colleen Owens, [citizenczar@gmail.com](mailto:citizenczar@gmail.com)) and I will put you in contact with other Tea Parties that have also received them. I will not publish your Tea Party or names publicly.

Remember the words of Ben Franklin, "We must all hang together, or assuredly we shall all hang separately."

#### 4 - News from the IRS and Department of Treasury (Part 2)

*Part 1 appeared in email update 2012 -37.*

*What follows are the February 17 remarks of Victoria Judson, Division Counsel/Associate Chief Counsel, TEGE, IRS, Washington; Ruth Madrigal, Attorney-Advisor, Office of Tax Policy, Department of Treasury, Washington; and Preston Quesenberry, Senior Technical Reviewer, Office of Chief Counsel, Washington, as delivered to members of the EO Committee of the ABA's Tax Section. The moderator of the panel is Ron Schultz, PricewaterhouseCoopers, Washington.*

**Judson:** I am Vicky Judson. Some of you may not have met me because I just joined TEGE at the end of last August. I wanted to say hello to you all. I am serving as Division Counsel/Associate Chief Counsel, TEGE, one of the longest titles in the IRS. That means I am on the Counsel side and Lois Lerner, was not able to come, is on what we call the client side. As the Commissioner explains, we are all one team, which we are, we work together very well, but just so you understand, we're actively involved with Ruth in publishing guidance and working on the guidance and we advise Lois and her crew but we don't run the audit choices in those programs. However, she shared with me thoughts that she wanted to share with you about the work plan. So in addition to talking to you some about WOTC, I am going to share her thoughts about the 2012 work plan. I know that you would all prefer if we were talking about program-related investments. I see Celia Roady in the back and I wanted her to know that we really have been working assiduously on that project and while I've been warned I am not supposed to make promises, I am very, very hopeful that next time we all get together, that that is what we'll be able to talk about.

In the meantime, since we don't have that to talk about, I did want to give you a bit more details, maybe a little bit of news about the Hire Heroes Act and WOTC credit because some of you might talk to some of your clients about hiring veterans and taking this credit, and maybe it's not something you've focused on. I wanted you to know that for the first time it is available to tax-exempt organizations and you can get a credit of up to \$6,240 for a qualified veteran if that veteran is in the classification that gets the highest credit. There are various different categories of veterans.

You get a credit of either 16.25 percent for people who work at least between 120 and 400 hours or 26 percent of the wages for people who work more than 400 hours after they are hired and then that percentage is multiplied against wages of different amounts depending on what category the veteran falls in. So, for example, 26 percent times \$6,000 for veterans receiving food stamps or who are unemployed for at least four weeks, \$12,000 for disabled veterans who are hired within one year of their end of active duty, \$14,000 for veterans who are unemployed for six months or more before they are hired, and \$24,000 for disabled veterans who are unemployed for six months or more.

For charitable organizations, the wages to the qualified veteran have to be in furtherance of activities that are the basis of the employing organization's exemption under 501. So you can't hire them to do something that would be subject to UBIT. It should be your primary exempt purpose. The credit is available to organizations described in 501(c) exempt under 501(a) so it's not to agencies or instrumentalities of state or local governments or Indian tribal governments. It's a credit against the employer share of the Social Security tax.

What is a little bit challenging for us in implementing the credit and maybe for you and your clients is how to actually collect it. Having recently joined the wonderful team I'm on, I've learned various things about the amazing challenges with getting systems in place at a snap of a finger to capture information and process the funds. That was a bit challenging with this credit. The Service developed a new Form 5884 -C and so that's the form that is used to get the credit. It's not claimed by doing a reduction on the 941, which is the form you usually use for your employment tax. People should file their 941 first and then the 5884 -C to get a refund with

interest. So that's the simplest, best way to make it work operationally.

However, because people are still entitled to the credit, we recognize some folks, who need the funds sooner, might want to reduce their employment tax on 941 but it's not recommended because it may generate some erroneous notices to people. If that happens, we will abate it, but I want you to know that it's really preferable to use Form 5884-C, but if people do use the 941, it will get fixed. It may just generate a bunch of automatic notices in the meantime.

In order to get the WOTC credit, the veteran has to be certified, and they are certified by designated local agencies. Normally that has to be done within 28 days of hire, but we gave an extension until June 19, 2012. So there's more time for the certification and the other key change that we made is we allowed for use of different electronic systems, signatures and faxing which is not something we would generally do more broadly. You do have state agencies that are actually checking data to make sure people really are veterans and they were really were employed so it has fraud protections we might not see otherwise, so we tried to be more flexible in that regard. These systems are available starting March 10, 2012. The reason we gave a little more time is we coordinated with the Department of Labor and they're very involved in certification and they wanted to get their rules out and communicate with people. So that's my plug to use WOTC and have veterans help your clients do their mission.

Now I will turn to the work plan and share some thoughts that Lois wanted me to share with you. In 2012 Exempt Organizations will continue to implement two major laws, the Pension Protection Act of 2006 and the Affordable Care Act of 2012. As you know, the Pension Protection Act automatically revokes status of organizations that fail to file required reports for three consecutive years. 400,000 organizations had their exemptions automatically revoked and so far 11,000 have applied for reinstatement. The Service recently came out with Select Check. It's a new on-line database. You can use it to get the auto-revocation list. You can search it by EIN, name, city, state or zip code. This system also includes Pub. 78 data so Pub. 78 lives on electronically and it is now updated monthly instead of quarterly. So we hope that will help you.

I'll note that under ACA, the IRS is required to review the community benefit activities of hospital organizations at least once every three years and EO Exam formed and trained a Review of Operations group dedicated to completing that statutorily mandated review. Hospitals should not expect to be contacted during that review.

There also are issues relating to compliance using the redesigned Form 990. One of the focuses of this year's work plan is using the data from this redesigned 990, specifically (c)(4), (5) and (6) self-declarers. These groups can declare themselves to be tax exempt without seeking a determination of tax-exempt status from the IRS and EO will be sending a questionnaire to organizations based on their Form 990 filings to assess compliance. I'll note with respect to political activity, as in any election year, EO will continue to work to enforce the rules relating to political campaigns and campaign expenditures.

For 2012, EO is combining what we have learned from past projects on political activity with information from the redesigned 990 to focus exam resources on serious allegations of political interventions. Allegations from outside sources and potential violations identified through risk modeling Form 990 data will be reviewed by a committee of career civil servants to identify cases to refer to Exam. With respect to 990-T and UBIT, in 2012, EO will be looking at organizations that report unrelated business activities on their Form 990s but do not file a 990-T. We will also analyze 990-T data to develop risk models to identify organizations that report significant gross receipts from unrelated business activities but declare no taxes are due.

**Schultz:** Vicky, can you comment specifically on what the Service sees as the major non-compliance areas with UBI?



**Judson:** My understanding is that the EO final report on college and universities covers UBI in that context and my advice is to stay tuned.

In terms of ongoing projects, there are some in international. Academic institution initiative, EO is continuing its partnership and provides expert speakers and in fact for those of you in the area, there is one on the 24th at the University of San Diego School of Leadership. If anyone in the audience knows an academic institution that might be interested in hosting one of the workshops, they should send an email to [pilar.jarrin@irs.gov](mailto:pilar.jarrin@irs.gov). And given the shortage of time, I will skip the other items.

**Schultz:** I have one more work plan question and one non-work plan question. On the work plan, I mentioned, when I opened, the private foundations. Can you comment what the Service is looking at there, why the focus?

**Judson:** Well, I did talk to Lois about this and she indicated that we focus our initiatives on the largest organizations in the sector, the ones that have substantial funds, and we've previously looked at other large organizations such as hospitals and universities. We are now focusing on private foundations because they also hold significant assets.

**Schultz:** And the non-work plan question is on the CHNA, the needs assessments for hospitals, can you comment at all about some of the comments you've been getting and maybe what some of the clarifications might be in that area?

**Judson:** What I can say at this point is, as you may know, Notice 2011-52 requested comments with the comment period ending in late September. In response, we've received more than 90 comments from all parts of the healthcare community on such issues as hospital collaboration, on community health needs assessments, documenting them and the needs addressed in implementation strategies and the deadlines for implementation strategies. The comments have been very helpful. We are currently reviewing them as part of our work on the proposed regulations.

**Schultz:** Thank you. Preston.

**Quesenberry:** I'm going to be covering tax-exempt organizations litigation and I'll just try to run through a list of both recent decisions and some cases in which decisions are pending and then maybe if I have a little extra time I'll go back and fill in some of the details in some of these cases. So to start with the most recent, for those of you who are interested in a case called *Z Street v. Commissioner*, this is a case involving an allegation in an exemption application that there had been viewpoint discrimination essentially, so for people following that case, on Monday the Pennsylvania District Court issued an order transferring the case to the D.C. District Court. The Pennsylvania court said that the case is best construed as a controversy under section 7428 and therefore the D.C. District Court had jurisdiction. So that case has been moved.

Going back to last week, there were two circuit court decisions that involved tax-exempt organizations. The first one is *Driscoll v. Commissioner*. In this case, the Eleventh Circuit reversed the Tax Court and held that the parsonage allowance exclusion under section 107 does not apply to the cost of maintaining a second home. The Tax Court was very divided on that. I think it was 7-6 and the Eleventh Circuit reversed. I can go into the details of that case if I circle back.

One other thing to note about section 107 is that the government is also defending section 107 in a constitutional challenge in a district court in Wisconsin and that suit was filed by the Freedom from Religion Foundation. They are essentially alleging a violation of the First Amendment establishment clause.

Another case that was released last week was *Rolfs v. Commissioner*. In this case, the Seventh Circuit essentially upheld the Tax Court's opinion that a couple could not take a deduction for burning down their

house, although that is not exactly but that is one fact of the facts there. The taxpayers had essentially donated their house to the local fire department for use in a fire training exercise. They had relied on a Tax Court memorandum opinion in the seventies that had essentially allowed a similar deduction. Both the Seventh Circuit and the Tax Court had an interesting analysis and evaluation of the case. The taxpayers had essentially just taken the value of the land with the house and without the house and took the difference, \$76,000, as a deduction. Both the Seventh Circuit and the Tax Court said that valuation was incorrect because it didn't take account of the condition that the house was going to be burned down and therefore the actual value should have been either the salvage value or the value of the house if it had been relocated to another location and then, given what the expert testimony was, that value was essentially zero. So that was that case.

**Judson:** The moral of that story is that if people are making donations that they plan to destroy, they should carefully look at the value.

**Quesenberry:** For those of you who are following *Catholic Answers v. United States* and *Christian Coalition of Florida v. United States*, in both of those cases there were dismissals in the circuit court. They were refund suits that the circuit court, denied because the amounts had been refunded so the circuit courts in those cases that said it was moot. The most recent update was on January 23 when the Supreme Court denied Catholic Answers petition for a writ of *certiorari*.

This is going back a little bit further to the Fall. I don't know if this was covered at the last ABA meeting. There was a UBIT case that was issued back in late September and that was *National Education Association v. Commissioner* and that involved special UBIT rules for exempt periodicals and specifically whether or not NEA had to include in circulation income a portion of membership dues on the basis that their members had a right to receive the periodicals associated with membership. NEA was taking the position that the members didn't have a right to receive the periodicals, even though they received them regularly in the mail, on the basis that NEA said that one could cancel the publication at anytime if you wanted to and also we make the contents of those publications available for free on the Web so therefore anyone can get them and you don't need to be a member to get the contents or the periodical. The Tax Court in that case rejected both of those arguments and found that the members did indeed have a right to receive the periodicals. Again, if we swing back, I can go more into the facts of why. So those are the decisions.

As for the cases on which we're still awaiting a decision, there's another UBIT case in a circuit court. This is *Ocean Pines Association v. United States*. Oral argument in that case was just held in the Fourth Circuit on January 25. The Tax Court in that case had held that a section 501(c)(4) homeowners association had unrelated business taxable income from operating a parking lot in Ocean City exclusively for its members.

There's another circuit court case on which we're awaiting a decision. This involves issues of tax exemption and that's *Asmark Institute v. Commissioner*. The Tax Court in that case had held that the organization, which provided services to agricultural businesses for a fee that enabled them to comply with government regulations, was not exempt under 501(c)(3) because its operations were commercial rather than charitable, and in that case it also rejected the taxpayer's argument that it was lessening the burdens of government. So that case involves both lessening the burdens of government and a commerciality angle for those who are interested in tracking that issue.

In the Tax Court, there's the case of *Capital Gymnastics Booster Club v. Commissioner*. This is a 7428 action and there's a question in that case as to whether an organization that provided fundraising for competitive and amateur gymnastics teams should have been revoked under 501(c)(3) because it operated for a private benefit for those athlete members who fundraised. This is an organization that the IRS revoked because it said that its point system, which tracked the fundraising profits allocated to the specific athletes who fundraised, was used to offset competition expenses for these athletes and that, therefore, violated inurement and private benefit.

Another case we're waiting on is *Florida Independent Colleges and University Risk Management Association v. Commissioner*. This is in the D.C. District Court and it's another 7428 action. The central question there is whether an organization that manages a general liability insurance risk pool for a group of unrelated colleges and universities is exempt under 501(c)(3). The government's position is that FICURMA's sole activity, which is managing an insurance risk pool for its eleven unrelated members, does not primarily further exempt purposes described in 501(c)(3) and that Congress expressly affirmed this by enacting 501(m), that risk pools do not qualify for exemption under 501(c)(3). So here's a case that involves 501(m) which I don't think has come up in cases recently. So there's maybe some interest there.

The government is also taking the position that FICURMA does not meet the statutory safe harbor for qualified charitable risk pools that Congress provided under 510(n). The taxpayer, on the other hand, is primarily asserting that it is advancing the educational missions of its members but also it's saying alternatively that it's an integral part of its member education organizations so this case will potentially involve some analysis of the integral part doctrine and its final argument is saying that even if 501(m) does apply, it's unconstitutional because the exclusion of churches results in disparate treatment between secular and religious institutions. That's their arguments.

I'll end with a final case that is in the D.C. District Court, another 7428 action, *Family Trust of Massachusetts v. Commissioner*, and this involves a question of whether an organization that provides Medicaid special needs trusts for the disabled is exempt under 501(c)(3).

**Judson:** Ron, I didn't realize we had more time, so I didn't touch on some of the new and ongoing projects that Lois wanted me to tell you about and I figured you'd probably be quite interested in that. So, if I could just take five minutes.

**Schultz:** Please do.

**Judson:** In the international arena, EO worked with a joint international shelter information center, the Canadian Revenue Agency and other countries to exchange tax information. EO also worked with the IRS's LB&I, Large Business and International Division, on its global high wealth industry efforts. In fiscal year 2012, EO will examine exempt organizations including large private foundations that operate overseas to ensure that their activities are consistent with their charitable purposes. In the National Research Program, this is the third and final year of the IRS-wide study regarding employment tax issues. EO will be examining employment tax returns of 1,500 exempt organizations.

For the resource page on [irs.gov](http://irs.gov), feedback is requested from the sector because you've told us that you'd like information about exam and compliance check processes so EO's Customer Education and Outreach and Examinations functions are collaborating to create a new on-line resource page to help organizations understand what to expect during a compliance check or an exam.

With respect to disaster relief communications, EO is developing a communications plan to identify specific compliance issues and abuses associated with disasters and educate the public about these rules and regulations. With respect to group rulings, the Advisory Committee of Tax Exempt and Governmental Entities, which we all refer to as ACT, issued a report on group exemption issues in June 2011. EO is following up by developing a questionnaire to be sent to a cross-section of group ruling holders to learn more about how they meet the requirements of group ruling Rev. Proc. 80-27.

With respect to private foundations, as I mentioned before, many private foundations hold substantial assets and private foundations are subject to more restrictive rules than public charities. Based on information reported on the 990-PF, EO is examining a selection of the largest private foundations. And then fiscal year 2012 is the third and final stage of the EO services and assistance research project to learn how EO can develop more effective

and efficient outreach and education programs.

**Schultz:** Thank you. If anybody has any questions, please feel free to come up to the mike and ask away.

**Mancino:** Doug Mancino, Los Angeles. In 2007, the IRS issued a whistleblower form. I am wondering whether you can comment on whether you've been getting a lot of them and whether that's proven to be an effective enforcement tool.

**Judson:** I would have to defer because I do not know about the number of whistleblower reports we received. I do know, having talked to other colleagues, that people are considering issues about the scope with respect to whistleblowers but the conversations I have are really not related to the EO area.

**Kingsley:** Beth Kingsley, Washington, D.C. I had a question about something that we discussed at a breakfast meeting about reports from the field and I have heard it mentioned so I was wondering if you could let us know if this is actually happening, which is a 1023 from an organization that had made the 501(h) election and wasn't going to lobby under those rules, but was going to be talking about public policy issues. Their attorney was told that it had been referred to a special review group that was set up to look at and try to standardize and coordinate review of applications that touch on public policy issues. I had not heard anything from anywhere else but someone has been told this.

**Judson:** That would be something that Lois might know and I won't so I will mention to her that the question is floating around.

**Pomeranz:** John Pomeranz, Washington, D.C. This may similarly, Vicky, be a problem that you are channeling Lois and not Lois. I think you said when you were talking about political activity enforcement that there was going to be some sort of risk modeling of the 990 data that was going to lead to exams in the political area. Is that correct?

**Judson:** Channeling Lois, we are combining what we have learned from past projects on political activity with information gleaned from the redesigned 990 to focus our exam resources. So I think it's a somewhat different concept.

**Pomeranz:** And the exams in this area are going to be handled by a committee of career civil service folks, is that what you said as well?

**Judson:** Right, I think, again, Lois knows more of the details but the real goal here is to try to separate this process as you might expect from the political process and to have those standards.

**Pomeranz:** So it won't be PACI but it will be a group kind of like PACI with these people who get all these complaints or exams.

**Judson:** Again, because I am unfortunately channeling Lois on this, I understand more the concept of keeping it separate and independent. I don't know the details but she indicated that it would be reviewed by a committee of civil servants.

**Shevlin:** Dave Shevlin from New York. Ruth, this is for you even though I am going to start by referencing the work plan. The work plan speaks about continuing to look at organizations that report ownership of a foreign bank account to determine certain compliance issues. I just wanted to get your thoughts and mention that, apart from this issue which I think raises the FBAR filing type issues, that over the past year, we have seen the release of some forms out of Treasury that are required to be filed by organizations that have substantial investment assets outside the United States.

There is a form, TIC Form SLT, for I think holdings in excess of a massive amount, maybe a billion, but recently a number of exempt organizations, in addition to other taxpayers, have received a letter notifying them of their obligation by March 1, I believe of this year, to file a Form SHC if they have assets in excess of \$100 million off-shore. There is not a lot of great understanding and clarity, I think I speak for myself, as to the obligation of exempt organizations to file this form if they've received a letter or if they have n't received a letter. Some phone calls to Treasury have been made that have said, well, if you haven't received a letter, you don't have to file the form even though the form purports to apply to organizations that have over \$100 million off-shore. I think the purpose of the comment is really just to understand and perhaps encourage that we have maybe more of a dialogue holistically for the exempt sector to understand what its collective filing requirements are of course with the Service but also with respect to Treasury forms with respect to foreign holdings. Thank you.

**Madrigal:** Thanks for the comment.

Judson: I would also add that Susan Brown on my staff, whom some of you may know, does our work on FBAR so she would be an ideal person to communicate with if you have some issues.

**Schultz:** Anyone else? Okay, I think we're done. Thank you very much.

---

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**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 9:12 AM  
**To:** Paz Holly O  
**Subject:** RE: Congressional Follow-Up

Thanks!

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Tuesday, February 28, 2012 11:47 PM  
**To:** Lerner Lois G  
**Subject:** RE: Congressional Follow-Up

Lois,

EO Determinations noticed an uptick in applications from advocacy organizations early in 2010.

The first case was referred to EO Technical in (b)(3)/6... 2010. That case was an application for (b)(3)/6103 status. It closed (b)(3)/6103 2010 when the (b)(3)/6103

At that time, EO Technical requested another (b)(3)/6103 from an (b)(3)/6103 be transferred to EO Technical. Such a case was transferred in (b)(3)/... 2010. That case also closed (b)(3)/6103 2012 after the (b)(3)/6103

EO Technical also requested an application from a (b)(3)/6103 be transferred from Determinations. A case was transferred in (b)(3)/... 2010. It is still being developed by EO Technical.

To give you a sense of the growth in the number of these cases, in October 2010, we had identified approximately 40 advocacy cases. We currently have roughly 200 such cases.

EO Technical provided guidance regarding the development of app lications by advocacy organizations to EO Determinations in November 2011.

I will send the case assignment guide to you by separate email.

Holly

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**From:** Lerner Lois G  
**Sent:** Friday, February 24, 2012 3:46 PM  
**To:** Spellmann Don R; Cook Janine; Paz Holly O  
**Cc:** Kindell Judith E; Lowe Justin; Flax Nikole C; Urban Joseph J  
**Subject:** Congressional Follow-Up  
**Importance:** High

Just came back from the meeting and they have asked for several things.

1. Don/Janine-- The guidance provided to Cincy that Don reviewed -- I'm hoping you can let us know your concerns as soon as possible so we can finalize the draft. We will be sending it over to them and putting it out on the web with other check sheets/guide s heets.

2. Holly--a timeline relating to the uptick --that is, about when did we notice there were enough of these that we needed guidance from R & A and then when did we get cases up here to look at. If there is info regarding development and FTEs and r eplacement cases, give me that too.

3. Case Grading Guide--I think [REDACTED] (b)(5) DP let me know the basis.

Thanks to all who got me ready for today --I think it went as well as it could.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 10:32 AM  
**To:** Paz Holly O  
**Subject:** FW: 501c4 response for AP

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Tuesday, February 28, 2012 3:48 PM  
**To:** Lerner Lois G  
**Subject:** RE: 501c4 response for AP

Fine to use the language, but it doesn't really answer their question so just need to add a few sentences in the beginning - something like the following:

(b)(5)/DP

And also send them the reg if we can.

Who would be communicating to them? Probably should go back through leg affairs.

Can you get more facts on the status of the cases in question (not the cases specifically) - e.g., how many letters went out and when, were they similar, how many more are expected, etc. Steve would like to meet on this and the guide sheet when CC is okay so let me know. Thanks

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 3:30 PM  
**To:** Flax Nikole C  
**Subject:** RE: 501c4 response for AP

ok

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, February 28, 2012 3:26 PM  
**To:** Lerner Lois G  
**Subject:** RE: 501c4 response for AP

please hold off. Steve had some suggestions on that. I am in a meeting, but can get back to you soon.



---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 3:04 PM  
**To:** Flax Nikole C; Eldridge Michelle L; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

**Thanks--I want to use it to respond to the Congressional/TAS inquiry so I will -**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, February 28, 2012 3:01 PM  
**To:** Eldridge Michelle L; Lerner Lois G; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

The change is fine, but I don't think we need to update the response just for the one addition. Just include it next time we use it.

---

**From:** Eldridge Michelle L  
**Sent:** Tuesday, February 28, 2012 1:22 PM  
**To:** Lerner Lois G; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

Yes--I think that is better. Works for us if it works for you. Thanks --Michelle

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 12:29 PM  
**To:** Eldridge Michelle L; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

**I think the point Steve was trying to make is -- (b)(5)/DP You don't get that unless you add the red language.. I don't think the rest of the paragraph does go to this. Is says you can (b)(5)/DP**  
**would you be more comfortable if we say:**

(b)(5)/DP

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Eldridge Michelle L  
**Sent:** Tuesday, February 28, 2012 12:23 PM  
**To:** Lerner Lois G; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Cc:** Burke Anthony; Patterson Dean J  
**Subject:** RE: 501c4 response for AP

Any chance that we can delete the language at the end -- and just say: [REDACTED] I am  
[REDACTED] (b)(5)/DP  
concerned that the phrase [REDACTED] (b)(5)/DP is a bit challenging for a  
statement. Given the context of the rest of the paragraph, I think the message gets across without it.

[REDACTED] (b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 12:02 PM  
**To:** Eldridge Michelle L; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L  
**Subject:** FW: 501c4 response for AP  
**Importance:** High

**Let me know if the addition (in bold red) does what you want. I'd like to share this with doc. on a Congressional coming in through TAS.**

*Lois G. Lerner*  
Director of Exempt Organizations

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**From:** Eldridge Michelle L  
**Sent:** Monday, February 27, 2012 06:17 PM  
**To:** Miller Steven T; Davis Jonathan M (Wash DC); Lerner Lois G; Grant Joseph H; Flax Nikole C; Keith Frank; Lemons Terry L; Zarin Roberta B  
**Subject:** FW: 501c4 response for AP

OK--Here is final I'm using. Edits were incorporated. Thanks. --Michelle

[REDACTED] (b)(5)/DP

(b)(5)/DP

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**From:** Eldridge Michelle L  
**Sent:** Wednesday, February 29, 2012 1:17 PM  
**To:** Lerner Lois G  
**Subject:** FW: AP coming back with followups on 501c4 issue

---

**From:** Patterson Dean J  
**Sent:** Wednesday, February 29, 2012 1:46 PM  
**To:** Eldridge Michelle L; Zarin Roberta B  
**Subject:** AP coming back with followups on 501c4 issue

Please see below:

**Dean Patterson**  
IRS Media Relations  
(202) 622-4000

---

**From:** Fram, Alan [mailto:AFram@ap.org]  
**Sent:** Wednesday, February 29, 2012 1:44 PM  
**To:** Patterson Dean J  
**Subject:** RE: revised IRS statement

As I mentioned, my editors want this story finished by day' s end. FYI the Kentucky 9/12 project faxed me the Feb. 14 letter they got from you.

Questions:

\_Kentucky 9/12 says soon after they applied for tax exempt status in late 2010, they got an IRS letter acknowledging receipt and saying if more information is needed, they should hear from IRS in about 90 days. But they say next contact from IRS was about two weeks ago. Why the time lag?

\_How typical or unusual is it for IRS to request details of all Twitter/Facebook activity, and why are you asking the Kentucky 9/12 Project for it?

\_Are 5 pages of questions with about 90 separate requests typical or unusual when IRS is investigating whether a group qualifies? Why is so much information needed?

\_Kentucky 9/12 group says your questions are politically motivated and you're trying to regulate them out of existence. Response?

\_Some information IRS has requested (like minutes) could result in this group having to reveal names of members or volunteers who aren't top officials. Does this raise a privacy concern with IRS , and why is that information needed?

\_Why is information needed on relatives of top officials?

Thanks,

Alan

---

**From:** Patterson Dean J [mailto:Dean.J.Patterson@irs.gov]  
**Sent:** Tuesday, February 28, 2012 4:04 PM  
**To:** Fram, Alan  
**Subject:** revised IRS statement

Alan,

I am sending you a very slightly revised statement since you have not used it. Also let's talk when you have a moment.

**Dean Patterson**

IRS Media Relations  
(202) 622-4000

By law, the IRS cannot discuss any specific taxpayer situation or case. Generally however, when determining whether an organization is eligible for tax -exempt status, including 501(c)(4) social welfare organizations, all the facts and circumstances of that specific organization must be considered to determine whether it is eligible for tax -exempt status. To be tax-exempt as a social welfare organization described in Internal Revenue Code (IRC) section 501(c)(4), an organization must be primarily engaged in the promotion of social welfare.

The promotion of social welfare does not include any unrelated business activities or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, the law allows a section 501(c)(4) social welfare organization to engage in some political activities and some business activities, so long as , in the aggregate, these non-exempt activities are not its primary activities. Even where the non -exempt activities are not the primary activities, they may be taxed. Unrelated business income may be subject to tax under section 511 -514, and expenditures for political activities may be subject to tax under section 527(f). For further information regarding political campaign intervention by section 501(c) organizations, see Election Year Issues, Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations, and Revenue Ruling 2004-6.

Unlike 501(c)(3) organizations, 501(c)(4) organizations are not required to apply to the IRS for recognition of their tax-exempt status. Organizations may self-declare and if they meet the statutory and regulatory requirements they will be treated as tax-exempt. If they do want reliance on an IRS determination of their status, they can file an application for exemption. While the application is pending, the organization must file a Form 990, like any other tax -exempt organization, and is otherwise able to operate.

In cases where an application for exemption under 501 (c)(4) present issues that require further development before a determination can be made, the IRS engages in a back and forth dialogue with the applicant. For example, if an application appears to indicate that the organization has engaged in political activities or may engage in political activities, the IRS will request additional information about those activities to determine whether they, in fact, constitute political activity. If so, the IRS will look at the rest of the organization's activities to determine whether the primary activities are social welfare activities or whether they are non -exempt activities. In order to make this determination, the IRS must build an administrative record of the case. That record could include answers to questions, copies of documents, copies of web pages and any other relevant information.

Career civil servants make all decisions on exemption applications in a fair, impartial manner and do so without regard to political party affiliation or ideology.

links to available data below:

<http://www.irs.gov/taxstats/article/0,,id=207380,00.html>

<http://www.irs.gov/taxstats/article/0,,id=207455,00.html>

The information contained in this communication is intended for the use of the designated recipients named above. If the reader of this communication is not the intended recipient, you are hereby notified

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[IP\_US\_DISC]

msk dccc60c6d2c3a6438f0cf467d9a4938

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**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 1:28 PM  
**To:** Eldridge Michelle L  
**Subject:** RE: IRS statement

. The particular questions asked of an organization may vary depending on the completeness of the application, but fact intensive questions are necessary in many cases to ensure that the legal requirements are satisfied.

*Lois G. Lerner*

Director of Exempt Organizations


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**From:** Eldridge Michelle L  
**Sent:** Wednesday, February 29, 2012 2:24 PM  
**To:** Lerner Lois G  
**Subject:** FW: IRS statement

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**From:** Patterson Dean J  
**Sent:** Wednesday, February 29, 2012 2:11 PM  
**To:** Eldridge Michelle L  
**Subject:** FW: IRS statement

[These seem pertinent to Alan's follow-up questions:](#)



(b)(5)/DP

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**From:** Paz Holly O  
**Sent:** Wednesday, February 29, 2012 2:53 PM  
**To:** Lerner Lois G  
**Cc:** Fish David L  
**Subject:** updated timeline  
**Attachments:** CLASSIFICATION FACTORS AND DEFINITIONS rev 11-25-02.doc

Lois,

EO Determinations noticed an uptick in applications from advocacy organizations early in 2010.

The first case was referred to EO Technical in (b)(3)/61... 2010. That case was an application for (b)(3)/6103 status. It closed (b)(3)/6103 2010 when the (b)(3)/6103

At that time, EO Technical requested another (b)(3)/6103 from an (b)(3)/6103 be transferred to EO Technical. Such a case was transferred in (b)(3)/... 2010. That case also closed (b)(3)/6103 2012 after the (b)(3)/6103

EO Technical also requested an application from a (b)(3)/6103 be transferred from Determinations. A case was transferred in (b)(3)/... 2010. It is still being developed by EO Technical.

To give you a sense of the growth in the number of these cases, in October 2010, we had identified approximately 40 advocacy cases.

As of about 10:00 a.m. on 2/28/2012, we had 229 of these cases .

Of the 229 cases, 141 have been assigned. Development letters have been sent to the majority of the 141 assigned cases. The oldest control dates of those cases that are still unassigned are 2/8/2011, 3/18/2011, 4/28/2011, and 5/28/2011. These will be assigned next. Otherwise, we're at approximately 6/6/2011 control date for these cases.

EO Technical provided guidance regarding the development of applications by advocacy organizations to EO Determinations in November 2011.

The case assignment matrix is attached.

Holly

---

**From:** Lerner Lois G  
**Sent:** Friday, February 24, 2012 3:46 PM  
**To:** Spellmann Don R; Cook Janine; Paz Holly O  
**Cc:** Kindell Judith E; Lowe Justin; Flax Nikole C; Urban Joseph J  
**Subject:** Congressional Follow-Up  
**Importance:** High

**Just came back from the meeting and they have asked for several things.**

**1. Don/Janine-- The guidance provided to Cincy that Don reviewed-- I'm hoping you can let us know your concerns as soon as possible so we can finalize the draft. We will be sending it over to them and putting it out on the web with other check sheets/guide sheets.**



2. Holly--a timeline relating to the uptick--that is, about when did we notice there were enough of these that we needed guidance from R & A and then when did we get cases up here to look at. If there is info regarding development and FTEs and replacement cases, give me that too.

3. Case Grading Guide--I think [REDACTED] (b)(5) DP let me know the basis.

Thanks to all who got me ready for today --I think it went as well as it could.

*Leis G. Lerner*

Director of Exempt Organizations

(b)(5) DP

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**From:** Paz Holly O  
**Sent:** Wednesday, February 29, 2012 2:56 PM  
**To:** Lerner Lois G  
**Cc:** Fish David L  
**Subject:** FW: updated timeline  
**Attachments:** CLASSIFICATION FACTORS AND DEFINITIONS rev 11-25-02.doc

doc attached to my last email had some highlighting in it. I have removed that. A clean version is attached.

---

**From:** Paz Holly O  
**Sent:** Wednesday, February 29, 2012 3:53 PM  
**To:** Lerner Lois G  
**Cc:** Fish David L  
**Subject:** updated timeline

Lois,

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The case assignment matrix is attached.

Holly

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**From:** Lerner Lois G  
**Sent:** Friday, February 24, 2012 3:46 PM  
**To:** Spellmann Don R; Cook Janine; Paz Holly O  
**Cc:** Kindell Judith E; Lowe Justin; Flax Nikole C; Urban Joseph J

**Subject:** Congressional Follow-Up

**Importance:** High

Just came back from the meeting and they have asked for several things.

1. Don/Janine-- The guidance provided to Cincy that Don reviewed -- I'm hoping you can let us know your concerns as soon as possible so we can finalize the draft. We will be sending it over to them and putting it out on the web with other check sheets/guide sheets.

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3. Case Grading Guide--I think [REDACTED] (b)(5) DP let me know the basis.

Thanks to all who got me ready for today--I think it went as well as it could.

*Lois G. Lerner*

Director of Exempt Organizations

(b)(5) DP

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**From:** Paz Holly O  
**Sent:** Wednesday, February 29, 2012 3:36 PM  
**To:** Lerner Lois G  
**Cc:** Fish David L  
**Subject:** Draft letter for review  
**Attachments:** EDS Letter 4587(modified).doc  
  
**Importance:** High

Lois,

Attached is a draft of the letter to be sent to c4 applicants that are refusing to respond to our requests for additional info. I modified the part about filing requirements slightly from what we gave media relations to make clear that the [REDACTED] (b)(5)/DP [REDACTED] I did not put in the entire discussion that is in the write -up for the press about the rules applicable to c4s - just the core facts and circumstances and primary test stuff.

Holly

(b)(5)/DP

(b)(5)/DP



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**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 4:41 PM  
**To:** Flax Nikole C  
**Subject:** Document1  
**Attachments:** Document1.doc

**Is this good for you?**

(b)(5)/DP

(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 4:44 PM  
**To:** Zarin Roberta B; Kindell Judith E; Paz Holly O  
**Cc:** Marx Dawn R  
**Subject:** RE: 501c4 status/Cincinatti task force

geez!

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Zarin Roberta B  
**Sent:** Wednesday, February 29, 2012 5:24 PM  
**To:** Lerner Lois G; Kindell Judith E; Paz Holly O  
**Cc:** Marx Dawn R  
**Subject:** FW: 501c4 status/Cincinatti task force

Don't you love election years? See below.

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Eguren Sara L  
**Sent:** Wednesday, February 29, 2012 5:22 PM  
**To:** Zarin Roberta B; Eldridge Michelle L  
**Cc:** Patterson Dean J; Williams Grant  
**Subject:** FW: 501c4 status/Cincinatti task force

This reporter is asking us to specifically confirm whether there is an IRS Cincinnati task force dedicated to looking at 501c4s political activity and sending these organizations questionnaires.

**Sara L. Eguren**  
IRS Media Relations

---

**From:** Janie Lorber [<mailto:JanieLorber@rollcall.com>]  
**Sent:** Wednesday, February 29, 2012 5:10 PM  
**To:** Eguren Sara L  
**Subject:** 501c4 status/Cincinatti task force

Sara,  
Thanks very much for your time just now.

I hear that the IRS Exempt Organizations Division has set up a task force to address concerns about 501c4 organizations that are acting more like political parties than social welfare organizations. My understanding is that that task force is based in Cincinnati and has been in operation for just about two months. I'm told that this committee has issued a series of requests for additional information to organizations applying for 501c4 status.

Can you confirm this information? Further detail would also be greatly appreciated. My deadline is noon tomorrow. I can be reached at 202 650 6834

Thank you,

Janie

--

Janie Lorber  
Reporter  
CQ Roll Call  
202 650 6834 (O)  
339 206 5812 (C)  
[janielorber@rollcall.com](mailto:janielorber@rollcall.com)  
[www.rollcall.com](http://www.rollcall.com)

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**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 5:27 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H  
**Subject:** Advocacy Cases  
**Attachments:** CLASSIFICATION FACTORS AND DEFINITIONS rev 11-25-02.doc

**Importance:** High

I asked Holly for the info below as part of the follow-up from the Hill staff meeting on Friday-- they had asked for a timeline of when we saw the uptick, and whether they could get the guidance we provided staff and the the case grading guide. I told them I'd get back to them-- didn't know if case guide and guidance could be made available.

I also asked her to provide the info you asked for re number of cases and present status.

In looking at the actual case grading guide, [REDACTED]

(b)(5)/DP

So, I propose [REDACTED]

(b)(5)/DP

I think this is responsive to the request.

As to the guidance on how to approach advocacy cases, it is with Counsel for their review. I'll await out discussion with Steve as well.

We should also discuss what we give them re the time line.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Wednesday, February 29, 2012 3:53 PM  
**To:** Lerner Lois G  
**Cc:** Fish David L  
**Subject:** updated timeline

Lois,

EO Determinations noticed an uptick in applications from advocacy organizations early in 2010.

The first case was referred to EO Technical in [REDACTED] 2010. That case was an application for [REDACTED] status. It closed [REDACTED] 2010 when the [REDACTED]

At that time, EO Technical requested another [REDACTED] from an [REDACTED] be transferred to EO Technical. Such a case was transferred in [REDACTED] 2010. That case also closed [REDACTED] 2012 after the [REDACTED]

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---

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**Sent:** Friday, February 24, 2012 3:46 PM  
**To:** Spellmann Don R; Cook Janine; Paz Holly O  
**Cc:** Kindell Judith E; Lowe Justin; Flax Nikole C; Urban Joseph J  
**Subject:** Congressional Follow-Up  
**Importance:** High

**Just came back from the meeting and they have asked for several things.**

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**3. Case Grading Guide--I think (b)(5) DP, let me know the basis.**

**Thanks to all who got me ready for today --I think it went as well as it could.**

*Lois G. Lerner*

Director of Exempt Organizations

(b)(5) DP



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**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 5:33 PM  
**To:** Park Nalee  
**Cc:** Marx Dawn R  
**Subject:** FW: general EOs letter  
  
**Importance:** High

**Let's meet in the morning and see if we can get this finalized and send it on! ( -:**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 2:19 PM  
**To:** Flax Nikole C  
**Subject:** RE: general EOs letter

**Got another draft today--think we will be done by day's end**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Wednesday, February 29, 2012 12:34 PM  
**To:** Lerner Lois G  
**Subject:** FW: general EOs letter

Lois - what is the status of this? Any sense of when we can send the followup? Thanks

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**From:** Acuna, Jennifer [<mailto:Jennifer.Acuna@mail.house.gov>]  
**Sent:** Wednesday, February 29, 2012 12:28 PM  
**To:** Flax Nikole C  
**Subject:** general EOs letter

Hi Nikole,

I just wanted to follow-up on the status of the outstanding items we discussed during our December meeting with Lois. Can you give me a call when you have a chance?

Thanks!

Jen

Jen Acuña

Oversight Counsel

Committee on Ways and Means

(202) 225-5522

(202) 225-0787 fax

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**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 6:37 PM  
**To:** Fish David L; Paz Holly O  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Attachments:** EDS Letter 4587(modified).doc  
  
**Importance:** High

**Stay tuned**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 7:36 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H  
**Subject:** EDS Letter 4587(modified).doc  
**Importance:** High

**This is getting ridiculous! If an org fails to provide answers to questions by the due date, we usually don't correspond with them. However, in light of the whole situation --including the short turn around date for returning the information, I suggested Holly draft** [REDACTED]

(b)(5)/DP [REDACTED]

**Note the paragraph in red at the bottom. I thought it might be useful to point out the fact that** [REDACTED]

(b)(5)/DP [REDACTED]

**Let me know how the thinking is going on this--I do think we need to send a letter clearly telling them what happens next.**

(b)(5) DP

(b)(5) DP

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**From:** Paz Holly O  
**Sent:** Wednesday, February 29, 2012 8:19 PM  
**To:** Lerner Lois G  
**Cc:** Fish David L; Thomas Cindy M  
**Subject:** RE: updated timeline

Andy and Justin are working on revising the letter. That should be done soon. In the meantime, Cindy and I discussed having specialists print the relevant parts of (b)(5)/DP since that seemed to be the most burdensome request. We can hold off on sending anymore development letters until we have the revised version.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 6:30 PM  
**To:** Paz Holly O  
**Cc:** Fish David L; Thomas Cindy M  
**Subject:** RE: updated timeline  
**Importance:** High

Have we given Cincy new guidance on how they might reduce the burden in the information requests and make it clearer that recipients can ask for extensions? I don't want anymore letters going out on advocacy cases until the letters have been adjusted. Also, I have been telling folks that not all the letters are the same because it depends on the facts. What I've seen so far though is identical letters --can you clarify for me please. Thanks

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paz Holly O  
**Sent:** Wednesday, February 29, 2012 3:56 PM  
**To:** Lerner Lois G  
**Cc:** Fish David L  
**Subject:** FW: updated timeline

doc attached to my last email had some highlighting in it. I have removed that. A clean version is attached.

---

**From:** Paz Holly O  
**Sent:** Wednesday, February 29, 2012 3:53 PM  
**To:** Lerner Lois G  
**Cc:** Fish David L  
**Subject:** updated timeline

Lois,

EO Determinations noticed an uptick in applications from advocacy organizations early in 2010.

The first case was referred to EO Technical in (b)(5)/DP 2010. That case was an application for (b)(5)/DP status. It closed (b)(5)/DP 2010 when the (b)(3)/6103

At that time, EO Technical requested another (b)(3)/6103 from an (b)(3)/6103 be transferred to EO Technical. Such a case was transferred in (b)(3)/... 2010. That case also closed (b)(3)/6103 2012 after the (b)(3)/6103

EO Technical also requested an application from a (b)(3)/6103 be transferred from Determinations. A case was transferred in (b)(3)/... 2010. It is still being developed by EO Technical.

To give you a sense of the growth in the number of these cases, in October 2010, we had identified approximately 40 advocacy cases.

As of about 10:00 a.m. on 2/28/2012, we had 229 of these cases .

Of the 229 cases, 141 have been assigned. Development letters have been sent to the majority of the 141 assigned cases. The oldest control dates of those cases that are still unassigned are 2/8/2011, 3/18/2011, 4/28/2011, and 5/28/2011. These will be assigned next. Otherwise, we're at approximately 6/6/2011 control date for these cases.

EO Technical provided guidance regarding the development of applications by advocacy organizations to EO Determinations in November 2011.

The case assignment matrix is attached.

Holly

---

**From:** Lerner Lois G  
**Sent:** Friday, February 24, 2012 3:46 PM  
**To:** Spellmann Don R; Cook Janine; Paz Holly O  
**Cc:** Kindell Judith E; Lowe Justin; Flax Nikole C; Urban Joseph J  
**Subject:** Congressional Follow-Up  
**Importance:** High

Just came back from the meeting and they have asked for several things.

1. Don/Janine-- The guidance provided to Cincy that Don reviewed -- I'm hoping you can let us know your concerns as soon as possible so we can finalize the draft. We will be sending it over to them and putting it out on the web with other check sheets/guide sheets.
2. Holly--a timeline relating to the uptick --that is, about when did we notice there were enough of these that we needed guidance from R & A and then when did we get cases up here to look at. If there is info regarding development and FTEs and replacement cases, give me that too.
3. Case Grading Guide--I think (b)(5) DP let me know the basis.

Thanks to all who got me ready for today--I think it went as well as it could.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Saturday, March 03, 2012 3:00 PM  
**To:** Lemons Terry L  
**Subject:** Re: NYT inbound

Mine was a migraine. I get them when I'm exhausted. The body says go to sleep --that's the only thing that helps. It has been and promises to be insane until the election is over!

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Lemons Terry L  
Sent: Saturday, March 03, 2012 11:17 AM  
To: Lerner Lois G  
Subject: Re: NYT inbound

Hope you're feeling better. I've been fighting some bizarre respiratory thing off all week. Not good timing with everything going on.

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Lerner Lois G  
Sent: Saturday, March 03, 2012 09:09 AM  
To: Lemons Terry L; Eldridge Michelle L; Keith Frank; Grant Joseph H; Flax Nikole C; Burke Anthony; Zarin Roberta B  
Subject: Re: NYT inbound

Thanks for keeping us in the loop

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Lemons Terry L  
Sent: Friday, March 02, 2012 05:17 PM  
To: Eldridge Michelle L; Keith Frank; Lerner Lois G; Grant Joseph H; Flax Nikole C; Burke Anthony; Zarin Roberta B  
Subject: RE: NYT inbound

Closing the loop on the Times inquiry. No interview took place, but the reporter has the work plan and the c4 statement. Also asked for some context on relationship between work plan and letters. Worked this language out with Steve, Jonathan and Nikole and sharing with the reporter. Story likely to run Monday. Thanks.

IRS Statement

While the work plan is focused on existing tax -exempt organizations, the IRS has a companion process that administers the same provisions of the tax law in the context of new applications for tax-exempt status. The legal issues and the information that will inform our discussions will be similar in both contexts.



-----Original Message-----

From: Eldridge Michelle L

Sent: Friday, March 02, 2012 10:37 AM

To: Miller Steven T; Keith Frank; Lerner Lois G; Grant Joseph H; Davis Jonathan M (Wash DC); Flax Nikole C; Burke Anthony; Zarin Roberta B; Lemons Terry L

Subject: NYT inbound

We have inbound from WSJ reporter Jonathan Weissman re: 501c4s. Deadline is this afternoon.

He is asking about what actions we plan take on 501c4s this year and why. Specifically he asks, why will the IRS conduct reviews of these organizations to ensure that they have classified themselves correctly? Why is this in the 2012 plan? What does the review entail? Also wants the questionnaire, and is now asking for the statement we have given on tea party media advisory.

Part of his story is coming from Hill expressing concern on businesses claiming business deductions for c4 contributions.

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Sent from my BlackBerry Wireless Device

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**From:** Lerner Lois G  
**Sent:** Monday, March 05, 2012 12:19 PM  
**To:** Grant Joseph H  
**Subject:** RE: EDS Letter 4587(modified).doc

Well, you missed a step. I met with Miller and Nikole Friday --before I went home with a major migraine--and we all agreed it might look like we were [REDACTED]

(b)(5)/DP

[REDACTED] No letter has yet been Oked, so I'll keep you posted --Meanwhile, I get to talk to Senate Finance about all of this on Thursday. ( -:

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Grant Joseph H  
**Sent:** Thursday, March 01, 2012 7:55 AM  
**To:** Lerner Lois G  
**Subject:** RE: EDS Letter 4587(modified).doc

Lois,

I too think that it may be useful to point out that they [REDACTED]

(b)(5)/DP

Thoughts?

Joseph

---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 7:36 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H  
**Subject:** EDS Letter 4587(modified).doc  
**Importance:** High

This is getting ridiculous! If an org fails to provide answers to questions by the due date, we usually don't correspond with them. However, in light of the whole situation --including the short turn around date for returning the information, I suggested Holly draft [REDACTED]

(b)(5)/DP

[REDACTED] Note the paragraph in red at the bottom. I thought it might be useful to point out the fact that [REDACTED]

(b)(5)/DP

[REDACTED] Let me know how the thinking is going on this--I do think we need to send a letter clearly telling them what happens next.

---

**From:** Lerner Lois G  
**Sent:** Monday, March 05, 2012 12:20 PM  
**To:** Grant Joseph H  
**Subject:** FW: Schedule a meeting on advocacy sheet?  
  
**Importance:** High

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Monday, March 05, 2012 1:00 PM  
**To:** Flax Nikole C  
**Subject:** FW: Schedule a meeting on advocacy sheet?  
**Importance:** High

**Just FYI**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Monday, March 05, 2012 12:39 PM  
**To:** Cook Janine; Spellmann Don R  
**Cc:** Paz Holly O  
**Subject:** FW: Schedule a meeting on advocacy sheet?  
**Importance:** High

**Not sure we have that much time guys --this is at the Commissioner level. I met with Miller Friday and I will be going up to Senate Finance this Thursday --we have told everyone that we gave this to staff to use in the cases, so we need to be able to make it public yesterday! We'll move our schedules around, but I'm guessing there will still need to be work once we've talked. Can we do a call today?**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paz Holly O  
**Sent:** Monday, March 05, 2012 12:36 PM  
**To:** Lerner Lois G  
**Subject:** Fw: Schedule a meeting on advocacy sheet?

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Spellmann Don R [<mailto:Don.R.Spellmann@irscounsel.treas.gov>]

**Sent:** Monday, March 05, 2012 12:12 PM

**To:** Paz Holly O; Fish David L; Kindell Judith E; Seto Michael C

**Subject:** Schedule a meeting on advocacy sheet?

We'd like to come over and talk about the advocacy guidesheet and present our suggestions. We'll bring a revised draft with us. How does Thursday March 8 look for all of you (and whomever else needs to be included)? Preferred meeting times would be 10 or 1. We're thinking this discussion would be below the Lois/Janine level. We could do the same thing on Friday the 9th.

Please let us know if this works for you.

Thank you.

Don

Don R. Spellmann  
Senior Counsel  
Office of Division Counsel/Associate Chief Counsel  
(Tax Exempt and Government Entities)  
1111 Constitution Avenue, NW, Room 4409  
Washington, DC 20224  
202-927-6799  
202-622-1036 (Fax)

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**From:** Lerner Lois G  
**Sent:** Monday, March 05, 2012 12:20 PM  
**To:** Grant Joseph H  
**Subject:** FW: Answers to Miller Questions.

**Importance:** High

**FYI**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Monday, March 05, 2012 12:35 PM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O  
**Subject:** Answers to Miller Questions.  
**Importance:** High

**Friday Steve asked several questions.. David and Don Spellman from C ounsel conferred and here are the responses:**

**1- If an org is closed FTE for failing to provide information, is that appealable?**

**No, the org. has not met the requirements of the rev. proc that says they have to file a complete application and respond to additional requests for information. So, they haven't exhausted their admin. remedies and have no right to appeal.**

**2. If a c4 is closed FTE, can they still hold themselves out as a c4? Yes, however, when we deny them, we put them into taxable status o n MF. If they file a 990 series, it will get changed to tax-exempt. If not, they will start to get notices that they owe an 1120.**

**By the way--are we comfortable yet with the letter we want to send to orgs that haven't provided info? We need to start them soon please. Everything is on hold until then.**

**PS We have a favorable coming in for a look --I assume you want to know before it goes out?**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Monday, March 05, 2012 1:22 PM  
**To:** Williams Floyd L; Flax Nikole C  
**Cc:** Barre Catherine M; Davis Jonathan M (Wash DC); Keith Frank; Marx Dawn R  
**Subject:** RE: 501 (c)(4)

See you there--just make sure I get the room. Thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Williams Floyd L  
Sent: Monday, March 05, 2012 2:05 PM  
To: Flax Nikole C; Lerner Lois G  
Cc: Barre Catherine M; Davis Jonathan M (Wash DC); Keith Frank  
Subject: 501 (c)(4)

Thursday at 11 works for SFC Dems. I'll let you know room, Floyd Williams -----  
Sent from my BlackBerry Wireless Handheld

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**From:** Lerner Lois G  
**Sent:** Monday, March 05, 2012 1:33 PM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O  
**Subject:** RE: Answers to Miller Questions.

Yes, but I just told them we should change the question to (b)(5)/DP It is a question on the 1024-- (b)(5)/DP They could respond that (b)(5)/DP

(b)(5)/DP

we'd want to know more.

The other area that seems troubling is asking for (b)(5)/DP Again, I've told them I think the question can ask (b)(5)/DP

I've asked my guys here to review all the questions to see if there are ways to diffuse, but still get needed info.

We are meeting with Counsel at 3 on the guidance.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Monday, March 05, 2012 2:07 PM  
To: Lerner Lois G  
Cc: Paz Holly O  
Subject: Re: Answers to Miller Questions.

I am working steve's comments to the letter. Can you give me a sense of the reasons we ask for (b)(5)/DP

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Paz Holly O  
Subject: RE: Answers to Miller Questions.  
Sent: Mar 5, 2012 1:32 PM

Bad choice of words--I meant if we FTE them, they are put into taxable status on MF --that is, it looks like they owe an 1120. If they subsequently file a 990 series, that will get changed to 990 filing requirement.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Monday, March 05, 2012 1:30 PM  
To: Lerner Lois G  
Cc: Paz Holly O  
Subject: Re: Answers to Miller Questions.

On 2, what does "when we deny" mean? Do we mean if they later send in more info and we subsequent deny? I thought there were not denials in these cases.

Steve has comments on the letter and I think he will want an update before anything else happens.

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Paz Holly O  
Subject: Answers to Miller Questions.  
Sent: Mar 5, 2012 12:35 PM

Friday Steve asked several questions.. David and Don Spellman from Counsel conferred and here are the responses:

1- If an org is closed FTE for failing to provide information, is that appealable?

No, the org. has not met the requirements of the rev. proc that says they have to file a complete application and respond to additional requests for information. So, they haven't exhausted their admin. remedies and have no right to appeal.

2. If a c4 is closed FTE, can they still hold themselves out as a c4? Yes, however, when we deny them, we put them into taxable status on MF. If they file a 990 series, it will get changed to tax -exempt. If not, they will start to get notices that they owe an 1120.

By the way--are we comfortable yet with the letter we want to send to orgs that haven't provided info? We need to start them soon please. Everything is on hold until then.

PS We have a favorable coming in for a look --I assume you want to know before it goes out?

Lois G. Lerner  
Director of Exempt Organizations



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**From:** Lerner Lois G  
**Sent:** Monday, March 05, 2012 5:27 PM  
**To:** Zarin Roberta B  
**Cc:** Kindell Judith E; Marx Dawn R  
**Subject:** RE: think tank inbound on c4's

**Why wouldn't they have gotten the statement we gave to NYTimes?**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Zarin Roberta B  
**Sent:** Monday, March 05, 2012 3:24 PM  
**To:** Lerner Lois G  
**Cc:** Kindell Judith E; Marx Dawn R  
**Subject:** FW: think tank inbound on c4's

Isn't this Larry's former employer?

Media Relations only gave them the Work Plan. If they come back for more--are you interested in talking to them?

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Patterson Dean J  
**Sent:** Monday, March 05, 2012 1:28 PM  
**To:** Zarin Roberta B; Eldridge Michelle L  
**Subject:** think tank inbound on c4's

FYI

**Dean Patterson**  
IRS Media Relations  
(202) 622-4000

---

**From:** Viveca Novak [<mailto:vnovak@crp.org>]  
**Sent:** Monday, March 05, 2012 12:05 PM  
**To:** Patterson Dean J  
**Subject:** questions from center for responsive politics

Hi Dean -

We're working on a story that discusses 501c4 groups and their involvement in political activity. I'd read somewhere that the agency's work plan for 2012 included a focus on c4 groups and wanted to find out if that was the case, and get someone to talk about that a bit.

I'm on a pretty tight deadline -- I know it's short notice, but if someone could get back to me by around 2 p.m. that would be terrific.

Many thanks.

Viveca

--

Viveca Novak

Editorial and Communications Director

Center for Responsive Politics

[www.opensecrets.org](http://www.opensecrets.org)

202-354-0111

---

**From:** Lerner Lois G  
**Sent:** Monday, March 05, 2012 6:06 PM  
**To:** Paz Holly O; Megosh Andy  
**Cc:** Marx Dawn R  
**Subject:** FW: Guide sheet

Can I get a copy of the list of questions you were going to look at?  
thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Lerner Lois G  
Sent: Monday, March 05, 2012 7:05 PM  
To: Flax Nikole C  
Subject: RE: Guide sheet

Not sure what you're asking --I've asked my guys to go back and look at the list of questions Cincy has developed to revise to be more user friendly --I can give it to you, but won't know which questions have been used.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Monday, March 05, 2012 7:01 PM  
To: Lerner Lois G  
Subject: Re: Guide sheet

Thanks. Will send you the edits to the letter tomorrow. I know they varied by org, but do you have a list of the questions we sent?

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Grant Joseph H  
Subject: Guide sheet  
Sent: Mar 5, 2012 6:15 PM

Had a nice conversation with Counsel folks today --they plan to send us a draft COB tomorrow at the same time they send it to Janine for review. I will send on to you to look at also. I think it may be closer to what Steve was hoping for.

Lois G. Lerner  
Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 06, 2012 8:55 AM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O; Grant Joseph H  
**Subject:** FW: Cinc. template questions  
**Attachments:** Advocacy Delvelopment Questions 022812.doc

here are the "template" questions Cincy developed --as mentioned Friday, I'm having the R & A folks take a look at them. Cincy is on hold for the time being on sending anymore questions out in these cases

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Megosh Andy  
**Sent:** Tuesday, March 06, 2012 9:28 AM  
**To:** Lerner Lois G; Paz Holly O  
**Subject:** Cinc. template questions

Lois,

Here is a copy of the Cinc. questions we are looking at.

Andy

---

**From:** Thomas Cindy M  
**Sent:** Thursday, March 01, 2012 8:16 AM  
**To:** Megosh Andy; Lowe Justin  
**Cc:** Paz Holly O  
**Subject:** FW: updated timeline - template questions

A subteam from those working the advocacy cases in Cincinnati put together a draft list of template questions. Holly mentioned that you are working on revising questions and asked that I send these to you. You may or may not find them helpful.

-----Original Message-----

From: Paz Holly O

Sent: Thursday, March 01, 2012 5:51 AM

To: Thomas Cindy M

Subject: Re: updated timeline - template questions

Thanks for verifying re: development letters. Please do send the letter to Andy/Justin. Not sure I can do from bb.

---

**From:** Thomas Cindy M  
**Sent:** Wednesday, February 29, 2012 10:29 PM  
**To:** Paz Holly O  
**Subject:** updated timeline - template questions

Holly,

I just read the email below. A subteam from those working the advocacy cases put together a draft list of template questions. Andy and Justin may find this helpful. I know you're not available on 3/1 and 3/2 and not sure you're still on computer. If I don't hear back from you by 3/1 in the a.m., I'll pass the attachment off to Andy and Justin.

Also, based on information in the attached document, I believe it is clear that our folks were instructed not to ask questions if information is in the case file. But, I'm still going to verify with Steve Bowling that this was accurate for prior cases and will let you know what he says.

---

**From:** Bowling Steven F  
**Sent:** Wednesday, February 29, 2012 8:22 AM  
**To:** Thomas Cindy M  
**Subject:** FW: Advocacy template questions

Cindy,

Attached are some template questions the team has developed. I told Stephen to hold off on sending them to our EOT contacts (Justin Lowe and Hilary Goehausen) as I'm not sure who all is involved now. I didn't want to duplicate our efforts.

STEVEN F. BOWLING  
Manager, EO Group 7822  
Exempt Organizations Determinations  
550 Main Street, Room 4-504  
Cincinnati, OH 45202  
Tel (513) 263-3704  
Fax (513) 263-4540

---

**From:** Seok Stephen D  
**Sent:** Tuesday, February 28, 2012 4:56 PM  
**To:** Bowling Steven F  
**Subject:** Advocacy template questions

Steve,

Attached please find the template questions we drafted and talked about this afternoon.

Thank you,  
Stephen.

(b)(5) DP

(b)(5) DP

(b)(5) DP



(b)(5) DP

(b)(5) DP

(b)(5) DP

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**From:** Lerner Lois G  
**Sent:** Tuesday, March 06, 2012 2:38 PM  
**To:** Paz Holly O  
**Subject:** EDS Letter 4587(modified).doc  
**Attachments:** EDS Letter 4587(modified).doc

**Your and Cindy's thoughts please**

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 06, 2012 3:01 PM  
**To:** Flax Nikole C  
**Subject:** RE: EDS Letter 4587(modified).doc

yes

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, March 06, 2012 3:52 PM  
**To:** Lerner Lois G  
**Subject:** RE: EDS Letter 4587(modified).doc

are the ones in suspense bc they never responded?

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 06, 2012 3:41 PM  
**To:** Flax Nikole C  
**Subject:** RE: EDS Letter 4587(modified).doc

Just FYI-- (b)(5) DP that were placed in suspense (b)(5) DP

?

(b)(5) DP

?

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, March 06, 2012 2:23 PM  
**To:** Lerner Lois G  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

see what you think

---

**From:** Flax Nikole C  
**Sent:** Thursday, March 01, 2012 4:30 PM  
**To:** Lerner Lois G  
**Cc:** Grant Joseph H

**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

Lois - I don't know if Steve would be okay with this, but see if you think the revise paragraph works. I was trying to convey the point, but in a less obvious way.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 7:36 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H  
**Subject:** EDS Letter 4587(modified).doc  
**Importance:** High

This is getting ridiculous! If an org fails to provide answers to questions by the due date, we usually don't correspond with them. However, in light of the whole situation --including the short turn around date for returning the information, I suggested Holly draft [REDACTED]

(b)(5)/DP

[REDACTED] Note the paragraph in red at the bottom. I thought it might be useful to point out the fact that [REDACTED]

(b)(5)/DP

[REDACTED] Let me know how the thinking is going on this--I do think we need to send a letter clearly telling them what happens next.



---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 06, 2012 4:10 PM  
**To:** Spellmann Don R; Paz Holly O; Kindell Judith E; Megosh Andy; Fish David L  
**Cc:** Judson Victoria A; Cook Janine; Brown Susan D; Marshall David L  
**Subject:** RE: Guide Sheet Comments

**THANK YOU!**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Spellmann Don R [ <mailto:Don.R.Spellmann@irs.counsel.treas.gov> ]  
**Sent:** Tuesday, March 06, 2012 3:35 PM  
**To:** Lerner Lois G; Paz Holly O; Kindell Judith E; Megosh Andy; Fish David L  
**Cc:** Judson Victoria A; Cook Janine; Brown Susan D; Marshall David L  
**Subject:** Guide Sheet Comments

Attached for your consideration are our proposed changes to the guide sheet for political and lobbying activities.

Please let us know if you have any questions or would like to discuss our comments.

Thank you,

Don

<< File: Guide Sheet Counsel Comments 03 -06-12.doc >>

Don R. Spellmann  
Senior Counsel  
Office of Division Counsel/  
Associate Chief Counsel  
(Tax Exempt and Government Entities)  
1111 Constitution Avenue, NW, Room 4409  
Washington, DC 20224  
202-927-6799  
202-622-1036 (Fax)

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 06, 2012 5:41 PM  
**To:** Flax Nikole C  
**Subject:** FW: Guide Sheet Comments

**Hot off the presses --remember, it is an unreviewed draft**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Spellmann Don R [ <mailto:Don.R.Spellmann@irscounsel.treas.gov> ]  
**Sent:** Tuesday, March 06, 2012 3:35 PM  
**To:** Lerner Lois G; Paz Holly O; Kindell Judith E; Megosh Andy; Fish David L  
**Cc:** Judson Victoria A; Cook Janine; Brown Susan D; Marshall David L  
**Subject:** Guide Sheet Comments

Attached for your consideration are our proposed changes to the guide sheet for political and lobbying activities.

Please let us know if you have any questions or would like to discuss our comments.

Thank you,

Don



Guide Sheet  
Counsel Comment...

Don R. Spellmann  
Senior Counsel  
Office of Division Counsel/  
Associate Chief Counsel  
(Tax Exempt and Government Entities)  
1111 Constitution Avenue, NW, Room 4409  
Washington, DC 20224  
202-927-6799  
202-622-1036 (Fax)

*(b)(5)/AC and /DP*

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*(b)(5)/AC and /DP*



*(b)(5)/AC and /DP*

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*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*



---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 06, 2012 6:08 PM  
**To:** Paz Holly O; Kindell Judith E; Megosh Andy; Fish David L; Miller Thomas J  
**Cc:** Marx Dawn R  
**Subject:** c4 Guidelines

**I need you guys to look at these ASAP and get back with comments. Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 06, 2012 6:09 PM  
**To:** Miller Thomas J  
**Cc:** Paz Holly O  
**Subject:** Guide Sheet Counsel Comments 03-06-12.doc  
**Attachments:** Guide Sheet Counsel Comments 03-06-12.doc

**Counsel's revised version of guidesheet for Cincy --please take a look and provide comments --  
we are trying to get it to a place where we can make it public**

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

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*(b)(5)/AC and /DP*



*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*

*(b)(5)/AC and /DP*



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**From:** Lerner Lois G  
**Sent:** Wednesday, March 07, 2012 9:52 AM  
**To:** Spellmann Don R; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy  
**Cc:** Cook Janine; Brown Susan D; Marshall David L  
**Subject:** RE: Corrections to Draft Guide Sheet

My comments were not intended as any type criticism. That's the difference between Counsel and R&A. You are being very cautious and only describing things in the context of legal rules. We have to be a bit more generally user friendly. The [REDACTED]

(b)(5)/AC and /DP

[REDACTED] (-: I understand your caution--which is why we want you in on the project, but we also have to provide a product that will be helpful--not just informative to our RAs--who often see things in a more black and white way, as well as the public, who really don't get this so something that is strictly a legal document and refers folks to legal precedent won't keep their attention or clarify how hard this is. So, that is why I am thinking we need what you've provided, but also need to [REDACTED] up front. I am meeting with Steve on another issue today and will try and get feedback from that. We will set something up after that discussion. As always, it takes a village! Stay tuned

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Spellmann Don R [mailto:Don.R.Spellmann@irs.counsel.treas.gov]  
**Sent:** Wednesday, March 07, 2012 10:42 AM  
**To:** Lerner Lois G; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy  
**Cc:** Cook Janine; Brown Susan D; Marshall David L  
**Subject:** RE: Corrections to Draft Guide Sheet

Thank you very much Lois for the initial feedback.

We welcome the opportunity to collaborate with your team to get this document to meet your needs and objectives. It might be helpful for us to have a call/meeting where we can walk through what we were trying to accomplish and why we took out some things. We often were trying to streamline and avoid duplication, but also wanted to deliver something we were completely comfortable with (even if incomplete). We're happy to discuss needed additions/changes. The [REDACTED] was tough for us, as we found it [REDACTED]

(b)(5)/AC and /DP

Please let us know when it might be helpful to talk/meet.

Don

---

**From:** Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]  
**Sent:** Wednesday, March 07, 2012 10:23 AM  
**To:** Spellmann Don R; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy  
**Cc:** Cook Janine; Brown Susan D; Marshall David L  
**Subject:** RE: Corrections to Draft Guide Sheet

Thanks--we are all looking and will probably have comments. I looked quickly last night and overall like the approach. I do think, however, that we need more upfront text explaining why this (b)(5)/AC and /DP You paper is great for lawyers who understand the (b)(5)/AC and /DP, but I think we need to add a (b)(5)/AC and /DP as well. Also, I noticed you took out (b)(5)/AC and /DP --I'd like that added back in--I think it clearly (b)(5)/AC and /DP --we have given it to the press with good results in the past.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Spellmann Don R [ <mailto:Don.R.Spellmann@irscounsel.treas.gov> ]  
**Sent:** Wednesday, March 07, 2012 10:17 AM  
**To:** Lerner Lois G; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy  
**Cc:** Cook Janine; Brown Susan D; Marshall David L  
**Subject:** Corrections to Draft Guide Sheet

We made some corrections throughout to address Janine's initial review and comments (changes are marked).

Please let us know if there are other comments or questions.

Thank you.

Don

<< File: Guide Sheet Counsel Comments 03 -07-12.doc >>

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 07, 2012 10:18 AM  
**To:** Hinton Irma D; Williams Floyd L; Flax Nikole C; Barre Catherine M; Orteze Cumbuka I  
**Cc:** Paz Holly O  
**Subject:** RE: Boustany

Media Relation has it --I got in in the clips

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Hinton Irma D  
Sent: Wednesday, March 07, 2012 11:13 AM  
To: Williams Floyd L; Lerner Lois G; Flax Nikole C; Barre Catherine M; Orteze Cumbuka I  
Cc: Paz Holly O  
Subject: RE: Boustany

Okay. Who has the press release? Can someone please send it to me?

-----Original Message-----

From: Williams Floyd L  
Sent: Wednesday, March 07, 2012 11:01 AM  
To: Lerner Lois G; Flax Nikole C; Barre Catherine M; Hinton Irma D; Orteze Cumbuka I  
Cc: Paz Holly O  
Subject: RE: Boustany

Irma, I think we can just use the letter that was attached to the press release to control this.

-----Original Message-----

From: Lerner Lois G  
Sent: Wednesday, March 07, 2012 10:09 AM  
To: Flax Nikole C; Williams Floyd L; Barre Catherine M; Hinton Irma D; Orteze Cumbuka I  
Cc: Paz Holly O  
Subject: RE: Boustany

I don't believe we have the tracked copy yet --I assume it's coming to me for initial drafting?

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, March 06, 2012 10:53 PM  
To: Williams Floyd L; Barre Catherine M; Lerner Lois G; Hinton Irma D; Orteze Cumbuka I  
Subject: Re: Boustany

It should have been to Doug. They released it via press release last Thursday or so, but wasn't sure if we got it.

----- Original Message -----

From: Williams Floyd L

Sent: Tuesday, March 06, 2012 08:41 PM

To: Flax Nikole C; Barre Catherine M; Lerner Lois G; Hinton Irma D; Ortiz Cumbuka I

Subject: Re: Boustany

Are you talking about the letter to the Secretary? If so, answer is yes and I sent it around. Although, the one I am thinking about may have been health care and it may have been from Camp.

Looping in Irma and Cumbuka so they can check in the morning.

Floyd Williams-----

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Flax Nikole C

Sent: Tuesday, March 06, 2012 08:26 PM

To: Williams Floyd L; Barre Catherine M; Lerner Lois G

Subject: Boustany

Did we get the EO letter that was in the press last week?

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 07, 2012 2:37 PM  
**To:** Flax Nikole C  
**Subject:** RE: EDS Letter 4587(modified).doc

Yepp--you're right and I will.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Wednesday, March 07, 2012 3:35 PM  
**To:** Lerner Lois G  
**Subject:** RE: EDS Letter 4587(modified).doc

I think you were going to check on the para I highlighted to see if it was standard language and also on the (b)(3)\6103 org whether the language at the end of the letter helped the expedite case (not whether it would be retroactive).

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 07, 2012 3:32 PM  
**To:** Flax Nikole C  
**Subject:** RE: EDS Letter 4587(modified).doc

I would prefer (b)(5)/DP  
(b)(5)/DP do you remember what I told Steve I would check with Holly and Cindy on?

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Wednesday, March 07, 2012 3:02 PM  
**To:** Lerner Lois G  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

revised. what do you think about the (b)(5)/DP ?

---

**From:** Flax Nikole C  
**Sent:** Tuesday, March 06, 2012 2:32 PM  
**To:** Lerner Lois G  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

changed the language at the end

---

**From:** Flax Nikole C  
**Sent:** Tuesday, March 06, 2012 2:23 PM  
**To:** Lerner Lois G  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

see what you think

---

**From:** Flax Nikole C  
**Sent:** Thursday, March 01, 2012 4:30 PM  
**To:** Lerner Lois G  
**Cc:** Grant Joseph H  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

Lois - I don't know if Steve would be okay with this, but see if you think the revise paragraph works. I was trying to convey the point, but in a less obvious way.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 7:36 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H  
**Subject:** EDS Letter 4587(modified).doc  
**Importance:** High

**This is getting ridiculous! If an org fails to provide answers to questions by the due date, we usually don't correspond with them. However, in light of the whole situation --including the short turn around date for returning the information, I suggested Holly draft** [REDACTED]

(b)(5)/DP

**Note the paragraph in red at the bottom. I thought it might be useful to point out the fact that** [REDACTED]

(b)(5)/DP

**Let me know how the thinking is going on this--I do think we need to send a letter clearly telling them what happens next.**

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 07, 2012 2:38 PM  
**To:** Paz Holly O  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Attachments:** EDS Letter 4587(modified).doc  
  
**Importance:** High

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, March 06, 2012 2:32 PM  
**To:** Lerner Lois G  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

[changed the language at the end](#)

---

**From:** Flax Nikole C  
**Sent:** Tuesday, March 06, 2012 2:23 PM  
**To:** Lerner Lois G  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

see what you think

---

**From:** Flax Nikole C  
**Sent:** Thursday, March 01, 2012 4:30 PM  
**To:** Lerner Lois G  
**Cc:** Grant Joseph H  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

[Lois - I don't know if Steve would be okay with this, but see if you think the revise paragraph works. I was trying to convey the point, but in a less obvious way.](#)

---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 7:36 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H  
**Subject:** EDS Letter 4587(modified).doc  
**Importance:** High

**This is getting ridiculous! If an org fails to provide answers to questions by the due date, we usually don't correspond with them. However, in light of the whole situation --including the short turn around date for returning the information, I suggested Holly [REDACTED]**

*(b)(5)/DP*

**[REDACTED] Note the paragraph in red at the bottom. I thought it might be useful to point out the fact that [REDACTED]**

*(b)(5)/DP*

**[REDACTED] Let me know how the thinking is going on this--I do think we need to send a letter clearly telling them what happens next.**



(b)(5) DP

(b)(5) DP

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 07, 2012 3:06 PM  
**To:** Paz Holly O  
**Subject:** EDS Letter 4587(modified) (3).doc  
**Attachments:** EDS Letter 4587(modified) (3).doc

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 07, 2012 4:54 PM  
**To:** Miller Thomas J  
**Subject:** RE: Guide Sheet Counsel Comments 03-06-12.doc

**They were, but I should send you the ones our folks put together that Counsel was revising. I'll send if I can find them!**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Miller Thomas J  
**Sent:** Wednesday, March 07, 2012 4:36 PM  
**To:** Lerner Lois G  
**Subject:** RE: Guide Sheet Counsel Comments 03-06-12.doc

You are welcome. Question. Were these the "c4 Guidelines" you mentioned in the message you sent earlier last evening? I had no attachment to that message. I had assumed these were the guidelines, but it just dawned on me they could be different things.

**Thomas J. Miller**  
**Technical Advisor**  
**Exempt Organizations Rulings & Agreements**  
**Phone: 202-283-9472**  
**Fax: 202-283-8937**

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 07, 2012 4:32 PM  
**To:** Miller Thomas J  
**Cc:** Paz Holly O  
**Subject:** RE: Guide Sheet Counsel Comments 03-06-12.doc

**Thanks!**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Miller Thomas J  
**Sent:** Wednesday, March 07, 2012 4:10 PM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O  
**Subject:** RE: Guide Sheet Counsel Comments 03-06-12.doc

Here is the result of my look. I revised a few questions I found confusing in the yes/no context. I tried to explain my reasons in comments. Unfortunately, I also added a few more questions. They make it longer, but I think they may help clarify things.

Tom M.

**Thomas J. Miller**  
**Technical Advisor**  
**Exempt Organizations Rulings & Agreements**  
**Phone: 202-283-9472**  
**Fax: 202-283-8937**

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 06, 2012 7:09 PM  
**To:** Miller Thomas J  
**Cc:** Paz Holly O  
**Subject:** Guide Sheet Counsel Comments 03-06-12.doc

**Counsel's revised version of guidesheet for Cincy--please take a look and provide comments -- we are trying to get it to a place where we can make it public**

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 07, 2012 6:24 PM  
**To:** Paz Holly O  
**Subject:** EDS Letter 4587(modified) (3).doc  
**Attachments:** EDS Letter 4587(modified) (3).doc

**A tiny change**



(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 08, 2012 9:27 AM  
**To:** Downing Nanette M; Kall Jason C; Paz Holly O; Fish David L; Kindell Judith E; Light Sharon P; Partner Melaney J; Lowe Justin; Megosh Andy  
**Subject:** FW: New York times Editorial

**FYI**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Keith Frank  
**Sent:** Thursday, March 08, 2012 7:55 AM  
**To:** Shulman Doug; Davis Jonathan M (Wash DC); Lerner Lois G; Miller Steven T; Flax Nikole C; Grant Joseph H  
**Cc:** Eldridge Michelle L; Lemons Terry L  
**Subject:** New York times Editorial

## The I.R.S. Does Its Job

Published: March 7, 2012

Taxpayers should be encouraged by complaints from Tea Party chapters applying for nonprofit tax status at being asked by the Internal Revenue Service to prove they are "social welfare" organizations and not the political activists they so obviously are.

### Related News

- [Scrutiny of Political Nonprofits Sets Off Claim of Harassment](#) (March 7, 2012)

[Tea Party supporters claim they are being politically harassed](#) with extensive [I.R.S. questionnaires](#). But the service properly contends that it must ensure that these groups are "primarily" engaged in social welfare, not political campaigning, to merit tax exemption under section 501(c)(4) of the tax code.

Such I.R.S. inquiries are long overdue and should be applied across the board to the growing number of organizations, allied with the major political parties, that are also ludicrously posing as "social welfare" groups. Legitimate social welfare organizations are allowed limited political activity. But these political offshoots are using that tax status in a transparent ploy to keep big donors secret while funneling the money to campaigns. Chief among these groups are American Crossroads, the campaign machine created by Republican guru Karl Rove, and Priorities USA, the Democratic counterpart founded by former White House aides, now openly encouraged by President Obama as he runs for re-election.

These groups, which already have 501(c)(4) status, should be as thoroughly investigated as any Tea Party chapter applying for that tax exempt status. So should two other blatant offenders: the conservative American Action Network, a "social welfare" claimant reported by the Center for Public Integrity to have spent more than 80 percent of its expenditures

on the 2010 elections; and Americans Elect, a third -party effort enjoying “social welfare” secrecy as it secures ballot space across the nation.

All these groups should be operating as political organizations required to disclose their donors under the law. Blatant abuses of tax law and common sense are part of the laissez -faire dynamic that is driving the 2012 campaigns. The I.R.S. must not flinch from its duty to enforce the tax code and root out political operatives who are abusing the law and conning taxpayers and voters.

**A version of this editorial appeared in print on**

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 08, 2012 9:27 AM  
**To:** Zarin Roberta B  
**Subject:** FW: New York times Editorial

Nice to hear

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Keith Frank  
**Sent:** Thursday, March 08, 2012 7:55 AM  
**To:** Shulman Doug; Davis Jonathan M (Wash DC); Lerner Lois G; Miller Steven T; Flax Nikole C; Grant Joseph H  
**Cc:** Eldridge Michelle L; Lemons Terry L  
**Subject:** New York times Editorial

## The I.R.S. Does Its Job

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Taxpayers should be encouraged by complaints from Tea Party chapters applying for nonprofit tax status at being asked by the Internal Revenue Service to prove they are “social welfare” organizations and not the political activists they so obviously are.

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These groups, which already have 501(c)(4) status, should be as thoroughly investigated as any Tea Party chapter applying for that tax exempt status. So should two other blatant offenders: the conservative American Action Network, a “social welfare” claimant reported by the Center for Public Integrity to have spent more than 80 percent of its expenditures

on the 2010 elections; and Americans Elect, a third -party effort enjoying “social welfare” secrecy as it secures ballot space across the nation.

All these groups should be operating as political organizations required to disclose their donors under the law. Blatant abuses of tax law and common sense are part of the laissez -faire dynamic that is driving the 2012 campaigns. The I.R.S. must not flinch from its duty to enforce the tax code and root out political operatives who are abusing the law and conning taxpayers and voters.

**A version of this editorial appeared in print on**

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 08, 2012 9:36 AM  
**To:** Thomas Cindy M  
**Cc:** Paz Holly O  
**Subject:** FW: letters

**FYI--Holly will call you after we get back from the Hill**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 08, 2012 10:35 AM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O  
**Subject:** RE: letters

**Confirmed. All letters are on hold until we've modified the info request and yes, we will allow other info for contributor names, unless after reading everything, we feel we really need them -and that would be a discussion with DC**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Thursday, March 08, 2012 10:30 AM  
**To:** Lerner Lois G  
**Subject:** letters

Lois - maybe we can chat after the meeting. Steve wanted to make sure that going forward we were modifying the info request (I told him that I thought your guys were already working on it) and that for the cases already ongoing, that is was clear that if the TP calls, we will allow them not to send donor names in the initial submission (but we may need later). Thanks

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 08, 2012 12:02 PM  
**To:** Marks Nancy J  
**Subject:** RE: The I.R.S. Does Its Job - NYTimes.com

From the liberal leftist media( -:

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Marks Nancy J  
Sent: Thursday, March 08, 2012 10:16 AM  
To: Daly Richard M; Lerner Lois G; Marx Dawn R; Paz Holly O; Fish David L; Downing Nanette M  
Cc: Grant Joseph H; Medina Moises C; Urban Joseph J  
Subject: RE: The I.R.S. Does Its Job - NYTimes.com

:-)

-----Original Message-----

From: Daly Richard M  
Sent: Thursday, March 08, 2012 9:17 AM  
To: Lerner Lois G; Marx Dawn R; Paz Holly O; Fish David L; Downing Nanette M  
Cc: Grant Joseph H; Medina Moises C; Marks Nancy J; Urban Joseph J  
Subject: The I.R.S. Does Its Job - NYTimes.com

FYI. Favorable New York Times editorial today about IRS work investigating (c)(4)s and urging an across the board look at these entities.

[http://www.nytimes.com/2012/03/08/opinion/the-irs-does-its-job.html?\\_r=1&ref=opinion](http://www.nytimes.com/2012/03/08/opinion/the-irs-does-its-job.html?_r=1&ref=opinion)



---

**From:** Lerner Lois G  
**Sent:** Thursday, March 08, 2012 5:14 PM  
**To:** Flax Nikole C  
**Subject:** RE: IRS 501(c)(4) Inquiry

**I will send to Holly to get it working --I am out tomorrow**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Thursday, March 08, 2012 5:17 PM  
**To:** Lerner Lois G  
**Subject:** FW: IRS 501(c)(4) Inquiry

---

**From:** Norton William G Jr  
**Sent:** Thursday, March 08, 2012 4:13 PM  
**To:** Williams Floyd L; Hinton Irma D  
**Cc:** Flax Nikole C; Barre Catherine M  
**Subject:** FW: IRS 501(c)(4) Inquiry

Just received Chairman Boustany's letter to the Commissioner about the 501 c 4 issue. Jen Acuna called me to say that since the letter was actually sent today, we can talk to her later about a "real" due date.

---

**From:** Rudisill, Zachary [<mailto:Zachary.Rudisill@mail.house.gov>]  
**Sent:** Thursday, March 08, 2012 4:08 PM  
**To:** Norton William G Jr  
**Cc:** Acuna, Jennifer  
**Subject:** FW: IRS 501(c)(4) Inquiry

Hey, Bill:

Attached is Chairman Boustany's letter to Commissioner Shulman regarding IRS review of new applications for section 501(c)(3) and 501(c)(4) status. Please let us know if you have any questions.

-Zach

Zachary M. Rudisill  
Legislative Assistant  
Committee on Ways and Means  
Tax Staff & Subcommittee on Select Revenue Measures  
1136 Longworth House Office Building  
Washington, D.C. 20515  
202.225.5522



---

**From:** Lerner Lois G  
**Sent:** Thursday, March 08, 2012 5:15 PM  
**To:** Paz Holly O; Fish David L; Kindell Judith E  
**Subject:** FW: IRS 501(c)(4) Inquiry  
**Attachments:** 501\_c\_4 IRS inquiry.pdf  
  
**Importance:** High

**We need to get started on response --in light of timing--can Judy do?**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Thursday, March 08, 2012 5:17 PM  
**To:** Lerner Lois G  
**Subject:** FW: IRS 501(c)(4) Inquiry

---

**From:** Norton William G Jr  
**Sent:** Thursday, March 08, 2012 4:13 PM  
**To:** Williams Floyd L; Hinton Irma D  
**Cc:** Flax Nikole C; Barre Catherine M  
**Subject:** FW: IRS 501(c)(4) Inquiry

Just received Chairman Boustany's letter to the Commissioner about the 501 c 4 issue. Jen Acuna called me to say that since the letter was actually sent today, we can talk to her later about a "real" due date.

---

**From:** Rudisill, Zachary [<mailto:Zachary.Rudisill@mail.house.gov>]  
**Sent:** Thursday, March 08, 2012 4:08 PM  
**To:** Norton William G Jr  
**Cc:** Acuna, Jennifer  
**Subject:** FW: IRS 501(c)(4) Inquiry

Hey, Bill:

Attached is Chairman Boustany's letter to Commissioner Shulman regarding IRS review of new applications for section 501(c)(3) and 501(c)(4) status. Please let us know if you have any questions.

-Zach

Zachary M. Rudisill  
Legislative Assistant  
Committee on Ways and Means  
Tax Staff & Subcommittee on Select Revenue Measures  
1136 Longworth House Office Building

Washington, D.C. 20515  
202.225.5522

CHARLES W. BOUSTANY, JR., LOUISIANA  
SUBCOMMITTEE CHAIRMAN

DIANE BLACK, TENNESSEE  
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KAREN McAFEE, SUBCOMMITTEE MINORITY STAFF

**Congress of the United States**  
**House of Representatives**

**COMMITTEE ON WAYS AND MEANS**

WASHINGTON, DC 20515

**SUBCOMMITTEE ON OVERSIGHT**

March 1, 2012

Honorable Douglas H. Shulman  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Dear Commissioner Shulman:

On October 6, 2011, I wrote to you requesting information about the status of various IRS compliance efforts involving the tax-exempt sector and issues related to audits of tax-exempt organizations. While awaiting a complete response to that letter, I have since heard the IRS has been questioning new tax-exempt applicants, including grassroots political entities such as Tea Party groups, about their operations and donors. In addition to the unanswered questions from my October 6, 2011, letter, I have additional questions relating to the IRS' oversight of applications for tax exemption for new organizations.

In particular, I am seeking additional information as it relates to the IRS review of new applications for section 501(c)(3) and (c)(4) tax-exempt status, including answers to the questions detailed below. Please provide your responses no later than March 15, 2012.

1. How many new tax-exempt organizations has the IRS recognized each year since 2008?
2. How many new applications for 501(c)(3) and (c)(4) tax-exempt status have been received by the IRS since 2008? Provide a breakdown by year and type of organization.
3. What is the IRS process for reviewing each tax-exempt status application? Is this process the same for entities applying for section 501(c)(3) and (c)(4) tax-exempt status? Please describe the process for both section 501(c)(3) and (c)(4) applications in detail.

4. Your preliminary response to my October 6, 2011, letter stated that, "if the application is substantially complete, the IRS may retain the application and request additional information as needed." How does the IRS determine that an application for tax-exempt status is "substantially complete?" Please provide guidelines or any other materials used in this process.
5. Does the IRS have standard procedures or forms it uses to "request additional information as needed" from applicants seeking tax-exempt status? Please provide any forms and related materials used.
6. Does the IRS select applications for "follow-up" on an automated basis or is there an office or individual responsible for selecting incomplete applications? Please explain and provide details on any automated system used for these purposes. If decisions are made on an individual basis, please provide the guidelines and any related materials used.
7. How many tax-exempt applications since 2008 have been selected for "follow-up"? How many entities selected for follow-up were granted tax-exempt status?

Should you have any questions regarding this request, please contact Jen Acuña or Harold Hancock at (202) 225-5522.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Boustany, Jr.", with a stylized flourish extending from the end.

Charles Boustany, Jr., MD  
Chairman

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**From:** Lerner Lois G  
**Sent:** Thursday, March 08, 2012 5:16 PM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O  
**Subject:** FW: advocacy case - withdrawals  
  
**Importance:** High

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paz Holly O  
**Sent:** Thursday, March 08, 2012 4:50 PM  
**To:** Lerner Lois G  
**Subject:** advocacy case - withdrawals  
**Importance:** High

I believe you email Nikole to check and see whether it was OK for us to go ahead and process requests to withdraw. Did you get a response? Thanks.

---

**From:** Urban Joseph J  
**Sent:** Friday, March 09, 2012 6:08 AM  
**To:** Flax Nikole C; Lerner Lois G; Paz Holly O; Grant Joseph H; Medina Moises C; Daly Richard M; Fish David L; Miller Thomas J; Kindell Judith E; Light Sharon P; Lowe Justin; Megosh Andy; Marks Nancy J; Cook Janine; Griffin Kenneth M; Brown Susan D  
**Subject:** RE:: campaign finance letter / proposal (in case you could not open the link)

March 8, 2012, 5:36 pm

## Senate Democrats Ask I.R.S. for More Scrutiny of Nonprofit Political Groups

By [JONATHAN WEISMAN](#)

Senate Democrats on Friday will ask the [Internal Revenue Service](#) to institute a “bright line test” to ensure that tax -exempt organizations devote less than half their activities to politics and to prevent corporate donors from deducting “super PAC” contributions from their taxes.

If the I.R.S. will not do it administratively, the senators say they will move to do it with legislation.

“We urge the I.R.S. to take these steps immediately to prevent abuse of the tax code by political groups focused on federal election activities,” the six senators on a Democratic campaign finance task force wrote. “But if the I.R.S. is unable to issue administrative guidance in this area then we plan to introduce legislation to accomplish these important changes.”

The effort is part of a [broader push against super PACs](#), as anger mounts in both parties about the money flooding into politics in the wake of a [Supreme Court](#) decision allowing unlimited campaign contributions to independent groups. The watchdog group Citizens for Responsibility and Ethics in Washington, known as CREW, filed a complaint with the I.R.S. and the [Federal Election Commission](#) on Thursday against the aggressive tax-exempt political group Americans for Job Security.

And Democracy 21, a group that promotes campaign finance regulations, is considering suing the I.R.S. for failing to enforce laws already on the books to control the political pursuits of tax-exempt organizations.

Senator [Charles E. Schumer](#), Democrat of New York, said the pressure was mounting “because of the Citizens United ruling and so much more money going into the 501(c)(4)s.” He said, “The I.R.S., which has basically turned a blind eye, has no choice but to focus on it.”

At issue is the behavior of some tax-exempt organizations, classified as “social welfare” groups for tax purposes, that openly pursue electoral politics. Activists from both political parties operate such groups, but so far in this political cycle, Republican-leaning outfits are dominating the money chase.

On Thursday, CREW demanded that the I.R.S. revoke the tax -exempt status of Americans for Job Security, which saturated the airwaves in 2010 advocating the defeat of Democratic candidates. According to voluminous tax records obtained by CREW, the group spent more than 72 percent of its fiscal 2010 budget – nearly \$9 million – either on advertising explicitly calling for the election or defeat of named candidates or on “electioneering communications” that identified candidates for office.

CREW said that was a clear violation of its tax exemption under the rules governing 501(c)(6) groups, which are supposed to be “business leagues, chambers of commerce, real estate boards, boards of trade, or professional football leagues ... not organized for profit,” according to the complaints.

Such groups are not supposed to be “primarily” about politics, a vague measurement that is usually interpreted to keep political spending to about half its budget.



The \$4.4 million spent by Americans for Job Security in 2010 on “independent expenditure” advertising – ads for or against candidates but not coordinated with a candidate – was clearly political. An ad still on the group’s Web site, for instance, says former Representative Rick Boucher of Virginia “failed to protect our jobs. Now it’s time Rick Boucher loses his.”

But the CREW complaint says the group’s less -pointed “electioneering” ads — costing \$4.6 million in all — crossed the line as well. It pointed to one advertisement against Joe Manchin III, then a Democrat running for the Senate, that said Mr. Manchin and President Obama supported a stimulus “that wasted money on turtle tunnels, ant research and cocaine for monkeys.”

The ad could not have “related to a nonelectoral event such as a scheduled vote on specific legislation by an officeholder running in an election” – an allowable expenditure by I.R.S. definitions – “for the simple reason that Mr. Manchin at the time was the governor of West Virginia and thus could not vote for any federal legislation,” CREW’s executive director, Melanie Sloan, wrote.

William McGinley, a lawyer for Americans for Job Security, dismissed what he called “the latest frivolous complained by CREW” as “simply wrong on the facts and the law.”

“We are confident that the I.R.S. and F.E.C. will conclude that these false attacks have no merit,” he said.

Senate Democrats are particularly homing in on suspicions that corporate contributors to political 501(c)(4)s may be deducting those donations as “necessary” business expenses. Individuals are clearly prohibited from deducting donations as charitable contributions, but the rules on businesses are more vague.

“That taxpayers may be subsidizing these negative ads is really hard to believe,” Mr. Schumer said.

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**From:** Lemons Terry L  
**Sent:** Thursday, March 08, 2012 6:36 PM  
**To:** Williams Floyd L; Shulman Doug; Davis Jonathan M (Wash DC); Keith Frank; Eldridge Michelle L; Miller Steven T; Flax Nikole C; Barre Catherine M; Lerner Lois G; Paz Holly O; Urban Joseph J  
**Cc:** Norton William G Jr  
**Subject:** Re: campaign finance letter / proposal

Just posted on the Times' web site. Sorry, having troubles embedding text. Here's the link:

Senate Democrats Ask I.R.S. for More Scrutiny of Nonprofit Political Groups -

NYTimes.com<http://thecaucus.blogs.nytimes.com/2012/03/08/senate-democrats-ask-i-r-s-for-more-scrutiny-of-nonprofit-political-groups/>

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Sent from my BlackBerry Wireless Handheld

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**From:** Williams Floyd L  
**Sent:** Thursday, March 08, 2012 05:41 PM  
**To:** Shulman Doug; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L; Eldridge Michelle L; Miller Steven T; Flax Nikole C; Barre Catherine M; Lerner Lois G; Paz Holly O; Urban Joseph J  
**Cc:** Norton William G Jr  
**Subject:** FW: campaign finance letter / proposal

FYI--I received this from Senator Schumer's office.

Heads up NY times will do a follow up piece on IRS campaign finance on 501(c)(4) and senate is sending you another letter asking for immediate administrative changes. I will send letter late tomorrow.

---

**From:** Lerner Lois G  
**Sent:** Monday, March 12, 2012 1:00 PM  
**To:** Lowe Justin  
**Cc:** Zarin Roberta B  
**Subject:** FW: Campaign spending: Welch takes on nonprofit loophole - Rutland Herald - Rutland, VT - 03/09/12

**Can I get a copy of this and some of the other news stories on both sides --ask Bobby Zarin-- so I can bring to the session --church stuff, c4 stuff on small orgs as well as big PAC type c4s -- thanks!**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Zarin Roberta B  
**Sent:** Monday, March 12, 2012 9:44 AM  
**To:** Lerner Lois G; Kindell Judith E; Urban Joseph J; Light Sharon P; Fish David L; Paz Holly O; Marks Nancy J; Grant Joseph H; Medina Moises C  
**Cc:** Adam Debbie A; Egeth Hillary B; Partner Melaney J  
**Subject:** FW: Campaign spending: Welch takes on nonprofit loophole - Rutland Herald - Rutland, VT - 03/09/12

fyi

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

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**From:** Riley Peggy E  
**Sent:** Monday, March 12, 2012 9:37 AM  
**To:** Zarin Roberta B  
**Subject:** FW: Campaign spending: Welch takes on nonprofit loophole - Rutland Herald - Rutland, VT - 03/09/12

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**From:** Riley Peggy E  
**Sent:** Monday, March 12, 2012 9:36 AM  
**To:** \*Media Relations  
**Subject:** Campaign spending: Welch takes on nonprofit loophole - Rutland Herald - Rutland, VT - 03/09/12

Rutland Herald (Rutland, VT)  
**March 9, 2012**  
Section: NEWS01  
Campaign spending: Welch takes on nonprofit loophole  
Welch takes on campaign spending

Thatcher Moats  
VERMONT PRESS BUREAU

MONTPELIER - As a Republican presidential primary that has entered new realms of campaign spending continues, Vermont Rep. Peter Welch is urging the commissioner of the Internal Revenue Service to root out any groups that are primarily political and abusing their status as tax -exempt, nonprofit "social welfare " organizations.

Welch, a Democrat, is writing to IRS Commissioner Douglas Shulman this week asking him to investigate whether any of the groups "are improperly engaged in political campaign activity." Welch is circulating the letter among fellow lawmakers before he sends it to Shulman.

Welch declined to single out specific groups that may be breaking the law but said he is focused on the issue because of news reports showing "multimillion-dollar expenditures" by nonprofits registered as 501(c)(4)s.

"It's been on politically oriented media campaigns," said Welch. "This is not about a specific group. It's about applying the law and putting a light on this end run around the law."

IRS regulations are intended to limit how much political activity the 501 (c) (4) "social welfare" groups can engage in and what type.

According to the IRS: "The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office."

The groups can engage in some political activity "so long as that is not its primary activity," according to the IRS. The nonprofit groups have been at the center of a controversy in recent days as news reports have emerged showing that the IRS already is giving some applicants for nonprofit status greater scrutiny. As tea party groups have applied to be 501 (c)(4)s, the IRS has sent the groups questionnaires asking about their political activities, leading the groups to accuse the IRS of harassment.

There also are powerful existing groups that are 501(c)(4)s that are viewed as primarily political. These include groups aligned with both Democrats and Republicans, such as GPS Crossroads, founded by Karl Rove, the former political adviser to President George W. Bush, and Priorities USA, founded by former White House aides to President Barack Obama.

There are two problems with the nonprofits becoming overly political, said Welch.

There are many legitimate social service groups doing good work, and he doesn't want "their reputation compromised by politically oriented groups abusing the IRS provisions."

In addition, 501(c)(4)s don't have to disclose their donors.

"I favor transparency," said Welch.

Though the law says a 501(c)(4)'s "primary activity" can't be politics, it's hard to define what that is, said Tracey Bolotnick, an attorney with Hurwit & Associates in Newton, Mass., a firm that specializes in the nonprofit sector.

"The truth is, there's not a lot of concrete guidance on it," said Bolotnick.

Bolotnick said some of her riskier nonprofit clients spend 49 percent of their resources on political activity to make sure it's not the "primary activity." Others are more conservative and limit political activity to around 30 percent.

The main advantage of being a 501(c)(4) is that you don't have to disclose donors, said Bolotnick, but she doesn't believe that will last.

"That's something of a loophole that will be closed by legislation or the courts, but for now it's still an option," she said.

The Vermont Public Interest Research Group and Vermonters for Health Care Freedom are among the 501(c)(4)s active in Vermont's political scene.

Officials at the two organizations said they stay on safe legal ground by not opposing or supporting candidates for office, though they advocate for and against policies in the Legislature.

"We can do education, we can organize, we can sponsor events, we can do advertising for issue advocacy, we can even lobby for issue advocacy, but what we cannot do - and where the line gets very, very clear - is we cannot advocate in any communication or activity ... for people to elect a candidate or candidates or defeat a candidate or candidates," said Jeff Wennberg, executive director of Vermonters for Health Care Freedom.

Campaign for Vermont, another 501(c)(4), was accused by the Vermont Democratic Party recently of crossing that line with an ad critical of Gov. Peter Shumlin, but the state attorney general's office determined the group made no violation. In another campaign finance-related move, Welch plans to urge President Obama to make appointments to the Federal Election Commission when the Senate takes its next recess from April 2 to April 13. Five out of six members of the

commission are serving past their term, and it's time for a new panel, said Welch, because the FEC isn't doing its job when it's needed most.

The Senate has failed to confirm presidential nominees, said Welch, so Obama would be justified using his authority to appoint the commissioners during the Senate's next recess.

With "super PACs" holding a major influence over the presidential election, the FEC needs to be more active in defining what's legal and what isn't, said Welch.

"It's an enormous gray area, and super PAC operators are driving Mack truck s through the loopholes," said Welch.  
thatcher.moats @timesargus.com

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**From:** Lerner Lois G  
**Sent:** Monday, March 12, 2012 1:13 PM  
**To:** Grant Joseph H  
**Cc:** Marx Dawn R; Park Nalee  
**Subject:** RE: Boustany letter

Don't believe so, but Nalee is checking and will get back to you directly

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Grant Joseph H  
Sent: Monday, March 12, 2012 2:10 PM  
To: Lerner Lois G  
Cc: Marx Dawn R  
Subject: Boustany letter

Lois,

Am I correct in saying the letter has no 6103 content?

Joseph

-----  
Sent from my BlackBerry Wireless Handheld

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**From:** Lerner Lois G  
**Sent:** Monday, March 12, 2012 1:13 PM  
**To:** Marx Dawn R  
**Subject:** FW: Revised Guidesheet  
**Attachments:** Guide Sheet 3-12-12 Clean.doc; Guide Sheet 3-12-12.doc

[please print](#)

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lowe Justin  
**Sent:** Monday, March 12, 2012 1:56 PM  
**To:** Lerner Lois G; Cook Janine; Paz Holly O; Spellmann Don R; Brown Susan D; Marshall David L; Fish David L; Megosh Andy; Kindell Judith E  
**Subject:** Revised Guidesheet

Here is the revised guidesheet, attempting to incorporate the comments everyone had. As we discussed at the meeting on Thursday, in the interest of time this hasn't been reviewed; it is still in raw form.

Please take a look and we can discuss.

Thanks,

Justin

**Justin Lowe**

Internal Revenue Service  
TEGE, Exempt Organizations  
Rulings and Agreements  
Phone: (202)-283-9486  
Fax: (202)-283-8937

(b)(5)/DP



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**From:** Lerner Lois G  
**Sent:** Monday, March 12, 2012 4:48 PM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O  
**Subject:** RE: EDS Letter 4587(modified).doc

**Yes, we'll send to you tomorrow.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, March 12, 2012 5:46 PM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

here it is. Is there a way to modify for (b)(5)/DP ?

---

**From:** Flax Nikole C  
**Sent:** Thursday, March 08, 2012 9:04 AM  
**To:** Lerner Lois G  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

This should be all comments. Preference is to also (b)(5)/DP  
(??). I am not sure how this fits with the letters that you sent last night. Thanks

---

**From:** Flax Nikole C  
**Sent:** Wednesday, March 07, 2012 3:02 PM  
**To:** Lerner Lois G  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

revised. what do you think about the (b)(5)/DP ?

---

**From:** Flax Nikole C  
**Sent:** Tuesday, March 06, 2012 2:32 PM  
**To:** Lerner Lois G  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

changed the language at the end



**From:** Flax Nikole C  
**Sent:** Tuesday, March 06, 2012 2:23 PM  
**To:** Lerner Lois G  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

see what you think

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**From:** Flax Nikole C  
**Sent:** Thursday, March 01, 2012 4:30 PM  
**To:** Lerner Lois G  
**Cc:** Grant Joseph H  
**Subject:** FW: EDS Letter 4587(modified).doc  
**Importance:** High

Lois - I don't know if Steve would be okay with this, but see if you think the revise paragraph works. I was trying to convey the point, but in a less obvious way.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 7:36 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H  
**Subject:** EDS Letter 4587(modified).doc  
**Importance:** High

**This is getting ridiculous! If an org fails to provide answers to questions by the due date, we usually don't correspond with them. However, in light of the whole situation --including the short turn around date for returning the information, I suggested Holly draft** [REDACTED]

(b)(5)/DP

**Note the paragraph in red at the bottom. I thought it might be useful to point out the fact that** [REDACTED]

(b)(5)/DP

**Let me know how the thinking is going on this--I do think we need to send a letter clearly telling them what happens next.**

---

**From:** Kindell Judith E  
**Sent:** Tuesday, March 13, 2012 3:48 PM  
**To:** Lerner Lois G  
**Subject:** FW: can you let me know if you have any issues?  
**Attachments:** Political Organization Overview.doc

FYI - I spoke with Nikole this afternoon and gave her some background on 501(c)(4)s, 527s and Citizen United.

---

**From:** Kindell Judith E  
**Sent:** Tuesday, March 13, 2012 4:45 PM  
**To:** Flax Nikole C  
**Subject:** RE: can you let me know if you have any issues?

I made some changes. In the 501(c)(4) section to clarify that the [REDACTED]  
[REDACTED] (b)(5)/DP In the 527 section,  
the Form 8872 [REDACTED] (b)(5)/DP In most cases, the orgs that  
don't report to us report to either the FEC or a state agency.

---

**From:** Flax Nikole C  
**Sent:** Tuesday, March 13, 2012 4:27 PM  
**To:** Kindell Judith E  
**Subject:** can you let me know if you have any issues?

thanks so much

(b)(5) DP

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 14, 2012 8:45 AM  
**To:** Spellmann Don R; Kindell Judith E; Cook Janine; Paz Holly O; Fish David L; Megosh Andy; Lowe Justin; Brown Susan D; Marshall David L  
**Subject:** RE: voter guide draft

**I looked at it last night and have comments --I'll try to meet with my guys and pass them on**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Spellmann Don R [<mailto:Don.R.Spellmann@irs.counsel.treas.gov>]  
**Sent:** Tuesday, March 13, 2012 7:14 PM  
**To:** Kindell Judith E; Lerner Lois G; Cook Janine; Paz Holly O; Fish David L; Megosh Andy; Lowe Justin; Brown Susan D; Marshall David L  
**Subject:** RE: voter guide draft

Thank you Judy and company for the additional thoughts. We will review and discuss in anticipation of our next meeting.

Don

---

**From:** Kindell Judith E [<mailto:Judith.E.Kindell@irs.gov>]  
**Sent:** Tuesday, March 13, 2012 5:06 PM  
**To:** Lerner Lois G; Cook Janine; Paz Holly O; Fish David L; Megosh Andy; Lowe Justin; Brown Susan D; Spellmann Don R; Marshall David L  
**Subject:** FW: voter guide draft

After sending over the earlier draft, we thought some more and are proposing restructuring so that the basic guide sheet asks (b)(5)/DP Here is our take on the voter guides to illustrate what we are thinking about.

---

**From:** Kindell Judith E  
**Sent:** Tuesday, March 13, 2012 2:04 PM  
**To:** Lowe Justin; Megosh Andy; Fish David L; Paz Holly O  
**Subject:** voter guide draft

Attached is a draft voter guide checksheet. I basically grabbed the intro text from the (b)(5)/DP I'd still like to put something at the end to talk about (b)(5)/DP, but I thought I'd run what I have by you in the meantime.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 14, 2012 1:29 PM  
**To:** Paz Holly O  
**Subject:** FW: Letter from Hatch\_et al.  
**Attachments:** Hatch\_et al\_03-14-2012.pdf  
  
**Importance:** High

**I assume you've seen this --need to get some of the follow-up letters out there(-:**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Williams Floyd L  
**Sent:** Wednesday, March 14, 2012 12:06 PM  
**To:** Shulman Doug; Keith Frank; Davis Jonathan M (Wash DC); Campbell Carol A; Miller Steven T; Flax Nikole C; Grant Joseph H; Lerner Lois G; Patterson Jodi L; Urban Joseph J; Fish David L  
**Cc:** Barre Catherine M; Norton William G Jr; Landes Scott S; Dash Mary L; Eldridge Michelle L  
**Subject:** FW: Letter from Hatch\_et al.

We have received another section 501(c)(4) letter. This one signed by Senators Hatch, Portman, Alexander, Corker, Hutchison, Cornyn, McConnell, Paul, Roberts, Grassley, Thune, and Kyl. The letter possess 8 questions, primarily directed at the amount of information these organizations are required to submit during the application process.

United States Senate  
WASHINGTON, DC 20510

March 14, 2012

**RECEIVED**

By CONG. CORR. BR at 11:44 am, Mar 14, 2012

Hon. Douglas H. Shulman  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20230

Dear Commissioner Shulman:

We have received reports and reviewed information from nonprofit civic organizations in Kentucky, Ohio, Tennessee, and Texas concerning recent IRS inquiries perceived to be excessive. It is critical that the public have confidence that federal tax compliance efforts are pursued in a fair, even-handed, and transparent manner—without regard to politics of any kind. To that end, we write today to seek your assurance that this recent string of inquiries has a sound basis in law and is consistent with the IRS's treatment of tax-exempt organizations across the spectrum.

As you know, the designation as a tax-exempt organization under section 501(c)(4)(A) is reserved for "[c]ivic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, ... the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes." An organization "may carry on lawful political activities and remain exempt under section 501(c)(4) as long as it is primarily engaged in activities that promote social welfare."<sup>1</sup> The 501(c)(4) designation has been conferred on many organizations in America that espouse political or public policy viewpoints—including Priorities USA, the sister organization of "[t]he super PAC supporting President Obama,"<sup>2</sup> and American Crossroads, the sister organization of a super PAC supporting Republicans.

Civic and social welfare organizations have long performed valuable roles and offered numerous benefits to our society, and tax exemptions for such organizations can be traced all the way back to the Tariff Act of 1913. It is imperative that organizations applying for tax-exempt status are able to rely on a consistent and foreseeable review structure from the IRS. Any significant changes to the IRS review process should be implemented only after appropriate notice and opportunity for comment from the public and affected parties.

A number of our constituents have raised concerns that the recent IRS inquiries sent to civic organizations exceed the scope of the typical disclosures required under IRS Form 1024 and

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<sup>1</sup> *Federal Election Commission v. Beaumont*, 539 U.S. 146, 150 n. 1 (2003) (quoting Rev. Rul. 81-95, 1981-1 Cum. Bull. 332, 1981 WL 166125).

<sup>2</sup> Jeremy Peters, "'Super PACs,' Not Campaigns, Do Bulk of Ad Spending," N.Y. Times (Mar. 2, 2012).

accompanying Schedule B—the forms that all 501(c)(4) organizations must submit. Understandably, this has prompted some concerns about selective enforcement and the duty to treat similarly situated taxpayers similarly. To address these concerns, we respectfully request that you provide answers to the following questions:

1. What is the IRS's process for approval and renewal of a tax-exempt designation under section 501(c)(4)?
2. Are all 501(c)(4) applicants required to provide responses and information beyond the questions specified in Form 1024 and Schedule B? If not, when and on what basis does the IRS require an applicant to make disclosures not described in Form 1024 and Schedule B?
3. Which IRS officials develop and approve the list of questions and requests for information (beyond the questions specified in Form 1024 and Schedule B) which are sent to 501(c)(4) organizations? What are the objective standards by which the responses to such requests for information are evaluated?
4. How do additional requests for information sent by the IRS to 501(c)(4) applicant organizations (beyond the information required by IRS Form 1024 and Schedule B) relate to a specific standard of review previously established by the IRS? Has the IRS published such standards? Does the decision to approve or deny applications for tax-exempt status adhere to these standards, particularly if these standards have not been published and are not readily known?
5. Is every 501(c)(4) applicant required to provide the IRS with copies of all social media posts, speeches and panel presentations, names and qualifications of speakers and participants, and any written materials distributed for all public events conducted or planned to be conducted by the organization? If not, which 501(c)(4) applicants must meet this disclosure requirement and on the basis of what objective criteria are they selected?
6. Form 1040 does not require specific donor information, as the instructions for the form indicate that the statement of revenue need not include "amounts received from the general public...for the exercise or performance of the organization's exempt function." In addition, the annual schedule of contributors required by the IRS for 501(c)(4) organizations is limited to donors giving the organization \$5,000 or more for the year, and the names and addresses of contributors are not required to be made available for public inspection (according to IRS Form 990, schedule B). However, some of the IRS letters recently sent to 501(c)(4) applicant organizations specifically ask for the names of all donors and the amounts of each of the donations, and furthermore state that this

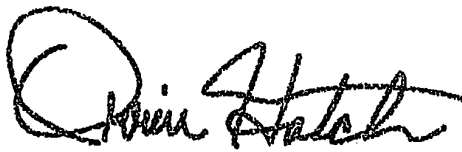
information will in fact be made available for public inspection. These specific requests for donor information appear to contradict the published IRS policy. Given this discrepancy, please provide any correspondence (including emails, written notes, and electronic documents) generated with respect to the decision to send letters in 2012 requesting all donor information from 501(c)(4) applicant organizations, including correspondence between IRS employees, or between or among the IRS, the Department of Treasury, and the White House.

7. Many applicant organizations have stated that the IRS gave them less than 3 weeks to produce a significant volume of paperwork, including copies of virtually all internal and public communications. What is the typical deadline for responses to an IRS inquiry for additional information under section 501(c)(4)?
8. Form 1024 and related disclosures by 501(c)(4) organizations are generally "open for public inspection."<sup>3</sup> In the interest of addressing any concerns about uneven IRS enforcement of section 501(c)(4) eligibility requirements, can you please provide us with copies of all IRS inquiries sent to and responses received from Priorities USA? Those documents would provide a useful basis for comparison to other inquiries the IRS has addressed to section 501(c)(4) applicants.

Given the potentially serious implications of selective or discriminatory enforcement, we request that you hold further IRS-initiated demands for information from 501(c)(4) applicants beyond the extensive information already required of all applicants (in Form 1024 and Schedule B), until the agency provides a response demonstrating these recent IRS requests are consistent with precedent and supported by law.

Thank you for your prompt attention to this matter.

Sincerely,



<sup>3</sup> See Form 1024, Application for Recognition of Exemption OMB No. 1545-0057 Under Section 501(a).



Kay Bailey Hutchison

John Conyer

Mike McConnell

Rand Paul

Pat Roberts

Chuck Grassley

John Thune

Jon Kyl

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 14, 2012 1:43 PM  
**To:** Williams Melinda G; Park Nalee  
**Cc:** Paz Holly O; Megosh Andy; Lowe Justin; Fish David L  
**Subject:** FW: Document1 (4).doc  
**Attachments:** Document1 (4).doc

**Can't recall who is responding to which letters or where the attached originally came from. Having said that, it may be a good place to start re: some of the responses.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Fish David L  
**Sent:** Thursday, March 01, 2012 10:31 AM  
**To:** Lerner Lois G  
**Subject:** Document1 (4).doc

I pasted it at the end--let me know what else you want to do with it.

(b)(5) DP

(b)(5) DP

(b)(5) DP

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 14, 2012 1:59 PM  
**To:** Kindell Judith E  
**Subject:** RE: can you let me know if you have any issues?

**My Hero!**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Kindell Judith E  
**Sent:** Tuesday, March 13, 2012 4:48 PM  
**To:** Lerner Lois G  
**Subject:** FW: can you let me know if you have any issues?

FYI - I spoke with Nikole this afternoon and gave her some background on 501(c)(4)s, 527s and Citizen United.

---

**From:** Kindell Judith E  
**Sent:** Tuesday, March 13, 2012 4:45 PM  
**To:** Flax Nikole C  
**Subject:** RE: can you let me know if you have any issues?

I made some changes. In the 501(c)(4) section to clarify that the political activity, along with all other non-exempt activity, can't be primary activity. The org must have a primary activity that furthers its exempt purpose. In the 527 section, the Form 8872 filing requirement only applies to some section 527 political organizations. In most cases, the orgs that don't report to us report to either the FEC or a state agency.

---

**From:** Flax Nikole C  
**Sent:** Tuesday, March 13, 2012 4:27 PM  
**To:** Kindell Judith E  
**Subject:** can you let me know if you have any issues?

thanks so much

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 14, 2012 3:34 PM  
**To:** Thomas Cindy M; Paz Holly O  
**Subject:** FW: Letters

**We should start putting out the letter you have to all the orgs that got development letters and have not yet responded and aren't in suspense. Holly thinks its about a hundred something. Need them to start going out tomorrow please. Holly will send you changes on the letter going to the 3 in suspense --are we having fun yet!? Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Wednesday, March 14, 2012 4:01 PM  
**To:** Lerner Lois G  
**Subject:** RE: Letters

all good thanks

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 14, 2012 2:54 PM  
**To:** Flax Nikole C  
**Subject:** Letters

**Plan is to start sending in the morning so...**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 14, 2012 3:36 PM  
**To:** Eldridge Michelle L; Paz Holly O  
**Cc:** Zarin Roberta B; Lemons Terry L  
**Subject:** Letters Going Out

**FYI--c4 letters to orgs that already got requests for additional information and letting them know they have more time and can provide information differently will start going out tomorrow morning.**

*Lois G. Lerner*

Director of Exempt Organizations



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**From:** Lerner Lois G  
**Sent:** Friday, March 16, 2012 2:26 PM  
**To:** Flax Nikole C  
**Subject:** RE: Heads-Up

Yep.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Friday, March 16, 2012 3:14 PM  
**To:** Lerner Lois G  
**Subject:** RE: Heads-Up

Thanks. I assume you guys are working on Hatch too?

---

**From:** Lerner Lois G  
**Sent:** Friday, March 16, 2012 2:01 PM  
**To:** Flax Nikole C  
**Subject:** Heads-Up

We are working on a draft response to the latest Boustany letter. They have asked for stats that are not public, and could be confusing. For example, they have asked for the number of applications per year that are sent for full development and the number of full development cases approved per year. Besides being apples and oranges --there is no correlation between the number sent to full development in one year and the closed full development cases in the same year--we do not publically provide that information. As I always prefer to use publically provided stats, I'm just raising the issue for you to think about. We do have internal stats and we will write it up in the clearest way possible, and, of course, we are happy to walk you through it when the time comes.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Friday, March 16, 2012 4:32 PM  
**To:** Fish David L  
**Cc:** Paz Holly O; Megosh Andy  
**Subject:** RE: Heads-Up

**Need to please--Nikole has asked and it will take some time once we start it.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Fish David L  
**Sent:** Friday, March 16, 2012 3:57 PM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O; Megosh Andy  
**Subject:** Re: Heads-Up

I don,t think we have it yet formally. Don't remember if we have assigned yet but will do so .  
Believe we may have already asked for info on applications even though we cannot disclose.

---

**From:** Lerner Lois G  
**Sent:** Friday, March 16, 2012 03:26 PM  
**To:** Fish David L  
**Subject:** FW: Heads-Up

**Who is doing Hatch--I can't keep this straight!**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Friday, March 16, 2012 3:14 PM  
**To:** Lerner Lois G  
**Subject:** RE: Heads-Up

Thanks. I assume you guys are working on Hatch too?

---

**From:** Lerner Lois G  
**Sent:** Friday, March 16, 2012 2:01 PM  
**To:** Flax Nikole C  
**Subject:** Heads-Up

**We are working on a draft response to the latest Boustany letter. They have asked for stats that are not public, and could be confusing. For example, they have asked for the number**

of applications per year that are sent for full development and the number of full development cases approved per year. Besides being apples and oranges --there is no correlation between the number sent to full development in one year and the closed full development cases in the same year--we do not publically provide that information. As I always prefer to use publically provided stats, I'm just raising the issue for you to think about. We do have internal stats and we will write it up in the clearest way possible, and, of course, we are happy to walk you through it when the time comes.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Park Nalee  
**Sent:** Monday, March 19, 2012 2:37 PM  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R; Williams Melinda G  
**Subject:** FW: W&M congressional  
**Attachments:** EDS EO National Receipts FY 2008-2011.xls; EDS EO National Full Development Determinations Case Closures FY 2008-2011.xls; Boustany 03-19-2012 JEK comments 2.doc

Latest draft with Judy's comments, and (b)(5)/DP ...see especially second attachment, first tab (Summary).

First, attached is an additional (b)(5)/DP The first page is a summary and the following tabs are the (b)(5)/DP

Second, attached is an update to the (b)(5)/DP previously sent but with the additional information you requested on (b)(5)/DP

NaLee  
202.283.9453

---

**From:** Kindell Judith E  
**Sent:** Monday, March 19, 2012 1:41 PM  
**To:** Park Nalee; Fish David L  
**Cc:** Williams Melinda G  
**Subject:** RE: W&M congressional

Here are my thoughts on the letter

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**From:** Park Nalee  
**Sent:** Sunday, March 18, 2012 9:36 PM  
**To:** Fish David L; Kindell Judith E  
**Cc:** Williams Melinda G  
**Subject:** W&M congressional

Latest draft attached. Will check with Dawn in the morning to see if Lois is available later in the day for a quick read before it goes to Nikole (assuming this draft is still being forwarded Monday).

(BTW, you don't need to review the last question re: listed transaction exam results...carry-over from a previous letter, unless you want.)

NaLee

NaLee Park  
R&A, EO Guidance  
TEGE, Washington D.C.

(t) 202.283.9453 | (f) 202.283.9462

(b)(5) DP

(b)(5) DP

(b)(5) DP



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

**EO Determinations Full Development Case Closures (All Case Types)**

EDS Closed Case Status Codes	Fiscal Year			
	2008	2009	2010	2011
Status 01 - Approved	20,252	18,778	17,237	17,850
Status 02 - Disapproved	1,242	480	517	217
Status 03 - Returned Incomplete	68	2,307	1,763	1,132
Status 04 - Withdrawn by Taxpayer	1,051	1,451	1,315	1,499
Status 08 - Refusal to Rule	2	0	0	5
Status 11 - Failure to Establish	7,572	7,877	6,402	2,554
Status 12 - Other	3,189	1,948	1,369	610
Status 30 - Correction Disposal	1,139	782	545	275
<b>Total</b>	<b>34,515</b>	<b>33,623</b>	<b>29,148</b>	<b>24,142</b>

**EO Determinations Full Development Case Closures  
Initial Applications Only**

EDS Closed Case Status Codes	Fiscal Year			
	2008	2009	2010	2011
Form 1023	22,014	23,643	20,234	19,334
Form 1024	2,106	2,726	2,332	2,395
Form 1025	2	11	15	12
Form 1026	25	22	24	3
Form 1028	18	8	22	5
<b>Total</b>	<b>24,165</b>	<b>26,410</b>	<b>22,627</b>	<b>21,749</b>

**EO Determinations Full Development Case Closures  
Initial 1023 and 1024 Applications Only**

EDS Closed Case Status Codes	Fiscal Year			
	2008	2009	2010	2011
Form 1023	22,014	23,643	20,234	19,334
Form 1024	2,106	2,726	2,332	2,395
<b>Total</b>	<b>24,120</b>	<b>26,369</b>	<b>22,566</b>	<b>21,729</b>



Number and Percentage of Total EO Determinations Receipts Forwarded for Full Development

	FY 2008	FY 2009	FY 2010	FY 2011
Receipts	87,820	71,836	65,545	66,038
Screening Closures	49,707	43,690	36,445	36,863
Screened Out as % of Receipts	57%	61%	56%	56%
# Cases Sent to Full Development	38,113	28,146	29,100	29,175
Sent to Full Development as % of Receipts	43%	39%	44%	44%

This is a reasonable estimation as to the number and percentage of all receipts that were not closed in the Technical Screening Process but were forwarded on for full development during a particular fiscal year.

Statistics are not maintained on this measure. A slight discrepancy would occur from this methodology as compared to actual fiscal year values because some cases closed in Technical Screening at the beginning of a fiscal year would actually be cases in inventory that were received the prior fiscal year. Total receipts and screening closures in the above chart are all receipts and closures that occurred in that fiscal year.

### EDS EO National Closures by Hours Report

For Form Number(s): ALL

For Request Type(s): ALL

Trust;501(c)(1);501(c)(10);501(c)(11);501(c)(12);501(c)(13);501(c)(14);501(c)(15);501(c)(16);501(c)(17);501(c)(18);501(c)(19);501(c)(2);50

For Closing Code(s): ALL

Period Beginning: 9/29/2007 12:00:00 AM Period Ending: 9/26/2008 12:00:00 AM

Created on: 3/14/12

Created by: 94ZCB

Data refreshed: 03/14/2012 00:35:47 CDT

Form Number	Request Type	Merit		Non-Merit	
		Closing Code 06	Closing Code 09	Total Merit	Closing Code 01
		Closed Case Count	Average Hours	Closed Case Count	Average Hours
1023	A	659	0.70561457	151	1.66490066
	F	17055	0.22953972	1150	1.19478261
	I	16560	0.54028382	8945	1.74523197
	P			22	1.47272727
	R				
	S	544	0.49154412	298	1.55771812
	T	1495	0.48033445	283	1.18021201
Form 1023 Subtotal:		36313	0.39413984	10849	1.66532399
1024	A	27	0.64814815	2	1.15
	I	1711	0.52676797	532	1.6731203
	R				
	S	23	0.43043478	4	1.8
	T	210	0.46761905	30	1.10666667
Form 1024 Subtotal:		1971	0.52100457	568	1.64225352
1025	A			1	2.2
	I				
	S				
	T	1	0.3	1	0.7
Form 1025 Subtotal:		1	0.3	2	1.45
1026	A				
	I				
	S				
	T	1	0.5		
Form 1026 Subtotal:		1	0.5	1	0.5
1028	A				
	I				
	S				
	T				
Form 1028 Subtotal:					

Total for  
Determination  
Applications

Merit	Non-Merit
Closing Code 06	Closing Code 01

Request Type	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
A	686	0.70335277	154	1.66168831	840	0.87904762	687	5.800436
F	17055	0.22953972	1150	1.19478261	18205	0.2905136	794	2.547607
I	18271	0.53901812	9477	1.74118392	27748	0.94960358	14880	5.045981
P			22	1.47272727	22	1.47272727	347	2.713544
R							13	9.892307
S	567	0.48906526	302	1.56092715	869	0.86156502	3121	4.118327
T	1707	0.47867604	314	1.17165605	2021	0.58634339	410	2.16
Determination Grand Total:	38286	0.40067126	11419	1.66413872	49705	0.69093451	20252	4.735384

11(c)(20);501(c)(21);501(c)(22);501(c)(25

Closing Code 02		Closing Code 03		Closing Code 04		Closing Code 08		Closing Code 11	
Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
3	10.0333333			6	7.88333333				
1155	2.17584416			5	3.12	1	0.5		
47	36.9553191	68	0.11911765	682	5.70278592	1	10.1	6064	4.87890831
5	8.64								
1	6.8								
10	35.55			145	5.32206897			1024	4.97148438
				1	2				
<b>1221</b>	<b>3.83751024</b>	<b>68</b>	<b>0.11911765</b>	<b>839</b>	<b>5.63277712</b>	<b>2</b>	<b>5.3</b>	<b>7088</b>	<b>4.89228273</b>
1	9								
14	28.3428571			170	3.60470588			434	5.29700461
4	31.75			31	3.23548387			46	3.9826087
<b>19</b>	<b>28.0421053</b>			<b>201</b>	<b>3.54776119</b>			<b>480</b>	<b>5.17104167</b>
				6	6.85				
				1	3			1	9.8
				<b>7</b>	<b>6.3</b>			<b>1</b>	<b>9.8</b>
1	35.2			4	7.4			3	4.2
1	60								
<b>2</b>	<b>47.6</b>			<b>4</b>	<b>7.4</b>			<b>3</b>	<b>4.2</b>

Closing Code 02	Closing Code 03	Closing Code 04	Closing Code 08	Closing Code 11
-----------------	-----------------	-----------------	-----------------	-----------------

	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
68	4	9.775			12	7.36666667				
05	1155	2.17584416			5	3.12	1	0.5		
18	62	34.9822581	68	0.11911765	857	5.29136523	1	10.1	6502	4.907259
67	5	8.64								
69	1	6.8								
46	15	36.1666667			176	4.95454545			1070	4.928971
					1	2				
16	1242	4.27826087	68	0.11911765	1051	5.24519505	2	5.3	7572	4.910327

Closing Code 12		Closing Code 30		Total Non-Merit		Grand Total	
Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
351	2.94415954	174	0	1162	3.89371773	1972	2.6576572
736	1.41399457	461	0.04750542	3152	1.78128173	21357	0.51053051
1396	2.60379656	283	0.03568905	22014	4.88224312	47519	2.77859172
81	2.42962963	14	0	447	2.64340045	469	2.58848614
3	4.9			16	9.06875	16	9.06875
140	4.15571429	76	0.22631579	4342	4.35320129	5184	3.78726852
245	1.84734694	60	0.10166667	666	1.81291291	2444	0.924509
2952	2.35599593	1068	0.05177903	31799	4.37285764	78961	2.17109712
28	4.01071429	10	0	62	3.36935484	91	2.51318681
76	2.07763158	21	0.04761905	2106	4.63969611	4349	2.65868016
1	4.2			2	4.6	2	4.6
2	2.55	9	0.22222222	258	4.25968992	285	3.91614035
25	1.844	7	0	82	2.25609756	322	0.9826087
132	2.46666667	47	0.06382979	2510	4.49135458	5049	2.62091503
10	8.05	4	0	14	5.75	15	5.51333333
				2	4.65	2	4.65
				1	49	1	49
1	1			1	1	3	0.66666667
11	7.40909091	4	0	18	7.76666667	21	6.80952381
80	7.055	11	0.04545455	133	8.1924812	133	8.1924812
9	9.02222222	8	0	25	7.224	25	7.224
1	12			3	6.03333333	3	6.03333333
		1	0	1	0	2	0.25
90	7.30666667	20	0.025	162	7.95246914	163	7.90674847
1	5.5			1	5.5	1	5.5
2	10.2			18	9.98333333	18	9.98333333
				6	15.36666667	6	15.36666667
1	2			1	2	1	2
4	6.975			26	10.7461538	26	10.7461538

Closing Code 12		Closing Code 30		Total Non-Merit		Grand Total	
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	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
	470	3.82148936	199	0.00251256	1372	4.3068513	2212	3.00515371
	736	1.41399457	461	0.04750542	3152	1.7812817	21357	0.51053051
93	1483	2.62602832	312	0.03557692	24165	4.8673081	51913	2.77325718
	81	2.42962963	14	0	447	2.6434004	469	2.58848614
	4	4.725			18	8.5722222	18	8.5722222
96	143	4.18811189	85	0.22588235	4610	4.3730803	5479	3.81613433
	272	1.84448529	68	0.08970588	751	1.8580559	2772	0.93088023
52	3189	2.52351834	1139	0.05162423	34515	4.4048472	84220	2.21296842





<b>F</b>	3922	0.21157573	30	1.16333333	<b>3952</b>	<b>0.21880061</b>	202	2.557425
<b>I</b>	21762	0.4427764	14900	1.77519463	<b>36662</b>	<b>0.98429164</b>	14745	5.276249
<b>P</b>			6	0.96666667	<b>6</b>	<b>0.96666667</b>	358	2.399162
<b>R</b>							5	7.44
<b>S</b>	595	0.46991597	547	1.34332724	<b>1142</b>	<b>0.8882662</b>	2768	4.542160
<b>T</b>	1202	0.42853577	124	1.28145161	<b>1326</b>	<b>0.50829563</b>	158	2.080379
Determination Grand Total:	<b>27921</b>	<b>0.41566563</b>	<b>15761</b>	<b>1.75327073</b>	<b>43682</b>	<b>0.89828991</b>	<b>18778</b>	<b>5.151326</b>

b(1)(c)(20);501(c)(21);501(c)(22);501(c)(25

Closing Code 02		Closing Code 03		Closing Code 04		Closing Code 11		Closing Code 12	
Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
				2	10.25			282	3.90248227
425	2.67858824	1	0.5	1	0.5			269	0.84089219
33	42.7363636	2165	0.34988453	988	5.1159919	6332	5.11808275	889	3.81777278
				1	1.5	2	1.75	89	2.36853933
								4	11.125
14	58.1642857	8	0.375	161	3.65093168	982	5.54959267	133	4.91654135
								99	1.90505051
<b>472</b>	<b>7.125</b>	<b>2174</b>	<b>0.350046</b>	<b>1153</b>	<b>4.913183</b>	<b>7316</b>	<b>5.17508201</b>	<b>1765</b>	<b>3.29660057</b>
1	85.3							28	4.97142857
5	20.34	131	0.36717557	242	4.53553719	522	4.46532567	51	2.65686275
2	26.4			37	4.02702703	36	4.375	3	2.96666667
								18	2.26111111
<b>8</b>	<b>29.975</b>	<b>131</b>	<b>0.36717557</b>	<b>279</b>	<b>4.46810036</b>	<b>558</b>	<b>4.45949821</b>	<b>100</b>	<b>3.243</b>
				1	9			6	7.31666667
				1	3.8			2	1.8
				<b>2</b>	<b>6.4</b>			<b>8</b>	<b>5.9375</b>
		2	0.1	13	4.29230769			66	9.50757576
				1	7.1			9	9.77777778
		<b>2</b>	<b>0.1</b>	<b>14</b>	<b>4.49285714</b>			<b>75</b>	<b>9.54</b>
				3	3.2	3	11.9666667		
				<b>3</b>	<b>3.2</b>	<b>3</b>	<b>11.9666667</b>		

	Closing Code 02		Closing Code 03		Closing Code 04		Closing Code 11		Closing Code 12	
	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
23	1	85.3	2	0.1	16	5.33125			382	5.002879

74	425	2.67858824	1	0.5	1	0.5			269	0.840892
58	38	39.7894737	2296	0.35087108	1235	4.99813765	6857	5.0713869	951	3.807676
01					1	1.5	2	1.75	89	2.368539
									4	11.125
04	16	54.19375	8	0.375	198	3.72121212	1018	5.50805501	136	4.873529
75									117	1.959829
02	480	7.50583333	2307	0.35080191	1451	4.82205376	7877	5.12697728	1948	3.545071

Closing Code 30		Total Non-Merit		Grand Total	
Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
88	0	795	4.69836478	1359	3.15835173
272	0	1170	1.60871795	5122	0.53629442
235	0.07404255	23643	4.80432686	56995	2.57402755
13	0	463	2.32116631	469	2.30383795
		8	8.7125	8	8.7125
54	0.11111111	3937	4.93710947	5037	4.05413937
41	0	280	1.71428571	1461	0.73497604
703	0.03328592	30296	4.62991484	70451	2.50373309
3	0	57	5.56491228	86	4.10813953
35	0.01714286	2726	4.01360968	5982	2.30772317
9	0	265	3.72075472	307	3.31302932
5	0.56	40	1.995	183	0.86939891
52	0.06538462	3088	3.99096503	6558	2.33825862
1	0	11	7.67272727	12	7.11666667
6	0	11	1.49090909	65	1.85846154
		1	12	1	12
		1	1	2	0.75
7	0	24	4.74166667	80	2.74625
5	0	177	14.4875706	177	14.4875706
12	0	22	4.32272727	22	4.32272727
3	0	3	0	3	0
				1	0.4
20	0	202	13.1653465	203	13.1024631
		8	7.6125	8	7.6125
		5	6.44	5	6.44
		13	7.16153846	13	7.16153846

	Closing Code 30		Total Non-Merit		Grand Total	
	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
58	97	0	1040	6.4433654	1634	4.46462668

19	272	0	1170	1.6087179	5122	0.53629442
13	288	0.0625	26410	4.7217796	63072	2.54928177
33	13	0	463	2.3211663	469	2.30383795
i			9	9.0777778	9	9.07777778
41	66	0.09090909	4210	4.8588124	5352	4.01158445
06	46	0.06086957	321	1.7470405	1647	0.74972678
87	782	0.0342711	33623	4.6235702	77305	2.51856154



<b>R</b>							5	11.34
<b>S</b>	787	0.53113088	517	2.19042553	<b>1304</b>	<b>1.1889954</b>	2752	4.851900
<b>T</b>	174	0.46724138	23	1.34347826	<b>197</b>	<b>0.56954315</b>	42	2.442857
Determination Grand Total:	<b>22465</b>	<b>0.47889027</b>	<b>13978</b>	<b>2.39156532</b>	<b>36443</b>	<b>1.21251187</b>	<b>17237</b>	<b>6.041026</b>

11(c)(20);501(c)(21);501(c)(22);501(c)(25

Closing Code 02		Closing Code 03		Closing Code 04		Closing Code 11		Closing Code 12	
Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
				2	6.65			218	4.72211009
458	2.20530568							87	1.75287356
29	42.1896552	1681	0.38975015	885	5.78779661	5115	5.18982796	612	4.36029412
1	3.91					1	2.3	74	2.61162162
						1	0.2	2	9.85
10	51.939			153	4.30065359	888	5.58654279	106	6.10660377
						1	1.6	34	2.05588235
<b>498</b>	<b>5.53580321</b>	<b>1681</b>	<b>0.38975015</b>	<b>1040</b>	<b>5.57067308</b>	<b>6006</b>	<b>5.24657343</b>	<b>1133</b>	<b>4.21939982</b>
								10	3.37
15	29.5733333	80	0.41125	227	5.32361233	362	4.55353591	27	6.73
3	6.66666667			24	3.47708333	31	4.22741935	3	4.16666667
								19	7.75789474
<b>18</b>	<b>25.7555556</b>	<b>80</b>	<b>0.41125</b>	<b>251</b>	<b>5.14705179</b>	<b>393</b>	<b>4.5278117</b>	<b>59</b>	<b>6.36118644</b>
								4	3.25
		1	0.7	1	0.4	1	9	1	5.3
		<b>1</b>	<b>0.7</b>	<b>1</b>	<b>0.4</b>	<b>1</b>	<b>9</b>	<b>5</b>	<b>3.66</b>
1	14.51	1	0.1	13	10.7730769	2	5.25	158	9.0114557
				2	6.85			13	6.24615385
								1	6
<b>1</b>	<b>14.51</b>	<b>1</b>	<b>0.1</b>	<b>15</b>	<b>10.25</b>	<b>2</b>	<b>5.25</b>	<b>172</b>	<b>8.78494186</b>
				8	5.575				
				<b>8</b>	<b>5.575</b>				

	Closing Code 02		Closing Code 03		Closing Code 04		Closing Code 11		Closing Code 12	
	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
46	1	14.51	1	0.1	15	10.2233333	2	5.25	390	6.410076
65	458	2.20530568							87	1.752873
48	44	37.8886364	1762	0.39090238	1123	5.68954586	5478	5.14847572	653	4.497258
67	1	3.91					1	2.3	74	2.611621



							1	0.2	2	9.85
44	13	41.4915385			177	4.18898305	919	5.54069641	110	6.052727
14							1	1.6	53	4.1
86	517	6.25713733	1763	0.39073738	1315	5.53928517	6402	5.20303811	1369	4.883272

Closing Code 30		Total Non-Merit		Grand Total	
Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
69	0	696	4.36224138	1032	3.20981589
201	0.07114428	849	1.76581861	2926	0.69443951
133	0.2587218	20234	5.577863	50048	3.03419457
20	0	362	2.62837017	364	2.61722527
		8	9.575	8	9.575
43	0.88372093	3788	5.16286167	5044	4.17481562
28	0	102	1.63333333	281	0.94661922
494	0.17552632	26039	5.30547909	59703	3.00743463
9	0	161	4.30031056	176	4.00880682
13	2.41538462	2332	4.72434391	5024	2.72763535
10	0	231	3.69069264	279	3.23351254
3	0	25	6.196	43	3.9
35	0.89714286	2749	4.62603492	5522	2.80315828
1	0	5	2.6	5	2.6
1	0	15	4.54666667	21	4.2952381
2	0	20	4.06	26	3.96923077
6	0	288	14.6721181	288	14.6721181
6	0	24	5.69583333	24	5.69583333
		5	3.9	5	3.9
12	0	317	13.8226183	317	13.8226183
1	0	22	5.5	22	5.5
1	0	1	0	1	0
2	0	23	5.26086957	23	5.26086957

Closing Code 30		Total Non-Merit		Grand Total	
Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
85	0	1150	6.9278609	1501	5.50076616
201	0.07114428	849	1.7658186	2926	0.69443951
154	0.42733766	22627	5.4892628	55139	3.008885
20	0	362	2.6283702	364	2.61722527

			8	9.575	8	9.575
27	54	0.7037037	4025	5.0755205	5329	4.1244924
	31	0	127	2.5314961	324	1.33858025
46	545	0.2167156	29148	5.3331381	65591	3.04367794

### EDS EO National Closures by Hours Report 2011-9

For Form Number(s): ALL

For Request Type(s): ALL

For Subsection(s): ALL

For Closing Code(s): ALL

Period Beginning: 9/25/2010 12:00:00 AM Period Ending: 9/30/2011 11:59:59 AM

Created on: 10/1/11

Created by: F5RGB

Data refreshed: 10/01/2011 00:42:56 CDT

Form Number	Request Type	Merit		Closing Code 09		Total Merit		Non-
		Closing Code 06		Closing Code 09		Total Merit		Closing
		Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count
1023	A	173	0.700404624	60	0.805	233	0.727339056	470
	F	1069	0.44303087	35	0.915714286	1104	0.458016304	26
	I	19176	0.52089174	13028	2.637272797	32204	1.377065271	14511
	P							194
	R							4
	S	63	0.774603175	148	2.789864865	211	2.188151659	607
	T							1
Form 1023 Subtotal:		20481	0.519124554	13271	2.626150252	33752	1.34758918	15813
1024	A	1	0.2	1	1	2	0.6	16
	I	2205	0.572857143	895	2.231318436	3100	1.051670968	1813
	R							1
	S	3	0.433333333	2	2.2	5	1.14	45
	T							1
Form 1024 Subtotal:		2209	0.572498868	898	2.229877506	3107	1.051522369	1876
1025	A							
	I			4	3.75	4	3.75	4
	P							2
	S							2
Form 1025 Subtotal:				4	3.75	4	3.75	8
1026	A							148
	I							
	S							1
Form 1026 Subtotal:								149
1028	I							4
Form 1028 Subtotal:								4

Total for Determinations on Applications

Request Type	Merit		Closing Code 09		Total Merit		Non-
	Closing Code 06		Closing Code 09		Total Merit		Closing
	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count
A	174	0.697528736	61	0.808196721	235	0.726255319	634
F	1069	0.44303087	35	0.915714286	1104	0.458016304	26
I	21381	0.526250877	13927	2.611504272	35308	1.348764869	16332
P							196
R							5
S	66	0.759090909	150	2.782	216	2.163888889	655
T							2

Termination Grand Total:	22690	0.524320846	14173	2.601359627	36863	1.322895858	17850
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Merit								
Code 01	Closing Code 02		Closing Code 03		Closing Code 04		Closing Code 08	
Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
6.048085106					5	7.22		
5.240384615	146	1.796164384						
6.433325753	43	66.25697674	1078	0.439072356	1149	6.276849434	5	3.14
2.759278351	1	14.1						
9.4	1	30.1						
8.348797364	14	53.44285714			73	7.46369863		
0.7								
<b>6.448754822</b>	<b>205</b>	<b>19.04239024</b>	<b>1078</b>	<b>0.439072356</b>	<b>1227</b>	<b>6.351303993</b>	<b>5</b>	<b>3.14</b>
2.934375								
4.427418643	11	34.24545455	54	0.448148148	256	5.66328125		
3					1	2.1		
5.781111111	1	24.3			7	9.438571429		
3								
<b>4.445634328</b>	<b>12</b>	<b>33.41666667</b>	<b>54</b>	<b>0.448148148</b>	<b>264</b>	<b>5.749886364</b>		
4.875					1	0.1		
4.3								
7.15								
<b>5.3</b>					<b>1</b>	<b>0.1</b>		
19.99797297					7	8.85		
7.5								
<b>19.91409396</b>					<b>7</b>	<b>8.85</b>		
7.025								
<b>7.025</b>								

Merit								
Code 01	Closing Code 02		Closing Code 03		Closing Code 04		Closing Code 08	
Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours
9.225946372					12	8.170833333		
5.240384615	146	1.796164384						
6.210415136	54	59.73611111	1132	0.4395053	1406	6.160739687	5	3.14
2.775	1	14.1						
8.12	1	30.1			1	2.1		
8.167435115	15	51.5			80	7.6365		
1.85								

6.350244818	217	19.83728111	1132	0.4395053	1499	6.252881921	5	3.14
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Closing Code 11		Closing Code 12		Closing Code 30		Closing Code Invalid		Total No
Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count
		128	5.05671875	21	0.09047619			<b>624</b>
		15	3.507333333	46	0			<b>233</b>
2102	5.36047098	304	4.822072368	141	0.762411348	1	5.4	<b>19334</b>
1	1.2	9	2.966666667	5	0.2			<b>210</b>
		3	7.386666667	1	0.1			<b>9</b>
227	6.241013216	32	7.6890625	15	0.193333333			<b>968</b>
		2	4.5					<b>3</b>
<b>2330</b>	<b>5.444472103</b>	<b>493</b>	<b>5.009513185</b>	<b>229</b>	<b>0.495196507</b>	<b>1</b>	<b>5.4</b>	<b>21381</b>
		18	3.366666667					<b>34</b>
205	5.095853659	17	3.564705882	39	0.255128205			<b>2395</b>
								<b>2</b>
13	7.376923077	1	5	2	0			<b>69</b>
								<b>1</b>
<b>218</b>	<b>5.231880734</b>	<b>36</b>	<b>3.505555556</b>	<b>41</b>	<b>0.242682927</b>			<b>2501</b>
		5	17.62					<b>5</b>
4	7.475	3	10.86666667					<b>12</b>
								<b>2</b>
								<b>2</b>
<b>4</b>	<b>7.475</b>	<b>8</b>	<b>15.0875</b>					<b>21</b>
		70	19.76214286	3	0			<b>228</b>
1	9	1	11.2	1	0			<b>3</b>
		2	13					<b>3</b>
<b>1</b>	<b>9</b>	<b>73</b>	<b>19.45958904</b>	<b>4</b>	<b>0</b>			<b>234</b>
1	6.7							<b>5</b>
<b>1</b>	<b>6.7</b>							<b>5</b>

Closing Code 11		Closing Code 12		Closing Code 13		Closing Code 30		Total No
Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count	Average Hours	Closed Case Count
		221	9.861131222			24	0.079166667	<b>891</b>
		15	3.507333333			46	0	<b>233</b>
2313	5.342827497	325	4.831723077	1	5.4	181	0.648895028	<b>21749</b>
1	1.2	9	2.966666667			5	0.2	<b>212</b>
		3	7.386666667			1	0.1	<b>11</b>
240	6.302541667	35	7.915714286			17	0.170588235	<b>1042</b>
		2	4.5					<b>4</b>



2554	5.431389977	610	6.782196721	1	5.4	274	0.450182482	24142
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Non-Merit	Grand Total	
	Closed Case Count	Average Hours
5.653621795	857	4.314270712
1.936051502	1337	0.715594615
6.038620048	51538	3.125804067
2.753809524	210	2.753809524
9.995555556	9	9.995555556
8.291766529	1179	7.199431722
3.233333333	3	3.233333333
6.053693934	55133	3.172652676
3.163235294	36	3.020833333
4.589899791	5495	2.593810737
2.55	2	2.55
6.542318841	74	6.177297297
3	1	3
4.622103159	5608	2.643894437
17.62	5	17.62
6.841666667	16	6.06875
4.3	2	4.3
7.15	2	7.15
9.195238095	25	8.324
19.32017544	228	19.32017544
6.733333333	3	6.733333333
11.16666667	3	11.16666667
19.0542735	234	19.0542735
6.96	5	6.96
6.96	5	6.96

Non-Merit	Grand Total	
	Closed Case Count	Average Hours
9.122906846	1126	7.370497336
1.936051502	1337	0.715594615
5.879837694	57057	3.07592022
2.768396226	212	2.768396226
8.641818182	11	8.641818182
8.182005758	1258	7.148688394
3.175	4	3.175

6.034318201	61005	3.187384968
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EO Determination **501(c)(3)** Application Receipts By Fiscal Year and Case Type

Year	A	F	I	P	R	S	T	Invalid	Total
2008	1,769	20,870	51,073	479	15	5,231	2,293	0	81730
2009	1,329	4,574	52,303	438	7	5,084	1,444	0	65179
2010	1097	2751	50266	333	7	4921	168	57	59600
2011	762	1,340	55,962	202	10	438	2	5	58721

Initial (New) applications received highlighted in yellow

EO Determination **501(c)(4)** Application Receipts by Fiscal Year and Case Type

Year	A	F	I	P	R	S	T	Invalid	Total
2008	19	0	1,410	0	2	99	101	0	1631
2009	21	0	1,571	0	0	97	62	0	1751
2010	22	0	1591	0	0	118	4	0	1735
2011	8	0	2,242	0	1	13	1	0	2265

Initial (New) applications received highlighted in yellow

**Case Types:**

I: Initial

A: Amendment

T: Termination of Exempt Status

P: Termination of Private Foundation Status

F: Private Foundation Follow-UP

R: Returned, Post Review

S: Re-Opening of FTE (Failure to Establish) Case

### EDS EO National Receipts Report

For Request Type(s): ALL

For Form Number(s): ALL

For Subsection(s): ALL

Period Beginning: 9/29/2007 12:00:00 AM Period Ending: 9/26/2008 12:00:00 AM

Created on: 3/15/12

Request Type	A	F	I	P	R	S	T	Invalid	Total
<b>Grand Total:</b>	<b>2,062</b>	<b>20,870</b>	<b>55,965</b>	<b>479</b>	<b>19</b>	<b>5,505</b>	<b>2,595</b>	<b>0</b>	<b>87,495</b>

Form Number	Request Type		A	F	I	P	R	S	T	Invalid	Total
	Subsection										
1023	501(c)(3)		1,769	20,870	51,073	479	15	5,231	2,293	0	7
	<b>Form 1023 Total:</b>		<b>1,769</b>	<b>20,870</b>	<b>51,073</b>	<b>479</b>	<b>15</b>	<b>5,231</b>	<b>2,293</b>	<b>0</b>	<b>81,730</b>
1024	501(c)(2)		0	0	104	0	0	9	13	0	3
	501(c)(4)		19	0	1,410	0	2	99	101	0	5
	501(c)(5)		7	0	298	0	0	9	15	0	4
	501(c)(6)		23	0	1,490	0	1	66	69	0	5
	501(c)(7)		3	0	873	0	0	34	56	0	4
	501(c)(8)		2	0	10	0	0	2	5	0	4
	501(c)(9)		19	0	184	0	0	18	12	0	4
	501(c)(10)		1	0	27	0	0	2	4	0	4
	501(c)(12)		4	0	63	0	0	15	8	0	4
	501(c)(13)		1	0	162	0	0	4	3	0	4
	501(c)(15)		2	0	6	0	0	2	0	0	3
	501(c)(17)		0	0	3	0	0	0	0	0	1
	501(c)(19)		3	0	135	0	0	6	4	0	4

	501(c)(25)	4	0	86	0	0	2	5	0	4
	<b>Form 1024 Total:</b>	<b>88</b>	<b>0</b>	<b>4,851</b>	<b>0</b>	<b>3</b>	<b>268</b>	<b>295</b>	<b>0</b>	<b>5,505</b>
1025	501(c)(1)	0	0	1	0	0	0	0	0	1
	501(c)(14)	2	0	2	0	0	0	2	0	3
	501(d)	0	0	1	0	0	0	0	0	1
	4947(a)(1) - Public Charity (Form 990/990-EZ Filer)	4	0	0	0	0	0	0	0	1
	4947(a)(1) - Private Foundation	8	0	0	0	1	0	2	0	3
	<b>Form 1025 Total:</b>	<b>14</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>23</b>
1026	501(c)(3)	162	0	21	0	0	1	1	0	4
	501(c)(6)	12	0	0	0	0	0	1	0	2
	501(c)(7)	4	0	0	0	0	0	0	0	1
	501(c)(8)	2	0	0	0	0	0	0	0	1
	501(c)(10)	1	0	0	0	0	0	0	0	1
	501(c)(19)	9	0	1	0	0	0	0	0	2
	<b>Form 1026 Total:</b>	<b>190</b>	<b>0</b>	<b>22</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>215</b>
1028	IRC 521 - Farmers Cooperative	1	0	15	0	0	5	1	0	4
	<b>Form 1028 Total:</b>	<b>1</b>	<b>0</b>	<b>15</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>1</b>	<b>0</b>	<b>22</b>



# EDS EO National Receipts Report

For Request Type(s): ALL

For Form Number(s): ALL

For Subsection(s): ALL

Period Beginning: 9/27/2008 12:00:00 AM Period Ending: 9/25/2009 12:00:00 AM

Created on: 3/15/12

Request Type	A	F	I	P	R	S	T	Invalid	Total
<b>Grand Total:</b>	<b>1,674</b>	<b>4,574</b>	<b>####</b>	<b>438</b>	<b>7</b>	<b>5,401</b>	<b>1,630</b>	<b>0</b>	<b>71,645</b>

Form Number	Request Type	A	F	I	P	R	S	T
	Subsection							
<b>1023</b>	<b>501(c)(3)</b>	1,329	4,574	52,303	438	7	5,084	1,444
	<b>Form 1023 Total:</b>	<b>1,329</b>	<b>4,574</b>	<b>52,303</b>	<b>438</b>	<b>7</b>	<b>5,084</b>	<b>1,444</b>

<b>1024</b>	<b>501(c)(2)</b>	9	0	119	0	0	4	10
	<b>501(c)(4)</b>	21	0	1,571	0	0	97	62
	<b>501(c)(5)</b>	4	0	513	0	0	22	4
	<b>501(c)(6)</b>	19	0	1,671	0	0	90	48
	<b>501(c)(7)</b>	3	0	955	0	0	48	22
	<b>501(c)(8)</b>	0	0	13	0	0	2	0
	<b>501(c)(9)</b>	12	0	179	0	0	22	16
	<b>501(c)(10)</b>	2	0	36	0	0	1	1
	<b>501(c)(12)</b>	1	0	50	0	0	10	3
	<b>501(c)(13)</b>	0	0	180	0	0	7	1
	<b>501(c)(15)</b>	0	0	11	0	0	2	1
	<b>501(c)(17)</b>	1	0	6	0	0	0	0
	<b>501(c)(19)</b>	0	0	144	0	0	6	4
	<b>501(c)(25)</b>	42	0	56	0	0	1	12
	<b>Form 1024 Total:</b>	<b>114</b>	<b>0</b>	<b>5,504</b>	<b>0</b>	<b>0</b>	<b>312</b>	<b>184</b>

<b>1025</b>	<b>501(c)(1)</b>	0	0	7	0	0	0	0
	<b>501(c)(14)</b>	1	0	0	0	0	0	1
	<b>501(c)(26)</b>	0	0	1	0	0	0	0
	<b>501(c)(27)</b>	1	0	0	0	0	0	0
	<b>501(d)</b>	0	0	64	0	0	0	0
	<b>4947(a)(2) - Split Interest Trust</b>	1	0	0	0	0	0	0
	<b>4947(a)(1) - Private Foundation</b>	4	0	0	0	0	0	0
	<b>Form 1025 Total:</b>	<b>7</b>	<b>0</b>	<b>72</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>

<b>1026</b>	<b>501(c)(1)</b>	1	0	1	0	0	0	0
	<b>501(c)(3)</b>	175	0	27	0	0	3	0
	<b>501(c)(4)</b>	5	0	0	0	0	0	0
	<b>501(c)(5)</b>	2	0	0	0	0	0	0
	<b>501(c)(6)</b>	19	0	0	0	0	0	1
	<b>501(c)(7)</b>	4	0	1	0	0	0	0
	<b>501(c)(8)</b>	2	0	0	0	0	0	0
	<b>501(c)(10)</b>	1	0	0	0	0	0	0
	<b>501(c)(14)</b>	0	0	1	0	0	0	0
	<b>501(c)(19)</b>	15	0	0	0	0	0	0
	<b>Form 1026 Total:</b>	<b>224</b>	<b>0</b>	<b>30</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>1</b>



1028	IRC 521 - Farmers Cooperative	0	0	12	0	0	2	0
	Form 1028 Total:	0	0	12	0	0	2	0

00 AM

Invalid	Total
0	7
<b>0</b>	<b>65,179</b>

0	4
0	4
0	4
0	4
0	4
0	2
0	4
0	4
0	4
0	3
0	3
0	2
0	3
0	4
<b>0</b>	<b>6,114</b>

0	1
0	2
0	1
0	1
0	1
0	1
0	1
<b>0</b>	<b>80</b>

0	2
0	3
0	1
0	1
0	2
0	2
0	1
0	1
0	1
0	1
<b>0</b>	<b>258</b>

0	2
<b>0</b>	<b>14</b>

## EDS EO National Receipts Report

For Form Number(s): ALL

For Request Type(s): ALL

For Subsection(s): ALL

Period Beginning: 9/26/2009 12:00:00 AM Period Ending: 9/24/2010 12:00:00 AM

Created on: 9/25/10

Created by: F5RGB

Data refreshed: 09/25/2010 00:36:32 CDT

Request Type	A	F	I	Invalid	P
Grand Total:	1,556	2,751	55,347	1	333

Form Number	Subsection	Request Type	A	F	I	Invalid	P
1023	501(c)(3)		1,097	2,696	50,264		333
	Invalid			55	2		
	Form 1023 Subtotal:		1,097	2,751	50,266		333

1024	501(c)(2)		1		120		
	501(c)(4)		22		1,591		
	501(c)(5)		3		269		
	501(c)(6)		12		1,568		
	501(c)(7)		4		863		
	501(c)(8)				16		
	501(c)(9)		6		174		
	501(c)(10)				31		
	501(c)(12)		5		72		
	501(c)(13)		1		144		
	501(c)(15)				14		
	501(c)(17)		1		5		
	501(c)(19)				136		
	501(c)(25)		87		32		
	Invalid				5		
	Form 1024 Subtotal:		142		5,040		

1025	501(c)(1)				1		
	501(c)(14)				2		
	501(c)(27)				1		
	501(d)				20		
	4947(a)(1) - Public Charity (Form 990/990-EZ Filer)		2				
	4947(a)(1) - Private Foundation		2				
	Form 1025 Subtotal:		4		24		

1026	501(c)(1)		1				
	501(c)(3)		234		6		
	501(c)(4)		13				
	501(c)(5)		1				
	501(c)(6)		24		1		
	501(c)(7)		13				
	501(c)(9)		3				
	501(c)(10)		1				

	501(c)(19)	14				
	Invalid	9				
	Form 1026 Subtotal:	<b>313</b>		<b>7</b>		

1028	IRC 521 - Farmers Cooperative			10		
	Form 1028 Subtotal:			<b>10</b>		

Invalid	Invalid				1	
	Form Invalid Subtotal:				<b>1</b>	

10:00 AM

R	S	T	Total
7	5,223	193	65,411

R	S	T	Total
7	4,921	168	59,486
			57
7	4,921	168	59,543

	12	4	137
	118	4	1,735
	16	2	290
	54	3	1,637
	51		918
	2		18
	9	5	194
	4		35
	6		83
	6		151
			14
	1		7
	10	2	148
	2	5	126
			5
	291	25	5,498

	2		3
			2
			1
			20
			2
			2
	2		30

			1
	8		248
			13
			1
			25
			13
			3
			1

			14
			9
	8		328

	1		11
	1		11

			1
			1

# EDS EO National Receipts Report 2011-09

For Form Number(s): ALL

For Request Type(s): ALL

For Subsection(s): ALL

Period Beginning: 9/25/2010 12:00:00 AM Period Ending: 9/30/2011 11:00:00 AM

Created on: 10/1/11

Created by: F5RGB

Data refreshed: 10/01/2011 00:42:56 CDT

Request Type	A	F	I	P	R
Grand Total:	946	1,340	63,069	204	12

Form Number	Subsection	Request Type	A	F	I	P	R
1023	501(c)(3)		762	1,340	55,957	202	10
	Invalid				5		
	Form 1023 Subtotal:		762	1,340	55,962	202	10

1024	501(c)(2)		1		113		
	501(c)(3)				1		
	501(c)(4)		8		2,242		1
	501(c)(5)		3		406		
	501(c)(6)		4		1,825		
	501(c)(7)		2		1,241		
	501(c)(8)				144		
	501(c)(9)		5		138		
	501(c)(10)				92		
	501(c)(11)				1		
	501(c)(12)		2		116		
	501(c)(13)				408		1
	501(c)(14)				1		
	501(c)(15)				5		
	501(c)(17)				2		
	501(c)(19)		1		274		
	501(c)(25)				25		
	Invalid				49		
	Form 1024 Subtotal:		26		7,083		2

1025	501(c)(1)				2		
	501(c)(14)		1		2		
	501(c)(27)				2		
	501(d)				10		
	4947(a)(1) - Public Charity (Form 990/990-EZ Filer)		2				
	4947(a)(1) - Private Foundation					2	
	Form 1025 Subtotal:		3		16	2	

1026	501(c)(3)		132		2		
	501(c)(4)		4				
	501(c)(5)		2				
	501(c)(6)		10				
	501(c)(7)		3				



	501(c)(8)	1				
	501(c)(10)	1				
	501(c)(14)	1				
	501(c)(19)	1				
	Form 1026 Subtotal:	155		2		

1028	IRC 521 - Farmers Cooperative			6		
	Form 1028 Subtotal:			6		

59:59 PM

S	T	Total
466	3	66,040

S	T	Total
438	2	58,711
		5
438	2	58,716

1		115
		1
13	1	2,265
		409
7		1,836
4		1,247
		144
1		144
1		93
		1
1		119
		409
		1
		5
		2
		275
		25
		49
28	1	7,140

		2
		3
		2
		10
		2
		2
		21

		134
		4
		2
		10
		3

		1
		1
		1
		1
		<b>157</b>

		6
		<b>6</b>

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 20, 2012 11:16 AM  
**To:** Paz Holly O  
**Subject:** Accepted: Discussion re: applications for exemption from advocacy organizations

---

**From:** Kindell Judith E  
**Sent:** Tuesday, March 20, 2012 3:49 PM  
**To:** Lerner Lois G; Williams Melinda G; Fish David L; Park Nalee  
**Cc:** Light Sharon P  
**Subject:** RE: congressional latest draft  
**Attachments:** Boustany 03-20-2012 JEK rev.doc

[Here's my take on #6](#)

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 20, 2012 4:47 PM  
**To:** Kindell Judith E; Williams Melinda G; Fish David L; Park Nalee  
**Cc:** Light Sharon P  
**Subject:** FW: congressional latest draft

[let me know your thoughts on my redraft--#7](#)

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Tuesday, March 20, 2012 4:24 PM  
**To:** Lerner Lois G; Kindell Judith E  
**Subject:** congressional latest draft

FYI - In case you didn't have this yet. Attached is the electronic copy of the version we were reviewing this afternoon. I believe Judy was going to try to clean up the response to Question # 6 (on page 5), and Lois was going to work on # 7 (starting on page 6).

Melinda will be forwarding her changes shortly.

Sorry for any delays.

NaLee

NaLee Park  
SE:T:EO:RA:G, Rm NCA-551  
EO Guidance, R&A  
TEGE, Washington D.C.  
(t) 202.283.9453 | (f) 202.283.9462

(b)(5) DP

(b)(5) DP

(b)(5) DP



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

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**From:** Lerner Lois G  
**Sent:** Tuesday, March 20, 2012 4:21 PM  
**To:** Kindell Judith E; Williams Melinda G; Park Nalee; Fish David L  
**Subject:** Boustany 03-20-2012 JEK rev.doc  
**Attachments:** Boustany 03-20-2012 JEK rev.doc

Judy is taking a crack also--together we'll make a great final! Comments pleaswe

(b)(5) DP

(b)(5) DP



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

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**From:** Lerner Lois G  
**Sent:** Tuesday, March 20, 2012 4:23 PM  
**To:** Kindell Judith E; Williams Melinda G; Park Nalee; Fish David L  
**Subject:** FW: congressional latest draft  
**Attachments:** Boustany 03-20-2012 JEK rev.doc

[One more little change to introduce 1st chart --which needs to be built](#)

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Kindell Judith E  
**Sent:** Tuesday, March 20, 2012 4:49 PM  
**To:** Lerner Lois G; Williams Melinda G; Fish David L; Park Nalee  
**Cc:** Light Sharon P  
**Subject:** RE: congressional latest draft

[Here's my take on #6](#)

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 20, 2012 4:47 PM  
**To:** Kindell Judith E; Williams Melinda G; Fish David L; Park Nalee  
**Cc:** Light Sharon P  
**Subject:** FW: congressional latest draft

[let me know your thoughts on my redraft --#7](#)

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Tuesday, March 20, 2012 4:24 PM  
**To:** Lerner Lois G; Kindell Judith E  
**Subject:** congressional latest draft

FYI - In case you didn't have this yet. Attached is the electronic copy of the version we were reviewing this afternoon. I believe Judy was going to try to clean up the response to Question # 6 (on page 5), and Lois was going to work on # 7 (starting on page 6).

Melinda will be forwarding her changes shortly.

Sorry for any delays.

NaLee

[NaLee Park](#)

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TEGE, Washington D.C.  
(t) 202.283.9453 | (f) 202.283.9462



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP



---

**From:** Park Nalee  
**Sent:** Tuesday, March 20, 2012 6:42 PM  
**To:** Lerner Lois G; Williams Melinda G  
**Cc:** Kindell Judith E; Fish David L; Megosh Andy  
**Subject:** RE: congressional latest draft  
**Attachments:** Boustany 03-20-2012 total revision NLP comments.doc; Boustany 03-20-2012 total revision CLEAN.doc; Enclosure A - (b)(5) DP; Enclosure B - (b)(5) DP; Enclosure C - (b)(5) DP

I made a few changes - I accepted whatever had already been on the draft Melinda forwarded and tracked the following changes for easier viewing (i.e., first word doc attachment - NLP comments):

- identified enclosures by letters instead of numbers (to be consistent with the last Boustany response),
- revised footnote # 4 so it's shorten to read that (b)(3)/6103 and
- question 7, changed the

(b)(5)/DP

If you disagree with any of the above changes, just unaccept/reject the change(s). The second word attachment is a "clean" copy, in case you're good with all the changes and ready to forward to Nikole.

The next three attachments are the following enclosures:

Enclosure A - question 3, (b)(5)/DP  
Enclosure B - question 4, (b)(5)/DP  
Enclosure C - question 5, (b)(5)/DP

NaLee  
202.283.9453

---

**From:** Williams Melinda G  
**Sent:** Tuesday, March 20, 2012 6:25 PM  
**To:** Kindell Judith E; Lerner Lois G; Park Nalee; Fish David L  
**Subject:** RE: congressional latest draft

For some reason I didn't get the new table that Judy sent below. So I've added my own table for question 7 that hopefully has the (b)(5)/DP that Judy used. Otherwise this should have all the revisions discussed during our meeting today and made by Lois and Judy. Please let me know if you have any questions. Thanks!

Melinda

---

**From:** Kindell Judith E  
**Sent:** Tuesday, March 20, 2012 5:57 PM  
**To:** Williams Melinda G; Lerner Lois G; Park Nalee; Fish David L  
**Subject:** RE: congressional latest draft

Sorry - wasn't thinking

---

**From:** Williams Melinda G  
**Sent:** Tuesday, March 20, 2012 5:55 PM  
**To:** Kindell Judith E; Lerner Lois G; Park Nalee; Fish David L  
**Subject:** RE: congressional latest draft

I'm putting this all into one document including my changes for #3 and 5. Judy, could you send me your new chart and I'll put it into my revision with all of your changes?

---

**From:** Kindell Judith E  
**Sent:** Tuesday, March 20, 2012 5:51 PM  
**To:** Lerner Lois G; Williams Melinda G; Park Nalee; Fish David L  
**Subject:** RE: congressional latest draft

I added the [REDACTED] (b)(5)/DP  
[REDACTED]

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 20, 2012 5:23 PM  
**To:** Kindell Judith E; Williams Melinda G; Park Nalee; Fish David L  
**Subject:** FW: congressional latest draft

One more little change to introduce 1st chart --which needs to be built

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Kindell Judith E  
**Sent:** Tuesday, March 20, 2012 4:49 PM  
**To:** Lerner Lois G; Williams Melinda G; Fish David L; Park Nalee  
**Cc:** Light Sharon P  
**Subject:** RE: congressional latest draft

Here's my take on #6

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 20, 2012 4:47 PM  
**To:** Kindell Judith E; Williams Melinda G; Fish David L; Park Nalee  
**Cc:** Light Sharon P  
**Subject:** FW: congressional latest draft

let me know your thoughts on my redraft --#7

*Lois G. Lerner*

Director of Exempt Organizations

**From:** Park Nalee  
**Sent:** Tuesday, March 20, 2012 4:24 PM  
**To:** Lerner Lois G; Kindell Judith E  
**Subject:** congressional latest draft

FYI - In case you didn't have this yet. Attached is the electronic copy of the version we were reviewing this afternoon. I believe Judy was going to try to clean up the response to Question # 6 (on page 5), and Lois was going to work on # 7 (starting on page 6).

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Sorry for any delays.

NaLee

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(b)(5) DP

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(b)(5) DP

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(b)(5) DP

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 11:01 AM  
**To:** Megosh Andy; Kindell Judith E  
**Cc:** Paz Holly O  
**Subject:** RE: Bennet letter

Thanks

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Megosh Andy  
**Sent:** Wednesday, March 21, 2012 12:00 PM  
**To:** Lerner Lois G; Kindell Judith E  
**Cc:** Paz Holly O  
**Subject:** RE: Bennet letter

No

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 11:56 AM  
**To:** Megosh Andy; Kindell Judith E  
**Cc:** Paz Holly O  
**Subject:** RE: Bennet letter

Did Bennet sign on to those?

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Megosh Andy  
**Sent:** Wednesday, March 21, 2012 10:10 AM  
**To:** Lerner Lois G; Kindell Judith E  
**Cc:** Paz Holly O  
**Subject:** RE: Bennet letter

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Is she referring to either of these letters?

Andy



**From:** Lerner Lois G  
**Sent:** Tuesday, March 20, 2012 10:51 AM  
**To:** Megosh Andy; Kindell Judith E  
**Cc:** Paz Holly O  
**Subject:** FW: Bennet letter

**What do you know about a different letter?**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Tuesday, March 20, 2012 8:46 AM  
**To:** Lerner Lois G  
**Subject:** RE: Bennet letter

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**From:** Lerner Lois G  
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**Subject:** FW: Bennet letter

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*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Kindell Judith E  
**Sent:** Wednesday, March 14, 2012 5:30 PM  
**To:** Lerner Lois G; Paz Holly O; Megosh Andy  
**Subject:** Bennet letter

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 11:11 AM  
**To:** Flax Nikole C  
**Subject:** RE: Bennett letter

sure

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
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**Subject:** RE: Bennett letter

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*Lois G. Lerner*

Director of Exempt Organizations

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*Lois G. Lerner*

Director of Exempt Organizations

**From:** Kindell Judith E  
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**To:** Lerner Lois G; Paz Holly O; Megosh Andy  
**Subject:** Bennet letter

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 12:45 PM  
**To:** Megosh Andy  
**Subject:** RE: Bennett letter

thanks

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Megosh Andy  
**Sent:** Wednesday, March 21, 2012 1:43 PM  
**To:** Lerner Lois G  
**Subject:** RE: Bennett letter

Tina is scanning the letter now, so we can do either.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 1:42 PM  
**To:** Flax Nikole C  
**Cc:** Megosh Andy  
**Subject:** RE: Bennett letter

can we fax it--what's your fax number

*Lois G. Lerner*  
Director of Exempt Organizations

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Director of Exempt Organizations

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**To:** Flax Nikole C  
**Subject:** FW: Bennett letter  
**Attachments:** SecureZIP Attachments.zip

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Jackson Marshalle C  
**Sent:** Wednesday, March 21, 2012 1:48 PM  
**To:** Megosh Andy; Kindell Judith E; Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** RE: Bennett letter

See Attached--

*Marshalle Tina Jackson*

**TE/GE, Exempt Organizations**  
**Rulings & Agreements**  
**Phone 202-283-8773**  
**Fax 202-283-8858**  
**[Marshalle.c.jackson@irs.gov](mailto:Marshalle.c.jackson@irs.gov)**

*Without struggle, there's no progress...*  
*Frederick Douglas*

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**From:** Megosh Andy  
**Sent:** Wednesday, March 21, 2012 12:24 PM  
**To:** Kindell Judith E; Jackson Marshalle C  
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Judy,

Do you have the physical file?

Tina,

Can you print out (or better still, provide a scanned copy) the incoming letter from etrak # 2012-29539?

Thanks, Andy



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Director of Exempt Organizations

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**From:** Kindell Judith E  
**Sent:** Wednesday, March 14, 2012 5:30 PM  
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**Subject:** Bennet letter



February 16, 2012

Hon. Douglas H. Shulman  
Commissioner  
Internal Revenue Service  
Room 3000 IR  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

RECEIVED

FEB 21 2012

CONG. CORR. BR  
CL:LA

Dear Commissioner Shulman:

We write to inquire if the Internal Revenue Service ("IRS") is investigating or intends to investigate whether groups designated as "social welfare" organizations, and thus receiving tax and other advantages under section 501(c)(4) of the Internal Revenue Code (IRC), 26 U.S.C. § 501(c)(4), are improperly engaged in a substantial or even a predominant amount of campaign activity. In section 501(c)(4), Congress created a tax preference for social welfare organizations because the nation benefits greatly from their social welfare activities. It is contrary to the letter and the spirit of the statute for political organizations formed primarily to advocate for a political candidate or to run attack ads against other candidates to take advantage of section 501(c)(4).

Under the IRC and IRS regulations, section 501(c)(4) organizations are required to primarily engage in the promotion of social welfare to obtain tax exempt status. Section 501(c)(4) establishes tax-exempt status for nonprofits "operated exclusively for the promotion of social welfare . . ." 26 U.S.C. § 501(c)(4). IRS regulations state that a nonprofit operates "exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare for the people of the community." 26 U.S.C. § 501(c)(4), 26 C.F.R. § 1.501(c)(4)-1(a)(2)(i) (emphasis added). The regulations require that a social welfare organization "is one which is operated primarily for the purpose of bringing about civic betterments and social improvements." *Id.*

Even more to the point is what the regulations say about campaign activities: "The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office." *Id.* § 1.501(c)(4)-1(a)(2)(ii). This standard is clear, and it appears to preclude the formation of 501(c)(4) organizations for campaign-related purposes.

Courts have interpreted section 501(c)(4) to prohibit a group organized under that section from engaging in more than an insubstantial amount of campaign activity. Courts have consistently found that the presence of a single substantial non-exempt purpose precludes exempt status, regardless of the number or importance of the exempt purposes. *See Contracting Plumbers Coop. Restor. Corp. v. U.S.*, 488 F.2d 684, 686 (2d. Cir. 1973); *see also American*

*Ass'n of Christian Sch. Vol. Emp. v. U.S.*, 850 F.2d 1510, 1516 (11th Cir. 1988). The IRS is tasked with applying this strict statutory interpretation of 501(c)(4) by the courts.

IRS regulations, however, appear more permissive than the statute as interpreted by the courts. For example, the IRS authorizes section 501(c)(4) social welfare organizations to engage in federal election activities, including electioneering communications, as long as such activities do not constitute the "primary" activity of the organization. 26 C.F.R. § 1.501(c)(4)-1(a)(2)(i). Some political organizations argue that section 501(c)(4) organizations can spend up to forty-nine percent of their total expenditures on campaign activities without such activities constituting the "primary" activity of the organization. While this forty-nine percent threshold appears to violate the language of the statute and the subsequent interpretation of several courts, we are concerned that some political organizations may still be violating this exceptionally high threshold.

We are aware that non-profit organizations have filed a petition for rulemaking with the IRS to revise existing regulations governing whether an organization that intervenes or participates in elections is entitled to obtain or maintain an exemption from taxation under section 501(c)(4). We urge you to investigate these allegations and to seriously consider launching a rulemaking to prevent this type of abuse of the tax code.

We urge you to protect legitimate section 501(c)(4) entities by preventing non-conforming organizations that are focused on federal election activities from abusing the tax code. We thank you for your prompt attention to this matter and look forward to your response.

Sincerely,



Michael F. Bennet  
U.S. Senator



Al Franken  
U.S. Senator



Jeff Merkley  
U.S. Senator



Charles E. Schumer  
U.S. Senator



Jeanne Shaheen  
U.S. Senator



Tom Udall  
U.S. Senator



Sheldon Whitehouse  
U.S. Senator

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 12:56 PM  
**To:** Jackson Marshalle C; Megosh Andy; Kindell Judith E  
**Cc:** Marx Dawn R  
**Subject:** RE: Bennett letter

Thanks!

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Jackson Marshalle C  
**Sent:** Wednesday, March 21, 2012 1:48 PM  
**To:** Megosh Andy; Kindell Judith E; Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** RE: Bennett letter

See Attached--

*Marshalle Tina Jackson*

**TE/GE, Exempt Organizations**  
**Rulings & Agreements**  
**Phone 202-283-8773**  
**Fax 202-283-8858**  
**[Marshalle.c.jackson@irs.gov](mailto:Marshalle.c.jackson@irs.gov)**

*Without struggle, there's no progress...*  
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*Lois G. Lerner*

Director of Exempt Organizations

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*Lois G. Lerner*

Director of Exempt Organizations



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*Lois G. Lerner*

Director of Exempt Organizations

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**Subject:** FW: Bennet letter

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*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Kindell Judith E  
**Sent:** Wednesday, March 14, 2012 5:30 PM  
**To:** Lerner Lois G; Paz Holly O; Megosh Andy  
**Subject:** Bennet letter



---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 1:02 PM  
**To:** Rutherford Denise A  
**Subject:** RE: Bennett letter

Thank you!

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Rutherford Denise A  
Sent: Wednesday, March 21, 2012 2:00 PM  
To: Lerner Lois G  
Subject: RE: Bennett letter

Okay... Thank you Lois!

Denise Rutherford  
Office of the Deputy Commissioner for Services & Enforcement  
(202) 622-6860 - Main Line  
(202) 622-6765 - VMS  
(202) 622-8393 - Fax  
IR 3308

-----Original Message-----

From: Lerner Lois G  
Sent: Wednesday, March 21, 2012 1:59 PM  
To: Rutherford Denise A  
Cc: Flax Nikole C  
Subject: RE: Bennett letter

Go it--turns out we were able to scan so have sent it via email

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Rutherford Denise A  
Sent: Wednesday, March 21, 2012 1:46 PM  
To: Lerner Lois G  
Cc: Flax Nikole C; Rutherford Denise A  
Subject: FW: Bennett letter

Fax # 622-8393

Denise Rutherford  
Office of the Deputy Commissioner for Services & Enforcement  
(202) 622-6860 - Main Line  
(202) 622-6765 - VMS  
(202) 622-8393 - Fax  
IR 3308

-----Original Message-----

From: Flax Nikole C  
Sent: Wednesday, March 21, 2012 1:44 PM  
To: Rutherford Denise A  
Subject: Fw: Bennett letter

Can you send Lois the fax number?

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Megosh Andy  
Subject: RE: Bennett letter  
Sent: Mar 21, 2012 1:41 PM

can we fax it--what's your fax number

Lois G. Lerner  
Director of Exempt Organizations

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From: Flax Nikole C  
Sent: Wednesday, March 21, 2012 12:10 PM  
To: Lerner Lois G  
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Director of Exempt Organizations

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Lois G. Lerner  
Director of Exempt Organizations

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Director of Exempt Organizations

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Director of Exempt Organizations

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From: Kindell Judith E  
Sent: Wednesday, March 14, 2012 5:30 PM  
To: Lerner Lois G; Paz Holly O; Megosh Andy  
Subject: Bennet letter

---

**From:** Paz Holly O  
**Sent:** Wednesday, March 21, 2012 2:51 PM  
**To:** Lerner Lois G  
**Subject:** FW: Updated guidesheet  
**Attachments:** Guide Sheet 3-21-12 clean.doc; Guide Sheet 3-21-12.doc

[FYI re: guidesheet status.](#)

---

**From:** Lowe Justin  
**Sent:** Wednesday, March 21, 2012 3:49 PM  
**To:** Paz Holly O  
**Cc:** Kindell Judith E  
**Subject:** FW: Updated guidesheet

[Hi Holly, we met with Don and Susan both Monday and yesterday, going over the guidesheet. This morning I incorporated the suggested changes and sent it back out. Attached is the current version. I believe our tentative plan was if the working group was mostly in agreement with this version, we would send it up to the execs to see what they thought.](#)

[Justin](#)

---

**From:** Lowe Justin  
**Sent:** Wednesday, March 21, 2012 11:07 AM  
**To:** Lowe Justin; Brown Susan D; Spellmann Don R; Marshall David L  
**Cc:** Kindell Judith E; Megosh Andy; Goehausen Hilary  
**Subject:** RE: Updated guidesheet  
**Importance:** High

[Okay, attached are clean and redline versions of the latest guidesheet, reflecting comments from yesterday's meeting.](#)

---

**From:** Lowe Justin  
**Sent:** Monday, March 19, 2012 10:48 AM  
**To:** Brown Susan D; Spellmann Don R; Marshall David L  
**Cc:** Kindell Judith E; Megosh Andy; Goehausen Hilary  
**Subject:** Updated guidesheet

Attached is a guidesheet reflecting the changes we discussed at the meeting on Friday. I've begun going through and sourcing all of the language, but haven't finished yet: I wanted to get this over to you in time to look it over for the meeting this afternoon.

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 3:41 PM  
**To:** Flax Nikole C  
**Subject:** RE: Bennett letter

Just made what I hope are final suggestions on Boustany. Hope to have it to you by day's end. it is not really final--you will make changes--but we have an issue with the [REDACTED] [REDACTED] [REDACTED] (b)(5)/DP but I've asked my guys to put together [REDACTED] (b)(5)/DP in the event that doesn't happen. Will send with what we have, but will need to insert once you're OK with the letter. Don't know on Hatch--will check

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Wednesday, March 21, 2012 4:36 PM  
**To:** Lerner Lois G  
**Subject:** RE: Bennett letter

I just sent an email to you guys and leg affairs so we can get all of thi s straight. Do you have a sense of timing on the Boustany and Hatch responses?

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 4:31 PM  
**To:** Flax Nikole C  
**Subject:** RE: Bennett letter

Oh--I've only seen this one --do we have responsibility for the other?

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Wednesday, March 21, 2012 3:15 PM  
**To:** Lerner Lois G  
**Subject:** RE: Bennett letter

Thanks. My confusion is that there are two Bennett letters.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 1:56 PM  
**To:** Flax Nikole C  
**Subject:** FW: Bennett letter



*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Jackson Marshall C  
**Sent:** Wednesday, March 21, 2012 1:48 PM  
**To:** Megosh Andy; Kindell Judith E; Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** RE: Bennett letter

See Attached--

*Marshall Tina Jackson*

**TE/GE, Exempt Organizations**  
**Rulings & Agreements**  
**Phone 202-283-8773**  
**Fax 202-283-8858**  
**[Marshall.c.jackson@irs.gov](mailto:Marshall.c.jackson@irs.gov)**

*Without struggle, there's no progress...*  
*Frederick Douglas*

---

**From:** Megosh Andy  
**Sent:** Wednesday, March 21, 2012 12:24 PM  
**To:** Kindell Judith E; Jackson Marshall C  
**Subject:** FW: Bennett letter

Judy,

Do you have the physical file?

Tina,

Can you print out (or better still, provide a scanned copy) the incoming letter from etrak # 2012-29539?

Thanks, Andy

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 12:12 PM  
**To:** Megosh Andy  
**Subject:** FW: Bennett letter

**Can we scan it and send to me so I have too --I'll forward to her**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Wednesday, March 21, 2012 12:10 PM  
**To:** Lerner Lois G  
**Subject:** RE: Bennett letter

can someone send the letter we are responding to? The only Bennett that I have just discusses the regs, but this response related to more than that (so I assume there is another letter).

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 12:02 PM  
**To:** Flax Nikole C  
**Subject:** FW: Bennett letter

**No--Bennett's only letter was the short one.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Megosh Andy  
**Sent:** Wednesday, March 21, 2012 12:00 PM  
**To:** Lerner Lois G; Kindell Judith E  
**Cc:** Paz Holly O  
**Subject:** RE: Bennet letter

No

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 11:56 AM  
**To:** Megosh Andy; Kindell Judith E  
**Cc:** Paz Holly O  
**Subject:** RE: Bennet letter

**Did Bennet sign on to those?**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Megosh Andy  
**Sent:** Wednesday, March 21, 2012 10:10 AM  
**To:** Lerner Lois G; Kindell Judith E  
**Cc:** Paz Holly O  
**Subject:** RE: Bennet letter

The Hatch letter ( (b)(3)/6103 ) and the Flores letter ( (b)(3)/6103 ) asks about specific organizations.

Is she referring to either of these letters?

Andy

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 20, 2012 10:51 AM  
**To:** Megosh Andy; Kindell Judith E  
**Cc:** Paz Holly O  
**Subject:** FW: Bennet letter

**What do you know about a different letter?**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, March 20, 2012 8:46 AM  
**To:** Lerner Lois G  
**Subject:** RE: Bennet letter

do you have the incoming? The Bennett/Shumer I have doesn't ask about specific orgs, but I think there may be an earlier one.

---

**From:** Lerner Lois G  
**Sent:** Monday, March 19, 2012 7:25 PM  
**To:** Flax Nikole C  
**Subject:** FW: Bennet letter

**This is short and sweet--thoughts before it goes upstairs to Joseph?**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Kindell Judith E  
**Sent:** Wednesday, March 14, 2012 5:30 PM  
**To:** Lerner Lois G; Paz Holly O; Megosh Andy  
**Subject:** Bennet letter

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 6:21 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee; Lerner Lois G; Fish David L  
**Subject:** Congressional  
**Attachments:** Boustany 03-21-2012 final draft .doc; Enclosure A - (b)(5) DP

(b)(5) DP Enclosure B - (b)(5) DP Enclosure C - (b)(5) DP

OK--Boustany draft. As I mentioned earlier today, the statistical charts need to be finalized -- we are waiting to see if the 2011 SOI info comes out --supposedly this week. If not, we need to (b)(5)/DP I've already asked my guys to prepare the (b)(5)/DP

The last response is the one we have been struggling with. I finally feel like we have a story that makes sense and can be verified. However, it does show that (b)(5)/DP but I don't know what's behind the asking of the question.

I am out tomorrow, but will be in Friday. If you need something in the meantime David Fish or Nalee can help. I am available on my cell (b)(6); (b)(7)(C) and don't hesitate to try me except between 11 and 12:30 please.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Wednesday, March 21, 2012 6:16 PM  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R; Fish David L; Kindell Judith E; Megosh Andy; Williams Melinda G  
**Subject:** latest draft

Attached are the latest draft with following enclosures:

Enclosure A - question 3, (b)(5)/DP  
Enclosure B - question 4, (b)(5)/DP  
Enclosure C - question 5, (b)(5)/DP

NaLee

NaLee Park  
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EO Guidance, R&A  
TEGE, Washington D.C.  
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(b)(5) DP

(b)(5) DP

(b)(5) DP



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5)/DP

(b)/(5)/DP

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(b)/(5)/DP

(b)/(5)/DP

(b)/(5)/DP

(b)/(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 6:45 PM  
**To:** Fish David L; Megosh Andy  
**Cc:** Paz Holly O  
**Subject:** RE: Congressional

Not trying to pressure you, but there is pressure!

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Fish David L  
Sent: Wednesday, March 21, 2012 4:48 PM  
To: Lerner Lois G; Megosh Andy  
Cc: Paz Holly O  
Subject: Re: Congressional

We do not even formally have hatch. We have started looking for the applications noted. No we do not have drafts.

-----Original Message-----

From: Lois Lerner  
To: Fish David L  
To: Andrew Megosh Jr  
Cc: Holly Paz  
Subject: Congressional  
Sent: Mar 21, 2012 4:43 PM

Nikole just asked for ETAs to her on the Hatch and Boustany letters. Told her Boustany is on it's way, but I don't recall who is even doing Hatch--have I seen a draft?

Lois G. Lerner  
Director of Exempt Organizatio ns



---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 6:46 PM  
**To:** Fish David L; Megosh Andy  
**Cc:** Paz Holly O  
**Subject:** RE: Congressional

Is there someone you will be assigning it to?

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Fish David L  
Sent: Wednesday, March 21, 2012 4:48 PM  
To: Lerner Lois G; Megosh Andy  
Cc: Paz Holly O  
Subject: Re: Congressional

We do not even formally have hatch. We have started looking for the applications noted. No we do not have drafts.

-----Original Message-----

From: Lois Lerner  
To: Fish David L  
To: Andrew Megosh Jr  
Cc: Holly Paz  
Subject: Congressional  
Sent: Mar 21, 2012 4:43 PM

Nikole just asked for ETAs to her on the Hatch and Boustany letters. Told her Boustany is on it's way, but I don't recall who is even doing Hatch--have I seen a draft?

Lois G. Lerner  
Director of Exempt Organizatio ns

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 7:12 PM  
**To:** Paz Holly O; Fish David L  
**Subject:** FW: Updated guidesheet--set up time to discuss?

**Holy Moly!**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 8:11 PM  
**To:** Cook Janine; Judson Victoria A  
**Cc:** Marx Dawn R  
**Subject:** RE: Updated guidesheet--set up time to discuss?

I wasn't intending to send anything to Nikole or Steve until we have a draft we all agree to. The goal here is to give our staff a document that helps them do their work, which Counsel is comfortable with. I just got the latest draft--haven't reviewed. I am out tomorrow, but am planning to read it then. I am here Friday if you want to try and meet. If you want to try and set up a meeting Friday, please let Dawn Marx know and she'll work on scheduling.

Not sure I understand your concerns about [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
(b)(5) DP and AC  
[REDACTED]  
[REDACTED]

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Cook Janine [mailto:Janine.Cook@irscounsel.treas.gov]  
**Sent:** Wednesday, March 21, 2012 3:31 PM  
**To:** Judson Victoria A; Lerner Lois G  
**Subject:** FW: Updated guidesheet--set up time to discuss?  
**Importance:** High

Vicki and Lois,

I thought we might want to discuss the direction of the guide sheets. The team is putting in a lot of time working on drafts and before they keep fine-tuning, I thought we'd better ensure the current structure will work.

The quick recap is that Don/Susan/David sent back two weeks ago [REDACTED]

(b)(5) DP and AC

[REDACTED] Lois, you expressed your strong preference for something that would be more helpful to those working the applications --an understandable goal--and the team has been working on that model for a week or two.

We talked Friday about the latest draft. I think it is helpful [REDACTED]

(b)(5) DP and AC

Should we set up a time to discuss just us? Don't want to discourage your team that has been working hard on this. Lois, I know you've had some discussions with STEve and I think were going to share the revised doc with Nikole at some point. Have you talked with them further? It might be helpful to get their reaction before the team spends more time finetuning the current draft. Happy to arrange time to talk. Thanks ladies.

Janine

---

**From:** Lowe Justin [mailto:Justin.Lowe@irs.gov]  
**Sent:** Wednesday, March 21, 2012 11:07 AM  
**To:** Lowe Justin; Brown Susan D; Spellmann Don R; Marshall David L  
**Cc:** Kindell Judith E; Megosh Andy; Goehausen Hilary  
**Subject:** RE: Updated guidesheet  
**Importance:** High

Okay, attached are clean and redline versions of the latest guidesheet, reflecting comments from yesterday's meeting.

---

**From:** Lowe Justin  
**Sent:** Monday, March 19, 2012 10:48 AM  
**To:** Brown Susan D; Spellmann Don R; Marshall David L  
**Cc:** Kindell Judith E; Megosh Andy; Goehausen Hilary  
**Subject:** Updated guidesheet

Attached is a guidesheet reflecting the changes we discussed at the meeting on Friday. I've begun going through and sourcing all of the language, but haven't finished yet: I wanted to get this over to you in time to look it over for the meeting this afternoon.

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 22, 2012 10:05 AM  
**To:** Flax Nikole C  
**Cc:** Park Nalee; Fish David L  
**Subject:** Re: Congressional

We get it. That's why we are working on the alternative.

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Nikole Flax  
To: Lois Call in Number  
Cc: Nalee Park  
Cc: David L Fish  
Subject: RE: Congressional  
Sent: Mar 22, 2012 10:27 AM

Thanks. We are taking a look today. I think SOI is coming out this week, but we need to

(b)(5)/DP

---

From: Lerner Lois G  
Sent: Wednesday, March 21, 2012 7:21 PM  
To: Flax Nikole C  
Cc: Park Nalee; Lerner Lois G; Fish David L  
Subject: Congressional

OK--Boustany draft. As I mentioned earlier today, the statistical charts need to be finalized--we are waiting to see if the 2011 SOI info comes out--supposedly this week. If not, we need to

(b)(5)/DP

've already asked my guys to prepare the

(b)(5)/DP

The last response is the one we have been struggling with. I finally feel like we have a story that makes sense and can be verified. However, it does show that

(b)(5)/DP

but I don't know what's behind the asking of the question.

I am out tomorrow, but will be in Friday. If you need something in the meantime David Fish or Nalee can help. I am available on my cell  
(b)(6); (b)(7)(C) and don't hesitate to try me except between 11 and 12:30 please.

Lois G. Lerner  
Director of Exempt Organizations

---

From: Park Nalee  
Sent: Wednesday, March 21, 2012 6:16 PM  
To: Lerner Lois G  
Cc: Marx Dawn R; Fish David L; Kindell Judith E; Megosh Andy; Williams Melinda G  
Subject: latest draft

Attached are the latest draft with following enclosures:

Enclosure A - question 3, (b)(5)/DP  
Enclosure B - question 4, (b)(5)/DP  
Enclosure C - question 5, (b)(5)/DP

NaLee

NaLee Park

SE:T:EO:RA:G, Rm NCA-551

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<<mailto:nalee.park@irs.gov>>

---

**From:** Flax Nikole C  
**Sent:** Thursday, March 22, 2012 10:32 AM  
**To:** Lerner Lois G; Park Nalee; Fish David L  
**Subject:** FW: Congressional  
**Attachments:** Boustany 03-21-2012 final draft .doc

Some comments/questions on the letter. May be others later, but wanted to send in event someone could get started since we need to send soon. Give me a call if easier to discuss. Thanks

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 7:21 PM  
**To:** Flax Nikole C  
**Cc:** Park Nalee; Lerner Lois G; Fish David L  
**Subject:** Congressional

**OK--Boustany draft. As I mentioned earlier today, the statistical chart s need to be finalized -- we are waiting to see if the 2011 SOI info comes out --supposedly this week. If not, we need to**  
[REDACTED] (b)(5)/DP I've  
**already asked my guys to prepare the** [REDACTED] (b)(5)/DP

**The last response is the one we have been struggling with. I finally feel like we have a story that makes sense and can be verified. However, it does show that** [REDACTED]  
[REDACTED] (b)(5)/DP  
[REDACTED] **but I don't know what's behind the asking of the question.**

**I am out tomorrow, but will be in Friday. If you need something in the meantime David Fish or Nalee can help. I am available on my cell** [REDACTED] (b)(6); (b)(7)(C) **and don't hesitate to try me except between 11 and 12:30 please.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Park Nalee  
**Sent:** Wednesday, March 21, 2012 6:16 PM  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R; Fish David L; Kindell Judith E; Megosh Andy; Williams Melinda G  
**Subject:** latest draft

Attached are the latest draft with following enclosures:

Enclosure A - question 3, [REDACTED] (b)(5)/DP  
Enclosure B - question 4, [REDACTED] (b)(5)/DP  
Enclosure C - question 5, [REDACTED] (b)(5)/DP

NaLee

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(b)(5) DP



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 22, 2012 10:52 AM  
**To:** Park Nalee; Fish David L  
**Subject:** Re: Congressional

If you guys want to talk we can have a call in about an hour Lois G. Lerner ----- Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Nikole Flax  
To: Lois Call in Number  
To: Nalee Park  
To: David L Fish  
Subject: FW: Congressional  
Sent: Mar 22, 2012 11:32 AM

Some comments/questions on the letter. May be others later, but wanted to send in event someone could get started since we need to send soon. Give me a call if easier to discuss. Thanks

---

From: Lerner Lois G  
Sent: Wednesday, March 21, 2012 7:21 PM  
To: Flax Nikole C  
Cc: Park Nalee; Lerner Lois G; Fish David L  
Subject: Congressional

OK--Boustany draft. As I mentioned earlier today, the statistical charts need to be finalized--we are waiting to see if the 2011 SOI info comes out--supposedly this week. If not, we need to [REDACTED]  
[REDACTED] (b)(3)/6103 I've already asked  
my guys to prepare the [REDACTED] (b)(5)/DP

The last response is the one we have been struggling with. I finally feel like we have a story that makes sense and can be verified. However, it does show [REDACTED]  
[REDACTED] (b)(5)/DP [REDACTED]  
[REDACTED] but I don't know what's behind the asking of the question.

I am out tomorrow, but will be in Friday. If you need something in the meantime David Fish or Nalee can help. I am available on my cell [REDACTED]  
[REDACTED] (b)(6) and (b)... and don't hesitate to try me except between 11 and 12:30 please.

Lois G. Lerner  
Director of Exempt Organizations



---

From: Park Nalee  
Sent: Wednesday, March 21, 2012 6:16 PM  
To: Lerner Lois G  
Cc: Marx Dawn R; Fish David L; Kindell Judith E; Megosh Andy; Williams Melinda G  
Subject: latest draft

Attached are the latest draft with following enclosures:

Enclosure A - question 3, (b)(5)/DP  
Enclosure B - question 4, (b)(5)/DP  
Enclosure C - question 5, (b)(5)/DP

NaLee

NaLee Park

SE:T:EO:RA:G, Rm NCA-551

EO Guidance, R&A

TEGE, Washington D.C.

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<<mailto:nalee.park@irs.gov>>

---

**From:** Lerner Lois G  
**Sent:** Friday, March 23, 2012 8:20 AM  
**To:** Flax Nikole C; Park Nalee; Fish David L; Williams Melinda G; Paz Holly O  
**Subject:** Re: Congressional

Yep. We have that story so we'll add.

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Flax Nikole C  
Sent: Friday, March 23, 2012 08:56 AM  
To: Lerner Lois G; Park Nalee; Fish David L; Williams Melinda G; Paz Holly O  
Subject: RE: Congressional

Only other comment is that we need to work into the response that in [REDACTED]

[REDACTED] (b)(5)/DP

-----Original Message-----

From: Flax Nikole C  
Sent: Friday, March 23, 2012 7:26 AM  
To: Lerner Lois G; Park Nalee; Fish David L; Williams Melinda G; Paz Holly O  
Subject: RE: Congressional

There may be more specifics, but see these comments from Steve -

Do we want to state that in some situations [REDACTED] (b)(5)/DP in Q3?

Also in three the [REDACTED] (b)(5)/DP we should add a sentence to that effect.

Also, they did not precisely ask in 5 but should we tell them that [REDACTED] (b)(5)/DP

Thanks

-----Original Message-----

From: Lerner Lois G  
Sent: Thursday, March 22, 2012 8:45 PM  
To: Park Nalee; Fish David L; Williams Melinda G; Paz Holly O  
Cc: Flax Nikole C  
Subject: Congressional

OK. I started commenting as I read, so late in the game saw the repeat pages that had been revised to take into account the comments I had already made. So disregard comments about [REDACTED] (b)(5)/DP in #4 below. Do change the second sentence to read [REDACTED] (b)(5)/DP

Now that we added the [REDACTED]

[REDACTED] (b)(5)/DP

(b)(5)/DP

P.3-- need to add at end of first paragraph that the

(b)(5)/DP

Next paragraph--be consistent-use

(b)(5)/DP

Second sentence would say

(b)(5)/DP

-then rest of sentence.

(b)(5)/DP

#4--i don't know if what you wrote is

(b)(5)/DP

You need to check with Cindy for the real answer.

#5. With regard to whether the decision to send an application for further development is

(b)(5)/DP

#7--not sure what she is looking for in her comment. The question pretty clearly asks for numbers --not sure what to add about

(b)(5)/DP

?? We'll have to ask her. As to the chart, we'll need to ax the

(b)(5)/DP

Last Question on the penalties--

(b)(5)/DP

and make it the

(b)(5)/DP

I apologize if this is hard to follow, but wanted to get it you ASAP. We'll talk in the morning

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

---

**From:** Lerner Lois G  
**Sent:** Friday, March 23, 2012 8:21 AM  
**To:** Williams Melinda G; Park Nalee; Fish David L; Paz Holly O  
**Subject:** Re: Congressional

Perfect. Thanks. Should Be there in half hour Lois G. Lerner ----- Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Williams Melinda G  
Sent: Friday, March 23, 2012 08:47 AM  
To: Lerner Lois G; Park Nalee; Fish David L; Paz Holly O  
Subject: RE: Congressional

Here are Lois' comments incorporated. The SOI did come out for 2011 yesterday and  
Please let me know if you have any questions.

(b)(5)/DP

Melinda

-----Original Message-----

From: Lerner Lois G  
Sent: Thursday, March 22, 2012 8:45 PM  
To: Park Nalee; Fish David L; Williams Melinda G; Paz Holly O  
Cc: Flax Nikole C  
Subject: Congressional

OK. I started commenting as I read, so late in the game saw the repe at pages that had been revised to take into account the comments I had already made. So disregard comments about (b)(5)/DP n #4 below. Do change the second sentence to read (b)(5)/DP

Now that we added the

(b)(5)/DP

P.3-- need to add at end of first paragraph th at the

(b)(5)/DP

Next paragraph--be consistent-use (b)(5)/DP Second sentence would say

(b)(5)/DP

--then rest of sentence.

(b)(5)/DP

#4--i don't know if what you wrote is

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

You need to check with Cindy for the real answer.

#5. With regard to whether the decision to send an application for further development is

(b)(5)/DP

#7--not sure what she is looking for in her comment. The question pretty clearly asks for numbers --not sure what to add about (b)(5)/DP ?? We'll have to ask her. As to the chart, we'll need to ax the

(b)(5)/DP

Last Question on the penalties--

(b)(5)/DP

and make it the

(b)(5)/DP

I apologize if this is hard to follow, but wanted to get it yo u ASAP. We'll talk in the morning

Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

---

**From:** Lerner Lois G  
**Sent:** Friday, March 23, 2012 1:15 PM  
**To:** Flax Nikole C; Grant Joseph H; Urban Joseph J  
**Cc:** Park Nalee; Megosh Andy; Lerner Lois G; Thomas Cindy M; Paz Holly O  
**Subject:** Boustany 03-23-2012 FINAL clean.doc  
**Attachments:** Boustany 03-23-2012 FINAL clean.doc

**Here is the latest. I think we have incorporated all the concerns, but let us know if we have missed something.**

(b)(5) DP

(b)(5) DP



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

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**From:** Flax Nikole C  
**Sent:** Friday, March 23, 2012 2:43 PM  
**To:** Park Nalee; Lerner Lois G; Urban Joseph J; Grant Joseph H; Fish David L  
**Cc:** Barre Catherine M  
**Subject:** FW: Boustany 03-23-2012 FINAL clean.doc  
**Attachments:** Boustany 03-23-2012 FINAL clean.doc

we are good. made a few nits. Only substantive change was deletion of sentence re [REDACTED] (b)(5) DP as it appeared to be covered in the prior sentence.

I didn't add the sentence about [REDACTED] (b)(5) DP but fine if you want to add.

Thanks much



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP



(b)(5) DP

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**From:** Lerner Lois G  
**Sent:** Friday, March 23, 2012 3:18 PM  
**To:** Flax Nikole C; Park Nalee; Urban Joseph J; Grant Joseph H; Fish David L  
**Cc:** Barre Catherine M  
**Subject:** RE: Boustany 03-23-2012 FINAL clean.doc

**YEP**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Friday, March 23, 2012 4:17 PM  
**To:** Lerner Lois G; Park Nalee; Urban Joseph J; Grant Joseph H; Fish David L  
**Cc:** Barre Catherine M  
**Subject:** Re: Boustany 03-23-2012 FINAL clean.doc

Just so I understand - are you saying the one he signed didn't reflect the edits I sent?

---

**From:** Lerner Lois G  
**Sent:** Friday, March 23, 2012 04:11 PM  
**To:** Flax Nikole C; Park Nalee; Urban Joseph J; Grant Joseph H; Fish David L  
**Cc:** Barre Catherine M  
**Subject:** RE: Boustany 03-23-2012 FINAL clean.doc

**The copy Joseph took over to 1111 was my version, so if he's signing you need to give him the right copy. Don't worry about the TAM piece --it would only be confusing. Language in there says EO Determs refers to EO Tech --which covers it if we are asked --but it won't be there focus.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Friday, March 23, 2012 3:43 PM  
**To:** Park Nalee; Lerner Lois G; Urban Joseph J; Grant Joseph H; Fish David L  
**Cc:** Barre Catherine M  
**Subject:** FW: Boustany 03-23-2012 FINAL clean.doc

we are good. made a few nits. Only substantive change was deletion of sentence re (b)(5) DP as it appeared to be covered in the prior sentence.

I didn't add the sentence about (b)(5) DP but fine if you want to add.

Thanks much

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**From:** Lerner Lois G  
**Sent:** Friday, March 23, 2012 3:50 PM  
**To:** Urban Joseph J  
**Subject:** RE: Boustany 03-23-2012 FINAL clean.doc

(-:

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Urban Joseph J  
**Sent:** Friday, March 23, 2012 4:27 PM  
**To:** Lerner Lois G  
**Subject:** Re: Boustany 03-23-2012 FINAL clean.doc

We made sure Joseph had extra letterhead stationery. Years of experience in the bureaucracy pays off!  
Sent from Blackberry

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**From:** Lerner Lois G  
**Sent:** Friday, March 23, 2012 04:11 PM  
**To:** Flax Nikole C; Park Nalee; Urban Joseph J; Grant Joseph H; Fish David L  
**Cc:** Barre Catherine M  
**Subject:** RE: Boustany 03-23-2012 FINAL clean.doc

The copy Joseph took over to 1111 was my version, so if he's signing you need to give him the right copy. Don't worry about the TAM piece --it would only be confusing. Language in there says EO Determs refers to EO Tech --which covers it if we are asked --but it won't be there focus.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Friday, March 23, 2012 3:43 PM  
**To:** Park Nalee; Lerner Lois G; Urban Joseph J; Grant Joseph H; Fish David L  
**Cc:** Barre Catherine M  
**Subject:** FW: Boustany 03-23-2012 FINAL clean.doc

we are good. made a few nits. Only substantive change was deletion of sentence re (b)(5) DP as it appeared to be covered in the prior sentence.

I didn't add the sentence about (b)(5) DP but fine if you want to add.

Thanks much

---

**From:** Lerner Lois G  
**Sent:** Monday, March 26, 2012 1:52 PM  
**To:** Partner Melaney J  
**Subject:** RE: :: Referral to TIGTA on (c)(4)

**Thanks--he sends me this stuff directly**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Partner Melaney J  
**Sent:** Monday, March 26, 2012 2:04 PM  
**To:** Lerner Lois G  
**Subject:** FW: :: Referral to TIGTA on (c)(4)

[fyi...](#)

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**From:** Urban Joseph J  
**Sent:** Monday, March 26, 2012 2:00 PM  
**To:** Zarin Roberta B; Partner Melaney J  
**Subject:** Fw: :: Referral to TIGTA on (c)(4)

[Sent from Blackberry](#)

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**From:** Urban Joseph J  
**Sent:** Monday, March 26, 2012 10:02 AM  
**To:** Grant Joseph H; Medina Moises C; Daly Richard M; Marks Nancy J; Zarin Roberta B; Lerner Lois G; Marx Dawn R  
**Cc:** Fish David L; Paz Holly O; Lowe Justin; Megosh Andy; Kindell Judith E; Light Sharon P  
**Subject:** :: Referral to TIGTA on (c)(4)

[This letter was published today in Paul Streckfus ' EO Tax Journal 2012-53 . The letter is also on the organizations' web site. FYI, Landmark Legal was the organization that brought, and lost, a FOIA suit against IRS seeking disclosure of third party requests to investigate tax -exempt status of various politically active entities.](#)

## **Conservative Legal Foundation Calls for Investigation of EO Division**

March 23, 2012

Treasury Inspector General for Tax Administration  
P.O. Box 589  
Ben Franklin Station  
Washington, DC 20044-0589

Re: REQUEST FOR INVESTIGATION INTO IRS AGENCY MISCONDUCT

To Whom It May Concern:

Landmark Legal Foundation ("Landmark") requests an immediate investigation into possible misconduct by the Internal Revenue Service's Exempt Organization (EO) Division that calls into question the integrity of federal tax administration and IRS programs.

Recent media reports indicate that the EO Division is using inappropriate and intimidating investigation tactics in the administration of applications for exempt status submitted by organizations associated with the Tea Party movement. (Exhibit A, Perry Chiaramonte, "Numerous Tea Party chapters claim IRS attempts to sabotage nonprofit status," FoxNews.com, <http://www.foxnews.com/politics/2012/02/28/nurmerous-tea-party-chapters-claim-irs-attempting-to-sabotage-non-profit-status/print#> (February 28, 2012)). Reports indicate that as many as 20 groups are being targeting for improper treatment. (Exhibit B, "IRS Accused of 'Intimidation Campaign' Against Tea Party," CNSNews.com, <http://cnsnews.com/news/article/irs-accused-intimidation-campaign-against-tea-party-groups> (March 7, 2012)).

The information demanded in many cases goes far beyond the appropriate level of inquiry regarding the religious, charitable and/or educational activities of a tax -exempt entity. The inquiries are not relevant to these permitted activities. Inquiries extend to organizational policy positions and priorities, personal and political affiliations, and associations of staff, board members and even family members of staff and board members. (Exhibit A). In at least one reported incident, the IRS requested an organization's relationship with a private individual who does not have any relationship with the applicant or with any political candidate or organization. (Exhibit C, Justin Binik-Thomas, "Why is the IRS asking Tea Party groups if they know me?", Washington Examiner, (<http://washingtonexaminer.com/2012/03/why-irs-asking-tea-party-groups-if-they-know-me/377566>) (March 16, 2012)).

Specific examples of improper inquiries from one IRS investigation include, but are not limited to, questions seeking:

5. List each past or present board member, officer, key employee and members of their families who:

- a) Has served on the board of another organization.
- b) Was, is or plans to be a candidate for public office. Indicate the nature of each candidacy.
- c) Has previously conducted similar activities for another entity.
- d) Has previously submitted an application for tax-exempt status.

8. Please provide the following regarding your merchandise sales:

- a) A vendor list. Indicate if the vendor is a related party.
- b) A list of items sold.
- c) Your cost for each item.
- d) The selling price of each item.

13. Fully describe your youth outreach program with the local school district.

14. Provide information regarding the Butler County Teen Age Republicans and your relationship.

16. Provide a list of all issues that are important to your organization. Indicate your position regarding each issue.

25. It appears you have received training (EmpowerU). Provide the following for all persons or organizations that have provided educational services to you:

- a) The name of the person or organization.

- b) A full description of the services provided.
- c) The political affiliation of the person or organization.
- d) A copy of the educational material used.

26. Provide details regarding your relationship with Justin Bink -Thomas (sic).

34. Has your organization engaged in any activities with the news media? If so, please describe those activities in further detail and, if available, provide copies of articles printed or transcripts of items aired because of that activity. News media activity may include the following:

- a) Newspaper advertisements
- b) Press releases
- c) Interviews with news media
- d) Letters to the editor
- e) Op-ed pieces

(Exhibit D, March 1, 2012 IRS Letter, [http://binikthomas.com/sunshine/IRS\\_Redact.pdf](http://binikthomas.com/sunshine/IRS_Redact.pdf)).

This level of inquiry goes well beyond the scope of the Form 1023 application for exempt status and appears to be improper. As you are aware, to qualify as a tax -exempt organization under 501(c)(3), the organization must prove that it is both organized and operated exclusively for tax -exempt purposes. Treas. Reg. Sec. 1.501(c)(3) - 1(d)(1)(i)(a). To meet the organizational test, it must show that its Articles of Incorporation do not authorize it to undertake any non -exempt activity. 26 U.S.C. Sec. 501(c)(3) - 1(b)(i)(iii). To meet the operational test, the organization must show that it operates exclusively for exempt purposes, that it has no substantial non -exempt purpose, and that no benefits inure from it to private individuals. Treas. Reg. Sec. 1.501(c)(3) - 1(c). Any inquiry by the Service should be limited to determining whether an applicant satisfies both the "organizational" and "operation" tests. The questions presented herein go well beyond making such a determination.

Moreover, inquiries about personal associations and political viewpoints are not only inappropriate, but impinge upon constitutionally -protected freedoms of speech and association. Although the Internal Revenue Code has limited the tax exemption subsidy of 501(c)(3) organizations to groups that do not participate in political activity, the Service must still tread lightly when dealing with fundamental constitutional rights. Inquiring about the positions a prospective organization adopts on various policy issues serves no valid purpose if the organization does not engage in political activity. Such inquiries appear to be designed only to intimidate the applicants. As it has been upheld repeatedly by the Supreme Court, the government cannot regulate political speech with laws that chill permissible speech. Finally, reports that Tea Party -related organizations are being singled out for the IRS's intrusive inquiries raises serious questions about the propriety of the personnel involved in the evaluation of tax exemption applications.

Landmark Legal Foundation respectfully requests an immediate and thorough investigation to determine whether IRS employees are acting improperly in the evaluation of exempt status applications. This investigation also must determine whether the relevant IRS employees are acting at the direction of politically motivated superiors.

Sincerely,

/s/ Mark R. Levin  
Landmark Legal Foundation  
The Ronald Reagan Legal Center  
3100 Broadway - Suite 1210  
Kansas City, Missouri 64111

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**From:** Lerner Lois G  
**Sent:** Monday, March 26, 2012 2:31 PM  
**To:** Urban Joseph J; Grant Joseph H; Medina Moises C; Daly Richard M; Marks Nancy J; Paz Holly O; Fish David L; Miller Thomas J; Kindell Judith E; Light Sharon P; Paz Holly O; Lowe Justin; Megosh Andy; Flax Nikole C; Daly Richard M; Park Nalee; Williams Melinda G  
**Subject:** RE: BNA - IRS Follow Up Questions On 501(c)(4) Exemptions Developed Individually By Agents

**Dye may be correct that they don't have income, but he missed the point that it's possible some could be doing enough political activity to qualify as 527s, in which case they need to report their contributors publically**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Urban Joseph J  
**Sent:** Friday, March 23, 2012 7:28 AM  
**To:** Grant Joseph H; Medina Moises C; Daly Richard M; Marks Nancy J; Lerner Lois G; Paz Holly O; Fish David L; Miller Thomas J; Kindell Judith E; Light Sharon P; Paz Holly O; Lowe Justin; Megosh Andy; Flax Nikole C; Daly Richard M; Park Nalee; Williams Melinda G  
**Subject:** BNA - IRS Follow Up Questions On 501(c)(4) Exemptions Developed Individually By Agents

By Diane Freda

Not all organizations seeking tax exemption get the same questions from Internal Revenue Service agents reviewing their applications, an IRS official said March 22.

The IRS does not use form letters when following up with additional questions before approving an organization as exempt, Judith Kindell, an IRS exempt organizations senior technical adviser told the Washington Nonprofit Tax & Legal Conference in Arlington, Va.

Kindell addressed one of the key questions that has arisen in regard to so-called Tea Party groups' application for exemption as 501(c)(4) social welfare organizations.

While declining to speak specifically on those organizations, she said IRS agents develop their own questions for all types of exempt organizations.

Determining an organization's qualification for tax exemption depends on a facts -and-circumstances test, which requires questions tailored specifically to that organization, she said.

Some lawmakers in recent weeks have questioned IRS's procedures for reviewing applications, suggesting that the Tea Party groups are getting extra scrutiny because of their political affiliations (50 DTR G -6, 3/15/12).

Tea Party groups' attorneys have told them the number and extent of questions they have been asked by IRS agents in regard to their 2010 application for exemption is excessive. The groups believe that they are being targeted for their political views(40 DTR G-4, 3/1/12).

"Some of the questions people have been getting are very detailed, much more detailed than has been the case with a lot

of other 501(c)(4) applications,” said Alan Dye, partner with Webster Chamberlain & Bean in Washington, D.C., who represents some of the organizations. Some of the questions on donors and volunteers cross the line, he said. But otherwise, he said the questions are relevant and IRS is just trying to do its job.

### **Determining Exempt Purpose**

IRS needs to determine what an organization's exempt versus non-exempt activities are in order to see if it is meeting its primary purpose. In the case of 501(c)(4) social welfare organizations, political activity cannot be the organization's primary purpose.

The groups have voluntarily filed a Form 1024 seeking exemption, although organizations are allowed to begin operating and then see if their own determination that they are exempt under that section of the tax code sticks. Kindell suggested that could be a risky strategy, if the IRS audits them later and they have no exemption letter to rely on.

Dye said that many of the Tea Party groups are so small at the state or local level that they are better off remaining self-declared 501(c)(4)s or giving up their quest for tax exemption.

Most of their income is from donations and gifts are exempt from taxation. Dye said it may not be worth the trouble for IRS to audit them because they have no income to offer.

Many organizations seek 501(c)(4) status because they want the safety of IRS approving their status as exempt up front, he said. Another big draw is that some (c)(4)s qualify for a postal permit, which saves them money on direct mail fundraising.

Kindell also said IRS has a code for organizations that are filing Form 990 as exempt organizations but have not applied to the IRS for recognition of that status. One of the IRS's audit projects this year will be looking into whether Section 501(c)(4)s, (5)s and (6)s are meeting their exempt purpose, among other qualifications.



---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 27, 2012 10:01 AM  
**To:** Flax Nikole C  
**Cc:** Fish David L; Paz Holly O  
**Subject:** RE: Congressionals

**We'll get you something. PS--I will send you a draft of the follow -up letter for c3s later today -- just modified the c4 follow-up letter, but slightly different**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Tuesday, March 27, 2012 8:50 AM  
**To:** Lerner Lois G  
**Cc:** Fish David L; Paz Holly O  
**Subject:** RE: Congressionals

please Schumer when you have it (even if it needs work) as we are trying to get out this week and it needs to be coordinated with the Bennett response. Thanks

---

**From:** Lerner Lois G  
**Sent:** Monday, March 26, 2012 2:57 PM  
**To:** Flax Nikole C  
**Cc:** Fish David L; Paz Holly O  
**Subject:** Congressionals

**We have a draft of the Hatch response, but I haven't seen it yet. We have Schumer and someone is writing that one --I think it's just "thank you, we'll send it to the folks considering the guidance list...." We also have Flores, but he is asking about a specific org, so it's probably just the "we can't talk about specific cases" letter and an explanation of the general process.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lowe Justin  
**Sent:** Tuesday, March 27, 2012 12:41 PM  
**To:** Cook Janine; Spellmann Don R; Brown Susan D  
**Cc:** Lerner Lois G; Kindell Judith E; Paz Holly O; Fish David L; Megosh Andy; Goehausen Hilary  
**Subject:** New Guidesheet Version  
**Attachments:** Guide Sheet 3-27-12.doc; Guide Sheet 3-27-12 clean.doc

All,

Attached are clean and redline versions of the guidesheet, reflecting Lois's comments and additional tweaks. Please review and let us know what additional changes you'd like to see.

Thanks,

Justin

***Justin Lowe***

Internal Revenue Service  
TEGE, Exempt Organizations  
Rulings and Agreements  
Phone: (202)-283-9486  
Fax: (202)-283-8937

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**From:** Lerner Lois G  
**Sent:** Tuesday, March 27, 2012 4:24 PM  
**To:** Spellmann Don R; Lowe Justin; Cook Janine; Brown Susan D  
**Cc:** Kindell Judith E; Paz Holly O; Fish David L; Megosh Andy; Goehausen Hilary  
**Subject:** RE: New Guidesheet Version

**I also am looking at it too and have made some edits, but will save until we get your comments.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Spellmann Don R [<mailto:Don.R.Spellmann@irsounsel.treas.gov>]  
**Sent:** Tuesday, March 27, 2012 5:00 PM  
**To:** Lowe Justin; Cook Janine; Brown Susan D  
**Cc:** Lerner Lois G; Kindell Judith E; Paz Holly O; Fish David L; Megosh Andy; Goehausen Hilary  
**Subject:** RE: New Guidesheet Version

Thank you Justin. We will review and be back in touch.

Don

---

**From:** Lowe Justin [<mailto:Justin.Lowe@irs.gov>]  
**Sent:** Tuesday, March 27, 2012 1:41 PM  
**To:** Cook Janine; Spellmann Don R; Brown Susan D  
**Cc:** Lerner Lois G; Kindell Judith E; Paz Holly O; Fish David L; Megosh Andy; Goehausen Hilary  
**Subject:** New Guidesheet Version

All,

Attached are clean and redline versions of the guidesheet, reflecting Lois's comments and additional tweaks. Please review and let us know what additional changes you'd like to see.

Thanks,

Justin

**Justin Lowe**

Internal Revenue Service  
TEGE, Exempt Organizations  
Rulings and Agreements  
Phone: (202)-283-9486  
Fax: (202)-283-8937

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**From:** Lerner Lois G  
**Sent:** Tuesday, March 27, 2012 4:48 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H; Marks Nancy J; Paz Holly O  
**Subject:** FW: Oversight letter to Lois Lerner  
**Attachments:** 2012-03-27 DEI Jordan to Lerner re tax exempt status.pdf

**They seem to be confused and mixing apples with oranges. the c4,5, and 6 project has nothing to do with new applications. This appears to be about the c4 applications. We'll get started on this one. Holly--can Nalee or Melinda work this as they already have some of the information that is responsive? Due back to them by April 16**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Williams Floyd L  
**Sent:** Tuesday, March 27, 2012 5:39 PM  
**To:** Williams Floyd L; Miller Steven T; Lerner Lois G; Flax Nikole C; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L; Eldridge Michelle L; Grant Joseph H; Paz Holly O  
**Cc:** Dash Mary L; Hinton Irma D; Williams Marcie V; Norton William G Jr; Landes Scott S; Ortez Cumbuka I; Rodriguez Christinne; Barre Catherine M  
**Subject:** RE: Oversight letter to Lois Lerner

**This time, with the attachment. I should have t his mastered by the time I retire!!!!**

---

**From:** Williams Floyd L  
**Sent:** Tuesday, March 27, 2012 5:34 PM  
**To:** Miller Steven T; Lerner Lois G; Flax Nikole C; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L; Eldridge Michelle L; Grant Joseph H; Paz Holly O  
**Cc:** Dash Mary L; Hinton Irma D; Williams Marcie V; Norton William G Jr; Landes Scott S; Ortez Cumbuka I; Rodriguez Christinne; Barre Catherine M  
**Subject:** FW: Oversight letter to Lois Lerner

**Here's a letter from full committee chair Issa and subcommittee chair Jordan asking detailed questions about the questions that we have been asking of organizations applying for 501(c)(4), (5), and (6) organizations, among other questions. They have asked for a response by April 16.**

---

**From:** Blase, Brian [<mailto:Brian.Blase@mail.house.gov>]  
**Sent:** Tuesday, March 27, 2012 5:01 PM  
**To:** Williams Floyd L  
**Subject:** Oversight letter to Lois Lerner

Hi Floyd:

Congressmen Darrell Issa and Jim Jordan have drafted a letter to Director Lerner regarding IRS's initiative to send 501(c)(4), 501(c)(5), and 501(c)(6) lengthy and detailed questionnaires.



Please let me know if you have any questions. Thanks very much.

Best,  
Brian

Brian Blase  
Professional Staff Member  
Oversight and Government Reform Committee  
Darrell E. Issa, Chairman  
202-225-5074

DARRELL E. ISSA, CALIFORNIA  
CHAIRMAN

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BLAKE FARENTHOLD, TEXAS  
MIKE KELLY, PENNSYLVANIA

LAWRENCE J. BRADY  
STAFF DIRECTOR

ONE HUNDRED TWELFTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074  
FACSIMILE (202) 225-3974  
MINORITY (202) 225-5051

<http://oversight.house.gov>

March 27, 2012

ELIJAH E. CUMMINGS, MARYLAND  
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DISTRICT OF COLUMBIA  
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JOHN A. YARMUTH, KENTUCKY  
CHRISTOPHER S. MURPHY, CONNECTICUT  
JACKIE SFEIER, CALIFORNIA

Ms. Lois G. Lerner  
Director, Exempt Organizations Division  
Internal Revenue Service  
11 Constitution Avenue N.W., Room 3000  
Washington, D.C. 20224

Dear Ms. Lerner:

Over the past several weeks the Internal Revenue Service (IRS) sent many organizations, operating under tax exempt status, lengthy and detailed questionnaires.<sup>1</sup> These questionnaires ask for information well beyond the scope of typical disclosures required under IRS Form 1024. These questionnaires may be connected to IRS's 2012 work plan.<sup>2</sup> The work plan indicates that the IRS is initiating a review of certain 501(c)(4), 501(c)(5), and 501(c)(6) organizations "to ensure that they have classified themselves correctly and that they are complying with applicable rules."<sup>3</sup> According to the Internal Revenue Code, it is permissible for certain tax-exempt organizations to lobby and engage in political activity:

Seeking legislation germane to the organization's programs is a permissible means of attaining social welfare purposes. Thus, a section 501(c)(4) social welfare organization may further its exempt purposes through lobbying as its primary activity without jeopardizing its exempt status. . . . [A] section 501(c)(4) social welfare organization may engage in some political activities, so long as that is not its primary activity.<sup>4</sup>

The IRS should provide appropriate scrutiny of organizations applying for tax exempt status. However, several experts suggest that these recent IRS questionnaires exceed appropriate scrutiny. For example, Marcus Owens, who ran the IRS's exempt organizations department for a decade, called the IRS initiative an "overreach."<sup>5</sup> Moreover, the IRS must apply the same criteria for all organizations applying for tax exempt status. News reports, however, indicate that

<sup>1</sup> Janie Lorber, "IRS Oversight Reignites Tea Party Ire: Agency's Already Controversial Role Is in Dispute After Questionnaires Sent to Conservative Groups," Roll Call, March 8, 2012; Susan Jones, "IRS Accused of 'Intimidation Campaign' Against Tea Party Groups," CNSNews.com, March 7, 2012.

<sup>2</sup> IRS Tax Exempt and Government Entities, "Exempt Organizations - 2011 Annual Report and 2012 Work Plan."

<sup>3</sup> *Id.*

<sup>4</sup> IRS, Social Welfare Organizations. Available at: <http://www.irs.gov/charities/nonprofits/article/0,,id=96178,00.html>.

<sup>5</sup> Janie Lorber, "IRS Oversight Reignites Tea Party Ire: Agency's Already Controversial Role Is in Dispute After Questionnaires Sent to Conservative Groups," Roll Call, March 8, 2012.

The Honorable Lois G. Lerner  
March 27, 2011  
Page 2

the IRS effort lacks balance, with conservative organizations being the target of the IRS's heightened scrutiny. *Roll Call* contacted several liberal groups, including Protect-YourCare, a 501(c)(4) set up to defend the new health care law, and reported that none had received the recently-sent questionnaire.<sup>6</sup>

Given the potentially serious implications of IRS overreach and selective enforcement of IRS's 2012 work plan pertaining to 501(c)(4), 501(c)(5), and 501(c)(6) organizations, the Committee on Oversight and Government Reform requests that the IRS provide information about the IRS's 2012 work plan for 501(c)(4), 501(c)(5), and 501(c)(6) organizations and the questionnaire. We respectfully request that you provide the following information to the Committee by April 16, 2012:

1. All documents and communications referring or relating to the IRS's 2012 work plan for 501(c)(4), 501(c)(5), and 501(c)(6) organizations.
2. All documents and communications between IRS officials and elected officials or any employee of a federal agency or department, referring or relating to the 2012 IRS work plan for 501(c)(4), 501(c)(5), and 501(c)(6) organizations.
3. A chart showing the number of applications for tax exempt status for all 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) applications, filed by organizations since January 1, 2009. This chart should include the number of applications that have been approved, the number that have been denied, and the number that are still pending for each application type.
4. A list of all the organizations that the IRS sent these types of questionnaires to this year, the date the questionnaire was sent by the IRS, the date the IRS asked for a response, and the date the organizations sent their initial application for tax exempt status.
5. A list of the objective criteria the IRS used for determining which groups would be sent these types of questionnaires.
6. IRS Form 1040 does not require organizations applying for tax exempt status to provide specific donor information for donors giving less than \$5,000 a year. In addition, the names and addresses of donors giving the organization at least \$5,000 were not made public by the IRS. However, many of the IRS questionnaires sent to organizations seeking 501(c)(4) status specifically ask for all the organization's donors and the amounts of each of the donations. The IRS has informed the organizations that it plans to make this donor information public. Provide all documents and communications referring or relating to the decision to ask for this type of donor information and to make this information public.

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<sup>6</sup> *Id.*

The Honorable Lois G. Lerner  
March 27, 2011  
Page 3

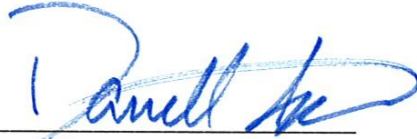
7. Each of the requests for information, listed below, that has appeared on an IRS questionnaire is beyond the scope of IRS Form 1024. For each of these requests, listed below, please state: a) the IRS's authority for asking for the information; b) the IRS's rationale for needing this piece of information; c) whether any precedent exists for the IRS asking for this type of information; d) the objective standards the IRS will use when reviewing the response; and e) how the IRS will use the information to determine tax-exempt status.
- A) For all the events you have conducted or will conduct for 2012 and 2013, provide the date of each event, issues presented at the event, copies of material provided, speakers invited, details of speeches made at the event and actions promoted by the speakers, and expenses incurred.
  - B) Provide the time, location, and content of each of your meetings, copies of any material provided at the meeting, lists of speakers who have attended the meetings, topics discussed, contents of speeches, and expenses incurred on these meetings.
  - C) Provide copies of any lease or rental agreements.
  - D) Provide copies of any materials or other communications prepared by another person or individual that you have or will distribute, when the distribution was or will be conducted, and who has distributed or will distribute the materials.
  - E) Provide copies of all solicitations your organization has made regarding fundraising, including pamphlets, flyers, brochures, and webpage solicitations. Provide all sources of fundraising expenses.
  - F) Provide all newsletters, emails and other items distributed to your members or other interested individuals.
  - G) Provide all copies of your corporate and meeting minutes from your organization's inception to present.
  - H) Provide the names of all donors, contributors, and grantors and the amounts of each donation, contribution, and grant.
  - I) Provide the details of how your organization will use the donations, contributions, and grants.
  - J) Provide a resume, total compensation package, and rationale for how each compensation package was determined for your past and present directors, officers, and key employees.
  - K) Provide a list of all issues that are important to your organization, indicating your position regarding each issue.
  - L) Provide details regarding all training your organization has provided or will provide, indicating who has received or will receive the training and providing all copies of the training material.
  - M) Provide the member application and registration form, the membership agreement and rules that govern members, and copies of your website that only members can access.
  - N) Provide a vendor list, a list of all merchandise items sold, your cost for each item, and the selling price for each item.
  - O) Provide all activities your organization has engaged in with the new media, including copies of articles printed or transcripts of items aired because of that activity.

The Honorable Lois G. Lerner  
March 27, 2011  
Page 4

- P) Provide copies of all direct or indirect communication with members of legislative bodies.

In preparing your answers to these questions, please answer each question individually and include the text of each question along with your response. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. If you have any questions about this request, please contact Brian Blase of the Committee on Oversight and Government Reform at 202-225-5074. Thank you for your attention to this matter.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

  
\_\_\_\_\_  
Darrell Issa  
Chairman

Sincerely,

  
\_\_\_\_\_  
Jim Jordan  
Chairman  
Subcommittee on Regulatory Affairs,  
Stimulus Oversight and Government Spending

Enclosure

cc: The Honorable Elijah Cummings, Ranking Minority Member  
Committee on Oversight and Government Reform

The Honorable Dennis Kucinich, Ranking Minority Member, Subcommittee on  
Regulatory Affairs, Stimulus Oversight and Government Spending



DARRELL E. ISSA, CALIFORNIA  
CHAIRMAN

ELIJAH E. CUMMINGS, MARYLAND  
RANKING MINORITY MEMBER

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
2157 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6143

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

**Responding to Committee Document Requests**

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
  - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when they were requested.
8. When you produce documents, you should identify the paragraph in the Committee's request to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might



otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.

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**From:** Lerner Lois G  
**Sent:** Tuesday, March 27, 2012 4:51 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H; Marks Nancy J; Paz Holly O  
**Subject:** RE: Oversight letter to Lois Lerner

**Before you do--let me make sure we haven't yet the c4,5,6, questionnaires out --even if we have, they are mixing, but I just want to be sure of the breadth here.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Tuesday, March 27, 2012 5:49 PM  
**To:** Lerner Lois G  
**Cc:** Grant Joseph H; Marks Nancy J; Paz Holly O  
**Subject:** RE: Oversight letter to Lois Lerner

**I'll raise whether we should go back to the staff and clarify.**

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 27, 2012 5:48 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H; Marks Nancy J; Paz Holly O  
**Subject:** FW: Oversight letter to Lois Lerner

**They seem to be confused and mixing apples with oranges. the c4,5, and 6 project has nothing to do with new applications. This appears to be about the c4 applications. We'll get started on this one. Holly--can Nalee or Melinda work this as they already have some of the information that is responsive? Due back to them by April 16**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Williams Floyd L  
**Sent:** Tuesday, March 27, 2012 5:39 PM  
**To:** Williams Floyd L; Miller Steven T; Lerner Lois G; Flax Nikole C; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L; Eldridge Michelle L; Grant Joseph H; Paz Holly O  
**Cc:** Dash Mary L; Hinton Irma D; Williams Marcie V; Norton William G Jr; Landes Scott S; Ortez Cumbuka I; Rodriguez Christinne; Barre Catherine M  
**Subject:** RE: Oversight letter to Lois Lerner

**This time, with the attachment. I should have this mastered by the time I retire!!!!**

**From:** Williams Floyd L  
**Sent:** Tuesday, March 27, 2012 5:34 PM  
**To:** Miller Steven T; Lerner Lois G; Flax Nikole C; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L; Eldridge Michelle L; Grant Joseph H; Paz Holly O  
**Cc:** Dash Mary L; Hinton Irma D; Williams Marcie V; Norton William G Jr; Landes Scott S; Ortez Cumbuka I; Rodriguez Christinne; Barre Catherine M  
**Subject:** FW: Oversight letter to Lois Lerner

Here's a letter from full committee chair Issa and subcommittee chair Jordan asking detailed questions about the questions that we have been asking of organizations applying for 501(c)(4), (5), and (6) organizations, among other questions. They have asked for a response by April 16.

---

**From:** Blase, Brian [<mailto:Brian.Blase@mail.house.gov>]  
**Sent:** Tuesday, March 27, 2012 5:01 PM  
**To:** Williams Floyd L  
**Subject:** Oversight letter to Lois Lerner

Hi Floyd:

Congressmen Darrell Issa and Jim Jordan have drafted a letter to Director Lerner regarding IRS's initiative to send 501(c)(4), 501(c)(5), and 501(c)(6) lengthy and detailed questionnaires.

Please let me know if you have any questions. Thanks very much.

Best,  
Brian

Brian Blase  
Professional Staff Member  
Oversight and Government Reform Committee  
Darrell E. Issa, Chairman  
202-225-5074

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 28, 2012 8:57 AM  
**To:** Flax Nikole C  
**Subject:** FW: Oversight letter to Lois Lerner

**It has not gone out**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Kall Jason C  
**Sent:** Tuesday, March 27, 2012 8:18 PM  
**To:** Lerner Lois G; Downing Nanette M  
**Cc:** Marx Dawn R; Paz Holly O  
**Subject:** RE: Oversight letter to Lois Lerner

We have not sent out the c-4,5,6 self declarer questionnaires. We are still working on perfecting the questionnaire, then it needs to go thru CE & O then OTC - at least a month or so out.

I agree that they are confused - maybe they picked up on the self declarer language in our FY 2012 Workplan document and tied it to our normal developmental activity in the determs process.

*Jason Kall*

Manager, EO Compliance Strategies and Critical Initiatives  
281-721-7760

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 27, 2012 4:54 PM  
**To:** Kall Jason C; Downing Nanette M  
**Cc:** Marx Dawn R; Paz Holly O  
**Subject:** FW: Oversight letter to Lois Lerner  
**Importance:** High

**Have we begun to send questionnaires out the c4,5,6 self declarer project? I think these guys are confused. They are talking applications and our questionnaires are for orgs that don't apply. I think they want to know about c4 applications. Before I respond though, want to know whether any of the questionnaires have gone --as they may be mixing more than I think. Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

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Brian

Brian Blase  
Professional Staff Member  
Oversight and Government Reform Committee  
Darrell E. Issa, Chairman  
202-225-5074

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 28, 2012 8:57 AM  
**To:** Kall Jason C; Downing Nanette M  
**Cc:** Marx Dawn R; Paz Holly O  
**Subject:** RE: Oversight letter to Lois Lerner

**Thanks--just wanted to be sure what I could say about the questionnaire**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Kall Jason C  
**Sent:** Tuesday, March 27, 2012 8:18 PM  
**To:** Lerner Lois G; Downing Nanette M  
**Cc:** Marx Dawn R; Paz Holly O  
**Subject:** RE: Oversight letter to Lois Lerner

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*Jason Kall*

Manager, EO Compliance Strategies and Critical Initiatives  
281-721-7760

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**Cc:** Marx Dawn R; Paz Holly O  
**Subject:** FW: Oversight letter to Lois Lerner  
**Importance:** High

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*Lois G. Lerner*

Director of Exempt Organizations

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**To:** Miller Steven T; Lerner Lois G; Flax Nikole C; Davis Jonathan M (Wash DC); Keith Frank; Lemons Ter ry L; Eldridge Michelle L; Grant Joseph H; Paz Holly O  
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Best,  
Brian

Brian Blase  
Professional Staff Member  
Oversight and Government Reform Committee  
Darrell E. Issa, Chairman  
202-225-5074

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 28, 2012 8:59 AM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H; Marks Nancy J; Paz Holly O  
**Subject:** RE: Oversight letter to Lois Lerner

We can do that and probably should anyway. If it hasn't gone out though, they may want to pull back and write an more related letter to make it clear they understand.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Wednesday, March 28, 2012 7:54 AM  
To: Lerner Lois G  
Cc: Grant Joseph H; Marks Nancy J; Paz Holly O  
Subject: Re: Oversight letter to Lois Lerner

I will see if we should just explain the disconnect in the letter (or let them know before we respond). If they made the letter public we may just need to respond to what they sent (to the extent we can).

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Grant Joseph H  
Cc: Marks Nancy J  
Cc: Paz Holly O  
Subject: RE: Oversight letter to Lois Lerner  
Sent: Mar 27, 2012 7:24 PM

I looked at it again --they are very confused and some of their questions don't make sense because they assume stuff that isn't correct. I get the gist --it's the same as the other c4 stuff, but harder to answer because wrong Lois G. Lerner Director of Exempt Organizations

---

From: Flax Nikole C  
Sent: Tuesday, March 27, 2012 5:49 PM  
To: Lerner Lois G  
Cc: Grant Joseph H; Marks Nancy J; Paz Holly O  
Subject: RE: Oversight letter to Lois Lerner

I'll raise whether we should go back to the staff and clarify.

---



From: Lerner Lois G  
Sent: Tuesday, March 27, 2012 5:48 PM  
To: Flax Nikole C  
Cc: Grant Joseph H; Marks Nancy J; Paz Holly O  
Subject: FW: Oversight letter to Lois Lerner

They seem to be confused and mixing apples with oranges. the c4,5, and 6 project has nothing to do with new applications. This appears to be about the c4 applications. We'll get started on this one. Holly --can Nalee or Melinda work this as they already have so me of the information that is responsive? Due back to them by April 16

Lois G. Lerner  
Director of Exempt Organizations

---

From: Williams Floyd L  
Sent: Tuesday, March 27, 2012 5:39 PM  
To: Williams Floyd L; Miller Steven T; Lerner Lois G; Flax Nikole C; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L; Eldridge Michelle L; Grant Joseph H; Paz Holly O  
Cc: Dash Mary L; Hinton Irma D; Williams Marcie V; Norton William G Jr; Landes Scott S; Ortez Cumbuka I; Rodriguez Christinne; Barre Catherine M  
Subject: RE: Oversight letter to Lois Lerne

-----Original Message Truncated -----

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**From:** Daly Richard M  
**Sent:** Thursday, March 29, 2012 1:34 PM  
**To:** Grant Joseph H; Medina Moises C; Lerner Lois G; Marx Dawn R; Downing Nanette M; Paz Holly O; Marks Nancy J; Urban Joseph J  
**Cc:** Miller Steven T; Flax Nikole C; Williams Floyd L  
**Subject:** TIGTA announces audit of our processs for reviewing l 501(c)(4)-(6) applications

Troy Paterson advises that TIGTA will look at how we process applications for tax -exemption by ( c ) (4)s, (5)s and (6)s.

He says the audit will be part of TIGTA's FY 2013 Audit Plan, but some pre -audit planning activity will take place. He provides no dates, but I've left a message asking if any are set yet.

Tom Seidell and Cheryl Medina will be involved for TIGTA.

Mike

---

**From:** Rutstein Joel S  
**Sent:** Thursday, March 29, 2012 2:12 PM  
**To:** Daly Richard M  
**Subject:** FW: Planning/Research Activities: Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations

FYI

---

**From:** Paterson Troy D TIGTA [mailto:[Troy.Paterson@tigta.treas.gov](mailto:Troy.Paterson@tigta.treas.gov)]  
**Sent:** Thursday, March 29, 2012 1:55 PM  
**To:** Rutstein Joel S  
**Cc:** Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; McGovern Michael A TIGTA; Lerner Lois G  
**Subject:** Planning/Research Activities: Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations

Joel,

This e-mail is to inform you of an audit we plan to conduct of the IRS's process for reviewing applications for tax exemption by potential section 501(c)(4), 501(c)(5), and 501(c)(6) organizations, which will be included in our Fiscal Year 2013 Annual Audit Plan. Currently, we do not have an associated audit number. Once we receive a number, I will provide it to you.

To develop an understanding of the controls in the area, we will be conducting a limited amount of planning to develop the appropriate scope for this audit. We will follow the established process of coordinating interviews and requests through the appropriate points of contact within the Tax Exempt and Government Entities Division's Exempt Organizations function. Once we have completed our planning, we will prepare and issue an engagement letter. If you have any questions or comments, please feel free to contact me or the research team mentioned below.

Troy Paterson  
Audit Director  
Phone: 404-338-7476  
e-mail: [troy.paterson@tigta.treas.gov](mailto:troy.paterson@tigta.treas.gov)

Tom Seidell  
Audit Manager  
Phone: 781-835-4286  
e-mail: [thomas.seidell@tigta.treas.gov](mailto:thomas.seidell@tigta.treas.gov)

Cheryl Medina  
Lead Auditor  
Phone: 781-835-4278  
e-mail: [cheryl.medina@tigta.treas.gov](mailto:cheryl.medina@tigta.treas.gov)

Mike McGovern  
Auditor  
Phone: 781-835-4274  
e-mail: [mike.mcgovern@tigta.treas.gov](mailto:mike.mcgovern@tigta.treas.gov)

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 29, 2012 4:31 PM  
**To:** Daly Richard M  
**Cc:** Marks Nancy J  
**Subject:** RE: Timing of c(4) processing audit

**Agreed with all you've said**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Daly Richard M  
**Sent:** Thursday, March 29, 2012 5:03 PM  
**To:** Lerner Lois G  
**Cc:** Marks Nancy J  
**Subject:** RE: Timing of c(4) processing audit

We can certainly reach out to Troy or Tom Seidel at the outset to see what they want, and to talk with them about the best way to get it to them. For example, we might tell them what we are doing right now and offer them a copy as soon as it's ready. But they appear already to be in the starting blocks, and I would be hesitant to appear to be trying to delay or manipulate the start of their review.

Mike

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 29, 2012 4:50 PM  
**To:** Daly Richard M  
**Cc:** Marks Nancy J  
**Subject:** RE: Timing of c(4) processing audit

**Is it possible to move them back on the pre -audit work? A lot of what I think they will want is the same as we are trying to put together for Steve's testimony. It makes no sense to do it twice and it would be all the same people. Of course, I don't know what they want, but let's keep that in mind.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Daly Richard M  
**Sent:** Thursday, March 29, 2012 4:16 PM  
**To:** Grant Joseph H; Medina Moises C; Lerner Lois G; Marx Dawn R; Downing Nanette M; Paz Holly O; Marks Nancy J; Urban Joseph J  
**Cc:** Miller Steven T; Flax Nikole C; Williams Floyd L  
**Subject:** Timing of c(4) processing audit

Possible contacts on pre-audit as early as next week:

---

**From:** Paterson Troy D TIGTA [<mailto:Troy.Paterson@tigta.treas.gov>]  
**Sent:** Thursday, March 29, 2012 4:00 PM  
**To:** Daly Richard M  
**Subject:** RE: Planning/Research Activities: Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations

Mike,

Until we know a little bit more about the area, we haven't established any dates for the audit itself. However, we have a group ready to initiate research right now. Therefore, I would think that TE/GE may be getting contacts as early as next week. Once we know more about the audit, I will certainly let you know.

Troy  
770-932-2429

---

**From:** Daly Richard M [<mailto:Richard.M.Daly@irs.gov>]

**Sent:** Thursday, March 29, 2012 2:49 PM

**To:** Paterson Troy D TIGTA

**Subject:** FW: Planning/Research Activities: Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations

Thanks for this heads up, Troy.

By any chance, have dates been established - or estimated - for the start of (i) the pre-audit activity, and (ii) the audit itself?

Thanks.

Mike

---

**From:** Lerner Lois G  
**Sent:** Friday, March 30, 2012 11:12 AM  
**To:** Williams Floyd L  
**Subject:** RE: Levin letter

Well, that's a positive note.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Williams Floyd L  
**Sent:** Friday, March 30, 2012 12:03 PM  
**To:** Lerner Lois G  
**Subject:** RE: Levin letter

In a quick look, I didn't think this looked as burdensome as some others.

---

**From:** Lerner Lois G  
**Sent:** Friday, March 30, 2012 11:57 AM  
**To:** Williams Floyd L; Miller Steven T; Flax Nikole C; Paz Holly O; Fish David L; Urban Joseph J; Keith Frank; Lemons Terry L; Grant Dianne; Barre Catherine M; Davis Jonathan M (Wash DC)  
**Cc:** Dash Mary L; Williams Marcie V; Orteza Cumbuka I; Norton William G Jr; Landes Scott S  
**Subject:** RE: Levin letter

OK--things are getting pretty backed up on these letters --we may need to ask for more time. We'll take a look.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Williams Floyd L  
**Sent:** Friday, March 30, 2012 11:56 AM  
**To:** Miller Steven T; Flax Nikole C; Lerner Lois G; Paz Holly O; Fish David L; Urban Joseph J; Keith Frank; Lemons Terry L; Grant Dianne; Barre Catherine M; Davis Jonathan M (Wash DC)  
**Cc:** Dash Mary L; Williams Marcie V; Orteza Cumbuka I; Norton William G Jr; Landes Scott S  
**Subject:** FW: Levin letter

Another section 501(c)(4) letter. This one from Senator Levin. It asks 13 questions, with a couple of questions having subsets.

The due date is April 20.

---

**From:** Lerner Lois G  
**Sent:** Friday, March 30, 2012 1:40 PM  
**To:** Marks Nancy J; Williams Floyd L; Flax Nikole C; Barre Catherine M  
**Cc:** Urban Joseph J  
**Subject:** RE: Issa letter

**I am here all next week --if Nan can't but Joe can, I think that works**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Marks Nancy J  
**Sent:** Friday, March 30, 2012 1:35 PM  
**To:** Williams Floyd L; Flax Nikole C; Barre Catherine M  
**Cc:** Urban Joseph J; Lerner Lois G  
**Subject:** RE: Issa letter

if you want me in the loop I'm out until Friday and while I'm willing to be looped in remote my understanding is cell phones are unreliable (I'm in the mountains) and a cell might not be ideal anyway.

---

**From:** Williams Floyd L  
**Sent:** Friday, March 30, 2012 1:33 PM  
**To:** Flax Nikole C; Barre Catherine M  
**Cc:** Marks Nancy J; Urban Joseph J; Lerner Lois G  
**Subject:** Re: Issa letter

Fine by me but before I go back to staff, who I would beg your indulgence may be scarce the next couple of weeks, I need to know when you all will be available.

Floyd Williams-----

Sent from my BlackBerry Wireless Handheld

---

**From:** Flax Nikole C  
**Sent:** Friday, March 30, 2012 12:51 PM  
**To:** Williams Floyd L; Barre Catherine M  
**Cc:** Marks Nancy J; Urban Joseph J; Lerner Lois G  
**Subject:** Issa letter

We need to set up a call next week to talk to the staff and get some clarifications on the letter. Think it would be me, Lois, Nan and Joe.

Also, can we have a short conversation before the call to make sure we are all on the same page re what we can say re the last question. I spoke with Margo briefly.

Thanks

---

**From:** Lerner Lois G  
**Sent:** Friday, March 30, 2012 1:56 PM  
**To:** Williams Floyd L; Flax Nikole C; Barre Catherine M  
**Cc:** Marks Nancy J; Urban Joseph J; Marx Dawn R  
**Subject:** RE: Issa letter

**Sorry--let me clarify--I can do anytime next week from 10am on. Everything can be moved**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Williams Floyd L  
**Sent:** Friday, March 30, 2012 1:33 PM  
**To:** Flax Nikole C; Barre Catherine M  
**Cc:** Marks Nancy J; Urban Joseph J; Lerner Lois G  
**Subject:** Re: Issa letter

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Floyd Williams-----

Sent from my BlackBerry Wireless Handheld

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**Sent:** Friday, March 30, 2012 12:51 PM  
**To:** Williams Floyd L; Barre Catherine M  
**Cc:** Marks Nancy J; Urban Joseph J; Lerner Lois G  
**Subject:** Issa letter

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Thanks



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**From:** Lerner Lois G  
**Sent:** Friday, March 30, 2012 1:56 PM  
**To:** Flax Nikole C; Marks Nancy J; Williams Floyd L; Barre Catherine M  
**Cc:** Urban Joseph J  
**Subject:** RE: Issa letter

yep

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Friday, March 30, 2012 1:42 PM  
**To:** Marks Nancy J; Williams Floyd L; Barre Catherine M  
**Cc:** Urban Joseph J; Lerner Lois G  
**Subject:** RE: Issa letter

Nan, I would not bother on vacation. we can fill you in.

Lois/Joe - does Tuesday or Wednesday early afternoon work?

---

**From:** Marks Nancy J  
**Sent:** Friday, March 30, 2012 1:35 PM  
**To:** Williams Floyd L; Flax Nikole C; Barre Catherine M  
**Cc:** Urban Joseph J; Lerner Lois G  
**Subject:** RE: Issa letter

if you want me in the loop I'm out until friday and while I'm willing to be looped in remote my understanding is cell phones are unreliable (I'm in the mountains) and a cell might not be ideal anyway.

---

**From:** Williams Floyd L  
**Sent:** Friday, March 30, 2012 1:33 PM  
**To:** Flax Nikole C; Barre Catherine M  
**Cc:** Marks Nancy J; Urban Joseph J; Lerner Lois G  
**Subject:** Re: Issa letter

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Floyd Williams-----

Sent from my BlackBerry Wireless Handheld

---

**From:** Flax Nikole C  
**Sent:** Friday, March 30, 2012 12:51 PM  
**To:** Williams Floyd L; Barre Catherine M  
**Cc:** Marks Nancy J; Urban Joseph J; Lerner Lois G

**Subject:** Issa letter

We need to set up a call next week to talk to the staff and get some clarifications on the letter. Think it would be me, Lois, Nan and Joe.

Also, can we have a short conversation before the call to make sure we are all on the same page re what we can say re the last question. I spoke with Margo briefly.

Thanks

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**From:** Lerner Lois G  
**Sent:** Friday, March 30, 2012 1:59 PM  
**To:** Paz Holly O; Fish David L  
**Subject:** FW: Levin letter  
**Attachments:** Levin ltr to IRS re (c)(4)s (March 29 2012).pdf  
  
**Importance:** High

**Sorry--need to assign this one out ASAP too!**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Williams Floyd L  
**Sent:** Friday, March 30, 2012 11:56 AM  
**To:** Miller Steven T; Flax Nikole C; Lerner Lois G; Paz Holly O; Fish David L; Urban Joseph J; Keith Frank; Lemons Terry L; Grant Dianne; Barre Catherine M; Davis Jonathan M (Wash DC)  
**Cc:** Dash Mary L; Williams Marcie V; Orteza Cumbuka I; Norton William G Jr; Landes Scott S  
**Subject:** FW: Levin letter

Another section 501(c)(4) letter. This one from Senator Levin. It asks 13 questions, with a couple of questions having subsets.

The due date is April 20.

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

CARL LEVIN, MICHIGAN  
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JOHN MCCAIN, ARIZONA  
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ROB PORTMAN, OHIO  
RAND PAUL, KENTUCKY  
JERRY MORAN, KANSAS

## United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

March 30, 2012

MICHAEL L. ALEXANDER, STAFF DIRECTOR  
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

VIA U.S. MAIL & EMAIL (Floyd.Williams@IRS.gov)

The Honorable Douglas H. Shulman  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

Dear Commissioner Shulman:

Some entities claiming tax-exempt status as social welfare organizations under 26 U.S.C. §501(c)(4) appear to be engaged in political activities more appropriate for political organizations claiming tax-exempt status under 26 U.S.C. §527. Because of the urgency of the issues involved in this matter, please provide the following information by April 20, 2012.

- (1) Are entities seeking tax-exempt status under Section 501(c)(4) required to submit an application to the IRS for review and approval, or can they hold themselves out as having that tax-exempt status without filing an application or undergoing IRS review?
- (2) For entities that submit an application for tax-exempt status under Section 501(c)(4), please indicate:
  - (a) the approximate average number of days between the date on which an entity submits an application for 501(c)(4) tax-exempt status and the date on which that application is approved or denied;
  - (b) if it is not provided on a routine basis, approximately what percentage of such applicants receive an IRS questionnaire seeking information about any political activities, and how the IRS determines whether and when to send that questionnaire; and
  - (c) approximately how many days after an application is filed that questionnaire is typically sent.
- (3) A 1997 letter from the IRS denying tax-exempt status to the National Policy Forum, copy attached, made public in connection with a Senate investigation into federal election campaigns, indicates that the IRS based its denial on the fact that the organization was engaged in partisan political activity, stating that "partisan political activity does not promote social welfare as defined in section 501(c)(4)," and "benefit[s] select individuals or groups, instead of the community as a whole."

Is it still the position of the IRS that a 501(c)(4) organization cannot engage in any partisan political activity, even as a secondary activity?

- (4) Is it the position of the IRS that an entity claiming tax-exempt status under Section 501(c)(4) can engage in nonpartisan political activity as a secondary activity, and that political activity can consume up to 49% of the entity's expenditures and resources?
- (5) A Treasury regulation applicable to 501(c)(4) organizations states: "The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office." Treas.Reg. §1.501(c)(4)-1(a)(2)(ii). Would the IRS generally view it as a violation of that regulation if a 501(c)(4) organization:
  - (a) made a cash contribution to a political organization which is tax-exempt under Section 527 and functions as a campaign committee to elect a particular candidate to public office?
  - (b) made a cash contribution to a political action committee which was established under the Federal Election Campaign Act (FEC Act) and which routinely makes cash contributions to campaign committees, each of which was established to elect a particular candidate to public office?
  - (c) made a cash contribution to a political action committee or Section 527 political organization which makes independent expenditures on behalf of or in opposition to one or more candidates for public office?
  - (d) made a cash contribution to a national political party which engages in partisan political campaigns to elect multiple candidates from the same political party to public office?
  - (e) made a cash contribution to a political action committee or Section 527 political organization which is engaged in partisan political activity, but does not campaign on behalf of or in opposition to any particular candidate for public office?
  - (f) made a cash contribution to a political action committee or Section 527 political organization which is engaged in nonpartisan political activity and does not campaign on behalf of or in opposition to any particular candidate for public office?
- (6) Would the IRS generally view it as a violation of Treasury Regulation §1.501(c)(4)-1(a)(2)(ii), if a 501(c)(4) organization were to coordinate its political activities with a campaign committee, political action committee, or national political party? Please explain.



- (7) I understand that some persons have petitioned the Treasury Department to clarify or revise Treasury Regulation §1.501(c)(4)-1(a)(2)(ii). Please indicate whether the IRS plans to engage in such a rulemaking, whether it would first solicit comments on what should be included in that rulemaking, and whether or when any such rulemaking effort has been scheduled to begin.
- (8) If the IRS were to deny an entity's request to be treated as tax exempt under Section 501(c)(4), would the IRS automatically apply corporate income taxes to that entity or would it allow the entity to apply for tax-exempt status on other grounds?
- (9) If the IRS were to determine that an entity was impermissibly participating in partisan political activity, does the IRS have unilateral authority to reclassify it as a Section 527 political organization instead of a Section 501(c)(4) social welfare organization?
- (10) If an entity were denied tax-exempt status by the IRS under Section 501(c)(4), how would past contributions and income earned on those funds generally be treated under the tax code?
- (11) What considerations does the IRS use to determine when an entity that is denied tax-exempt status under Section 501(c)(4) should be subject to a penalty? What penalties are available and how are they calculated?
- (12) Please provide a copy of the standard questionnaire that the IRS sends to entities claiming tax-exempt status under Section 501(c)(4) to obtain information about their political activities. In addition, please provide any written guidance provided to IRS agents regarding the issue of political activity in connection with Section 501(c)(4).
- (13) Please indicate how many letter rulings have been issued by the IRS since January 1, 2007, to deny or revoke the tax-exempt status of an organization under Section 501(c)(4) due to involvement with partisan or nonpartisan political activity. If the IRS has issued 10 or less such letter rulings, please provide copies of all such letters. If the IRS has issued more than 10 such letter rulings, please provide a sample containing discussions of the widest variety of issues related to the denial of tax-exempt status under Section 501(c)(4) due to partisan or nonpartisan political activity.

Thank you for your assistance on this matter. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at [kaye\\_meier@levin.senate.gov](mailto:kaye_meier@levin.senate.gov) or 202/224-9110.

Sincerely,



Carl Levin  
Chairman  
Permanent Subcommittee on Investigations

---

**From:** Lerner Lois G  
**Sent:** Friday, March 30, 2012 5:16 PM  
**To:** Paz Holly O; Megosh Andy  
**Cc:** Fish David L; Park Nalee  
**Subject:** FW: Levin letter  
**Attachments:** Levin ltr to IRS re (c)(4)s (March 29 2012).pdf

Met with Nan and Joseph tonight--they believe it makes sense to have Counsel take a crack at responding to the part of the letter that relate to guidance in the area. So, I will send it to Janine and you will need to coordinate with her to get the info for the appropriate question. I'm also thinking we could use Counsel's guidance on how to respond the number 4. Holly and I are meeting with Janine Monday so we can talk to her then.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Williams Floyd L  
**Sent:** Friday, March 30, 2012 11:56 AM  
**To:** Miller Steven T; Flax Nikole C; Lerner Lois G; Paz Holly O; Fish David L; Urban Joseph J; Keith Frank; Lemons Terry L; Grant Dianne; Barre Catherine M; Davis Jonathan M (Wash DC)  
**Cc:** Dash Mary L; Williams Marcie V; Orteiz Cumbuka I; Norton William G Jr; Landes Scott S  
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Another section 501(c)(4) letter. This one from Senator Levin. It asks 13 questions, with a couple of questions having subsets.

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## United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

March 30, 2012

MICHAEL L. ALEXANDER, STAFF DIRECTOR  
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

VIA U.S. MAIL & EMAIL (Floyd.Williams@IRS.gov)

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Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
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  - (c) approximately how many days after an application is filed that questionnaire is typically sent.
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Thank you for your assistance on this matter. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at [kaye\\_meier@levin.senate.gov](mailto:kaye_meier@levin.senate.gov) or 202/224-9110.

Sincerely,



Carl Levin  
Chairman  
Permanent Subcommittee on Investigations

---

**From:** Lerner Lois G  
**Sent:** Monday, April 02, 2012 10:54 AM  
**To:** Megosh Andy; Paz Holly O  
**Cc:** Marx Dawn R  
**Subject:** RE: Issa letter

**Who was the lucky winner on Levin --I hate to say this, but Nalee would be the best person to do it as she's done the other big ones**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Megosh Andy  
**Sent:** Monday, April 02, 2012 7:47 AM  
**To:** Lerner Lois G; Paz Holly O  
**Cc:** Marx Dawn R  
**Subject:** RE: Issa letter

Lois, Holly,

HATCH - Melinda initially drafted Hatch but is on vacation this week. Justin has the draft and will be backfilling for Melinda

ISSA - Nalee

LEVIN - Received last Friday, will assign today

Thanks, Andy

---

**From:** Lerner Lois G  
**Sent:** Friday, March 30, 2012 5:48 PM  
**To:** Paz Holly O; Megosh Andy  
**Cc:** Marx Dawn R  
**Subject:** FW: Issa letter  
**Importance:** High

**I need the latest incoming from Issa --sorry, I don't know who is doing which --and we are having a call with them Tuesday or Wed thanks**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Friday, March 30, 2012 12:52 PM  
**To:** Williams Floyd L; Barre Catherine M

**Cc:** Marks Nancy J; Urban Joseph J; Lerner Lois G

**Subject:** Issa letter

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Thanks

---

**From:** Lerner Lois G  
**Sent:** Monday, April 02, 2012 6:17 PM  
**To:** Urban Joseph J  
**Subject:** RE: #14 2012 TNT 63-14 POLITICAL MONEY: HYPOCRISY IN ACTION.  
**Attachments:** core\_up.gif

## So, why are we still here?

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Urban Joseph J  
**Sent:** Monday, April 02, 2012 1:15 PM  
**To:** Fish David L; Lerner Lois G; Kindell Judith E; Light Sharon P; Miller Thomas J; Lowe Justin; Megosh Andy; Park Nalee; Marks Nancy J  
**Subject:** #14 2012 TNT 63-14 POLITICAL MONEY: HYPOCRISY IN ACTION.

**ABSTRACT:** Kip Dellinger comments on the dueling letters addressing political activities and [section 501\(c\)\(4\)](#) qualification, comments by IRS Commissioner Douglas Shulman regarding the Service's exemption ruling process, and potential unintended targets of those who advocate imposing a gift tax on donors to exempt organizations.

**AUTHOR:** Dellinger, Kip  
Cooper, Moss, Resnick, Klein & Co. LLP

Political Money: Hypocrisy in Action

Release Date: MARCH 27, 2012

Published by Tax Analysts(R)

[Photo Omitted]Kip Dellinger is a CPA in Santa Monica, Calif. He is a former chair of the American Institute of Certified Public Accountants Tax Division's Practice Responsibilities Committee, and he writes and teaches in the areas of tax practice, quality control, and ethics. He is also the recipient of the 2011 Saul Braverman Memorial Award of the California CPA Society Committee on Taxation for distinguished service in tax practice.

Dellinger comments on the dueling letters addressing political activities and [section 501\(c\)\(4\)](#) qualification, the remarks of IRS Commissioner Douglas Shulman regarding the Service's exemption ruling process, and potential unintended targets of those who advocate imposing a gift tax on donors to exempt organizations.

\* \* \* \* \*

You can tell the political season is heating up because of the efforts by politicians and activists to intimidate the IRS into effectively defunding organizations that don't share their ideology. The assault on speech is primarily in the form of moral posturing over abuse s of federal and state tax -exempt status among organizations engaged



in political activities.

Last month a group of Democratic senators <sup>1</sup> sent the IRS a letter asking it to establish a bright line regarding the percentage of spending on political activities that a 501(c)(4) organization may engage in before losing its tax-exempt status.

### **The Mess Congress Made**

The senators are asking the IRS to define political activities. That is something either Congress should address by fixing dysfunctional federal election laws, or the Federal Election Commission should regulate. The political activities involve advocacy on ballot issues. Organizations funded to advocate for or against them are by default 501(c)(4) organizations.

Moreover, many of the issues are wedge issues that may increase voter turnout in elections and justify the formation of an exempt organization by a federal political action committee (including super PACs). Shutting those organizations down is hardly a job for the IRS. <sup>2</sup>

The senators sound amusingly bellicose when they instruct the IRS commissioner to intervene in this unsettled territory in the midst of an election year. They promise that if the IRS does not act, they will introduce legislation to rectify the problem. The likelihood of that legislation passing is very low -- and the commissioner undoubtedly knows it.

They are essentially asking an unelected bureaucrat to change the rules during a contentious election year in a way that benefits the Obama administration. And so what if the agency's actions disenfranchise individuals to whom social issues on the ballot are of paramount importance? <sup>3</sup>

It appears that the Senate Democrats and numerous "watchdog" organizations are coordinating to pressure the IRS into taking action that would change the rules in the middle of the game. It is no coincidence that the targets of their attacks are exclusively Republican, despite similar organizations that exist to promote progressive causes and candidates.

These campaign finance watchdogs are joined by tax professionals and academics <sup>4</sup> who profess to be interested in protecting the fair and impartial administration of the tax law. Even though these vague tax laws have not been revisited in years, their critics are arguing that they need immediate attention. They would have us believe that the fact that they are focusing primarily on the activities, money, and organizations of one political party is mere coincidence -- or is because only one party is engaging in tax abuses that deserve attention.

Some Republican senators have responded <sup>5</sup> to what is obviously an orchestrated attack intended to intimidate donors to Republican social welfare organizations. They wrote a letter inquiring whether the IRS would also be examining organizations that favor Democratic causes.

### **The IRS**

The Republican letter to the commissioner questions the lengthy delays and voluminous document requests (some of which appear unreasonable and intrusive) regarding the qualification of 501(c)(4) organizations that have a clearly conservative point of view. The matter was brought to the Senate's attention by Richmond Tea Party Inc. <sup>6</sup>

The senators raise several concerns about the nature of the IRS inquiries, among them whether the agency's procedures and document requests apply equally to all social welfare organizations that engage in the political process.

Of paramount importance is why the IRS document information request to Richmond Tea Party Inc. asks for donors' names and amounts donated. According to Form 990, Schedule B, the annual schedule of contributors for 501(c)(4) organizations only requires listing donors that give the organization \$ 5,000 or more for the year and the names and addresses of contributors need not be made available for public inspection.

There is good reason to believe that some people at the IRS are applying more scrutiny to conservatives and hiding behind IRS secrecy provisions. Combined with the numerous requests for information, the whole process seems like an attempt at harassment. Perhaps the IRS actions are the result of activists and legislators trying to intimidate the Service into doing something they cannot legitimately accomplish through legislation.

IRS Commissioner Douglas Shulman almost immediately denied that any targeting of particular nonprofit groups was taking place.<sup>7</sup> In doing so, Shulman said that a rotating committee of three IRS officials reviews political activities and makes decisions about how the agency addresses audits. That is not very reassuring.

Whoever is making those decisions comes from a pool of career government employees -- likely members of the National Treasury Employees Union, which has a long history of political activity supporting the expansion of government and federal employee entitlements.

Shulman should ask for a review by the Treasury Inspector General for Tax Administration or the Government Accountability Office of the procedures and information requests that apply regarding 501(c)(4) applications and publish the report quickly. Until a reasonably independent review takes place, it will be very difficult to believe that a Tea Party group will be treated the same as progressive organizations.

There is also a lack of clarity in how the IRS handles exempt status. Shulman says that organizations voluntarily apply for that status and can operate before approval unless the IRS chooses to audit them. They also voluntarily pay a fee for their government to provide timely and efficient service, so Shulman's response appears to be more of an excuse than a justification for any behavior on the part of the IRS. Secondly, it denies them the opportunity to obtain certainty and avoid additional exposure to the tactics of Democratic senators and watchdog groups.

A report from TIGTA or the GAO would provide clarity on whether the IRS is treating all groups impartially.

### **501(c)(4) Gift Tax**

Finally, the issue remains whether sizable contributions to exempt organizations are subject to the gift tax. The IRS recently attempted to assess gift tax on several major donors to conservative groups.

Looking at local politics might produce an example that will make liberals more careful what they wish for.<sup>8</sup> What about Molly Munger and her commitment of millions of dollars to a California ballot initiative to increase taxes on the wealthy? If gift tax applies to political expenditures, it's impossible to avoid the fact that for federal tax purposes she has to be funding a 501(c)(4) organization to engage in the California ballot initiative process.

Under federal tax law, Munger's donations are not given to a candidate as specified in [section 527\(e\)](#), which means the gift tax exception of [section 2501\(a\)\(4\)](#) is unavailable. Munger can't argue that her organization qualifies for [section 527](#) status because it supports California Gov. Jerry Brown (D), who has his own tax initiative and isn't running for office.

Welcome to the wonderful intersection of political money and taxes. It's fairly certain that Munger's situation is common throughout the United States, affecting any number of ballot issues supported or opposed by wealthy liberals. In California there will be other ballot issues that may draw big money from anywhere along the

political spectrum. In Oregon the abolition of the estate tax is sure to draw donations, likely from a few Buffett and Gates Sr. types spending a lot of money to preserve the tax.

And let us not overlook recent revelations regarding political spending on issue advocacy that were reported March 23 by Adam Nagourney and Brooks Barnes in *The New York Times*. Apparently, millions have been raised by progressives to challenge California's Proposition 8, which banned gay marriage.

The article says David Geffen and Steve Bing each wrote \$ 1.5 million checks to support lawyers David Boies and Ted Olson in their legal campaign against Proposition 8. That is plainly money spent for political purposes, and if nothing else it is tantamount to a legal defense fund.

The monies represent taxable gifts to the litigants to pay their legal fees (and perhaps advance their cause in the court of public opinion), or they represent contributions to a tax -exempt 501(c)(4) organization (or its equivalent) to advance the donors' views regarding a social welfare issue. If it's the latter, we would remind the donors again of the many progressive academics who have argued that such donations should be subject to the gift tax.

To those who say gift tax treatment should apply to donors to exempt organizations, congratulations. In your zeal to take down conservatives, you may be exposing your own to friendly fire at the intersection where big money and politics collide. • What goes around comes around.

#### FOOTNOTES:

n1

See Kip Dellinger, "The Silly Season Is Underway," *Tax Notes*, Mar. 5, 2012, p. 1311, *Doc 2012-4109*, or [2012 TNT 44-7](#).

n2

For additional background, see Dellinger, "Gift Tax and 501(c)(4): Is It Politics by Other Means?" *Tax Notes*, June 20, 2011, p. 1293, *Doc 2011-12889*, or [2011 TNT 119-4](#); and Dellinger, "501(c)(4)s, Gift Taxes, and Disclosures Redux," *Tax Notes*, Oct. 10, 2011, p. 225, *Doc 2011-20899*, or [2011 TNT 197-9](#).

n3

IRS Commissioner Douglas Shulman should also be familiar with a recent report on the Justice Department's investigation into the conduct of the late Alaska Sen. Ted Stevens.

n4

Tax academics being those whose clients are their students and generally live largely off of the public's largesse rather than the private sector.

n5



See *Doc 2012-5346* or [2012 TNT 51-24](#).

↕n6

See *Doc 2012-4435* or [2012 TNT 42-34](#).

↕n7

For coverage, see *Tax Notes*, Mar. 26, 2012, p. 1614, *Doc 2012-6038*, or [2012 TNT 57-3](#).

↕n8

The names of Charles and David Koch arise in every liberal condemnation of abusive 501(c)(4) organizations, and they are often cited by campaign surrogates of President Obama.

↕n9

One can hardly wait for the argument that it is somehow different -- which can only rely on applying relative standards of virtuousness.



---

**From:** Lerner Lois G  
**Sent:** Monday, April 02, 2012 6:23 PM  
**To:** Park Nalee; Paz Holly O  
**Cc:** Marx Dawn R; Megosh Andy; Williams Melinda G; Lowe Justin  
**Subject:** RE: Hatch

I'll take it home tonight--thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Park Nalee  
Sent: Sunday, April 01, 2012 11:34 AM  
To: Lerner Lois G; Paz Holly O  
Cc: Marx Dawn R; Megosh Andy; Williams Melinda G; Lowe Justin  
Subject: RE: Hatch

Attached is the latest draft that I'm aware of, in case you'll have a chance to take a look. It has the changes made from your meeting earlier last week. We'll check with Dawn tomorrow morning to see if we can get on your calendar tomorrow or Tuesday.

FYI - I believe we may be trying to get an extension on the due date. Also, Melinda is on leave for this week, and I believe Justin will be taking over in finalizing this draft.

NaLee  
202.283.9453

-----Original Message-----

From: Lerner Lois G  
Sent: Friday, March 30, 2012 5:41 PM  
To: Paz Holly O; Megosh Andy; Williams Melinda G; Park Nalee  
Cc: Marx Dawn R  
Subject: FW: Hatch  
Importance: High

I am mixing my letters up--can't even recall which this is--perhaps the one we discussed earlier this week. Do we have a sense when I'll have next go-round?

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C

Sent: Friday, March 30, 2012 3:10 PM

To: Lerner Lois G

Subject: Hatch

Do you have any sense of timing on the hatch response? Thanks

---

**From:** Davis Jonathan M (Wash DC)  
**Sent:** Monday, February 27, 2012 5:10 PM  
**To:** Lerner Lois G; Flax Nikole C; Eldridge Michelle L; Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Eguren Sara L; Patterson Dean J; Miller Steven T  
**Subject:** RE: 501c4 repsonse for AP and roll call  
**Attachments:** Document1 (6).doc

a few edits from Steve and me.

thanks

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**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 5:59 PM  
**To:** Flax Nikole C; Eldridge Michelle L; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Eguren Sara L; Patterson Dean J; Miller Steven T  
**Subject:** RE: 501c4 repsonse for AP and roll call

**Your right--but I think it's just a duplicate of the first one. Stop after any other relevant information**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Monday, February 27, 2012 5:50 PM  
**To:** Eldridge Michelle L; Davis Jonathan M (Wash DC); Lerner Lois G; Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Eguren Sara L; Patterson Dean J; Miller Steven T  
**Subject:** Re: 501c4 repsonse for AP and roll call

I am reading on the bb, but seems to be a lot of repetition of the same language. Maybe it isn't showing up right.

---

**From:** Eldridge Michelle L  
**Sent:** Monday, February 27, 2012 05:31 PM  
**To:** Davis Jonathan M (Wash DC); Flax Nikole C; Lerner Lois G; Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Eguren Sara L; Patterson Dean J  
**Subject:** 501c4 repsonse for AP and roll call

Here is the statement we plan to give AP and Roll call. The inbound is asking about c4's and tea party affiliation s. I have been working this with Lois & co. Sorry for short time frame but I need to respond back to AP in just a few minutes. Thanks. --Michelle

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

(b)(5)/db



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**From:** Eldridge Michelle L  
**Sent:** Monday, February 27, 2012 5:17 PM  
**To:** Miller Steven T; Davis Jonathan M (Wash DC); Lerner Lois G; Grant Joseph H; Flax Nikole C; Keith Frank; Lemons Terry L; Zarin Roberta B  
**Subject:** FW: 501c4 response for AP  
**Attachments:** Document1 (6).doc

OK--Here is final I'm using. Edits were incorporated. Thanks. --Michelle

(b)(5)/DP

(b)(5)/db

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**From:** Lerner Lois G  
**Sent:** Thursday, March 01, 2012 11:58 AM  
**To:** Flax Nikole C; Miller Steven T; Eldridge Michelle L  
**Cc:** Davis Jonathan M (Wash DC)  
**Subject:** RE: 501c4 status/Cincinatti task force

**The only time they came up here was the initial look at a few cases to help develop guidance for the Cincy folks**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Thursday, March 01, 2012 12:23 PM  
**To:** Lerner Lois G; Miller Steven T; Eldridge Michelle L  
**Cc:** Davis Jonathan M (Wash DC)  
**Subject:** Re: 501c4 status/Cincinatti task force

Steve, I checked out the question you had and the language is correct.

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 01, 2012 12:15 PM  
**To:** Lerner Lois G; Flax Nikole C; Miller Steven T; Eldridge Michelle L  
**Cc:** Davis Jonathan M (Wash DC)  
**Subject:** RE: 501c4 status/Cincinatti task force

**Bobby got an inquiry from someone in media relations asking if we are responding to the allegation. I thought we got the OK to use this yesterday --just checking to be sure--can we give it out?**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 7:17 PM  
**To:** Flax Nikole C; Miller Steven T; Eldridge Michelle L  
**Cc:** Davis Jonathan M (Wash DC)  
**Subject:** RE: 501c4 status/Cincinatti task force

**Correct. See my edit--wordy, but maybe a little clearer**

*Lois G. Lerner*

Director of Exempt Organizations

**From:** Flax Nikole C  
**Sent:** Wednesday, February 29, 2012 7:15 PM  
**To:** Miller Steven T; Lerner Lois G; Eldridge Michelle L  
**Cc:** Davis Jonathan M (Wash DC)  
**Subject:** FW: 501c4 status/Cincinatti task force

Does the following work? Lois, you need to make sure the 2nd sentence is accurate. I think [REDACTED]

(b)(5) DP

(b)(5) DP

---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 5:46 PM  
**To:** Flax Nikole C  
**Subject:** FW: 501c4 status/Cincinatti task force

**What can I say--**

*Lois G. Lerner*

Director of Exempt Organizations

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**Sent:** Wednesday, February 29, 2012 5:22 PM  
**To:** Zarin Roberta B; Eldridge Michelle L  
**Cc:** Patterson Dean J; Williams Grant  
**Subject:** FW: 501c4 status/Cincinatti task force

This reporter is asking us to specifically confirm whether there is an IRS Cincinnati task force dedicated to looking at 501c4s political activity and sending these organizations questionnaires.

**Sara L. Eguren**  
IRS Media Relations

---

**From:** Janie Lorber [<mailto:JanieLorber@rollcall.com>]  
**Sent:** Wednesday, February 29, 2012 5:10 PM  
**To:** Eguren Sara L  
**Subject:** 501c4 status/Cincinatti task force

Sara,  
Thanks very much for your time just now.

I hear that the IRS Exempt Organizations Division has set up a task force to address concerns about 501c4 organizations that are acting more like political parties than social welfare organizations. My understanding is that that task force is based i n

Cincinnati and has been in operation for just about two months. I'm told that this committee has issued a series of requests for additional information to organizations applying for 501c4 status.

Can you confirm this information? Further detail would also be greatly appreciated. My deadline is noon tomorrow. I can be reached at 202 650 6834

Thank you,

Janie

--

Janie Lorber  
Reporter  
CQ Roll Call  
202 650 6834 (O)  
339 206 5812 (C)  
[janielorber@rollcall.com](mailto:janielorber@rollcall.com)  
[www.rollcall.com](http://www.rollcall.com)

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**From:** Lerner Lois G  
**Sent:** Friday, March 02, 2012 9:40 AM  
**To:** Eldridge Michelle L; Miller Steven T; Keith Frank; Grant Joseph H; Davis Jonathan M (Wash DC); Flax Nikole C; Burke Anthony; Zarin Roberta B; Lemons Terry L  
**Subject:** RE: NYT inbound

I am about to go over to 1111 for a meeting with Miller. Am not feeling well, but will try to call you when meeting done. The project in the work plan has nothing to do with the advocacy orgs --it's pretty tame. Don't believe the questionnaire is finalized

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Eldridge Michelle L  
Sent: Friday, March 02, 2012 10:37 AM  
To: Miller Steven T; Keith Frank; Lerner Lois G; Grant Joseph H; Davis Jonathan M (Wash DC); Flax Nikole C; Burke Anthony; Zarin Roberta B; Lemons Terry L  
Subject: NYT inbound

We have inbound from WSJ reporter Jonathan Weissman re: 501c4s. Deadline is this afternoon.

He is asking about what actions we plan take on 501c4s this year and why. Specifically he asks, why will the IRS conduct reviews of these organizations to ensure that they have classified themselves correctly? Why is this in the 2012 plan? What does the review entail? Also wants the questionnaire, and is now asking for the statement we have given on tea party media advisory.

Part of his story is coming from Hill expressing concern on businesses claiming business deductions for c4 contributions.

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Sent from my BlackBerry Wireless Device

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**From:** Williams Floyd L  
**Sent:** Friday, March 09, 2012 2:41 PM  
**Subject:** FW: HATCH ON DEMOCRATS PRESSURING IRS ON 501(c)(4) ORGANIZATIONS  
**Attachments:** image001.jpg

FYI--Latest volley in the section 501(c)(4) battle:

FOR IMMEDIATE RELEASE

CONTACT: Julia Lawless<[mailto:Julia\\_Lawless@finance-rep.senate.gov](mailto:Julia_Lawless@finance-rep.senate.gov)>, Antonia Ferrier<[mailto:Antonia\\_Ferrier@finance-rep.senate.gov](mailto:Antonia_Ferrier@finance-rep.senate.gov)>

March 9, 2012

(202) 224-4515

HATCH ON DEMOCRATS PRESSURING IRS ON 501(c)(4) ORGANIZATIONS

WASHINGTON - U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, issued the following statement today after a group of Senate Democrats indicated that they were sending<<http://thecaucus.blogs.nytimes.com/2012/03/08/senate-democrats-ask-i-r-s-for-more-scrutiny-of-nonprofit-political-groups/>> the Internal Revenue Service (IRS) a letter urging the agency to take action on non -profit 501(c)(4) organizations:

"Politics must not play any role in the IRS' decision -making process. Unfortunately, this request from the other side of the aisle puts the IRS in an untenable and unacceptable situation for what I hope are not political ends. It's pretty hard not to draw that conclusion since the White House and its congressional allies are talking out of both sides of their mouths by accepting unprecedented sums of big labor and rich liberal money. I also find the timing somewhat suspect - we never heard a peep from the other side in previous election cycles when they were reaping the benefits of these types of organizations. Sending the IRS on a politically -motivated witch hunt is simply unacceptable and could have a chilling impact on the constitutionally -protected right to free speech. I expect the IRS not to succumb to this type of political posturing."

NOTE: Last year, the IRS for the first time in decades invoked a rarely used provision enforcing the gift tax on contributions to 501(c)(4) organizations. Hatch led a group o f Senate Finance Committee Republicans in a letter<<http://finance.senate.gov/newsroom/ranking/release/?id=ec29441e-aefd-4192-a628-d96966cf4231>> to IRS Commissioner Douglas Shulman requesting additional information about what communications the IRS has had with the White House and other executive branch agencies regarding the decision and how it could impact constitutionally protected First Amendment rights.

###

# Senate Committee on Finance

## U.S. Senator Orrin Hatch (R-UT), Ranking Member

<http://finance.senate.gov>





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**From:** Williams Floyd L  
**Sent:** Friday, March 30, 2012 10:56 AM  
**To:** Miller Steven T; Flax Nikole C; Lerner Lois G; Paz Holly O; Fish David L; Urban Joseph J; Keith Frank; Lemons Terry L; Grant Dianne; Barre Catherine M; Davis Jonathan M (Wash DC)  
**Cc:** Dash Mary L; Williams Marcie V; Orteiz Cumbuka I; Norton William G Jr; Landes Scott S  
**Subject:** FW: Levin letter  
**Attachments:** Levin ltr to IRS re (c)(4)s (March 29 2012).pdf

Another section 501(c)(4) letter. This one from Senator Levin. It asks 13 questions, with a couple of questions having subsets.

The due date is April 20.

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

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SUSAN M. COLLINS, MAINE  
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SCOTT P. BROWN, MASSACHUSETTS  
JOHN MCCAIN, ARIZONA  
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ROB PORTMAN, OHIO  
RAND PAUL, KENTUCKY  
JERRY MORAN, KANSAS

## United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

March 30, 2012

VIA U.S. MAIL & EMAIL (Floyd.Williams@IRS.gov)

The Honorable Douglas H. Shulman  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

Dear Commissioner Shulman:

Some entities claiming tax-exempt status as social welfare organizations under 26 U.S.C. §501(c)(4) appear to be engaged in political activities more appropriate for political organizations claiming tax-exempt status under 26 U.S.C. §527. Because of the urgency of the issues involved in this matter, please provide the following information by April 20, 2012.

- (1) Are entities seeking tax-exempt status under Section 501(c)(4) required to submit an application to the IRS for review and approval, or can they hold themselves out as having that tax-exempt status without filing an application or undergoing IRS review?
- (2) For entities that submit an application for tax-exempt status under Section 501(c)(4), please indicate:
  - (a) the approximate average number of days between the date on which an entity submits an application for 501(c)(4) tax-exempt status and the date on which that application is approved or denied;
  - (b) if it is not provided on a routine basis, approximately what percentage of such applicants receive an IRS questionnaire seeking information about any political activities, and how the IRS determines whether and when to send that questionnaire; and
  - (c) approximately how many days after an application is filed that questionnaire is typically sent.
- (3) A 1997 letter from the IRS denying tax-exempt status to the National Policy Forum, copy attached, made public in connection with a Senate investigation into federal election campaigns, indicates that the IRS based its denial on the fact that the organization was engaged in partisan political activity, stating that "partisan political activity does not promote social welfare as defined in section 501(c)(4)," and "benefit[s] select individuals or groups, instead of the community as a whole."

Is it still the position of the IRS that a 501(c)(4) organization cannot engage in any partisan political activity, even as a secondary activity?

- (4) Is it the position of the IRS that an entity claiming tax-exempt status under Section 501(c)(4) can engage in nonpartisan political activity as a secondary activity, and that political activity can consume up to 49% of the entity's expenditures and resources?
- (5) A Treasury regulation applicable to 501(c)(4) organizations states: "The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office." Treas.Reg. §1.501(c)(4)-1(a)(2)(ii). Would the IRS generally view it as a violation of that regulation if a 501(c)(4) organization:
  - (a) made a cash contribution to a political organization which is tax-exempt under Section 527 and functions as a campaign committee to elect a particular candidate to public office?
  - (b) made a cash contribution to a political action committee which was established under the Federal Election Campaign Act (FEC Act) and which routinely makes cash contributions to campaign committees, each of which was established to elect a particular candidate to public office?
  - (c) made a cash contribution to a political action committee or Section 527 political organization which makes independent expenditures on behalf of or in opposition to one or more candidates for public office?
  - (d) made a cash contribution to a national political party which engages in partisan political campaigns to elect multiple candidates from the same political party to public office?
  - (e) made a cash contribution to a political action committee or Section 527 political organization which is engaged in partisan political activity, but does not campaign on behalf of or in opposition to any particular candidate for public office?
  - (f) made a cash contribution to a political action committee or Section 527 political organization which is engaged in nonpartisan political activity and does not campaign on behalf of or in opposition to any particular candidate for public office?
- (6) Would the IRS generally view it as a violation of Treasury Regulation §1.501(c)(4)-1(a)(2)(ii), if a 501(c)(4) organization were to coordinate its political activities with a campaign committee, political action committee, or national political party? Please explain.



- (7) I understand that some persons have petitioned the Treasury Department to clarify or revise Treasury Regulation §1.501(c)(4)-1(a)(2)(ii). Please indicate whether the IRS plans to engage in such a rulemaking, whether it would first solicit comments on what should be included in that rulemaking, and whether or when any such rulemaking effort has been scheduled to begin.
- (8) If the IRS were to deny an entity's request to be treated as tax exempt under Section 501(c)(4), would the IRS automatically apply corporate income taxes to that entity or would it allow the entity to apply for tax-exempt status on other grounds?
- (9) If the IRS were to determine that an entity was impermissibly participating in partisan political activity, does the IRS have unilateral authority to reclassify it as a Section 527 political organization instead of a Section 501(c)(4) social welfare organization?
- (10) If an entity were denied tax-exempt status by the IRS under Section 501(c)(4), how would past contributions and income earned on those funds generally be treated under the tax code?
- (11) What considerations does the IRS use to determine when an entity that is denied tax-exempt status under Section 501(c)(4) should be subject to a penalty? What penalties are available and how are they calculated?
- (12) Please provide a copy of the standard questionnaire that the IRS sends to entities claiming tax-exempt status under Section 501(c)(4) to obtain information about their political activities. In addition, please provide any written guidance provided to IRS agents regarding the issue of political activity in connection with Section 501(c)(4).
- (13) Please indicate how many letter rulings have been issued by the IRS since January 1, 2007, to deny or revoke the tax-exempt status of an organization under Section 501(c)(4) due to involvement with partisan or nonpartisan political activity. If the IRS has issued 10 or less such letter rulings, please provide copies of all such letters. If the IRS has issued more than 10 such letter rulings, please provide a sample containing discussions of the widest variety of issues related to the denial of tax-exempt status under Section 501(c)(4) due to partisan or nonpartisan political activity.

Thank you for your assistance on this matter. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at [kaye\\_meier@levin.senate.gov](mailto:kaye_meier@levin.senate.gov) or 202/224-9110.

Sincerely,



Carl Levin  
Chairman  
Permanent Subcommittee on Investigations

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**From:** Lerner Lois G  
**Sent:** Tuesday, February 28, 2012 10:15 AM  
**To:** Paz Holly O; Urban Joseph J; Fish David L  
**Cc:** Marx Dawn R  
**Subject:** RE: Follow-Up on Hill Conversation

**Thanks!**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paz Holly O  
**Sent:** Tuesday, February 28, 2012 9:54 AM  
**To:** Lerner Lois G; Urban Joseph J; Fish David L  
**Cc:** Marx Dawn R  
**Subject:** RE: Follow-Up on Hill Conversation

Working on it. Cindy and Mike are gathering info. I should have a write-up covering all of this to you by tomorrow morning.

---

**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 6:36 PM  
**To:** Paz Holly O; Urban Joseph J; Fish David L  
**Cc:** Marx Dawn R  
**Subject:** Follow-Up on Hill Conversation  
**Importance:** High

**Not sure if I actually let you know --we need 2 things:**

- 1. Timeline when we first started noticing an uptick in advocacy org applications and started sending them up here to figure out what to do -guidance wise.**
- 2. Case grading guide for Determs --is it publicly available? If you don't know, we need a copy so someone can take a look.**

**Probably don't have a lot of time before they will be pushing for this stuff so as soon as possible please. Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Kindell Judith E  
**Sent:** Wednesday, February 29, 2012 1:04 PM  
**To:** Zarin Roberta B; Lerner Lois G; Paz Holly O  
**Cc:** Marx Dawn R  
**Subject:** RE: AP coming back with followups on 501c4 issue

We've already answered the question about political motivation. For the rest, we can't respond about this particular organization, but Lois put together some material regarding the process for her meeting with Issa's staff.

---

**From:** Zarin Roberta B  
**Sent:** Wednesday, February 29, 2012 1:57 PM  
**To:** Lerner Lois G; Kindell Judith E; Paz Holly O  
**Cc:** Marx Dawn R  
**Subject:** FW: AP coming back with followups on 501c4 issue

short deadline--don't know if we can/will address any of these.

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Patterson Dean J  
**Sent:** Wednesday, February 29, 2012 1:46 PM  
**To:** Eldridge Michelle L; Zarin Roberta B  
**Subject:** AP coming back with followups on 501c4 issue

Please see below:

**Dean Patterson**  
IRS Media Relations  
(202) 622-4000

---

**From:** Fram, Alan [mailto:AFram@ap.org]  
**Sent:** Wednesday, February 29, 2012 1:44 PM  
**To:** Patterson Dean J  
**Subject:** RE: revised IRS statement

As I mentioned, my editors want this story finished by day's end. FYI the Kentucky 9/12 project faxed me the Feb. 14 letter they got from you.

Questions:

\_Kentucky 9/12 says so on after they applied for tax exempt status in late 2010, they got an IRS letter acknowledging receipt and saying if more information is needed, they should hear from IRS in about 90 days. But they say next contact from IRS was about two weeks ago. Why the time lag?

\_How typical or unusual is it for IRS to request details of all Twitter/Facebook activity, and why are you asking the Kentucky 9/12 Project for it?

\_Are 5 pages of questions with about 90 separate requests typical or unusual when IRS is investigating whether a group qualifies? Why is so much information needed?

\_Kentucky 9/12 group says your questions are politically motivated and you're trying to regulate them out of existence. Response?

\_Some information IRS has requested (like minutes) could result in this group having to reveal names of members or volunteers who aren't top officials. Does this raise a privacy concern with IRS, and why is that information needed?

\_Why is information needed on relatives of top officials?

Thanks,

Alan

---

**From:** Patterson Dean J [mailto:Dean.J.Patterson@irs.gov]

**Sent:** Tuesday, February 28, 2012 4:04 PM

**To:** Fram, Alan

**Subject:** revised IRS statement

Alan,

I am sending you a very slightly revised statement since you have not used it. Also let's talk when you have a moment.

**Dean Patterson**

IRS Media Relations

(202) 622-4000

By law, the IRS cannot discuss any specific taxpayer situation or case. Generally however, when determining whether an organization is eligible for tax -exempt status, including 501(c)(4) social welfare organizations, all the facts and circumstances of that specific organization must be considered to determine whether it is eligible for tax -exempt status. To be tax-exempt as a social welfare organization described in Internal Revenue Code (IRC) section 501(c)(4), an organization must be primarily engaged in the promotion of social welfare.

The promotion of social welfare does not include any unrelated business activities or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, the law allows a section 501(c)(4) social welfare organization to engage in some political activities and some business activities, so long as, in the aggregate, these non -exempt activities are not its primary activities. Even where the non -exempt activities are not the primary activities, they may be taxed. Unrelated business income may be subject to tax under section 511 -514, and expenditures for political activities may be subject to tax under section 527(f). For further information regarding political campaign intervention by section 501(c) organizations, see Election Year Issues, Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations, and Revenue Ruling 2004-6.

Unlike 501(c)(3) organizations, 501(c)(4) organizations are not required to apply to the IRS for recognition of their tax -exempt status. Organizations may self-declare and if they meet the statutory and regulatory requirements they will be treated as tax-exempt. If they do want reliance on an IRS determination of their status, they can file an application for exemption. While the application is pending, the organization must file a Form 990, like any other tax -exempt organization, and is otherwise able to operate.

In cases where an application for exemption under 501 (c)(4) present issues that require further development before a determination can be made, the IRS engages in a back and forth dialogue with the applicant. For example, if an application appears to indicate that the organization has engaged in political activities or may engage in political activities, the IRS will request additional information about those activities to determine whether they, in fact, constitute political activity. If so, the IRS will look at the rest of the organization's activities to determine whether the primary activities are social welfare activities or whether they are non -exempt activities. In order to make this determination, the IRS must build an administrative record of the case. That record could include answers to questions, copies of documents, copies of web pages and any other relevant information.

Career civil servants make all decisions on exemption applications in a fair, impartial manner and do so without regard to political party affiliation or ideology.

links to available data below:

<http://www.irs.gov/taxstats/article/0,,id=207380,00.html>

<http://www.irs.gov/taxstats/article/0,,id=207455,00.html>

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[IP\_US\_DISC]

msk dccc60c6d2c3a6438f0cf467d9a4938



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**From:** Zarin Roberta B  
**Sent:** Wednesday, February 29, 2012 4:16 PM  
**To:** Eldridge Michelle L; Lerner Lois G; Kindell Judith E; Paz Holly O  
**Subject:** More Tea Party

<http://www.conservativehq.com/article/6917-96-it%E2%80%99s-irs-vs-tea-party>

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 07, 2012 4:53 PM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O  
**Subject:** FW: suspense letter  
**Attachments:** EDS Letter 4587.doc; EDS Letter 1314.doc

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Wednesday, March 07, 2012 4:41 PM  
**To:** Lerner Lois G  
**Subject:** suspense letter

[Language you wanted](#)

---

**From:** Thomas Cindy M  
**Sent:** Tuesday, February 28, 2012 2:48 PM  
**To:** Paz Holly O  
**Subject:** RE: TAS Analyst Issue - Advocacy Cases

[Attachment 1 \(Letter 4587\) is the suspense letter we would send. Attachment 2 \(Letter 1314\) is the closing letter if we don't get a response to the Letter 4587.](#)

(b)(5)/DP

(b)(5)/DP

(b)(5)/DP

---

**From:** Lerner Lois G  
**Sent:** Monday, March 12, 2012 4:41 PM  
**To:** Flax Nikole C; Paz Holly O  
**Subject:** RE: Follow-up Letter

**We're good with the letter--we would prefer (b)(5) DP But mostly we just need to start sending it. Holly will get the stat you asked for from Cindy**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, March 12, 2012 5:29 PM  
**To:** Lerner Lois G; Paz Holly O  
**Subject:** RE: Follow-up Letter

The draft I sent last Thursday is the latest. Let me know if you need me to resend.

How many cases have already been notified that they are in suspense?

---

**From:** Lerner Lois G  
**Sent:** Monday, March 12, 2012 5:18 PM  
**To:** Flax Nikole C; Paz Holly O  
**Subject:** Follow-up Letter

**Where are we on finalizing the letters to go out to the advocacy groups to let them know they have more time to respond? Has Steve approved a final version? if not, who has the latest? Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Monday, March 12, 2012 5:20 PM  
**To:** Flax Nikole C; Paz Holly O  
**Subject:** Re: Follow-up Letter

That's why I asked  
Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

---

**From:** Flax Nikole C  
**Sent:** Monday, March 12, 2012 05:47 PM  
**To:** Lerner Lois G; Paz Holly O  
**Subject:** RE: Follow-up Letter

yes, but please give a head's up when they do so that the media folks can be prepared. I think we need to figure out a way to give those in suspense the same opportunity.

---

**From:** Lerner Lois G  
**Sent:** Monday, March 12, 2012 5:45 PM  
**To:** Paz Holly O; Flax Nikole C  
**Subject:** RE: Follow-up Letter

**Please send the latest--I can't find the one with 60 days --do we have the OK to start sending?**

*Lois G. Lerner*  
Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Monday, March 12, 2012 5:43 PM  
**To:** Lerner Lois G; Flax Nikole C  
**Subject:** FW: Follow-up Letter

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**From:** Thomas Cindy M  
**Sent:** Monday, March 12, 2012 5:42 PM  
**To:** Paz Holly O  
**Subject:** RE: Follow-up Letter

3 were placed in suspense

---

**From:** Flax Nikole C  
**Sent:** Monday, March 12, 2012 5:29 PM

**To:** Lerner Lois G; Paz Holly O  
**Subject:** RE: Follow-up Letter

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*Lois G. Lerner*

Director of Exempt Organizations



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**From:** Paz Holly O  
**Sent:** Wednesday, March 14, 2012 1:58 PM  
**To:** Lerner Lois G  
**Subject:** RE: Exempt application - Advocacy Cases  
**Attachments:** proposed CA TAS response.doc

We sent the language in the attached to Cindy to respond.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 14, 2012 2:38 PM  
**To:** Paz Holly O  
**Subject:** RE: Exempt application - Advocacy Cases

**remind me what we did with these please**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Wednesday, February 29, 2012 9:56 PM  
**To:** Lerner Lois G  
**Cc:** Fish David L  
**Subject:** FW: Exempt application - Advocacy Cases  
**Importance:** High

Lois,

Below is the TAS inquiry I mentioned that Cindy is waiting on responding to until you get final approval of the language we are using for media/Congressional/TAS inquiries on this subject. I am getting concerned that it has now been a week since TAS asked for status update and estimated completion date on these cases. It is for the estimated completion date part of the request that I think we need to adapt the more in-depth language - basically to explain (b)(5)/DP Please let David/me know as soon as we have final language we can pull from for this purpose.

Thanks,

Holly

---

**From:** Thomas Cindy M  
**Sent:** Wednesday, February 22, 2012 10:10 PM  
**To:** Paz Holly O  
**Subject:** RE: Exempt application - Advocacy Cases  
**Importance:** High

Holly,

Based on the email below from a TAS analyst in Sacramento, at least one of the Congressional offices involved with 3 advocacy cases (b)(3)/6103 is going to the IRS Commissioner, TEGE

Commissioner, or both. The 3 cases and their status based on the EDS research I just completed is below.

Do you want us to respond to TAS or hold off?

b(3)\6103

---

**From:** Combs Peggy L  
**Sent:** Wednesday, February 22, 2012 10:21 AM  
**To:** Thomas Cindy M  
**Cc:** Herr Joseph R; Bibb Kenneth B; Esrig Bonnie A  
**Subject:** FW: Exempt application - Advocacy Cases

Elevating to you for consideration.

Please advise if you need us to respond to them.

---

**From:** Ruppel Tom J  
**Sent:** Tuesday, February 21, 2012 6:53 PM  
**To:** Batey Karen A; Herr Joseph R  
**Cc:** Bibb Kenneth B; Combs Peggy L; Clay Diana W; Renville Gary D  
**Subject:** FW: Exempt application

Our current cases involve [REDACTED] (b)(3)/6103, and [REDACTED] (b)(3)/6103. We also had a prior case from [REDACTED] (b)(3)/6103, another Tea Party-type organization, that elicited a reply identical to that below. All are congressional inquiries from three different congressional offices.

Can you tell us the status of each and when they can anticipate issuance of a determination letter?

At least one of these offices is going to the IRS Commissioner, TEGE Commissioner or both.

Thanks.

Tom Ruppel, Analyst  
TAS Sacramento

[REDACTED]

[REDACTED]

[REDACTED]

*Entirely withhold (b)(5)/DP Partially withhold (b)(3)/6103*

[REDACTED]

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 14, 2012 2:13 PM  
**To:** Paz Holly O  
**Subject:** RE: Exempt application - Advocacy Cases

thanks

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Wednesday, March 14, 2012 2:58 PM  
**To:** Lerner Lois G  
**Subject:** RE: Exempt application - Advocacy Cases

We sent the language in the attached to Cindy to respond.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 14, 2012 2:38 PM  
**To:** Paz Holly O  
**Subject:** RE: Exempt application - Advocacy Cases

remind me what we did with these please

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Wednesday, February 29, 2012 9:56 PM  
**To:** Lerner Lois G  
**Cc:** Fish David L  
**Subject:** FW: Exempt application - Advocacy Cases  
**Importance:** High

Lois,

Below is the TAS inquiry I mentioned that Cindy is waiting on responding to until you get final approval of the language we are using for media/Congressional/TAS inquiries on this subject. I am getting concerned that it has now been a week since TAS asked for status update and estimated completion date on these cases. It is for the estimated completion date part of the request that I think we need to adapt the more in-depth language - basically to explain [REDACTED] (b)(5)/DP [REDACTED]. Please let David/me know as soon as we have final language we can pull from for this purpose.

Thanks,

Holly

**From:** Thomas Cindy M  
**Sent:** Wednesday, February 22, 2012 10:10 PM  
**To:** Paz Holly O  
**Subject:** RE: Exempt application - Advocacy Cases  
**Importance:** High

Holly,

Based on the email below from a TAS analyst in Sacramento, at least one of the Congressional offices involved with 3 advocacy cases (b)(3)/6103 is going to the IRS Commissioner, TEGE Commissioner, or both. The 3 cases and their status based on the EDS research I just completed is below.

Do you want us to respond to TAS or hold off?

(b)(3)/6103

---

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**Sent:** Wednesday, February 22, 2012 10:21 AM  
**To:** Thomas Cindy M  
**Cc:** Herr Joseph R; Bibb Kenneth B; Esrig Bonnie A  
**Subject:** FW: Exempt application - Advocacy Cases

Elevating to you for consideration.

Please advise if you need us to respond to them.

---

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**Sent:** Tuesday, February 21, 2012 6:53 PM  
**To:** Batey Karen A; Herr Joseph R  
**Cc:** Bibb Kenneth B; Combs Peggy L; Clay Diana W; Renville Gary D  
**Subject:** FW: Exempt application

Our current cases involve (b)(3)/6103, and (b)(3)/6103. We also had a prior case from (b)(3)/6103, another Tea Party-type organization, that elicited a reply identical to that below. All are congressional inquiries from three different congressional offices.

Can you tell us the status of each and when they can anticipate issuance of a determination letter?

At least one of these offices is going to the IRS Commissioner, TEGE Commissioner or both.

Thanks.

Tom Ruppel, Analyst  
TAS Sacramento

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 21, 2012 6:39 PM  
**To:** Williams Floyd L; Fish David L; Paz Holly O  
**Cc:** Norton William G Jr  
**Subject:** RE: Tax-Exemption Applications  
  
**Importance:** High

Holly/David--fact check for me --I'm out on Thursday

Floyd--

[REDACTED]

[REDACTED] (b)(5) DP [REDACTED]

[REDACTED] (b)(5) DP [REDACTED]

[REDACTED] Holly/David--can someone give  
Floyd a link? Problem is--it isn't pretty right now so use your judgment as to whether to send  
her there.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Williams Floyd L  
**Sent:** Wednesday, March 21, 2012 5:51 PM  
**To:** Lerner Lois G; Fish David L; Paz Holly O  
**Cc:** Norton William G Jr; Glenn James E  
**Subject:** FW: Tax-Exemption Applications

Is there anything more than what I said below that I can/should say about the time it takes to get a  
determination letter?

**From:** Williams Floyd L  
**Sent:** Wednesday, March 21, 2012 5:34 PM  
**To:** McAfee, Karen; Norton William G Jr; Glenn James E  
**Subject:** RE: Tax-Exemption Applications

I think it's probably dangerous to say there is an average wait time as it depends upon the complexity of the issues, the completeness of the application, whether or not correct user fee was sent, etc., etc. Also, organizations that can demonstrate that they have significant donations/grants contingent on receiving a favorable determination by a date certain are worked out of order. Having said this, I would guess that it is currently closer to 180 days on average than 120 days. We can do some checking and get back to you.

---

**From:** McAfee, Karen [<mailto:Karen.McAfee@mail.house.gov>]  
**Sent:** Wednesday, March 21, 2012 5:19 PM  
**To:** Norton William G Jr; Williams Floyd L; Glenn James E  
**Subject:** Tax-Exemption Applications

Hi, what is the average wait time for a tax -exempt organization application for exemption? We are being told 120 days. Is this correct? I thought it was closer to 180 days. Thanks, Karen

Karen B. McAfee  
Democratic Tax Counsel &  
Staff Director, Subcommittee on Oversight  
Committee on Ways & Means  
1139-A Longworth House Office Building  
Washington, DC 20515  
(202) 225-4021



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**From:** Zarin Roberta B  
**Sent:** Thursday, March 22, 2012 3:15 PM  
**To:** Lerner Lois G; Paz Holly O; Urban Joseph J; Fish David L; Kindell Judith E; Lowe Justin  
**Cc:** Marx Dawn R; Egeth Hillary B; Adam Debbie A  
**Subject:** FW: clip: [OK] IRS power abuse draws criticism -- Tulsa Beacon, 032212

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Stell David W  
**Sent:** Thursday, March 22, 2012 2:07 PM  
**To:** \*Media Relations; Bellcock Nancy S; Cook Caroline R TIGTA; Crews Craig E; Dollard Denise D; Dubois Shelisa T; Ericson Jamye B; Fisher Jane H; Germany Jan F; Huizenga Deborah A; Johnson Marcus J; Laird William C; McWhorter David A; Metcalf Gregory O; Pollard Jennifer L; Smith Johnny L; Stewart Margaret E; Ward Theresa L; Birdsong Michael B; Bonny Jackie L; Braddock Beth; Cassimus Sandra O; Charles Pam K; Corcoran Denise A; Stell David W; Evans Linda L (OKC); Favors Michael E; Foster Tracy B TIGTA; Gaither Brenda G; Goff Lauri H; Goins Pam C; Gumaer Mary L; Hawkins Kerry R; Hensley Delphine A; Huff Donna M; Jones Berneice; Kreidler Suzanne N; Marr Bonnie S; O'Neill Karen L; Poppe Wayne A; Ramirez Sherri J; Simpson Richard L; Waddell T Mark; Wallace Warren K; West Sharon K; Wiewel John D  
**Cc:** Zarin Roberta B  
**Subject:** clip: [OK] IRS power abuse draws criticism -- Tulsa Beacon, 032212

**The Tulsa Beacon (weekly newspaper)**  
**Tulsa, OK**  
**Thursday, March 22, 2012**

## **IRS power abuse draws criticism**

**Sen. Gary Stanislawski said Americans should be appalled by reports that the Internal Revenue Service (IRS) is specifically targeting Tea Party Organizations throughout the country. Stanislawski, R-Tulsa, said such investigations are a gross abuse of power.**

**"In my mind this is just one more example of the federal government abusing power and far exceeding its authority - something that has been the hallmark of this administration," said Stanislawski. "It seems clear that the IRS is targeting groups who they perceive as enemies of their CEO - Barack Obama."**

**A growing number of media reports have stated the IRS has been challenging the tax -exempt status of Tea Party groups across the country, including groups in Hawaii, Texas, Ohio, California, Kentucky and Virginia.**

**"The IRS is reportedly investigating whether some organizations actually meet the criteria for being tax-exempt, but it seems obvious they are overwhelmingly targeting constitutional organizations," Stanislawski said. "One group applying for tax -exempt status received a letter from the IRS with more than 80 questions."**

**The letter demanded the organization to submit the schedule of all events, the names of all speakers and what they said, along with every communication about the event. They also**

**demanded the names of every donor and all board members or offices - current as well as those who might seek an office in that organization in the future. The IRS also demanded copies of the group's website that were only available to members.**

**"Unless the IRS can prove that this is routine operating procedure for every group in the nation that applies for non-profit status, it seems obvious that this is nothing less than an attempt to harass and intimidate anyone who doesn't agree with Obama," Stanislawski said.**

**"This is a direct assault on our constitutionally protected freedoms of speech and assembly."**

---

**From:** Urban Joseph J  
**Sent:** Friday, March 23, 2012 6:14 AM  
**To:** Grant Joseph H; Medina Moises C; Daly Richard M; Marks Nancy J; Lerner Lois G; Paz Holly O; Fish David L; Miller Thomas J; Kindell Judith E; Light Sharon P; Paz Holly O; Lowe Justin; Megosh Andy; Flax Nikole C; Daly Richard M  
**Subject:** #3 2012 TNT 57-3 BOUSTANY PLANS HEARING ON IRS TREATMENT OF TEA PARTY GROUPS

**ABSTRACT:** Despite assurances from IRS Commissioner Douglas Shulman that his agency is not targeting Tea Party groups for special scrutiny, House Ways and Means Oversight Subcommittee Chair Charles W. Boustany Jr., R-La., said he plans to call a congressional hearing to explore the IRS's activities in investigating political groups seeking tax -exempt status.

**AUTHOR:** Hoffman, William;  
van den Berg, David  
Tax Analysts

Release Date: MARCH 23, 2012

Published by Tax Analysts(R)

Despite assurances from IRS Commissioner Douglas Shulman that his agency is not targeting Tea Party groups for special scrutiny, House Ways and Means Oversight Subcommittee Chair Charles W. Boustany Jr., R-La., said he plans to call a congressional hearing to explore the IRS 's activities in investigating political groups seeking tax -exempt status.

"I'm not happy with the response I got," Boustany told reporters after a March 22 Oversight Subcommittee hearing on the IRS's fiscal 2013 budget request. "It really is not consist ent with what we're hearing. I've received a number of letters from concerned groups. [Shulman] seemed to indicate that [the IRS is] not doing anything out of the ordinary, but that's not the indication I'm getting from various groups around the country."

Boustany did not set a date for his planned hearing.

"What's been happening is the normal back and forth that happens with the IRS," Shulman said at the hearing. He noted that the Service engages applicants for 501(c)(4) status in an interactive proces s to affirm that the designation goes only to groups whose primary purpose is the promotion of social welfare. (For related coverage, see *Doc 2012-6043*.)

Boustany sent Shulman a letter on March 1 asking Shulman to explain how the IRS reviews applications for tax-exempt status and how it decides to make follow -up requests for more information from some applicants. The letter came after complaints from some Tea Party groups who said action on their applications for exemptions under [section 501\(c\)\(4\)](#) has been delayed because the IRS is asking for too much information. (For prior coverage, see *Doc 2012-4344* or [2012 TNT 42-3](#). For the letter, see *Doc 2012-4385* or [2012 TNT 42-30](#).)

### Practitioners Defend IRS

At the annual Washington Non -Profit Legal and Tax Conference in Arlington, Va., practitioners on one discussion panel defended the IRS.

"They're just doing their job, I think," said Alan P. Dye of Webster, Chamberlain & Bean LLP in Washington. "Some questions that people have been getting are very detailed and much more detailed

than has been the case in a lot of other [section 501\(c\)\(4\)](#) applications. But with some exceptions, the questions are relevant."

Suzanne Ross McDowell of Steptoe & Johnson LLP in Washington said that as a practitioner who often files exemption applications for new organizations, she has seen many organizations face questions from the IRS.

"It's not unusual," she said. "There are some plain -vanilla types that might not get any questions and just sail right through, but any organization of any degree of complexity is likely to get questions asking for clarification."

Asked about the Tea Party applications, Judith Kindell, senior technical adviser (exempt organizations), IRS Tax-Exempt and Government Entities Division, said she could not discuss any particular cases.

Kindell discussed social media in her presentation. In a letter to the Richmond Tea Party, one of the groups that later raised concerns about the IRS actions, the Service requested copies of web pages and "presentations on other web pages such as social networking sites and blog sites." (For the letter, see *Doc 2012-4433* or [2012 TNT 42-39](#).)

Kindell did not discuss the Richmond Tea Party but said the IRS has difficulty in general with groups' social media communications and websites because of IRS electronic firewalls. "We can't always get to websites through our firewalls, and we certainly cannot get to social media sites," she said.

Regarding the issue of [section 501\(c\)\(4\)](#) organizations and political activity, Kindell said that the agency looks at tax law and focuses on whether organizations are acting in accordance with their exempt purpose. She also said the IRS is using the redesigned Form 990 to select cases for examination. The agency has identified some data analytics that relate to possible political campaign or lobbying activity and is using them, she said.

"We are in the arena," she said.

---

**From:** Urban Joseph J  
**Sent:** Friday, March 23, 2012 6:17 AM  
**To:** Grant Joseph H; Medina Moises C; Daly Richard M; Marks Nancy J; Lerner Lois G; Paz Holly O; Fish David L; Miller Thomas J; Kindell Judith E; Light Sharon P; Paz Holly O; Lowe Justin; Megosh Andy; Flax Nikole C; Daly Richard M; Marks Nancy J  
**Subject:** BNA - Boustany to Press for Answers on IRS Scrutiny of Tea Party Exemption Requests

By Alison Bennett

House Ways and Means Oversight Subcommittee Chairman Charles Boustany(R -La.) said March 22 that he will continue to press for answers on the Internal Revenue Service's recent scrutiny of conservative groups seeking exemptions under Section 501(c)(4).

"I want a more detailed answer," Boustany told reporters following testimony by IRS Commissioner Douglas Shulman at a subcommittee hearing that IRS is not politically targeting so-called tea party groups. Boustany raised the issue at a hearing on the tax filing season and IRS's fiscal year 2013 budget request and then spoke to reporters afterwards.

Many of these groups have said in recent weeks that they believe IRS is unfairly singling them out through what they view as overly intensive and intrusive questions in response to their requests for exemptions(40 DTR G -4, 3/1/12).

Shulman stressed during the hearing, however, that "absolutely no targeting" is taking place, noting that the groups have been voluntarily coming in to seek exemptions and "what's been happening is the normal back-and-forth" that is part of that process.

### **Boustany to Hold Hearings**

The subcommittee chairman told reporters he was not satisfied by Shulman's testimony and said he plans to hold hearings on broader issues surrounding exempt organizations that also will address the tea party allegations.

Acknowledging that this is "a very heated political issue," Boustany said he is getting "a lot of letters" from tea party groups and plans to ask for more detailed input on all sides of the issue.

"We have to do this in a legitimate way," the Louisiana lawmaker told reporters. "The whole area of exempt organizations has not been explored in quite a long time."

In response to a question, Boustany said it is too soon to say whether any IRS officials would be called on to testify at upcoming hearings.

Shulman explained at the hearing that groups do not need to prospectively apply for Section 501(c)(4) status but can "hold themselves out" as such organizations and simply file a Form 990 explaining their operations at the end of the first tax year for IRS to scrutinize. "All these organizations came in voluntarily," Shulman testified.

### **Commissioner Describes Panel of Three**

The IRS commissioner stressed that a three-person panel of career officials, far from Washington, looks at allegations of inappropriate political activity by exempt groups before further action is pursued. Shulman noted that he and the IRS chief counsel are the agency's only two political appointees.

Shulman made similar comments at a hearing of the House Appropriations Subcommittee on Financial Services and General Government March 21(55 DTR G -5, 3/22/12).

Boustany's comments March 22 follow a March 1 letter he sent to IRS noting concerns raised by tea party and other

conservative political groups and asking for a detailed break down of how IRS processes requests for exemptions (41 DTR G-8, 3/2/12).

The March 1 letter builds on an Oct. 6, 2011 letter Boustany wrote to IRS seeking information about the status of various IRS compliance efforts involving the tax -exempt sector and issues related to audits of tax -exempt organizations (195 DTR G-5, 10/7/11; 249 DTR G-2, 12/29/11).

---

**From:** Thomas Cindy M  
**Sent:** Friday, March 23, 2012 1:58 PM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O; Megosh Andy; Park Nalee  
**Subject:** RE: updated timeline - template questions  
**Attachments:** QuestionnairesSamples.doc

Yes. That is right.

Another list of questions was provided to staff (see attached) to use as reference when they started working the advocacy cases.

I'm getting off this computer now to start cleaning the house. So, I won't be reading emails for awhile. If you need anything, call my house at b(6) and b(7)(C) pers...

---

**From:** Lerner Lois G  
**Sent:** Friday, March 23, 2012 2:53 PM  
**To:** Thomas Cindy M; Megosh Andy; Park Nalee  
**Cc:** Paz Holly O  
**Subject:** RE: updated timeline - template questions

**Just to confirm--these questions were NOT provided to staff to use in working the cases -- rather staff developed them and were sending to EO Technical to review and possibly use when developing materials to be used to develop the cases? Is that right?**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Thomas Cindy M  
**Sent:** Friday, March 23, 2012 1:40 PM  
**To:** Lerner Lois G; Megosh Andy; Park Nalee  
**Subject:** FW: updated timeline - template questions

Per our discussion on 3/23.

---

**From:** Thomas Cindy M  
**Sent:** Thursday, March 01, 2012 8:16 AM  
**To:** Megosh Andy; Lowe Justin  
**Cc:** Paz Holly O  
**Subject:** FW: updated timeline - template questions

A subteam from those working the advocacy cases in Cincinnati put together a draft list of template questions. Holly mentioned that you are working on revising questions and asked that I send these to you. You may or may not find them helpful.

-----Original Message-----

From: Paz Holly O

Sent: Thursday, March 01, 2012 5:51 AM

To: Thomas Cindy M

Subject: Re: updated timeline - template questions

Thanks for verifying re: development letters. Please do send the letter to Andy/Justin. Not sure I can do from bb.

---

**From:** Thomas Cindy M  
**Sent:** Wednesday, February 29, 2012 10:29 PM  
**To:** Paz Holly O  
**Subject:** updated timeline - template questions

Holly,

I just read the email below. A subteam from those working the advocacy cases put together a draft list of template questions. Andy and Justin may find this helpful. I know you're not available on 3/1 and 3/2 and not sure you're still on computer. If I don't hear back from you by 3/1 in the a.m., I'll pass the attachment off to Andy and Justin.

Also, based on information in the attached document, I believe it is clear that our folks were instructed not to ask questions if information is in the case file. But, I'm still going to verify with Steve Bowling that this was accurate for prior cases and will let you know what he says.

---

**From:** Bowling Steven F  
**Sent:** Wednesday, February 29, 2012 8:22 AM  
**To:** Thomas Cindy M  
**Subject:** FW: Advocacy template questions

Cindy,

Attached are some template questions the team has developed. I told Stephen to hold off on sending them to our EOT contacts (Justin Lowe and Hilary Goehausen) as I'm not sure who all is involved now. I didn't want to duplicate our efforts.

STEVEN F. BOWLING  
Manager, EO Group 7822  
Exempt Organizations Determinations  
550 Main Street, Room 4-504  
Cincinnati, OH 45202  
Tel (513) 263-3704  
Fax (513) 263-4540

---

**From:** Seok Stephen D  
**Sent:** Tuesday, February 28, 2012 4:56 PM  
**To:** Bowling Steven F  
**Subject:** Advocacy template questions



Steve,

Attached please find the template questions we drafted and talked about this afternoon.

Thank you,  
Stephen.

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP



(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

(b)(5) DP

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**From:** Lerner Lois G  
**Sent:** Friday, March 23, 2012 4:12 PM  
**To:** Paz Holly O  
**Cc:** Fish David L; Zarin Roberta B; Kindell Judith E  
**Subject:** RE: [REDACTED]

[REDACTED]  
(b)(3)/6103

[REDACTED]  
(b)(3)/6103

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Friday, March 23, 2012 10:48 AM  
**To:** Lerner Lois G  
**Cc:** Fish David L; Zarin Roberta B; Kindell Judith E  
**Subject:** FW: [REDACTED]

[REDACTED]  
(b)(3)/6103

---

**From:** Paz Holly O  
**Sent:** Wednesday, March 21, 2012 3:41 PM  
**To:** Lerner Lois G  
**Subject:** FW: [REDACTED]

[REDACTED]  
(b)(3)/6103

[REDACTED]  
(b)(3)/6103

[REDACTED]  
(b)(3)/6103

(b)(3)/6103

---

**From:** Thomas Cindy M  
**Sent:** Tuesday, March 20, 2012 4:52 PM  
**To:** Paz Holly O  
**Subject:** FW: [REDACTED]

(b)(3)/6103

Holly,

(b)(3)/6103

Please let me know if you need any other information related to this. Thanks.

---

**From:** Seok Stephen D  
**Sent:** Tuesday, March 20, 2012 10:34 AM  
**To:** Thomas Cindy M



**Cc:** b(6) and b(7)(C) perso... P; Berry Daniel W; Esrig Bonnie A; Bowling Steven F; Waddell Jon M; Seok Stephen D  
**Subject:** FW: Advocacy Case --- Who Asked Question and Why?  
**Importance:** High

Mrs. Thomas,

[REDACTED]

[REDACTED] (b)(3)/6103 [REDACTED]

[REDACTED]

[REDACTED]

If you need any further clarifications or questions, please let me know.

[REDACTED] (b)(3)/6103 [REDACTED]

---

**From:** Paz Holly O  
**Sent:** Friday, March 16, 2012 2:04 PM  
**To:** Thomas Cindy M  
**Subject:** FW: [REDACTED] (b)(3)/6103 [REDACTED]

[REDACTED] (b)(3)/6103 [REDACTED] Thanks!

Holly

---

**From:** Zarin Roberta B  
**Sent:** Friday, March 16, 2012 9:49 AM  
**To:** Lerner Lois G; Urban Joseph J; Paz Holly O; Fish David L; Kindell Judith E; Lowe Justin  
**Cc:** Marx Dawn R  
**Subject:** FW: [REDACTED] (b)(3)/6103 [REDACTED]

read

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Cressman William M  
**Sent:** Friday, March 16, 2012 9:43 AM  
**To:** Eldridge Michelle L; Zarin Roberta B  
**Subject:** [REDACTED] (b)(3)/6103

FYI

---

**Bill Cressman (Badge # 1000212378)**  
**Ch., Field Media Relations Branch (C&L)**  
**Office: 215-861-1550 Cell: 215-519-5413**

---

**From:** Kerns Chris D  
**Sent:** Friday, March 16, 2012 9:36 AM  
**To:** Cressman William M  
**Subject:** [REDACTED] (b)(3)/6103

(b)(3)/6103

(b)(3)/6103

---

**From:** Lerner Lois G  
**Sent:** Friday, March 23, 2012 4:20 PM  
**To:** Paz Holly O  
**Subject:** RE: [REDACTED]

(b)(3)/6103

Had a heated discussion with Vickie about guide sheet. I think we left the conversation that we would continue to work and they would point out places where we might need to soften language to meet their concerns. I have my own issues with the latest draft, so we need to set up a meeting inside --I'll try to schedule for Monday. Not sure the way the questions were asked are the issue--we can talk on Monday. Do I have the draft letter--don't recall seeing it

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Friday, March 23, 2012 5:14 PM  
**To:** Lerner Lois G  
**Subject:** RE: [REDACTED]

(b)(3)/6103

I think the revised template questions Andy and Justin will finalize after we get the guidesheet revision done will help. Also, sending Andy and Justin to Cincy to work live cases with folks as we have planned will go a long way.

Speaking of- where do we go on the guidesheet? I say the Vicki/Janine email exchange about the potential need for higher level clearance.

Also, when you have a chance, please let me know if the draft letter to be sent to c3 applicants giving them more time like we sent to c4s is OK to send.

Thanks!

Holly

---

**From:** Lerner Lois G  
**Sent:** Friday, March 23, 2012 4:59 PM  
**To:** Paz Holly O  
**Cc:** Fish David L; Zarin Roberta B; Kindell Judith E  
**Subject:** RE: [REDACTED]

(b)(3)/6103

Thanks--now that I see it, I remember you telling me. I am concerned though about the form of questions being asked--they can sometimes appear burdensome simply because they are not well articulated. How do we help Cincinnati with that?

*Lois G. Lerner*

Director of Exempt Organizations

(b)(3)/6103

**From:** Paz Holly O  
**Sent:** Wednesday, March 21, 2012 3:41 PM  
**To:** Lerner Lois G  
**Subject:** FW: [REDACTED]

(b)(3)/6103

(b)(3)/6103

(b)(3)/6103

(b)(3)/6103

---

**From:** Thomas Cindy M  
**Sent:** Tuesday, March 20, 2012 4:52 PM  
**To:** Paz Holly O  
**Subject:** FW: (b)(3)/6103

Holly,

(b)(3)/6103

Please let me know if you need any other information related to this. Thanks.

---

**From:** Seok Stephen D  
**Sent:** Tuesday, March 20, 2012 10:34 AM  
**To:** Thomas Cindy M  
**Cc:** (b)(6); (b)(7)(C); Berry Daniel W; Esrig Bonnie A; Bowling Steven F; Waddell Jon M; Seok Stephen D  
**Subject:** FW: Advocacy Case --- Who Asked Question and Why?  
**Importance:** High

Mrs. Thomas,

(b)(3)/6103

If you need any further clarifications or questions, please let me know.

(b)(3)/6103

---

**From:** Paz Holly O  
**Sent:** Friday, March 16, 2012 2:04 PM  
**To:** Thomas Cindy M  
**Subject:** FW: (b)(3)/6103

(b)(3)/6103

Thanks!

Holly

---

**From:** Zarin Roberta B  
**Sent:** Friday, March 16, 2012 9:49 AM  
**To:** Lerner Lois G; Urban Joseph J; Paz Holly O; Fish David L; Kindell Judith E; Lowe Justin  
**Cc:** Marx Dawn R  
**Subject:** FW: (b)(3)/6103

read

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Cressman William M  
**Sent:** Friday, March 16, 2012 9:43 AM  
**To:** Eldridge Michelle L; Zarin Roberta B  
**Subject:** (b)(3)/6103

FYI

---

**Bill Cressman (Badge # 1000212378)**  
**Ch., Field Media Relations Branch (C&L)**  
**Office: 215-861-1550 Cell: 215-519-5413**

---

**From:** Kerns Chris D

**Sent:** Friday, March 16, 2012 9:36 AM

**To:** Cressman William M

**Subject:** [REDACTED] (b)(3)/6103

(b)(3)/6103



(b)(3)/6103

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**From:** Seto Michael C  
**Sent:** Sunday, March 25, 2012 10:00 PM  
**To:** Lerner Lois G; Kindell Judith E; Light Sharon P  
**Cc:** Paz Holly O; Marx Dawn R; Fish David L; Abner Donna J; Thomas Cindy M; Trilli Darla J; Neuhart Paige  
**Subject:** Significant Case Report for Feb. 2012  
**Attachments:** SCR Report Table Feb 2012.doc

Highlights:

A. Closures

- We have 1 closure in February, (b)(3)/6103 (b)(3)/6103

B. Cases

Exemption applications -

1. (b)(3)/6103 (item 1 - (b)(3)/6103
2. (b)(3)/6103; non-responsive item 2 - (b)(3)/6103; non-responsive
3. b(3)\6103; non-responsive (item 16 - (c)(3) applications) - b(3)\6103; non-responsive

**EO Technical  
Significant Case Report  
( February 29, 2012)**

- 21 open SCs

**A. Open SCs:**

	Name of Org/Group	Group #/Manager	EIN	Received	Issue	Tax Law Specialist	Estimated Completion Date	Status/Next action	Being Elevated to TEGE Commissioner This Month
1.	Political Advocacy Organizations b(3)\6103	T1 Steve Grodnitzky	b(3)\6103	b(3)\6103	Whether an organization meets the requirements under section 501(c)(3) and is not involved in political intervention. Whether organization is conducting excessive political activity to deny exemption under section 501(c)(4)	b(3)\6103	b(3)\6103	b(3)\6103; (b)(5) DP	No
2.	b(3)\6103; non-responsive								

*b(3)\6103; non-responsive*

*b(3)\6103; non-responsive*

*b(3)\6103; non-responsive*

*b(3)\6103; non-responsive*

*b(3)\6103; non-responsive*



*b(3)\6103; non-responsive*

*b(3)\6103; non-responsive*

*b(3)\6103; non-responsive*

*b(3)\6103; non-responsive*

*b(3)\6103; non-responsive*

*b(3)\6103; non-responsive*

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 29, 2012 6:28 PM  
**To:** Marks Nancy J; Paz Holly O; Fish David L; Urban Joseph J; Downing Nanette M  
**Subject:** FW: my rough notes including, where we specified, who had the ball--note there are gaps  
**Attachments:** How to UNZIP.html; SecureZIP Attachments.zip

**A couple added thoughts**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Marks Nancy J  
**Sent:** Thursday, March 29, 2012 5:08 PM  
**To:** Lerner Lois G; Paz Holly O; Thomas Cindy M; Fish David L; Urban Joseph J; Downing Nanette M  
**Cc:** Marks Nancy J  
**Subject:** my rough notes including, where we specified, who had the ball--note there are gaps

please correct, update, clarify, challenge etc. to the extent this does not match your understanding. thanks

```
<!doctype html public "-//w3c//dtd html 4.0 transitional//en">
<html>
<head>
<style>
p
    {margin-top:0em;
    margin-right:0em;
    font-size:x-small;
    font-family:"Verdana";
    margin-bottom : 0.8em;
    }
A:link {
    color: #004daa;
}
A:visited {
    color: #004daa;
}
A:hover {
    font-weight: normal;
    font-style: normal;
    color: #e40000;
}
</style>
</head>
<body bgcolor="#FFFFFF">
<p>You can easily open the attached ZIP file with ZIP Reader by PKWARE<sup
style="font-size: smaller;">&reg;</sup>. ZIP Reader by PKWARE is a FREE Windows utility
that enables you to process compressed and/or AES passphrase-encrypted files created by
PKZIP<sup style="font-size: smaller;">&reg;</sup> or other products that support these
capabilities.</p>

<p>In addition, ZIP Reader by PKWARE can process strongly encrypted and digitally signed
files created by PKWARE SecureZIP<sup style="font-size: smaller;">&reg;</sup>, whether
secured with digital certificates or passphrases.</p>

<p>Visit <a href="http://www.zipreader.com">www.zipreader.com</a> to download your free
copy of ZIP Reader by PKWARE.</p>

<p>Note, the sender of this message may have used an alternate file extension for .ZIP
files. To open this attachment, you may need to first rename the file extension to
.ZIP.</p>
</body>
</html>
```



Notes on background info gathering/prep for potential (c)(4) hearing

- I. Status of Congressionals (and copies incoming/outgoing and all attachments):  
[Jo Urban will keep track working with Dave and Andy]

February 16 Bennett, Franken, Merkley, Schumer,

March 1—Boustany

March 12—Boustany

March 14---Boustany

March 27—Boustany

??—Hatch—[being worked assigned to Melinda and Justin —some challenges because of confusion in the questions but need to respond quickly was discussed]

?? Welch (not here yet?)

[Jo Urban will look for any other hill letters]

II. II. Historical and Current Case related Data and Case handling procedures

1. a. Demographic information on (c) (3) (4) (5) (6) and 527 for adequately representative period [Group settled on 8 years as sufficiently broad to show trends, other election cycles, and pick up the PACI initiative which presents some similar challenges] [A lot of this data can be pulled from the SOI records—Dave Fish will update what is already compiled]

Applications including handling and outcome— (note to the extent we can we should identify what numbers relate to auto revocation so we can back those out of what might otherwise look like trend upticks)

Examinations including handling and outcome same level of detail as above.

B General performance metrics —e.g. budgets, number of employees, exam determ break out etc. [Dave Fish will have Brian go back and build the additional information needed on this]

## 2. Process—The Determ process

This should address all aspects of processing—where received, who handles, how decisions are made re buckets/assignment/development etc. , what tools are available, how are decisions made as to tools needed, how are tools developed, what actions were taken/what results will want to track not only what but when—e.g. when did screening and intermediate processing come in—capture process from beginning to end [e.g. Cindy noted involvement of mandatory review]

In this context where have we faced similar issues/used similar tools and approaches e.g. credit counseling, down payment assistance, supporting orgs, PACI, charter schools--  
The exam process—

EO plan--including workplans

(we should capture specifically anything we've said/done re advocacy issues)

## 3. Referral history and trends [Nan Downing]

As background for the hearing need all background recoverable on other cases that may be seen as raising similar issues (e.g. [REDACTED])

b3/6103

[REDACTED] {Judy/Jack Riley may know this one} Other cases?  
[Tom Miller will focus on this area]

## III.

Copy of JCT report

Any relevant TIGTA reports e.g. 527, b3/6103 PACI? [Jo work with Mike Daley]

Any relevant published guidance whether of general applicability [most of this captured in current draft of guide sheet] or internal e.g. manual, exam guidelines, CPE materials, GCMs [Jo Urban will coordinate on the internal stuff with help from EO. . . .]

- IV. Capture the various reg/guidance suggestions and have a sense of what we think can be or can't be worked administratively (Shumer letter) –ultimately will need Treasury start internally
- V. Any Taxpayer Advocate issues/input [Holly and Cindy—Cindy indicates she keeps a folder]
- VI. All the 501 (c)(4) gift tax materials provided earlier [Jo Urban]
- VII. The public PACI reports [Lois may have]
- VIII. The **b3/6103** materials [Jo will talk to Nikole]
- IX. A copy of retention schedules given that many of the cases are beyond the retention schedules and files were disposed of at an earlier point or before the move.

