

**Hogan James F**

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**From:** (b)(6)  
**Sent:** Tuesday, May 10, 2011 2:48 PM  
**To:** Guntow Janis; Babb Anita M; (b)(6) Imhoff John H Jr  
**Cc:** (b)(6) Piehl Lisa M; Hogan James F  
**Subject:** Update RE: NY Times Inbound E&G Deadline today

I talked to Tom Miller, and with his okay went ahead and called Media Relations to find out if a response has been issued to the NY Times. They appreciated the facts and background provided in our response yesterday. At this time, they do not plan to provide a response to the reporter. They are giving a heads up to Nikole Flaks on Steve Miller's staff so that they are aware of the inbound inquiry from the NY Times.

(b)(6)

Staff Assistant, Estate and Gift Tax Program

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**From:** (b)(6)  
**Sent:** Monday, May 09, 2011 3:25 PM  
**To:** Guntow Janis; Babb Anita M; (b)(6) Imhoff John H Jr  
**Subject:** RE: NY Times Inbound E&G Deadline today

(b)(5)/ DP

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6/14/2011

IRS-JW-220-004767

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**From:** Guntow Janis  
**Sent:** Monday, May 09, 2011 2:25 PM  
**To:** Babb Anita M; (b)(6)  
**Cc:** (b)(6)  
**Subject:** RE: NY Times Inbound E&G Deadline today

Anita/Patty, Thank you

Tom, As you can see from the email below our E&G folks are working on it – we will keep you updated.

Janis Guntow  
SB/SE Specialty Programs  
Senior Operations Advisor  
Desk: (b)(6)  
Cell: (b)(6)

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**From:** Babb Anita M  
**Sent:** Monday, May 09, 2011 3:14 PM  
**To:** Guntow Janis  
**Cc:** (b)(6)  
**Subject:** RE: NY Times Inbound E&G Deadline today

we are working on it.  
This was some work that came from TEGE as unfiled gifts. David Fogel was involved. I am getting a call together now

Anita M. Babb  
Chief, Estate and Gift Tax Program

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**From:** Guntow Janis  
**Sent:** Monday, May 09, 2011 2:53 PM  
**To:** Babb Anita M  
**Cc:** (b)(6)  
**Subject:** FW: NY Times Inbound E&G Deadline today  
**Importance:** High

Anita/Patty, Please see below and respond ASAP.

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**From:** (b)(6)  
**Sent:** Monday, May 09, 2011 2:31 PM  
**To:** Guntow Janis  
**Cc:** Brown Ginny L; (b)(6) (b)(6)  
**Subject:** FW: NY Times Inbound E&G Deadline today  
**Importance:** High

6/14/2011

IRS-JW-220-004768

Hi Janis,  
Media contact from NYTimes on Gift Taxes ... we need to respond today. Here is the basic question, with a little more background info (including a redacted IRS notice) in the email below:

Do you know if there is a program within SBSE looking for gift tax returns that omitted including gifts to 501(c)(4)s?

(b)(6)  
SB/SE Communications  
Cincinnati IRS Center  
(b)(6)

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From: (b)(6)  
Sent: Monday, May 09, 2011 2:23 PM  
To: (b)(6) (b)(6)  
Subject: FW: NY Times Inbound E&G Deadline today  
Importance: High

Ginny and Tom,

This is a biggy since it's the NY Times (and Tax Notes Today probably), even if we don't want to say anything MR needs some sort of response ASAP.

At a recent ABA Tax Section this came up:

Practitioners have seen in recent months (see redacted letter below) evidence of IRS enforcement efforts in an area previously not subject to IRS scrutiny. Apparently this is an effort directed by the Estate and Gift Tax function at the IRS, not the EO function.

Practitioners on May 6 complained that, if the IRS is now seeking to impose taxes on gifts to section 501(c)(4) organizations, it needs to make an announcement to that effect, seek comments, and apply any new policy prospectively.

As it is, enforcement efforts directed at 2008 returns have come with no IRS notices and follow an extended period of no effort by the IRS to collect gift taxes in these circumstances.

Practitioners consider this an unfair, even outrageous, effort by the IRS to catch unwary taxpayers. Past efforts by the ABA to seek direction in this area resulted in no guidance by the IRS. One practitioner even considers the IRS's actions unconstitutional, since a gift tax on section 501(c)(4) donors is, in effect, infringing on their First Amendment free speech rights, and an attack on section 501(c)(4) organizations engaged in permissible political activities.

Practitioners on May 6 complained that, if the IRS is now seeking to impose taxes on gifts to section 501(c)(4) organizations, it needs to make an announcement to that effect, seek comments, and apply any new policy prospectively. As it is, enforcement efforts directed at 2008 returns have come with no IRS notices and follow an extended period of no effort by the IRS to collect gift taxes in these circumstances. Practitioners consider this an unfair, even outrageous, effort by the IRS to catch unwary taxpayers.

Please do whatever you can,

Thanks,

(b)(6)  
SB/SE Communications  
(b)(6)

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IRS-JW-220-004769

From: (b)(6)  
 Sent: Monday, May 09, 2011 1:57 PM  
 To: (b)(6)  
 Cc: Eldridge Michelle L  
 Subject: NY Times Inbound

Elcy, during the American Bar Association tax section meeting this past week, a practitioner handed out a redacted gift tax letter. See the item below.  
 Do you know if there is a program within SBSE looking for gift tax returns that omitted including gifts to 501(c)(4)s? My reporter called this afternoon as is on deadline for today.

(b)(6) IRS Media Relations (202) 622-4000

## 2 - Controversial Gift Tax Developments

One issue discussed on May 6 at the meeting of the Subcommittee on Political and Lobbying Organizations of the EO Committee of the ABA's Tax Section was rumors of an enforcement program targeting gifts to section 501(c)(4) organizations that are engaged in electoral activities. Practitioners have seen in recent months (see redacted letter below) evidence of IRS enforcement efforts in an area previously not subject to IRS scrutiny. Apparently this is an effort directed by the Estate and Gift Tax function at the IRS, not the EO function.

Practitioners on May 6 complained that, if the IRS is now seeking to impose taxes on gifts to section 501(c)(4) organizations, it needs to make an announcement to that effect, seek comments, and apply any new policy prospectively. As it is, enforcement efforts directed at 2008 returns have come with no IRS notices and follow an extended period of no effort by the IRS to collect gift taxes in these circumstances. Practitioners consider this an unfair, even outrageous, effort by the IRS to catch unwary taxpayers. Past efforts by the ABA to seek direction in this area resulted in no guidance by the IRS. One practitioner even considers the IRS's actions unconstitutional, since a gift tax on section 501(c)(4) donors is, in effect, infringing on their First Amendment free speech rights, and an attack on section 501(c)(4) organizations engaged in permissible political activities.

Practitioners assume the IRS is using Form 990 Schedule B information to find donors to section 501(c)(4) organizations. If the IRS then finds that the donor has not filed a Form 709 gift tax return, the IRS will assert a gift tax deficiency.

### Redacted Gift Tax Letter

February 16, 2011

Re: \*\*\* 2008 Gift

Dear \*\*\*:

Your 2008 gift tax return (Form 709) has been assigned to me for examination. The Internal Revenue Service has received information that you donated cash to \*\*\*, an IRC Section 501(c)(4) organization. Donations to 501(c)(4) organizations are taxable gifts and your contribution in 2008 should have been reported on your 2008 Federal Gift Tax Return (Form 709). As part of this examination, please provide the following information by March 16, 2011:

1. Please provide a list of all donations from 2008 (include the donee, the amount donated, and the date of donation).
2. State whether the donation(s) consisted of community property.
3. For each donation, state whether the donation was included on your 2008 gift tax return, and if the donation was not included, state your reason for exclusion.

The Internal Revenue Service attempts to close examinations as expeditiously as possible. As part of that process, my goal is to conclude this examination by November 2011. If this timeframe does not work for you we can discuss a more agreeable

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time.

As part of the examination (as authorized under IRC § 7602), I may need to contact third parties for additional information. Please find enclosed a copy of IRS Publication 1, Your Rights as a Taxpayer, and Notice 609, Privacy Act and Paperwork Reduction Notice. These publications will help you understand your rights in dealing with the IRS.

Also enclosed is a copy of Form 2848m Power of Attorney and Declaration of Representative. You should complete the Form 2848 for any representative who is not already authorized to act for you and receive confidential information regarding this gift tax return.

After I analyze the above-referenced information, I will likely request additional documents or a conference with you or your representative to discuss the issues. I look forward to your response. If you have any questions or concerns, please contact me at the address or phone number referenced above.

Sincerely,

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Attorney, Estate & Gift Tax  
Small Business/Self-Employed Division  
Internal Revenue Service  
Washington, D.C. 20224

Enclosures

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