(b)(5)/dp Draft response to Congressional inquiry

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(b)(5)/dp Draft response to Congressional inquiry

[redacted]

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.

(b)(5)/dp

1. How many new tax-exempt organizations has the IRS recognized each year since 2008? (b)(5)/dp (b)(5)/dp

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. (b)(5)/dp

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. (b)(5)/dp

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. (b)(5)/dp (b)(5)/dp

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. (b)(5)/dp

(b)(5)/dp

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. (b)(5)/dp (b)(5)/dp

(b)(5)/dp

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? (b)(5)/dp

Should you have any questions regarding this request, please contact or at (202) 225-5522.

Sincerely,

/s/ (b)(5)/dp

Charles Boustany, Jr., MD

Chairman

(b)(5)/dp

(b)(5)/dp

(b)(5)/dp

3/13/2012

Park Nalee

From: Park Nalee
Sent: Thursday, March 08, 2012 7:54 PM
To: Kindell Judith E
Cc: Fish David L
Subject: RE: BNA - Boustany Letter
Attachments: SecureZIP Attachments.zip; Boustany ltr 3-8-2012.DOC

The first attachment is the final, signed response we provided in November (met them in December). The second attachment is the one we're still working on to respond to their additional/supplemental questions that were raised in the Dec meeting - this draft has Nikole's comments/ changes.

Please scroll all the way down to the list of new letter questions for the ones I recommend comparing to the already drafted responses - comments in red.

NaLee
202.283.9453

From: Fish David L
Sent: Thursday, March 08, 2012 2:16 PM
To: Park Nalee
Subject: FW: BNA - Boustany Letter

From: Urban Joseph J
Sent: Friday, March 02, 2012 7:19 AM
To: Grant Joseph H; Medina Moises C; Marks Nancy J; Daly Richard M; Lerner Lois G; Kindell Judith E; Light Sharon P; Paz Holly O; Fish David L; Miller Thomas J; Lowe Justin
Subject: BNA - Boustany Letter

House Ways and Means Oversight Subcommittee Chairman Boustany Letter to IRS Commissioner Shulman on Tax-Exempt Sector

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

(b)(5)/dp Handwritten notes reflecting proposed language for consideration in response to Congressional inquiry

[redacted]

(b)(5)/dp Handwritten notes reflecting proposed language for consideration in response to Congressional inquiry

[redacted]

(b)(5)/dp Handwritten notes reflecting proposed language for consideration in response to Congressional inquiry

[redacted]

(b)(5)/dp Draft response to Congressional inquiry

[redacted]

(b)(5)/dp Draft response to Congressional inquiry

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(b)(5)/dp Draft response to Congressional inquiry

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(b)(5)/dp Draft document titled "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues"

[redacted]

(b)(5)/dp Draft document titled "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues"

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(b)(5)/dp Draft document titled "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues"

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(b)(5)/dp Draft document titled "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues"

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[redacted]

(b)(5)/dp Draft document titled "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues"

[redacted]

(b)(5)/dp Draft response to Congressional inquiry

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(b)(5)/dp Draft response to Congressional inquiry

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(b)(5)/dp Draft response to Congressional inquiry

[redacted]

United States Senate

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

January 4, 2013

VIA U.S. MAIL & EMAIL (Catherine.M.Barre@irs.gov)

The Honorable Steven T. Miller
Acting Commissioner and Deputy Commissioner for Services and Enforcement
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Acting Commissioner Miller:

I appreciate your November 23, 2012 response to my letter of October 23, 2012. Please provide the following information by January 25, 2012.

1) In the IRS response of September 14, 2012, you write that "during the past six months, no notices of proposed or final revocation were issued to section 501(c)(4) organizations." In the November 23, 2012 IRS response, you write that "we have issued 42 revocation notices to section 501(c)(4) organizations since January of 2007." Also in the November 23, 2012 response you write "Since January 1, 2007, we have issued ten adverse determinations to section 501(c)(4) applicants." Please respond to the following:

(b)(5)/dp [redacted]

(b)(5)/dp [redacted]

revoc.

a. Please explain the difference between a "revocation notice" and an "adverse determination."

(b)(5)/dp [redacted]

b. Please explain whether or not a total of 52 organizations have now been deemed by the IRS as having not met their obligations as a § 501(c)(4) social welfare organization, and if so, please describe the consequences for those organizations in terms of whether or not they were subject to tax or penalties under § 527(i) and (j) for failure to make proper disclosure, whether they were then required by the IRS to pay other taxes, including back taxes, and whether or not they did so.

(b)(5)/dp [redacted]

i. If you have not already done so, please provide the notices or letters that the IRS sent to the groups which the IRS determined did not meet their obligations as § 501(c)(4) charitable organizations.

2) In the IRS response of November 23, 2012, you write that from January 1, 2007 to September 2012, the IRS has examined 643 § 501(c)(4) organizations to determine whether or not they were primarily engaged in social welfare activities but that the IRS "cannot definitively conclude whether we examined an organization to determine the

level of political activity" without conducting a manual review of these cases. Please respond to the following:

(b)(5)/dp

a. Please conduct this manual review and provide the number of these 643 examinations which involved political activity;

(b)(5)/dp

b. Please provide the number and names of the organizations that were determined to not be valid § 501(c)(4) organizations from this review.

c. Please provide an explanation as to how the IRS determined whether or not the § 501(c)(4) organization was primarily engaged in political activity including any guidance, memorandum, or criteria used by the IRS to determine whether or not a § 501(c)(4) organization was primarily engaged in political activity during these examinations.

(b)(5)/dp

3) In the IRS response of November 23, 2012, you write "Section 6104(a) of the Code permits public disclosure of an application for recognition of tax exempt status and supporting materials only after the organization has been recognized as exempt." On December 14, 2012, Propublica released the 1024 application for tax exempt status filed by Crossroads Grassroots Policy Strategies with the IRS.[1] Please respond to the following:

(b)(5)/dp

a. Did the IRS release the 1024 application filed by Crossroads Grassroots Policy Strategies to Propublica or any other entity?

b. If the IRS released the 1024 application filed by Crossroads Grassroots Policy Strategies, why did it do so since the IRS has yet to approve Crossroads' application?

c. Please also provide an update as to the status of the application for tax exempt status filed by Crossroads Grassroots Policy Strategies.

4) With regard to your June 4, 2012 response:

(b)(5)/dp

a. When describing the § 501(c)(4) application process, you write that "... in situations where there are a number of cases involving similar issues (such as credit counseling organizations, down payment assistance organizations, organizations that were automatically revoked and are seeking retroactive reinstatement, and most recently, advocacy organizations), the IRS will assign cases to designated employees to promote consistency." Please explain the term "advocacy organization" and provide any guidelines, memorandum, or procedures used by the IRS to evaluate § 501(c)(4) advocacy organizations including whether or not the IRS considers an "advocacy organization" to be an organization that is engaged in political activity.

(b)(5)/dp

(b)(5)/dp

Please provide the "draft educational guide sheet on the issue of political activity for section 501(c)(4) applications that was shared for comment with some employees in EO Determinations" that you reference on page 13 of the letter.

[1] See *Karl Rove's Dark Money Group Promised IRS It Would Spend Limited Money on Elections*, Propublica, (12/14/2012), http://www.propublica.org/article/what-karl-roves-dark-money-nonprofit-told-the-irs.

(b)(5)/dp

(b)(5)/dp

5) Please explain the difference between Rev. Ruling 2007-41, 2007-1 C.B. 1421, which is generally used by the IRS to determine whether issue advocacy crosses the line into campaign intervention[2] and Rev. Ruling 2004-6, 2004-1 C.B. 328, which generally addresses whether an expenditure for an issue advocacy expenditure is subject to the § 527(f) tax.[3] Please also explain which of these is used by the IRS to determine whether a § 501(c)(4) organization is primarily engaged in political activity.

6) It has been reported in the press that some § 501(c)(4) organizations report to the IRS that they do not engage in political activity but then report either they do engage in political activity to the Federal Election Commission (FEC) or report widely varying amounts of political activity to the FEC and the IRS.[4] Please respond to the following:

(b)(5)/dp

   a. Does the IRS track a § 501(c)(4) organization's filings with the FEC?
   b. What actions does the IRS take when there are differences in what a § 501(c)(4) organization reports to the IRS versus what it reports to the FEC?
   c. How does the IRS coordinate with the FEC with regard to § 501(c)(4) organizations?

Thank you for your assistance. If you have any questions, please contact me, or have your staff contact Laura Stuber of my staff at 202/224-9579 or Laura_Stuber@hsgac.senate.gov.

Sincerely,

Carl Levin

Carl Levin
Chairman
Permanent Subcommittee on Investigations

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[2] *Political Ads: Issue Advocacy or Campaign Activity Under the Tax Code*, Congressional Research Service, August 29, 2012.
[3] Id.
[4] See *How Non Profits Spend Millions on Elections and Call it Public Welfare*, Propublica, August 18, 2012, http://www.propublica.org/article/how-nonprofits-spend-millions-on-elections-and-call-it-public-welfare.

(b)(5)/dp Notes reflecting deliberations and recommendations as to how to respond to Congressional inquiry

[redacted]

(b)(5)/dp Notes reflecting deliberations and recommendations as to how to respond to Congressional inquiry

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(b)(5)/dp Draft response to Congressional inquiry

[redacted]

Park Nalee

From: Flax Nikole C
Sent: Saturday, February 09, 2013 5:43 PM
To: Lerner Lois G
Cc: Park Nalee
Subject: RE: Levin 02-8-2013 Q1.doc
Attachments: Levin 02-9-2013.doc

Some questions/comments in the doc. Thanks

Steve and Jennifer Vozne have the draft in case it needs to move while I am out (I will have my laptop, but won't get messages timely).

From: Lerner Lois G
Sent: Friday, February 08, 2013 4:24 PM
To: Flax Nikole C
Cc: Park Nalee; Lerner Lois G
Subject: Levin 02-8-2013 Q1.doc

This is now a complete draft--we have nothing more to add until we hear back from you.

(b)(5)/dp Draft response to Congressional inquiry

[redacted]

(b)(5)/dp Draft response to Congressional inquiry

[redacted]

(b)(5)/dp Draft response to Congressional inquiry

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[redacted]

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[redacted]

(b)(5)/dp; (b)(5)/ac Draft response to Congressional inquiry containing Counsel's edits.

[redacted]

Advocacy Apps

Holly – >100 new cases
Increased (c)(3)(& (4) – advocacy

Some all's approved
Brought up samples
I proposed favorable c4 to Counsel
I proposed adverse c3 will go to Counsel

Common theme – advocacy – but not cookie cutter

Want to keep in Cincy

Proposal – ~~Develop~~ Make a list of questions, things to develop

Lois – Had 3 recent denials, set lots of press (b)(3)/6103 [redacted]
What do with orgs that get c4
Their apps all look the same, one is in Wash.
Delegation Order – David Fish can revoke
Have used in post review situation – where did not comply on fact-articles deposition, etc.
Have an opportunity to come in.

Want to pull one issued in April, since so recent

Non-cly we know about, and cookie cutter, then not problematic.

1,000 referral letters

Non- Something on website? (b)(5)/dp [redacted]

Non- (b)(5)/dp [redacted]

DEVELOPMENT Q's 8-10-2011

Provide copies of all publications, advertisements and other recorded or printed material you distribute or make available to the public.

When during the calendar year did you distribute, broadcast or otherwise disseminate each such publication?

Which publications did you disseminate to coincide with the timing of a vote by Congress on legislation on the topic covered by the publication?

Which publications did you disseminate

Did you distribute any publications to specific geographic areas? On what basis did you select that geographic area?

Did you disseminate any publications to specific demographic groups? Which publication? Which groups? Why did you select that specific demographic group?

Which of your publications state the organization's position or objectives on the issue addressed?

Which of your publications state the positions on the issues of any elected government official? Of any candidate for public office?

Did you distribute any of these publications within 90 days of a party caucus, primary or general election? Did the distribution of any of these publications also coincide with the consideration by elected government officials of legislation on the issues addressed in such publications?

How much

Which of your publications state the position of any candidate for public office?

Describe the organization's purposes for each of its publications.

Which of the organization's activities are conducted by volunteers?

What percentage of the organization's activities are conducted by volunteers?

What are the specific sources of the organization's income (e.g., contributions, grants, sale of merchandise)? What is the percentage of income attributable to each source?

Are any of the organization's donors substantial contributors (e.g., 5% of contributions)?

Have any of the organization's officers, directors, or substantial contributors publicly stated support or opposition to any candidate (incumbent or opponent) for public office at any of the organization's events? In any of the organization's publications?

2/13 M T W TH FR

(b)(3)/6103

(b)(3)/6103 [redacted]

11395-05 27071

No authority or power

TC's injunction relief

(b)(3)/6103 [redacted]

Exempt - 1975

Parent (c)(4)

Members = enrolled or administered by

BD 40% Consumer directors

990 - 11 of 12 bd = independent

80% enrollment = MN programs for the needy

TL-27281-11

Counsel

501(c)(4) to Hill

Advocacy cases

Pretty explosive develop lts

What doing & how much

Deciding develop process

(A)

38848 ‡

Prime –

Fish Sulins Repass Magosh

Thomas

54 § 35.22.1.2

Cel, 87,

Kevin Griffin

~~Charles Christopher~~

Hillary Holly Sharon, JANUARY SUSAN, DAVID

Some appear 2 years old

C4 Cases

Bucket

4 30 bucket 4 – likely donors – (mostly PB, some political)

1 65 approvals – (some got long development [HJ will approve without).

2 48 small develop.

3 56 general develop

C4 operations only used to group

C3 Cases 83

1 16 approve

2 16 limited

3 23 general develop

4 28 likely donors (possible C4).

Federal Procedural Forms § 13:136, Complaint or Petition for Inverse Condemnation--Enactment of Ordinance Favorable to Third Party Prevents Development of Property by Owner [28 U.S.C.A. §§ 1331, 1367, 1391; 2201].

Federal Procedural Forms § 13:143, Complaint or Petition for Inverse Condemnation--Regulations Containing Incorrect Filing Information Caused Taking of Mining Claims Without Just Compensation [5 U.S.C.A. §§ 702, 704, 706; 28 U.S.C...

Federal Procedural Forms § 29:124, Declaration and Damage Claim--Response Costs for Release of Hazardous Substance [42 U.S.C.A. § 9607(a)].

Federal Procedural Forms § 29:128, Complaint--By Private Party--Against Previous Site Owner--For Recovery of Costs Under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") [42 U.S.C.A....

Federal Procedural Forms § 29:135, Complaint--For Declaratory and Injunctive Relief in Connection With Federal Agency's Failure to Prepare Environmental Impact Statement [28 U.S.C.A. § 2201; 42 U.S.C.A. § 4332; Fed. R. Civ....

Federal Procedural Forms § 30:149, Complaint--[7 U.S.C.A. §§ 181 et Seq.; 7 C.F.R. § 46.33; Fed. R. Civ. P. 8(a)].

Federal Procedural Forms § 31:198, Complaint--Agency Action Unlawfully Withheld in Violation of the Administrative Procedure Act--Failure to Withdraw Approvals for Subtherapeutic Uses of Drugs in Animal Feed [5 U.S.C.A....

Federal Procedural Forms § 34:329, Complaint in District Court--Seeking Declaratory and Injunctive Relief--Standard Practice of General Services Administration Results in Unlawful Deprivation of Sums Due Under Contract [5 U.S...

Federal Procedural Forms § 34:374, Complaint--For Review of Minimum Wage Determination [5 U.S.C.A. §§ 701 to 706; 28 U.S.C.A. §§ 2201, 2202; 41 U.S.C.A. §§ 6501 to 6511; Fed. R. Civ. P. 8 (A), 57, 65].

Federal Procedural Forms § 34:383, Answer and Counterclaim--To Action by United States Seeking Liquidated Damages [5 U.S.C.A. §§ 701 to 706; 28 U.S.C.A. § 2201; 41 U.S.C.A. §§ 6501 to 6511; Fed. R. Civ. P. 8, 13].

Federal Procedural Forms § 34:494, Complaint for Temporary Restraining Order, Preliminary Injunction, Permanent Injunction, Declaratory Judgment and Other Relief [28 U.S.C.A. §§ 1331, 1361, 1391(E)].

Federal Procedural Forms § 34:495, Complaint for Declaratory Relief.

Federal Procedural Forms § 35:260, Complaint--In Federal District Court--Alleging Title VII Violation by Federal Employer [42 U.S.C.A. §§ 2000e-5(F), 2000e-16(C); 29 C.F.R. § 1614.407].

Federal Procedural Forms § 35:266, Complaint--In Federal District--Alleging Violation of Age Discrimination in Employment Act by Federal Employer [29 U.S.C.A. § 633a(C); 29 C.F.R. §§ 1614.407, 1626.18].

Federal Procedural Forms § 35:270, Complaint--In Federal District Court--Alleging Violation of Rehabilitation Act by Federal Employer [29 U.S.C.A. §§ 791, 794a(A)(1), 42 U.S.C.A. § 2000e-16(C); 29 C.F.R. §§ 1614.203, 1614.407]...

Federal Procedural Forms § 35:277, Complaint--In Federal District Court--Alleging Violation of Equal Pay Act by Federal Employer [29 U.S.C.A. §§ 206(D), 216(B), 217; 29 C.F.R. §§ 1614.202,

Bucket worksheets

Bucket #2 - casespecific questions
Team Cincy drafting ltr &
sending to EO to review.
Only ask q's that could affect
determination; not the want to know.
Very targeted questions.
The letter would reflect review of
their particular file
Recognize that ~~do~~ can do some
political - don't need to establish that
political

2 types of ~~app~~ appls -
(a) sophisticated, w/ legal advice
(b) Hand written, very general - don't know
the law - ~~[illegible]~~ be able to answer
technical questions. May grant and refer
for follow-up. Do as much work as can -
looking at website, etc.

Relief--Failure of Restaurant to Remove Architectural Barrier [28 U.S.C.A §§ 1331, 1343, 2201, 2202; 42 U.S.C.A....

Federal Procedural Forms § 10:191, Complaint--Class Action--By Wheelchair Users--For Injunctive Relief--Inaccessible Stadium--Patrons Precluded from Sitting on Floor Level [28 U.S.C.A. §§ 1331, 1343, 2201, 2202.

Federal Procedural Forms § 10:210, Class Action Complaint--Wheelchair Users--Injunctive Relief--Failure of State Government to Construct Curb Ramps at Newly Constructed or Altered Intersections [28 U.S.C.A. §§ 1331, 1343...

Federal Procedural Forms § 10:218, Complaint--By Individual Who is Blind--For Declaratory and Injunctive Relief--Refusal to Permit Jury Service [28 U.S.C.A. §§ 1331, 1343, 1391, 2201, 2202; 29 U.S.C.A. § 794; 42 U.S.C.A....

Federal Procedural Forms § 10:219, Complaint--By Individual With Physical and Mental Disabilities--For Declaratory and Injunctive Relief--Person With Cognitive Limitations Precluded from Participating in State...

Federal Procedural Forms § 10:255, Complaint--Segregation--By Interdistrict Transfer of Part of School District--For Declaratory and Injunctive Relief [28 U.S.C.A. §§ 1343, 2201, 2202; 42 U.S.C.A. § 1983; Fed. R. Civ. P....

Federal Procedural Forms § 10:256, Complaint--Refusal to Admit to University--For Declaratory and Injunctive Relief [28 U.S.C.A. §§ 1331, 1343, 2201, 2202; 42 U.S.C.A. § 1981; Fed. R. Civ. P. 8(A), 57, 65].

Federal Procedural Forms § 10:266, Complaint--For Declaratory and Injunctive Relief--Class Action--Improper Placement--Of African-American Children--In Special Educational Class for Educable Mentally Disabled [.

Federal Procedural Forms § 10:267, Complaint--For Declaratory and Injunctive Relief--Improper Placement--Of "Trainable Mentally Handicapped" Child With Aids-Related Complex--In Homebound Education Program.

Federal Procedural Forms § 10:268, Complaint--By Child With an Aids-Related Complex--For Declaratory and Injunctive Relief--Improper Placement--In "Aids Classroom" Trailer Near School [28 U.S.C.A. §§ 1331,.

Federal Procedural Forms § 10:270, Complaint--For Declaratory and Injunctive Relief--Denial of Free Appropriate Public Education--Refusal to Provide Physical Therapy During Summer--Failure to Provide Timely And...

Federal Procedural Forms § 10:271, Complaint--For Temporary Restraining Order, Declaratory and Injunctive Relief--Denial of Free Appropriate Public Education--Refusal to Provide Residential Academic Placement--Failure...

Federal Procedural Forms § 10:276, Complaint--For Declaration Approving Residential Placement--For Reimbursement of Educational Expenses--For Attorney Fees [20 U.S.C.A. §§ 1401(3), 1415(i)(3); 28 U.S.C.A. §§ 1331, 1391...

Federal Procedural Forms § 10:304, Complaint--Suspension for Violation of Restrictive Hair Length Code--For Temporary Restraining Order--For Declaratory and Injunctive Relief [28 U.S.C.A. §§ 1343, 2201, 2202; 42 U.S.C.A...

Federal Procedural Forms § 10:341, Amended Complaint--By Female Athletes--Discriminated Against in Intercollegiate Athletic Program--Class Action--For Declaratory and Injunctive Relief [28 U.S.C.A. §§ 1331, 1343...

Object is to move the cases, doing
#2 jobs
Matthew, Andy, Justin, Hillary – review team

Bucket 4 – Cenci slipped 10 oldest to
DC – Judy & Justin will write
development if needed.
Tom Miller will review denial letters
then go back to Cenci for issuance.

Bucket 3 is the puppies
Bucket 4 generally are ~~can be~~ very ~~ab~~ clear cut

Sharon is reviewing the bucket recommendations

EO determine quality assurance reviewing these cases
not having a lot of disagreement
Bucket 3 typically they haven't told us
anything – 1 or 2 sentence actually
description, boxes marked inconsistently

Limit on Processing of Application [28 U.S.C.A. §§ 1331, 1337, 1343(A)(3)...

Federal Procedural Forms § 7:160, Complaint--Class Action by Aviation Mechanics--Against FAA by Mechanic School Graduates for Agency's Demand for Reexamination [28 U.S.C.A. § 1337; 49 U.S.C.A. § 41104; Fed. R. Civ. P....

Federal Procedural Forms § 7:161, Complaint--Against FAA--Injunction to End Enforcement of Revocation of Certificate [28 U.S.C.A. § 1337; 14 C.F.R. Pt. 212, 380].

Federal Procedural Forms § 8:146, Complaint--For Declaratory Relief--Regarding FDIC's Authority as Receiver and Bridge Depository Institution's Status as Trustee--For Injunctive Relief--Enjoining Action in.

Federal Procedural Forms § 8:331, Federal Question Jurisdiction.

Federal Procedural Forms § 10:128, Complaint--Unlawful Arrest--Interrogation--Incriminatory Statements Leading to Plaintiffs Criminal Conviction--Action for Damages [28 U.S.C.A. §§ 1331, 1343, 2201, 2202; 42 U.S.C.A...

Federal Procedural Forms § 10:134, Complaint--Unnecessary and Unreasonable Search--Strip Search--Class Action--Action for Declaratory and Injunctive Relief and Damages--Demand for Jury Trial [28 U.S.C.A. §§ 1331.

Federal Procedural Forms § 10:145, Complaint--By Detainee--Denial of Necessary and Adequate Medical Care and Treatment--For Residual Effects of Prior Surgery--Demand for Jury Trial--Action for Declaratory and i.

Federal Procedural Forms § 10:146, Complaint--By Detainee--Unreasonable Search and Seizure--"Shakedown" of Cell Without Probable Cause--Seizure of Trial Transcript--Action for Declaratory and Injuncti.

Federal Procedural Forms § 10:147, Complaint--By Detainee--Incarceration Beyond Expiration Date of State Sentence [28 U.S.C.A. §§ 1331, 1343; 42 U.S.C.A. § 1983; Fed. R. Civ. P. 8(a)].

Federal Procedural Forms § 10:149, Allegations in Complaint--Pretrial Detainee--Unreasonable Delay in Bringing Before Judge [28 U.S.C.A. §§ 1331, 1343, 1391; 42 U.S.C.A. § 1983; Fed. R. Civ. P. 8].

Federal Procedural Forms § 10:156, Complaint--Denial of Freedom of Religion--Ordinance Limiting Religious Solicitation at Municipal Facilities--For Declaratory and Injunctive Relief [28 U.S.C.A. §§ 1331, 1343, 2201...

Federal Procedural Forms § 10:157, Complaint--Violation of Right to Privacy--Statute Prohibiting Sodomy by Consenting Homosexuals in Private--For Declaratory Relief [28 U.S.C.A. §§ 1331, 1343, 1391, 2201, 2202; 42 U.S.C.A...

Federal Procedural Forms § 10:158, Complaint--Violation of Right to Privacy--Refusal to Suspend Extraordinary Means of Treatment--Cessation of Nutrition and Hydration--For Declaratory Relief [28 U.S.C.A. §§ 1331...

Federal Procedural Forms § 10:179, Complaint--Race Discrimination--Termination of Inn's Membership in Hotel Membership Organization Because Rooms Were Leased to Families Referred by Social Services--Action For...

Federal Procedural Forms § 10:188, Complaint--Wheelchair User Denied Full and Equal Enjoyment of Place of Public Accommodation--Baseball Coach Precluded from On-Field Coaching--For Declaratory and Injunctive Relief [28...

Federal Procedural Forms § 10:190, Complaint--By Disability Rights Advocacy Group--For Injunctive

like related entities & political interventions
Often don't understand what doing.
Other #3 are those that require lots of follow-up

Janine - where coming down on how much political is too much?

Holly - Don't know how many are close cases. Told them if the case is close, approve & do a referral. Application doesn't lend itself to deeper review.
Will talk to Exm about a specific Exm project.

Holly - ~~Gho~~ no bright lines; ~~used~~ in training, pulled actual cases and discussed/explained how to work/analyze.

Constitutional Rights--Ignoring Employees' Objections in Certifying Labor Organization to be Their Exclusive Representative [28 U.S.C...

Federal Procedural Forms § 48:99, Remedies.

Federal Procedural Forms § 5:113, Complaint--For Declaratory and Injunctive Relief--To Vacate Officer's Invalid Administrative Discharge [28 U.S.C.A. §§ 1331, 2201; Fed. R. Civ. P. 57].

Federal Procedural Forms § 5:114, Complaint--For Declaratory and Injunctive Relief--To Reinstate Plaintiff as Officer in United States Armed Forces--Discharge Under Other Than Honorable Conditions [28 U.S.C.A. §§ 1331...

Federal Procedural Forms § 5:116, Answer--Defense Against Suit for Declaratory and Injunctive Relief--From Alleged Invalid Discharge Imposed by Court-Martial [28 U.S.C.A. §§ 2201, 2202; Fed. R. Civ. P. 12(B), 12(C), 12(H), 57...

Federal Procedural Forms § 5:122, Complaint--For Declaratory and Injunctive Relief and Petition for Writ of Mandamus--Compelling Recognition of Rank to Which Servicemember Should Have Been Promoted [5 U.S.C.A. §§ 701, 702...

Federal Procedural Forms § 5:145, Complaint--For Correction of Air Force Records--For Declaratory, Injunctive and Mandamus Relief [10 U.S.C.A. § 1552; 28 U.S.C.A. §§ 1361, 2201, 2202].

Federal Procedural Forms § 5:217, Complaint--For Injunction to Enjoin Denial of Fee Waiver Requests--For Declaration that Plaintiff Eligible For, and Entitled To, Waiver of Search and Review Fees [5 U.S.C.A. § 552(A)(4)(A)...

Federal Procedural Forms § 5:250, Petition--For Injunctive Relief and Mandatory Injunction to Reinstate Plaintiff in National Guard and Rescind Order to Report for Active Duty Into United States Army [10 U.S.C.A. § 802(D); 28 U.S.C...

Federal Procedural Forms § 50:61, Complaint in District Court--For Review of Rejection of Offer for Noncompetitive Oil Lease [5 U.S.C.A. § 703; 28 U.S.C.A. § 1331; 30 U.S.C.A. § 226; Fed. R. Civ. P. 8 (a)].

Federal Procedural Forms § 51:42, Complaint in District Court--By Class and Individual Plaintiffs--Against United States--To Enjoin Construction of Dam on Navigable River--Inadequacy of Documentation [42 U.S.C.A....

Federal Procedural Forms § 54:89, Complaint--In District Court--For Declaratory Judgment that Postal Service Has Made Erroneous Determination of Nonmailability and for Injunctive Relief [5 U.S.C.A. § 703, 39 U.S.C.A. § 3001(M)]...

Federal Procedural Forms § 55:87, Complaint in District Court--For Review of Decision by the Bureau of Land Management Approving Land Exchange [28 U.S.C.A. § 1331; 5 U.S.C.A. § 702].

Federal Procedural Forms § 67:15, Action Against State Officials to Enforce Right to Unemployment Compensation.

Federal Procedural Forms § 67:20, Complaint--Class Action for Declaratory and Injunctive Relief--State Unemployment Compensation Statute Violative of Due Process; Denial of Benefits Without Opportunity for Prior...

Federal Procedural Forms § 67:21, Complaint--For Declaratory Judgment that Denial of Unemployment Compensation Benefits Violates of First Amendment--Plaintiff Forced to Quit Due to Religious Convictions [28 U.S.C.A....

Federal Procedural Forms § 67:22, Complaint--To Secure Benefits and to Impose Maximum Time

Cirii paralyzed by letting any issue go unaddressed. They think they know what the org is really doing rather than looking at actual activities.

Q's were not activity based, but guilt by association questions - like q's asking party affiliations

Question was not the discussion, more that an activities test, ~~and~~ told them they can think of it as 501(c) as a guidepost, but not the standard.

Encouraged people to look at the good activities too and that can do some politics. Help them see as a balancing test. Development may need to be good activities. No gotcha activities (the determ specialists have a C3 mindset. They see approval of something that

Favoring Temporary Stay of Operation of Determinations by Federal Official [5 U.S.C.A. § 705; Fed. R. App. P. 18].

Federal Procedural Forms § 30:64, Complaint--Action for Declaratory Relief and Enforcement of Paca Trust Provisions Against Paca Licensee--Failure to Pay for Delivered Produce [7 U.S.C.A. § 499e; 28 U.S.C.A. §§ 1331, 1391...

Federal Procedural Forms § 37:26, Complaint--Class Action for Declaratory and Injunctive Relief--Failure to Provide Assistance to Food Stamp Recipients in Emergency Situations [7 U.S.C.A. §§ 2011 to 2036; 28 U.S.C.A. §§ 1331...

Federal Procedural Forms § 37:65, Governing Law.

Federal Procedural Forms § 38:13, Complaint--For Injunctive and Declaratory Relief--Breach of Agency Authority; Failure to Conduct Adequate Environmental Impact Study; Failure to Conduct Public Hearing--Highway...

Federal Procedural Forms § 38:19, Complaint--For Declaratory and Injunctive Relief Under Environmental Acts--Highway Construction [5 U.S.C.A. § 702; 23 U.S.C.A. §§ 101 et Seq.; 28 U.S.C.A. §§ 1331, 1361, 2201; 42 U.S.C.A....

Federal Procedural Forms § 38:20, Complaint--For Writ of Mandamus, Injunction, and Declaration of Rights Under Nepa--Highway Alteration and Reconstruction [5 U.S.C.A. §§ 701 et Seq.; 23 U.S.C.A. §§ 101 et Seq.; 28 U.S.C.A....

Federal Procedural Forms § 38:21, Allegations in Complaint--District Court Jurisdiction in Action Under Federal-Aid Highway Act [28 U.S.C.A. §§ 1331, 1361, 2201; Fed. R. Civ. P. 8(a)].

Federal Procedural Forms § 41:19, Allegation in Complaint in District Court--Failure to Commence Probate Proceedings was Abuse of Discretion [5 U.S.C.A. §§ 701 et Seq.; 25 U.S.C.A. § 372; 28 U.S.C.A. §§ 1331, 1361, 2201; Fed. R....

Federal Procedural Forms § 41:24, Complaint in District Court--For Declaratory Judgment and Damages in Connection With Unlawful Cession of Indian Lands to State [28 U.S.C.A. §§ 1331, 1362, 2201; Fed. R. Civ. P. Rules 8(A), 57]...

Federal Procedural Forms § 41:53, Complaint in District Court--For Declaratory and Injunctive Relief--To Enjoin County from Collecting Taxes on Mobile Homes Owned by Indians and Located on Reservation Land [28 U.S.C.A....

Federal Procedural Forms § 41:54, Complaint in District Court--For Declaratory Relief--Right to Hunt and Fish on Property Ceded to United States Under Treaty [28 U.S.C.A. § 1362; 28 U.S.C.A. § 2201].

Federal Procedural Forms § 41:55, Complaint in District Court--Violation of Native American Graves Protection and Repatriation Act and Others--Declaratory and Injunctive Relief Requested [25 U.S.C.A. § 3001 et Seq.; 16 U.S.C.A...

Federal Procedural Forms § 41:57, Answer--To Complaint in District Court for Declaratory and Injunctive Relief [28 U.S.C.A. § 1360; Fed. R. Civ. P. Rule 8(B)].

Federal Procedural Forms § 41:69, Complaint in District Court--Indian Reorganization Act--Challenge to Lowering of Blood Requirement for Tribal Membership [25 U.S.C.A. § 461 et Seq.].

Federal Procedural Forms § 45:86, Complaint--Class Action for Declaratory and Injunctive Relief Against Employer--Discrimination in Employment on Basis of Race, Religion, National Origin, or Sex [28 U.S.C.A. §§ 1343(A)(4)...

Federal Procedural Forms § 46:75, Complaint by Employees Against NLRB--Deprivation of

well turn out to be very bad by —
terrified of that — that they personally will be charged.
Need to have power to say yes.
agents felt if they asked enough questions,
they will find a big problem.
Agents were jumping to negative conclusions/
assumptions. — particularly where ~~con~~ relationships
with political groups or affiliations.
Sam What to agents weigh/balance
Sharon — Don't look at any one thing — narratives
website,
Holly — more of a general, totality kind of
determinations — not quantitative.
Sharon — Had 1 case where asked for
Holly — had them just assume what they were
political and then ~~consider~~ focus on the
good activities and
Sharon — some cases will have to ascertain what
the primary activity is — DC will look at
those.

Federal Procedural Forms § 21:60, Motion--To Dismiss Action for Declaratory Relief Without Prejudice--Failure to State Claim on Which Relief Can be Granted--Complaint Presents Only Question of Fact Properly Determined...

Federal Procedural Forms § 21:65, Order--Dismissing Action for Declaratory and Injunctive Relief--State Court Will Provide Adequate Relief as to Eviction Proceedings [28 U.S.C.A. §§ 2201, 2202; Fed. R. Civ. P. 12(B), 57]...

Federal Procedural Forms § 24:25, Complaint in District Court--For Declaratory Judgment as to Small Business Size Status [15 U.S.C.A. § 634; 28 U.S.C.A. §§ 1331, 2201; Fed. R. Civ. P. 8(A), 57].

Federal Procedural Forms § 25:13, Complaint--To Compel Bilingual Electoral Process--Class Action [28 U.S.C.A. §§ 1343, 2201, 2202; 42 U.S.C.A. §§ 1971 et Seq., 1983; Fed. R. Civ. P. 8(A), 23, 57, 65].

Federal Procedural Forms § 25:14, Complaint--Seeking Declaratory and Injunctive Relief--Statutory Amendment Changing County Supervisorial Elections from District to At-Large System Unenforceable Pending Compliance With...

Federal Procedural Forms § 25:18, Complaint--For Injunctive Relief--Compelling Preclearance Under the Voting Rights Act to Relocate Polling Place [42 U.S.C.A. §§ 1973c, 1973j, 19731; 28 U.S.C.A. §§ 124, 1391, 1331, 2201, 2202...

Federal Procedural Forms § 25:21, Complaint--For Injunctive and Declaratory Relief--To Require Provision of Bilingual Elections in Spanish [42 U.S.C.A. §§ 1973a, 1973i, 1973j, 1973aa-1a, 1973aa-2, 1973aa-6; 28 U.S.C.A. §§ 2201...

Federal Procedural Forms § 25:23, Complaint--To Enforce Help America Vote Act of 2002 (Hava)--By United States--Disabled/Blind Voters [42 U.S.C.A. §§ 15481(A)(3), (4), 15482(B)].

Federal Procedural Forms § 25:24, Complaint--To Enforce Help America Vote Act of 2002 (Hava)--By Voters With Disabilities--No Privacy or Independence [42 U.S.C.A. §§ 15301 et Seq.].

Federal Procedural Forms § 25:25, Complaint--To Enforce Help America Vote Act of 2002 (Hava)--By Political Party--Electronic Voting Machines Fail Meet Legal Requirements [42 U.S.C.A. § 15481].

Federal Procedural Forms § 25:26, Complaint--Voter Registration Deadline Burdensome [28 U.S.C.A. §§ 2201, 2202; 42 U.S.C.A. § 1983].

Federal Procedural Forms § 25:48, Complaint--To Compel Constitutional Apportionment of Legislative Districts--Class Action [28 U.S.C.A. §§ 1343, 2201, 2202, 2284; 42 U.S.C.A. §§ 1983, 1988; Fed. R. Civ. P. 8(A), 23, 57, 65]...

Federal Procedural Forms § 25:49, Complaint--By Registered Voters Against State Officials--To Nullify State Legislative Reapportionment Laws--Laws Drafted to Minimize Representation of Particular Race and Party...

Federal Procedural Forms § 26:53, Complaint--For Continuation of Medical Benefits, Payment of Medical Expenses, and Payment of Attorney's Fees [28 U.S.C.A. §§ 1331, 1361, 2201, 2202; 5 U.S.C.A. §§ 504, 702 to 706, 8101, 8103]...

Federal Procedural Forms § 27:38, Complaint--For Declaratory Judgment--For Insurer to Defend/Pay Fela Claim [28 U.S.C.A. §§ 1332, 2201].

Federal Procedural Forms § 3:190, Petition--To Review Administrative Order--Court of Appeals--On Determinations, by Secretary of U.S. Executive Department, Affecting Branch of Commerce or Industry [Fed. R. App. P. 15(a)]...

Federal Procedural Forms § 3:234, Findings of Fact and Conclusions of Law--By Court of Appeals--

Spellmann Don R

Subject:	Advocacy Orgs Development
Location:	1750, Room 555 Call-in: 866-606-4717, 3209902
Start:	Wed 8/10/2011 10:00 AM
End:	Wed 8/10/2011 11:30 AM
Recurrence:	(none)
Meeting Status:	Accepted
Required Attendees:	Lowe Justin; Spellmann Don R; Marshall David L; Franklin Amy B; Kastenberg Elizabeth C; Hull Carter C; Gitterman Janet E; Goehausen Hilary
Optional Attendees:	Salins Mary J; Shoemaker Ronald J; Megosh Andy; Seto Michael C; Fish David L

Meeting to discuss development methods for organizations engaging in advocacy.

Holly
Justin
Judy
David
Tom
Andy

3-812

Cincinnati agents

Hill ~~may~~ thinks 49/51 + Lois said not the std → all f/c.

prob either "no b/c all pol" or "close enough, so yes" but we'll check.

Lois: Don't want to ~~send~~ signal to agents that 20% is test just by having BBB @ end.

Agents won't look @ law @ back — put more summary upfront.

- some pol activity is ok.

Chart is helpful. Wants this to stand alone as opposed to other stuff on irs.gov, although can include links for more info.

- want to take out fundraising pieces - including it.
  CC: OK
- flip questions so all going the same way?
- include more analysis?

Cook Janine

Subject:	guidesheet
Location:	1-866-606-4717 #8109057
Start:	Fri 3/23/2012 3:10 PM
End:	Fri 3/23/2012 3:40 PM
Recurrence:	(none)
Meeting Status:	Meeting organizer
Organizer:	Cook Janine
Required Attendees:	Cook Janine; Lerner Lois G; Judson Victoria A; Marks Nancy J
Optional Attendees:	Lerner Lois G; Lerner Lois G; Marks Nancy J

We need 10 more minutes...Vicki finishing up a call. Let's use my call-in since I'm not sure where Nan may be joining from.

Spellmann Don R

Subject: FW: Advocacy Orgs
Location: Room 351 1-866-606-4717 access code 9482833

Start: Tue 7/26/2011 2:00 PM
End: Tue 7/26/2011 3:00 PM

Recurrence: (none)

Meeting Status: Accepted

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Monday, July 11, 2011 4:18 PM
To: Marks Nancy J; Cook Janine; Paz Holly O; Lerner Lois G
Subject: Advocacy Orgs
When: Tuesday, July 26, 2011 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 351 1-866-606-4717 access code 9482833

When: Tuesday, July 26, 2011 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 351 1-866-606-4717 access code 9482833

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*

This meeting is at the request of Holly Paz. Please contact Akaisha Douglas for any scheduling issues.

AD
07-11-2011

Cook Janine

From: Judson Victoria A
Sent: Wednesday, April 04, 2012 12:34 PM
To: Cook Janine
Subject: Re: Follow -up

Do not think Nikole agrees with that. It is their fight, though, not ours.

Sent using BlackBerry

From: Cook Janine
To: Judson Victoria A
Sent: Wed Apr 04 12:27:52 2012
Subject: FW: Follow -up

ok, now I'm really confused.

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Wednesday, April 04, 2012 12:23 PM
To: Cook Janine
Subject: RE: Follow -up

We can continue our conversation on the guide sheet later, and I look forward to finalizing things soon. I just want to make clear that the decision on the guide sheet and questions asked is made at the business unit level--the Commissioner's office is not involved in that type decision.

Lois G. Lerner
Director of Exempt Organizations

From: Cook Janine [mailto:Janine.Cook@irscounsel.treas.gov]
Sent: Wednesday, April 04, 2012 8:43 AM
To: Lerner Lois G
Subject: RE: Follow -up

Susan filled me in on all the helpful info from Joe on both past and pending congressionals. What also is coming into clearer focus for us based on emails and conversations these past few days is that there are different "buckets" (for lack of a better term) of work--

(1) apps that are on hold (all 3/4s to my knowledge)
(2) prospective exam activity on any kind of c org doing political activity, for which there is training on 2/23, and
(3) Prospective (?) exam activity on 4/5/6s that haven't applied.

I'm not sure about the intended scope of either (2) or (3). And I appreciate that I may still not be describing them correctly. We didn't have an initial understanding of these latter 2 or how you wanted the guidesheet to be useful for (2) as well as (1). It would help me to have a better feel for what projects (and their scope) are on your plan (written or otherwise) so I can better understand your needs, priorities, challenges, etc. If there is a way I should've had that information earlier that I missed--I looked at strategic plan but its light on details (smile)--please let me know so I can do a better job being aware of overall plans and thus be all the more ready to support you.

Having said all that, Vicki and I do have a sense of the challenges you are under here and that frankly you're being caught between a rock and a hard place. We appreciate that the IRS can make decisions to do things without our advice and in disagreement with our advice. We expect that Nikole/steve will weigh all the pieces here--admin needs and sensitivities--and make an informed decision. Our role here is to advise you and thus them on what we think is the appropriate document to put out for agent use. While much of what you do everyday falls into the highly sensitive category, I venture to say that this has got to be one of the top at this time. Accordingly, our legal advice is to follow as closely to the guidance line as possible in what is disseminated and thus publicly available--formal or not, we all know it will be scrutinized. Again, I appreciate (at least somewhat) the difficult position you are in, but Vicki's and my advice remains the same, pending a different instruction from either our bosses or if Nikole/Steve want to move a different direction. Vicki and I have discussed this very briefly with Bill Wilkins and Erik Corwin at our biweekly and they indicated agreement with our view.

As I indicated, we will be getting you the doc by COB today. The work on hold that understandably has to move forward are the apps in (1) above. (Whether there is any flexibility on timing of (2) is clearly an IRS call.) What we are sending back is a document--following the structure your team put together-- that will clearly help agents gather facts needed to move the applications forward. A "fact-gathering document" as you mention below. There will be a brief mention of application to 5/6s and we can also provide some additional foundational text on 5/6s that could be included.

The key difference is that we are ensuring everything is traceable to legal standards or positions in guidance. The main consequences are cutting back on what is said about 5/6s and not categorizing factors. If you look at it and want to put those things back in, that will be the place where IRS can decide to do more than counsel advises. Since we've not been able to discuss this together with Nikole, we are providing the doc we can support. If Steve/Nikole decide to do more, we'll scramble to provide any final assistance you need from us.

While I'd very much appreciate more information on these matters, I'm bouncing between a number of meetings today. How about we see where we stand after you get our draft later today?

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Tuesday, April 03, 2012 6:22 PM
To: Cook Janine
Subject: Follow -up

I just talked to Joe Urban who had come back from 1111 after bringing Susan up to speed on where we are on the Congressional. I'm thinking perhaps it would be useful for me and Joe Urban to sit down and explain to you the practical realities of Counsel's position that you don't want to include anything regarding c5s and 6s in the guide sheet and don't like the idea of a check sheet.

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

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

I know you suggested just including c3 and c4 information in the guide sheet--that just won't work. So, if--as we initially agreed--you can tell me specifically what parts of the draft we sent give you heartburn and why, we will try to lessen the heartburn. Ignoring pieces or not speaking to them because Counsel is not comfortable is NOT an option for me. The work is here, my folks need to do it, and they will regardless of what we give them. Our job is to provide them with the best tool we can.

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

Lois G. Lerner
Director of Exempt Organizations

Cook Janine

From: Cook Janine
Sent: Wednesday, April 04, 2012 8:46 AM
To: Judson Victoria A
Subject: FW: Follow -up

Vicki, sharing this with you so you know what I explained to Lois since she is still pushing back. I didn't think a phone call today with her would be productive (although more information on what they are doing would be helpful overall and would have been helpful to understand earlier than these last few days). I think she needs to see the document first as she may be more satisfied than she thinks (other than the lack of categorizing factors).

I thought about copying you but instead just sprinkled your name throughout to indicate you are fully engaged with this.

From: Cook Janine
Sent: Wednesday, April 04, 2012 8:43 AM
To: Lerner Lois G
Subject: RE: Follow -up

Susan filled me in on all the helpful info from Joe on both past and pending congressionals. What also is coming into clearer focus for us based on emails and conversations these past few days is that there are different "buckets" (for lack of a better term) of work--

(1) apps that are on hold (all 3/4s to my knowledge)
(2) prospective exam activity on any kind of c org doing political activity, for which there is training on 2/23, and
(3) Prospective (?) exam activity on 4/5/6s that haven't applied.

I'm not sure about the intended scope of either (2) or (3). And I appreciate that I may still not be describing them correctly. We didn't have an initial understanding of these latter 2 or how you wanted the guidesheet to be useful for (2) as well as (1). It would help me to have a better feel for what projects (and their scope) are on your plan (written or otherwise) so I can better understand your needs, priorities, challenges, etc. If there is a way I should've had that information earlier that I missed--I looked at strategic plan but its light on details (smile)--please let me know so I can do a better job being aware of overall plans and thus be all the more ready to support you.

Having said all that, Vicki and I do have a sense of the challenges you are under here and that frankly you're being caught between a rock and a hard place. We appreciate that the IRS can make decisions to do things without our advice and in disagreement with our advice. We expect that Nikole/steve will weigh all the pieces here--admin needs and sensitivities--and make an informed decision. Our role here is to advise you and thus them on what we think is the appropriate document to put out for agent use. While much of what you do everyday falls into the highly sensitive category, I venture to say that this has got to be one of the top at this time. Accordingly, our legal advice is to follow as closely to the guidance line as possible in what is disseminated and thus publicly available--formal or not, we all know it will be scrutinized. Again, I appreciate (at least somewhat) the difficult position you are in, but Vicki's and my advice remains the same, pending a different instruction from either our bosses or if Nikole/Steve want to move a different direction. Vicki and I have discussed this very briefly with Bill Wilkins and Erik Corwin at our biweekly and they indicated agreement with our view.

As I indicated, we will be getting you the doc by COB today. The work on hold that understandably has to move forward are the apps in (1) above. (Whether there is any flexibility on timing of (2) is clearly an IRS call.) What we are sending back is a document--following the structure your team put together-- that will clearly help agents gather facts needed to move the applications forward. A "fact-gathering document" as you mention below. There will be a brief mention of application to 5/6s and we can also provide some additional foundational text on 5/6s that could be included.

The key difference is that we are ensuring everything is traceable to legal standards or positions in guidance. The main consequences are cutting back on what is said about 5/6s and not categorizing factors. If you look at it and want to put those things back in, that will be the place where IRS can decide to do more than counsel advises. Since we've not been able to discuss this together with Nikole, we are providing the doc we can support. If Steve/Nikole decide to do more, we'll

scramble to provide any final assistance you need from us.

While I'd very much appreciate more information on these matters, I'm bouncing between a number of meetings today. How about we see where we stand after you get our draft later today?

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Tuesday, April 03, 2012 6:22 PM
To: Cook Janine
Subject: Follow -up

I just talked to Joe Urban who had come back from 1111 after bringing Susan up to speed on where we are on the Congressional. I'm thinking perhaps it would be useful for me and Joe Urban to sit down and explain to you the practical realities of Counsel's position that you don't want to include anything regarding c5s and 6s in the guide sheet and don't like the idea of a check sheet.

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

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

I know you suggested just including c3 and c4 information in the guide sheet--that just won't work. So, if--as we initially agreed--you can tell me specifically what parts of the draft we sent give you heartburn and why, we will try to lessen the heartburn. Ignoring pieces or not speaking to them because Counsel is not comfortable is NOT an option for me. The work is here, my folks need to do it, and they will regardless of what we give them. Our job is to provide them with the best tool we can.

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

Lois G. Lerner
Director of Exempt Organizations

Spellmann Don R

From: Spellmann Don R
Sent: Wednesday, August 03, 2011 11:00 AM
To: Franklin Amy B
Subject: FW: Mtg on Advocacy Cases
Attachments: Westlaw_Document_09_57_11.doc

Hi Amy,

Here's what I got from Holly on Thursday's meeting. I expect it mostly to be a coordination meeting, with maybe some general discussion about how to develop the cases. If you have had (or have) time to skim 6103 [redacted] that might be helpful. But it's not essential (I'm sure you have other things to do). I will plan to skim the 2 cases (David had copies). Rev Rul 2007-41 (which gives all the political examples) might also be a good thing to look at (time permitting). Sorry we didn't get more direction sooner. What is your preference/convenience, in person or by phone?

Thank you!

Don

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Wednesday, August 03, 2011 9:49 AM
To: Spellmann Don R
Cc: Lowe Justin
Subject: FW: Mtg on Advocacy Cases

Don,

This meeting was set up at the request of David Marshall (prior to yours and my meeting with Lois, Janine and Nan last week) , so that Counsel could get a better idea of the factual situation in Determs . Because there are several moving pieces connected to this issue, my folks think it would still be helpful to have this meeting to coordinate as to:

1. The 2 cases sent to Counsel that are being sent back for further development.

2. The checksheet (not a model development letter) EOT is writing for Determs specialists working the advocacy cases. It will explain the different types of advocacy, the types permitted by different types of orgs., and questions to assist in identifying, and distinguishing between, types of advocacy.

3. A research paper on the definition of "exclusively" under (c)(4), exploring why the (c)(3) regs include both the "primarily" and the "no substantial part" language, but the (c)(4) regs only include the "primarily" language. It also includes a discussion of other IRS guidance and case law.

Given the shift in the focus of the meeting to overall coordination - ensuring that folks are on the same page at the staff level- we could probably shorten the length and hold it by phone rather than having you all come over.

Let me know what you think.

Thanks,

Holly

From: Spellmann Don R [mailto:Don.R.Spellmann@irscounsel.treas.gov]
Sent: Tuesday, August 02, 2011 2:15 PM
To: Paz Holly O
Subject: Mtg on Advocacy Cases

Hi Holly,

We have a meeting on Thursday afternoon (scheduled several weeks ago) with Justin Lowe and the TLS's that are working on the advocacy cases. The invited guests are: Lowe Justin; Megosh Andy; Kastenberg Elizabeth C; Hull Carter C; Goehausen Hilary; and (from counsel) Griffin Kenneth M; Marshall David L; and Franklin Amy B. The CC's were Seto Michael C; Fish David L; Shoemaker Ronald J.

I understand the original agenda was exchanging ideas and developing an overall game plan for working the advocacy cases. It was not about any particular case. We now are wondering if the agenda or purpose of this meeting has changed in light of our meeting last week with Lois, Nan, and Janine. Is this the EO group that will be working on the model development letter we talked about? Or is there another group undertaking that task? We had assumed that the two c4 cases we are sending back, with the advice to factually develop the election year of 2010, would be further worked using the model letter that is to be prepared.

We are of course always happy to come over and exchange ideas on case development, help draft the model development letter, and discuss the particular facts and issues of individual cases. We just were unclear about how this previously scheduled meeting now fits into the overall schedule and game plan. And we didn't want to come over unprepared for whatever people were expecting. So I thought I would check with you.

Thanks!

Don

Don R. Spellmann
Senior Counsel
Office of Division Counsel/Associate Chief Counsel
(Tax Exempt and Government Entities)
1111 Constitution Avenue, NW, Room 4409
Washington, DC 20224
202-927-6799
202-622-1036 (Fax)

Franklin Amy B

From: Spellmann Don R
Sent: Wednesday, August 03, 2011 11:00 AM
To: Franklin Amy B
Subject: FW: Mtg on Advocacy Cases
Attachments: Westlaw_Document_09_57_11.doc

Hi Amy,

Here's what I got from Holly on Thursday's meeting. I expect it mostly to be a coordination meeting, with maybe some general discussion about how to develop the cases. If you have had (or have) time to skim 6103 [redacted] 6103 [redacted] that might be helpful. But it's not essential (I'm sure you have other things to do). I will plan to skim the 2 cases (David had copies). Rev Rul 2007-41 (which gives all the political examples) might also be a good thing to look at (time permitting). Sorry we didn't get more direction sooner. What is your preference/convenience, in person or by phone?

Thank you!

Don

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Wednesday, August 03, 2011 9:49 AM
To: Spellmann Don R
Cc: Lowe Justin
Subject: FW: Mtg on Advocacy Cases

Don,

This meeting was set up at the request of David Marshall (prior to yours and my meeting with Lois, Janine and Nan last week) , so that Counsel could get a better idea of the factual situation in Determs . Because there are several moving pieces connected to this issue, my folks think it would still be helpful to have this meeting to coordinate as to:

1. The 2 cases sent to Counsel that are being sent back for further development.

2. The checksheet (not a model development letter) EOT is writing for Determs specialists working the advocacy cases. It will explain the different types of advocacy, the types permitted by different types of orgs., and questions to assist in identifying, and distinguishing between, types of advocacy. Hilary & Justin

3. A research paper on the definition of "exclusively" under (c)(4), exploring why the (c)(3) regs include both the "primarily" and the "no substantial part" language, but the (c)(4) regs only include the "primarily" language. It also includes a discussion of other IRS guidance and case law. Justin & Amy Aug 19

Given the shift in the focus of the meeting to overall coordination - ensuring that folks are on the same page at the staff level- we could probably shorten the length and hold it by phone rather than having you all come over.

Let me know what you think.

Advocacy Orgs / 7-26-11
evenly split between (c)3 + (c)4s.
many reference "tea party" but on both sides
not cookie cutter
→ can't go templates

Proposed Plan:
Keep in Cinn.
Have contact here
Provide list for development
May send some (c)(4) favorables to ROO to check later.

Related matter
3 denials on (c)(4) b/c private benefit (not b/c political) / 7 had been approved. — 1 in April (earliest in 2006)
↳ shouldn't have been.

(b)(3)/6103 [redacted]

D.O. that lets David Fish ~~re~~revoke them.
- like to revoke the 1 in April & possibly the rest (even tho older) historically used if operational defects of exemption

issue of difference b/c they are older (org been active)

1 already in exam. Send the rest there? (b)(5)/dp [redacted]
(b)(5)/dp [redacted]

Nan: makes sense to use this tool of come to our attention. Can't search for them though

J: could be (b)(5)/dp [redacted]
Lois: yes will go up chain 1st.
Nan: don't want to create expectation of constant

JW1559-040875

pect a lot to come.

(c)(3)s prob. no; (c)(4)s prob. yes.

Can we put anything in basic stds on irs.gov.?
Lois: Steve prob. (b)(5)/dp [redacted]

There is a more awareness in Cinn. that (c)(4)s aren't automatic after no to (c)(3).

Lois: we should just deny if appl. on its face has fault (don't develop that).
↳ or just give (c)(4) if they fit

but they get proposed denial 1st

Nan (b)(5)/dp [redacted]

to face better in Appeals

Don: (b)(5)/dp [redacted]

Nan (b)(5)/dp [redacted]

want 9f on this from counsel - not regd by 508.

Lois (b)(5)/dp [redacted]

Lois: let's consider reverse conversion

(b)(5)/dp [redacted]

b/c "can't" ask for 2nd user fee. Plus Cinn. "converts" appl. to (c)(4)

No date
Likely Don's Notes from
7/26 meeting

Advocacy Apps

Holly – >100 new cases
Revised (c)(3)(& (4) – advocacy

Some all's approved
Brought up examples:
I proposed jurisdiction c4 to counsel
I proposed adverse c3 will go to counsel

Common theme – advocacy – but not cookie cutter

Want to keep in circ

Proposal – ~~Develop~~ Make a list of questions, things to develop

Lois – Had 3 recent denials, got lots of press (b)(3)/6103 [redacted]
What do with orgs that get c4
Their appeal case the same one is in Exam,
Delegation Order – David Fish can revoke
Have used in post review situation – where did not comply on fact – attitude, deportment, etc.
Have an opportunity to come in.

Want to pull one issued in April, some so recent

Non-cly we know about, and cookie cutter, also not problematic.

1,000 rejected form letters

Non- something on website? (b)(5)/dp [redacted]

Has- (b)(5)/dp [redacted]

Spellmann Don R

From: Spellmann Don R
Sent: Wednesday, August 03, 2011 11:00 AM
To: Franklin Amy B
Subject: FW: Mtg on Advocacy Cases
Attachments: Westlaw_Document_09_57_11.doc

Regarding Aug 4th meeting; Rescheduled for Aug 10

Hi Amy,

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Thanks,

Holly

From: Spellmann Don R [mailto:Don.R.Spellmann@irscounsel.treas.gov]
Sent: Tuesday, August 02, 2011 2:15 PM
To: Paz Holly O
Subject: Mtg on Advocacy Cases

Hi Holly,

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Thanks!

Don

Don R. Spellmann
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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)

Judson Victoria A

From: Cook Janine
Sent: Thursday, March 08, 2012 10:02 AM
To: Judson Victoria A
Subject: Re: Heads up on Draft Guide Sheet for advocacy organizations

(b)(5)/dp; (b)(5)/ac
[redacted]

Sent by my Blackberry

From: Judson Victoria A
To: Cook Janine
Sent: Thu Mar 08 09:58:23 2012
Subject: FW: Heads up on Draft Guide Sheet for advocacy organizations

FYI—for your eyes only: However, expect to have a longer discussion on this one on Friday.

Victoria A. Judson

Division Counsel/Associate Chief Counsel (TEGE)

Phone: 202-622-6000

Fax: 202-622-3865

From: Wilkins William J
Sent: Thursday, March 08, 2012 9:56 AM
To: Corwin Erik H
Cc: Judson Victoria A
Subject: RE: Heads up on Draft Guide Sheet for advocacy organizations

(b)(5)/dp; (b)(5)/ac
[redacted]

From: Cook Janine

Sent: Wednesday, March 07, 2012 8:03 PM

To: Wilkins William J; Corwin Erik H

Cc: Judson Victoria A

Subject: Heads up on Draft Guide Sheet for advocacy organizations

Bill and Erik

Just an awareness item for you on something that Steve Miller is talking about with EO on Friday. As you may be aware, over the past year EO has received an uptick in applications for c3 or c4 status from entities that will advocating for positions/issues and in some cases candidates. General issue advocacy may be fine, but depending on which status is at issue, lobbying may need to be limited and intervention in political campaigns may be forbidden altogether or limited.

(b)(5)/dp; (b)(5)/ac

[redacted]

We'll keep you posted on general developments, but in the meantime, we've attached the latest draft in case you wanted to glance through it. But in any event, wanted you to be aware of this sensitive matter and how the IRS is approaching it. Will provide any update at our biweekly on Friday.

Janine

<< File: Guide Sheet Counsel Comments 03-07-12.doc >>

Judson Victoria A

From: Cook Janine
Sent: Friday, March 23, 2012 11:11 AM
To: Judson Victoria A
Subject: RE: Guide sheet

i think 30 minutes will be enough b/c we are talking big picture, not specific edits to draft.

From: Judson Victoria A
Sent: Friday, March 23, 2012 11:10 AM
To: Cook Janine
Subject: Re: Guide sheet

If only half hour. Otherwise should make it later.

Sent using BlackBerry

From: Cook Janine
To: Lerner Lois G; Judson Victoria A
Sent: Fri Mar 23 10:49:40 2012
Subject: RE: Guide sheet

can we talk at 3?

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Friday, March 23, 2012 10:04 AM
To: Cook Janine
Subject: Guide sheet

Don't see a meeting on the calendar--do you have time to talk today?

Lois G. Lerner
Director of Exempt Organizations

Judson Victoria A

From: Cook Janine
Sent: Monday, April 02, 2012 12:26 PM
To: Judson Victoria A; Spellmann Don R; Brown Susan D
Subject: Advocacy orgs and next steps forward

Can we meet at 5 today to discuss not only the guide sheet, but also the other things Lois would like help with on c4s? Along the same lines, Bill called me today to ask us to start thinking about what we could/should/might do with "primarily" test in c4 regs.

Judson Victoria A

From: Cook Janine
Sent: Monday, April 02, 2012 3:52 PM
To: Judson Victoria A
Subject: Fw: Guide sheet

Relates to what we'll discuss at 5:15
Sent by my Blackberry

From: Lerner Lois G <Lois.G.Lerner@irs.gov>
To: Cook Janine
Sent: Mon Apr 02 14:58:25 2012
Subject: RE: Guide sheet

You are correct that we aren't seeing applications for c5 and 6, however, what I said regarding the c4,5, and 6 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, the factors we look at are the same. Having said that, give me the c3/4 and I'll see whether it works. This is incredibly frustrating. Not giving me the 5 and 6 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

From: Cook Janine [mailto:Janine.Cook@irscounsel.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 5/6s so that its available for broader use (such as exam activity). Can we focus on the first piece (3/4 apps) and then determine what agent's even need for 5/6s?

On the second issue, we are coordinating with CC:PA on where we have legal latitude to treat incomplete or incorrect returns as not filed returns and the ability to send them back. 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 returns are handled OR that we can justify the difference. 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 out 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

Judson Victoria A

From: Flax Nikole C <Nikole.C.Flax@irs.gov>
Sent: Wednesday, April 04, 2012 6:06 PM
To: Judson Victoria A
Subject: EO

Vicky -

When you have a minute, can we talk about the guide sheet? I am trying to get a better sense of what the issues really are. Thanks

Judson Victoria A

From: Judson Victoria A
Sent: Wednesday, April 04, 2012 7:43 PM
To: Judson Victoria A; Flax Nikole C
Subject: RE: EO

Categories: NUUU

My personal cell phone number is (b)(6)/(b)(7)(C) Home is (b)(6)/(b)(7)(C) I am usually in the office by about 8:15 a.m.

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
Phone: 202-622-6000
Fax: 202-622-3865

From: Judson Victoria A
Sent: Wednesday, April 04, 2012 7:42 PM
To: Flax Nikole C
Subject: RE: EO

I just got out of a meeting and then got caught by a call. Am heading out to meet someone for dinner. Want to talk late tonight or tomorrow morning?

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
Phone: 202-622-6000
Fax: 202-622-3865

From: Flax Nikole C [mailto:Nikole.C.Flax@irs.gov]
Sent: Wednesday, April 04, 2012 6:06 PM
To: Judson Victoria A
Subject: EO

Vicky -

When you have a minute, can we talk about the guide sheet? I am trying to get a better sense of what the issues really are. Thanks

Judson Victoria A

From: Cook Janine
Sent: Monday, April 09, 2012 4:26 PM
To: Judson Victoria A
Subject: RE: Meeting on guide sheet

just the draft you have that we sent back. i'll reforward.

From: Judson Victoria A
Sent: Monday, April 09, 2012 4:26 PM
To: Cook Janine
Subject: Meeting on guide sheet

I can make the meeting and just accepted. Let me know what draft to read before then. Anything for tonight?

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
Phone: 202-622-6000
Fax: 202-622-3865

Judson Victoria A

From: Cook Janine
Sent: Monday, April 09, 2012 5:36 PM
To: Judson Victoria A
Subject: FW: Guide Sheet Draft

Categories: NUUU

Here is the draft.

From: Spellmann Don R
Sent: Thursday, April 05, 2012 12:09 PM
To: Lerner Lois G; Kindell Judith E; Paz Holly O; Fish David L; Megosh Andy; Lowe Justin; Goehausen Hilary
Cc: Judson Victoria A; Cook Janine; Brown Susan D; Marshall David L
Subject: Guide Sheet Draft

Attached for review and discussion are our recommended changes to the advocacy guide sheet. This draft contains various minor edits or corrections to the one sent to Lois last night.

(b)(5)/dp and (b)(5)/ac

[redacted]

We are available at your convenience to discuss the guide sheet and our recommendations.

Thank you.

Don

guide sheet 04-05-2012 CC.doc

guide sheet c5 _c6 rules 04-0...

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
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202-622-1036 (Fax)

David's email Records

Marshall David L

In Preparation for 8/10 meeting

From: Spellmann Don R
Sent: Monday, August 08, 2011 12:53 PM
To: Marshall David L; Franklin Amy B
Subject: Wednesday Mtg

Importance: Low

Hi David & Amy.

If you both have time, I think it would be helpful at Wednesday's meeting if you could provide a brief sketch of your organizations and what they do (and plan to do). Most of the attendees are not likely to be familiar with the specifics of your cases. Highlight things you think warrant further development or explanation, particularly their political activities (both what they label as political and what we think could be political). You also may have questions about what their underlying social welfare purpose is and how its activities would advance them. Note anything that concerns you or raises questions. I think this will provide a good backdrop and lead in for why we are recommending development for the 2010 election year. As you have time, be thinking of the types of information you'd like to have specific to your entity (like copies of 2010 ads and other distributed materials, when broadcast or distributed, the audience it reaches, what criteria they used to select a particular market, allocation of costs between social and political activities (and the method they used to make that allocation). Depending on how the discussion goes, I suppose we should be prepared to offer to provide them a detailed list of development questions (at a later date).

Thank you. I'll be around tomorrow if there's anything we need to discuss.

Don

Spellmann Don R

Subject: Advocacy Orgs Development
Location: 1750, Room 555 Call-in: 866-606-4717, 3209902

Start: Wed 8/10/2011 10:00 AM
End: Wed 8/10/2011 11:30 AM

Rescheduled meeting

Recurrence: (none)

Meeting Status: Accepted

Required Attendees: Lowe Justin; Spellmann Don R; Marshall David L; Franklin Amy B; Kastenberg Elizabeth C; Hull Carter C; Gitterman Janet E; Goehausen Hilary
Optional Attendees: Salins Mary J; Shoemaker Ronald J; Megosh Andy; Seto Michael C; Fish David L

Meeting to discuss development methods for organizations engaging in advocacy.

Judson Victoria A

From: Cook Janine
Sent: Tuesday, April 24, 2012 7:05 PM
To: Spellmann Don R; Judson Victoria A
Cc: Brown Susan D; Marshall David L
Subject: RE: Corrections and Clean Up to Guide Sheet Master

I'll look through this tonight. Thanks all

From: Spellmann Don R
Sent: Tuesday, April 24, 2012 4:51 PM
To: Judson Victoria A; Cook Janine
Cc: Brown Susan D; Marshall David L
Subject: Corrections and Clean Up to Guide Sheet Master

Please find attached our various corrections and clean ups to the guide sheet we circulated to EO on Friday.

Please let us know if you have comments or questions.

Thank you.

Don

Judson Victoria A

From: Spellmann Don R
Sent: Wednesday, April 25, 2012 3:59 PM
To: Judson Victoria A
Subject: Guide Sheet Safe for Toes

Here you go Vicki.

guide sheet
04-16-12 annota...

Judson Victoria A

From: Cook Janine
Sent: Monday, May 07, 2012 11:05 AM
To: Judson Victoria A
Subject: RE: Revised Guide Sheet

Categories: NUUU

thanks

From: Judson Victoria A
Sent: Monday, May 07, 2012 11:04 AM
To: Cook Janine
Subject: RE: Revised Guide Sheet

I may be talking with Nikole later today in which case I will ask.

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
Phone: 202-622-6000
Fax: 202-622-3865

From: Cook Janine
Sent: Monday, May 07, 2012 10:37 AM
To: Lerner Lois G
Cc: Judson Victoria A
Subject: FW: Revised Guide Sheet

Any word from Nikole?

From: Cook Janine
Sent: Thursday, April 26, 2012 6:18 PM
To: Flax Nikole C
Cc: Lerner Lois G; Judson Victoria A; Corwin Erik H
Subject: Revised Guide Sheet

Nikole,

Here is the revised guidesheet we sent to Lois' shop yesterday. It reflects some fine-tuning on the 4/20 version. The changes were predominantly clean-up, more consistency in language, added precision and clarity, and better conformity to the published ruling examples (resulting in more "derived from" notations). We also removed, combined, or massaged a number of factors that were neutral (or unnecessary).

Let us know if you have any specific questions. (Erik, you already have this version)
Janine

<<...>>

Cook Janine

From: Judson Victoria A
Sent: Thursday, March 08, 2012 11:56 AM
To: Cook Janine
Subject: RE: Heads up on Draft Guide Sheet for advocacy organizations

I sent my answer before I saw yours. (Still think (b)(5)/dp and (b)(5)/ac [redacted]
(b)(5)/dp and (b)(5)/ac [redacted])

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
Phone: 202-622-6000
Fax: 202-622-3865

From: Cook Janine
Sent: Thursday, March 08, 2012 10:02 AM
To: Judson Victoria A
Subject: Re: Heads up on Draft Guide Sheet for advocacy organizations

(b)(5)/dp and (b)(5)/ac [redacted]

Sent by my Blackberry

From: Judson Victoria A
To: Cook Janine
Sent: Thu Mar 08 09:58:23 2012
Subject: FW: Heads up on Draft Guide Sheet for advocacy organizations

FYI—for your eyes only. However, expect to have a longer discussion on this one on Friday.

Victoria A. Judson

Division Counsel/Associate Chief Counsel (TEGE)

Phone: 202-622-6000

Fax: 202-622-3865

From: Wilkins William J
Sent: Thursday, March 08, 2012 9:56 AM
To: Corwin Erik H
Cc: Judson Victoria A
Subject: RE: Heads up on Draft Guide Sheet for advocacy organizations

(b)(5)/dp and (b)(5)/ac [redacted]

From: Cook Janine

Sent: Wednesday, March 07, 2012 8:03 PM

To: Wilkins William J; Corwin Erik H

Cc: Judson Victoria A

Subject: Heads up on Draft Guide Sheet for advocacy organizations

Bill and Erik

Just an awareness item for you on something that Steve Miller is talking about with EO on Friday. As you may be aware, over the past year EO has received an uptick in applications for c3 or c4 status from entities that will advocating for positions/issues and in some cases candidates. General issue advocacy may be fine, but depending on which status is at issue, lobbying may need to be limited and intervention in political campaigns may be forbidden altogether or limited.

(b)(5)/dp and (b)(5)/ac

[redacted]

We'll keep you posted on general developments, but in the meantime, we've attached the latest draft in case you wanted to glance through it. But in any event, wanted you to be aware of this sensitive matter and how the IRS is approaching it. Will provide any update at our biweekly on Friday.

Janine

<< File: Guide Sheet Counsel Comments 03-07-12.doc >>

Cook Janine

From: Judson Victoria A
Sent: Friday, March 09, 2012 7:33 PM
To: Cook Janine
Subject: RE: Timeline for Congressional Follow-Up

I chatted with her after our meeting about it. Remind me to fill you in on Monday. Bottom line is that it is not even clear whether they will be posting. But if they do, have considered the issue we raised.

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
Phone: 202-622-6000
Fax: 202-622-3865

From: Cook Janine
Sent: Friday, March 09, 2012 5:23 PM
To: Judson Victoria A
Subject: FW: Timeline for Congressional Follow-Up

Nikole is copied on this email where it is mentioned about giving Hill guide sheet and putting it on web.

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Friday, February 24, 2012 3:46 PM
To: Spellmann Don R; Cook Janine; Paz Holly O
Cc: Kindell Judith E; Lowe Justin; Flax Nikole C; Urban Joseph J
Subject: Congressional Follow-Up
Importance: High

Just came back from the meeting and they have asked for several things.

1. Don/Janine-- The guidance provided to Cincy that Don reviewed-- I"m hoping you can let us know your concerns as soon as possible so we can finalize the draft. We will be sending it over to them and putting it out on the web with other check sheets/guide sheets.

2. Holly--a timeline relating to the uptick--that is, about when did we notice there were enough of these that we needed guidance from R & A and then when did we get cases up here to look at. If there is info regarding development and FTEs and replacement cases, give me that too.

3. Case Grading Guide--I think it is not disclosable, but please confirm and if not, let me know the basis.

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

Judson Victoria A

From: Spellmann Don R
Sent: Monday, May 07, 2012 12:17 PM
To: Cook Janine; Judson Victoria A; Marshall David L; Brown Susan D
Subject: RE: Guide Sheet

Categories: NUUU

Interesting. That's a very practical solution.

From: Cook Janine
Sent: Monday, May 07, 2012 12:12 PM
To: Judson Victoria A; Spellmann Don R; Marshall David L; Brown Susan D
Subject: Guide Sheet

Briefly talked to Lois. They are going to do in-person training in Cincinnati, walking through actual cases, and sharing the concepts in the guide sheet. They are not distributing the guide sheet.

Judson Victoria A

From: Brown Susan D
Sent: Thursday, May 10, 2012 2:30 PM
To: Judson Victoria A
Subject: Timing of projects

Vicki,
It's always hard to predict how long things will take. For a reality check, I took a look at our recent guide sheet project. Our 4/20 guide sheet draft was the product of intensive work over a period of about a week and a half (following several weeks of preliminary efforts). That draft was worked within our office, without need for coordination. If more than one CC office is involved, I would allow additional time for coordination because it takes time to combine different work product into a coherent whole. If coordination is needed, a minimum of 2-3 weeks seems more realistic. Glad to discuss at your convenience. Thanks. Susan

2/24 - EO first draft
3/6 - CC first draft
3/21 - EO revision
4/4 - CC revision
4/12 - meeting and course correction
4/16 - CC annotated draft
4/20 - expanded CC draft reflecting discussions at 4/12 meeting

4/25/12

Advocacy Guide Sheet E-Mails

Marshall David L

From: Marshall David L
Sent: Wednesday, April 25, 2012 6:44 AM
To: Brown Susan D; Spellmann Don R
Subject: RE: Corrections and Clean Up to Guide Sheet Master

I have read and given some thoughts to Susan's first half comments. I generally agree with her.

I know that Don has a meeting at 999 early this morning. I am happy to discuss my reactions to Susan's comments with her in advance of Don's return or we could all wait and reconvene later. I will not be attending the Ethics training this afternoon due to this project and the FOIA matter, as well as a possible earlier departure today. I will wait until an a.m. review session.

David L. Marshall
General Attorney, CC:TEGE:EOEG:EO
IRS, Office of Chief Counsel
(Tax Exempt & Government Entities)
1111 Constitution Ave. NW, Room 4405
Washington, DC 20224
Telephone: (202) 622-3871
Fax: (202) 622-1036

From: Brown Susan D
Sent: Tuesday, April 24, 2012 7:50 PM
To: Spellmann Don R; Marshall David L
Cc: Brown Susan D
Subject: RE: Corrections and Clean Up to Guide Sheet Master

Don and David,
This is looking pretty good, thanks to your hard work. Here are my comments through guide sheet # 3. I made my edits to a "clean" version so they are easier to read. Nothing major but a few things for discussion.

I will continue reviewing the rest of it (pp. 15-28) tonight and plan to circulate a "combined" version in the a.m. But knowing how early David gets in, I wanted to share what I have so far.

Thanks
Susan

<< File: guide sheet master 04-24-12 (Counsel) CLEAN with SB edits.doc >>

From: Spellmann Don R
Sent: Tuesday, April 24, 2012 4:51 PM
To: Judson Victoria A; Cook Janine
Cc: Brown Susan D; Marshall David L
Subject: Corrections and Clean Up to Guide Sheet Master

Please find attached our various corrections and clean ups to the guide sheet we circulated to EO on Friday.

Please let us know if you have comments or questions.

Thank you.

Don

<< File: guide sheet master 04-24-12 (Counsel).doc >>

Tracking:

Recipient	Delivery	Read
Brown Susan D	Delivered: 4/25/2012 6:44 AM	Read: 4/25/2012 7:03 AM
Spellmann Don R	Delivered: 4/25/2012 6:44 AM	

Marshall David L

From: Cook Janine
Sent: Wednesday, April 25, 2012 7:46 AM
To: Spellmann Don R; Marshall David L; Brown Susan D
Subject: Advocacy checksheet

This looks good folks. Thank you. I have a few final questions/edits. Can we discuss for 15 min at 9:30?
Sent by my Blackberry

Marshall David L

From: Marshall David L
Sent: Wednesday, April 25, 2012 7:49 AM
To: Cook Janine; Spellmann Don R; Brown Susan D
Subject: RE: Advocacy checksheet

I can be there. I believe Don has a meeting to go to at 999 during that time. Susan also has several edits, most quite clear, that the three of us will discuss when Don returns.

David L. Marshall
General Attorney, CC:TEGE:EOEG:EO
IRS, Office of Chief Counsel
(Tax Exempt & Government Entities)
1111 Constitution Ave. NW, Room 4405
Washington, DC 20224
Telephone: (202) 622-3871
Fax: (202) 622-1036

-----Original Message-----
From: Cook Janine
Sent: Wednesday, April 25, 2012 7:46 AM
To: Spellmann Don R; Marshall David L; Brown Susan D
Subject: Advocacy checksheet

This looks good folks. Thank you. I have a few final questions/edits. Can we discuss for 15 min at 9:30?
Sent by my Blackberry

Tracking:

Recipient	Delivery
Cook Janine	Delivered: 4/25/2012 7:49 AM
Spellmann Don R	Delivered: 4/25/2012 7:49 AM
Brown Susan D	Delivered: 4/25/2012 7:49 AM

Marshall David L

From: Cook Janine
Sent: Wednesday, April 25, 2012 7:54 AM
To: Marshall David L; Spellmann Don R; Brown Susan D
Subject: Re: Advocacy checksheet

Ok. The 3 of us can meet for a few
Sent by my Blackberry

----- Original Message -----
From: Marshall David L
To: Cook Janine; Spellmann Don R; Brown Susan D
Sent: Wed Apr 25 07:48:39 2012
Subject: RE: Advocacy checksheet

I can be there. I believe Don has a meeting to go to at 999 during that time. Susan also has several edits, most quite clear, that the three of us will discuss when Don returns.

David L. Marshall
General Attorney, CC:TEGE:EOEG:EO
IRS, Office of Chief Counsel
(Tax Exempt & Government Entities)
1111 Constitution Ave. NW, Room 4405
Washington, DC 20224
Telephone: (202) 622-3871
Fax: (202) 622-1036

-----Original Message-----
From: Cook Janine
Sent: Wednesday, April 25, 2012 7:46 AM
To: Spellmann Don R; Marshall David L; Brown Susan D
Subject: Advocacy checksheet

This looks good folks. Thank you. I have a few final questions/edits. Can we discuss for 15 min at 9:30?
Sent by my Blackberry

Marshall David L

From: Brown Susan D
Sent: Wednesday, April 25, 2012 1:07 PM
To: Spellmann Don R; Marshall David L
Subject: Re: Guide Sheet 6, B.2.

Okay thanks, Don

From: Spellmann Don R
To: Brown Susan D; Marshall David L
Sent: Wed Apr 25 13:05:47 2012
Subject: RE: Guide Sheet 6, B.2.

Thank you Susan. (b)(5)/dp and (b)(5)/ac [redacted]
(b)(5)/dp and (b)(5)/ac [redacted]

From: Brown Susan D
Sent: Wednesday, April 25, 2012 12:49 PM
To: Spellmann Don R; Marshall David L
Subject: RE: Guide Sheet 6, B.2.

I took another look at the #6 examples. (b)(5)/dp and (b)(5)/ac [redacted]
(b)(5)/dp and (b)(5)/ac [redacted]
(b)(5)/dp and (b)(5)/ac [redacted]
(b)(5)/dp and (b)(5)/ac See what you think.

<< File: guide sheet #6.doc >>

From: Spellmann Don R
Sent: Wednesday, April 25, 2012 12:27 PM
To: Brown Susan D; Marshall David L
Subject: Guide Sheet 6, B.2.

(b)(5)/dp and (b)(5)/ac [redacted]

Marshall David L

From: Cook Janine
Sent: Wednesday, April 25, 2012 4:15 PM
To: Spellmann Don R; Marshall David L
Cc: Brown Susan D
Subject: RE: Clean-ups & Revisions to Guide Sheet

Categories: NUUU

Yes, thanks for pointing out this redline was different. Nevermind then. Just send the two docs. :)

From: Spellmann Don R
Sent: Wednesday, April 25, 2012 4:14 PM
To: Cook Janine; Marshall David L
Cc: Brown Susan D
Subject: RE: Clean-ups & Revisions to Guide Sheet

Just to clarify, what do you want a comparison of and to? The plain annotated counsel model to the toes over the line document we just sent across? One warning is we made so many changes that it may be a complete mess to make sense of. Note also that along the way we made many a non-toe improvement that we may have wanted to incorporate in both if ever given the opportunity.

From: Cook Janine
Sent: Wednesday, April 25, 2012 4:06 PM
To: Spellmann Don R; Marshall David L
Cc: Brown Susan D
Subject: FW: Clean-ups & Revisions to Guide Sheet

Thanks all. Vicki is going to flip this version and our prior versions to Erik. We would like to get him a folder tonight with the prior/redline and the key RRs. Can one of you put that together?

From: Spellmann Don R
Sent: Wednesday, April 25, 2012 3:48 PM
To: Lerner Lois G; Marks Nancy J; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy; Lowe Justin; Goehausen Hilary; Urban Joseph J
Cc: Judson Victoria A; Cook Janine; Brown Susan D; Marshall David L
Subject: Clean-ups & Revisions to Guide Sheet

We just can't seem to keep our hands off this thing (or stop thinking about it). You'll see a fair amount of red here. (b)(5)/dp and (b)(5)/ac [redacted]

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

<< File: guide sheet master 04-25-12 (counsel).doc >>
<< File: guide sheet master compare 04-25-12.doc >>

Cook Janine

From: Spellmann Don R
Sent: Wednesday, May 23, 2012 2:28 PM
To: Brown Susan D; Cook Janine
Subject: RE: Issa Letter

(b)(5)/dp and (b)(5)/ac [redacted]

From: Brown Susan D
Sent: Wednesday, May 23, 2012 1:10 PM
To: Spellmann Don R; Cook Janine
Subject: RE: Issa Letter

(b)(5)/dp and (b)(5)/ac [redacted]

From: Spellmann Don R
Sent: Wednesday, May 23, 2012 1:03 PM
To: Cook Janine
Cc: Brown Susan D
Subject: RE: Issa Letter

They must apply to be recognized by the Service. That's what the 501(a) regs say. They can't self-declare and hold themselves out as exempt to the public. There's no authority or recognition for that practice. It's not in the 990 or 1024 or anywhere else. What they can do is file a 990, claiming the status, which return the Service may choose to accept. But that's different from declaring themselves exempt and holding themselves out as such. I'm grouchy today, I know. But these letters are just someone's stream of consciousness, which they are not consulting us on.

From: Cook Janine
Sent: Wednesday, May 23, 2012 12:59 PM
To: Spellmann Don R
Cc: Brown Susan D
Subject: RE: Issa Letter

(b)(5)/dp and (b)(5)/ac [redacted]

From: Spellmann Don R
Sent: Wednesday, May 23, 2012 12:52 PM
To: Cook Janine
Cc: Brown Susan D
Subject: Issa Letter

Do we get to comment on this? (b)(5)/dp and (b)(5)/ac [redacted]
(b)(5)/dp and (b)(5)/ac [redacted]

(b)(5)/dp and (b)(5)/ac [redacted]

Cook Janine

From: Brown Susan D
Sent: Thursday, May 24, 2012 2:54 PM
To: Spellmann Don R; Judson Victoria A; Cook Janine
Cc: Blumenfeld Michael B
Subject: Levin letter

Just FYI, after meeting, Nikole stepped in hall out to say that

1) she'd like to see whatever comments we send back, so we should send to both her and Lois.

2) we should (consistent with Vicki's instruction) flag anything that's just plain wrong, but not quibble with phrasing.

3) (b)(5)/dp and (b)(5)/ac
(b)(5)/dp and (b)(5)/ac

Mike has communicated all this to Don, I'm just repeating for Vicki and Janine's benefit. Thanks!

(b)(5)/dp and (b)(5)/ac Attorney's notes regarding considerations for legal guidance on c4 application processing

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

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[redacted]

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[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

(b)(5)/dp and (b)(5)/ac Draft guide sheet containing Counsel's edits

[redacted]

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

DEPUTY COMMISSIONER

April 26, 2012

The Honorable Orrin G. Hatch
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

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[1], 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.

[1] 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.[2]

Once the case is assigned, the revenue agent notifies the organization and reviews the application. Based upon established precedent and the facts and circumstances set forth in the application, the revenue agent requests additional information and documentation to complete the file pertaining to the exempt status application materials[3] (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 Technical (an office of specialists in Exempt Organizations) works with the IRS Office of

[2] Enclosure B describes the criteria used to determine the appropriate level of experience.
[3] 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).

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.[4]

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.[5]

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.[6] 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.

As to the specific matters you raised in your letter, Question 16 of Part II of Form 1024

[4] IRC § 501(c)(4); Treas. Reg. § 501(c)(4)-1.
[5] IRC § 501(c)(4); Treas. Reg. § 501(c)(4)-1.
[6] IRM 7.20.2 is available at http://www.irs.gov/irm/part7/irm_07-020-002.html.

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.[7] 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.[8] 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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[7] 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.

[8] 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 inquires 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. I am also writing to your colleagues. 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

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

COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUN 2 2 2012

The Honorable Lamar Smith
Member, U.S. House of Representatives
1100 N.E. Loop 410
Suite 640
San Antonio, TX 78209

Dear Congressman Smith:

This letter responds to your letter dated May 30, 2012, to Commissioner Shulman. You requested information that may be helpful to your constituent regarding applications for tax-exemption by certain organizations.

Section 6103 of the Internal Revenue Code prohibits disclosure of information about specific taxpayers unless the disclosure is authorized by another provision of the law. Although, I am prohibited by law from discussing any specific taxpayer situation or case, to assist in responding to your concerns, we are providing background information about our long-standing system for processing applications for tax-exempt status.

The law allows section 501(c)(4) organizations to hold themselves out as tax-exempt. Organizations also can apply for IRS recognition as tax-exempt. Whether an organization is self-declared under section 501(c)(4) or has been determined by the IRS to meet the requirements of section 501(c)(4), the organization must file Form 990 annual information returns.

All applications for tax-exempt status, including applications for status under section 501(c)(4), are filed with a centralized IRS Submission Processing Center. The application is then sent to the Exempt Organizations ("EO") Determinations office in Cincinnati, Ohio for initial technical screening.

This technical screening is conducted by experienced revenue agents who review the applications and, based on that review, separate the applications into the following four categories:

- Applications that can be approved immediately based on the completeness of the application and the information submitted;
- Applications that need only minor additional required information in the file in order to approve the application;

- Applications that do not contain the information needed to be considered substantially complete; and

- Applications that require further development by an agent in order to determine whether the application meets the requirements for tax-exempt status.

Organizations whose applications fall into the fourth category are sent letters informing them that more development of their application is needed, and that they will be contacted once their application has been assigned to a revenue agent. The applications are sent to unassigned inventory, where they are held until a revenue agent with the appropriate level of experience for the issues involved in the matter is available to further develop the case.

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[1] (the so-called "administrative record") and makes a determination. Where an application for exemption presents issues that require further development to complete the application, the revenue agent engages in a back and forth dialogue with the organization in order to obtain the needed information.

To qualify for exemption as a social welfare organization described in section 501(c)(4), the organization must be primarily engaged in the promotion of social welfare, not organized or operated for profit, and the net earnings of which do not inure to the benefit of any private shareholder or individual.[2] 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.[3] A section 501(c)(4) social welfare organization can engage in political activities as long as it is primarily engaged in activities that promote social welfare.[4]

In working a determination application case, the revenue agent must determine whether activities undertaken by the organization primarily further an exempt purpose. If the organization is engaged in some activities that do not promote social welfare, then the agent must review the scope of the activities to determine whether, based on all the facts and circumstances, the organization's exempt activities are the primary activities. If the application is unclear or not sufficiently detailed as to whether the primary activity conducted by the organization is exempt social welfare activity, the revenue agent will need to follow-up on this issue in a development letter.

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[1] 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).
[2] IRC § 501(c)(4); Treas. Reg. § 1.501(c)(4)-1.
[3] Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).
[4] Rev. Rul. 81-95, 1981-1 C.B. 332.

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. 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.

The back and forth dialogue helps applicants better understand the requirements for exemption and what is needed to meet them, and allows the IRS to obtain all the information relevant to the determination. 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. Once responses are received, the entire application file is evaluated based upon the requirements in the Code and regulations.

Tools are available to promote consistent handling of full development cases. For example, in situations where there are a number of cases involving similar issues (such as credit counseling organizations, down payment assistance organizations, organizations that were automatically revoked and are seeking retroactive reinstatement, and most recently, advocacy organizations), the IRS will assign cases to designated employees to promote consistency. Additionally, in these cases, EO Technical (an office of higher graded specialists in Exempt Organizations), in consultation with the IRS Office of Chief Counsel, may develop educational materials to assist the revenue agents in issue spotting and crafting questions to develop cases consistently.

It is important to develop a complete administrative record for the application. Because the administrative record must either support exemption or denial, it is important for the record to be complete. If the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), 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 IRS Office of Appeals. The Appeals Office, which is independent of Exempt Organizations, reviews the complete administrative record and makes its own independent determination of whether the organization meets the requirements for tax-exempt status. It is to the organization's benefit to have all of its materials in the file in the event EO Determinations denies exemption and the organization seeks Appeals review. If, based on the information in the administrative record, the Appeals Office decides the organization meets the requirements for tax-exempt status, the

application will be approved. If the Appeals Office agrees that the application should be denied, the organization may challenge its non-exempt status by paying any tax owed as a taxable entity, and seeking a refund in federal court.

In those cases where the application raises issues for which there is no established published precedent or for which non-uniformity may exist, EO Determinations may refer the application to EO Technical. In EO Technical, the applications are reviewed by tax law specialists whose job is to interpret and provide guidance on the law and who work closely with IRS Chief Counsel attorneys on the issues.

Similar to the process in EO Determinations, EO Technical tax law specialists develop cases based on the facts and circumstances of the issues in the specific application. EO Technical staff engages in a back and forth dialogue with the organization in order to obtain the information needed to complete the administrative record. If, upon review of all of the information submitted, it appears that an organization does not meet the requirements for tax-exempt status, a proposed denial explaining the reasons the organization does not meet the requirements is issued. The organization is then entitled to a "conference of right" where it may provide additional information. Following the conference of right, a final determination is issued. If the application is approved, the administrative record is made publicly available, and if the organization acts as described in the application record, it has reliance on the IRS determination. If the application is denied, the applicant may challenge its non-exempt status by paying any tax owed as a taxable entity, and seeking a refund in federal court.

I hope this information is helpful. If you have questions, please contact me at (202) 283-2700 or Andrew Megosh at (202) 283-892.

Sincerely,

Joseph H. Grant
Acting Commissioner, Tax Exempt and Government Entities

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6/18/12 Advocacy

(c)(4) cases – update

conf. Janine, Don, David

→ Janine to set up call w/ Holly to discuss details (as background)

300 advocacy cases in determs

not sent to HQ

cinn → Appeals

HQ → EO technical

4 buckets

1) favorable no need to develop

2) some develop needed but look favorable

3) more to ask, looks okay

4) look unfavorable

stay in determs

HQ weighs in – informal advice.

most likely favorable

2+3 may get follow up RFI

13 fav so far

30 more this wk

informally telling them 51/49

Some pending development

Janine to follow up on #s of cases in each bucket.

Tea party case – incomplete record, + helpful for us to weigh in on law

Christian Coalition (c)(4) adverse.

6/21/12 conf call

(c)(4) Advocacy Jenny, Don, David

Holly + Sharon
Hilary

4 buckets
how many in #4?

199 (c)(4)s
30 in #4 likely denials

#1 65 approvals - 35 approvals pre-out

#2 48 firm devel. - dev. letters starting to go out (12 or so, so far)

#3 56 gen devel.

#4 30

(c)(4) pol'l hot issues

Some in #1 got devel letters
sending "please ignore" letter.

16 (c)(3)

(2)

83 (c)(3)s bucketed

#1 16 approvals
#2 16 firm denial
#3 23 gen denial
#4 28 likely denials — some may qualify as (c)(4) some not!

→ political activity + private benefit
core of what is troubling.

development

#2 actual questions

#3 general areas need development

Focus — only ask Qs answers to which might change case
need to know vs. nice to know

very specific.
show that we've read submission. In case Anyone answered but not fully enough.

may not need detailed info @ point activity — they can do some
focus on social welfare piece.

③

Hilary
Justin
Matthew
Andy
} edit letters

look at websites

#3 general dev. letters

#4 separate track

10 oldest cases shipped to DC
Judy + Justin
drafting denial letters

1 case Justin drafting denial

Tom Miller reviewing denials

draft back to Cincinnati (2 senior pl)

Sharon
denials were clear
if fuzzy — #3

#4 blatant

Some bucket #2 could go either way
One Q to be asked could put them
in #4.

(4)

EO HQ

denials Cincinnati
Quality Office (EO Determs)

shifts to sampling review if "low error rate"

#3

Cin. will
draft denial
letters
- not recess tough cases
- not enough info
- a couple of sentences to describe activities
unsophisticated, inconsistent answers

On "how much polit comp. activity is too much?"

* close calls —
approve + 990 referral
] consistent with normal determs process

* may need sp. exam project

activities test?

issue & quantum but to get focus on activities)

51 - 49 as guide post

(5)

maj of pplics = (c)(3)
need to get off idea that it's "bad"

in terms of activity
- description
- website
- budget

} look at all in balancing

balance newsletter

~~general~~ general weighing of
2½ yrs of info, not math.

just
assume it's polit camp activity —

but in big cases, may need to decide if specific activities

2 in media — huge budgets
— umbrella

} bucket #2

Don —
1) — able to help
Data activity you can't sort out
commonalities between cases
2) — set up demands as FTE in (c)(4)
Counsel won't have same concerns as in (c)(3).

(6)

FTE denial - burden ≠ met

to hold silver out if need — gf - belief in qualification

SOL may have run, so limit on how far back IRS can go.

must file 1120s for open yrs.

protect statutes

Jamie * denial - if walk through why they don't meet — we should see

Cook Janine

From: Cook Janine
Sent: Tuesday, April 24, 2012 4:50 PM
To: Judson Victoria A
Subject: RE: Guidesheet

Perhaps. :) We're going to recirculate the fine-tuned version shortly (Don gave them a heads up in his email that we were still polishing).

From: Judson Victoria A
Sent: Tuesday, April 24, 2012 4:39 PM
To: Cook Janine
Subject: RE: Guidesheet

I read Lois e-mail as saying it is fine. Can your team reach out and find out if any more comments are expected?

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
Phone: 202-622-6000
Fax: 202-622-3865

From: Cook Janine
Sent: Tuesday, April 24, 2012 4:34 PM
To: Judson Victoria A
Subject: RE: Guidesheet

The team is almost done fine-tuning the document and we'll want you to have that one for getting to Nikole. The client did not provide any comments yet to us on the draft we sent them.

From: Judson Victoria A
Sent: Tuesday, April 24, 2012 4:25 PM
To: Cook Janine
Subject: FW: Guidesheet

FYI-- Not sure if Lois will want to keep it smaller because of political nature-- but either way, will keep you apprised. Thanks for all your fine work!

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
Phone: 202-622-6000
Fax: 202-622-3865

From: Judson Victoria A
Sent: Tuesday, April 24, 2012 4:22 PM
To: Lerner Lois G; Marx Dawn R
Cc: Golston Gidget; Drakeford Crystal C
Subject: RE: Guidesheet

Thanks so much, Lois

Gidget Goldston keeps my calendar and Crystal Drakeford keeps Erik's. Would be happy to add Janine as an optional attendee if that does not slow down the scheduling and it is OK with you.

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
Phone: 202-622-6000
Fax: 202-622-3865

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Tuesday, April 24, 2012 4:07 PM
To: Judson Victoria A
Cc: Marx Dawn R
Subject: Guidesheet

Thank you and yours for all the effort put into meeting our needs on the Guidesheet. I know you wanted a meeting with Nikole and Eric before it goes out, so I think we are ready for that. I can have Dawn Marx, my exec. asst, set it up if you give me a contact for your and Eric's calendar's. Soon would be preferable. Thanks

Lois G. Lerner
Director of Exempt Organizations

Cook Janine

From: Judson Victoria A
Sent: Monday, May 07, 2012 12:15 PM
To: Cook Janine
Subject: RE: Guide Sheet

Categories: NUUU

Interesting. Thanks.

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
Phone: 202-622-6000
Fax: 202-622-3865

From: Cook Janine
Sent: Monday, May 07, 2012 12:12 PM
To: Judson Victoria A; Spellmann Don R; Marshall David L; Brown Susan D
Subject: Guide Sheet

Briefly talked to Lois. They are going to do in-person training in Cincinnati, walking through actual cases, and sharing the concepts in the guide sheet. They are not distributing the guide sheet.

Cook Janine

From: Cook Janine
Sent: Thursday, April 05, 2012 10:00 AM
To: Judson Victoria A
Subject: Re: Meeting

Follow Up Flag: Follow up
Flag Status: Flagged

Look at email from yesterday where I laid out the "buckets" as I understand them. Lois hasn't confirmed I have it right though. She did tell me she thinks she has one c5 application pending, but the rest are 3/4s Sent by my Blackberry

----- Original Message -----
From: Judson Victoria A
To: Cook Janine
Sent: Thu Apr 05 09:19:52 2012
Subject: RE: Meeting

Nikole e-mailed me last night that she wants to talk with me about the Advocacy guidesheet this morning. I will re-read the various e-mails. However, if you are still on blackberry a bit this morning, maybe you can clarify where we are on the different avenues she has going.

I gather this document is supposed to be used for determinations of c(3) and c(4) status. Then there also may be exams in that area. Then there also is planned training re sudits re (c)5 and (c) 6. As you can see, I have not focused well on exactly what pieces are there. I will re-read e-mails, but if it is easy for you to summarize for me, please do. After htat, however, you need to put your out of office e-mail on and go commune with nature.

Thanks!

Vicki

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
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-----Original Message-----
From: Cook Janine
Sent: Thursday, April 05, 2012 8:36 AM
To: Lerner Lois G
Cc: Judson Victoria A
Subject: Meeting

Lois, in light of our conversation yesterday, I did not include explanations in my email about why we made the changes we did. Those are crucial for us to share so you can make decision about next step, but I thought it better for us to talk about our reasoning for our changes after you all had a chance to look at it rather than lay them all out in an email. If you'd rather we send them along in an email either before or after we talk, happy to do that.

Sent by my Blackberry

Spellmann Don R

From: Cook Janine
Sent: Tuesday, July 19, 2011 10:35 AM
To: Spellmann Don R
Subject: FW: Advocacy orgs

leading up to 7/26 ??meeting

for next week's meeting.

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Tuesday, July 19, 2011 10:25 AM
To: Cook Janine
Cc: Marks Nancy J
Subject: RE: Advocacy orgs

Below is some background on what we are seeing:

Background:

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.
- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, two (c)(4) applications were approved.

· Two sample cases were transferred to EOT, a (c)(3) and a (c)(4).
· The (c)(4) stated it will conduct advocacy and political intervention, but political intervention will be 20% or less of activities. A proposed favorable letter has been sent to Counsel for review.

1 The (c)(3) stated it will conduct "insubstantial" political intervention and it has ties to politically active (c)(4)s and 527s. A proposed denial is being revised by TLS to incorporate the org.'s response to the most recent development letter.

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

From: Cook Janine [mailto:Janine.Cook@irscounsel.treas.gov]
Sent: Monday, July 18, 2011 3:08 PM
To: Paz Holly O
Subject: Advocacy orgs

Judson Victoria A

From: Brown Susan D
Sent: Thursday, May 10, 2012 2:30 PM
To: Judson Victoria A
Subject: Timing of projects

Vicki,
It's always hard to predict how long things will take. For a reality check, I took a look at our recent guide sheet project. Our 4/20 guide sheet draft was the product of intensive work over a period of about a week and a half (following several weeks of preliminary efforts). That draft was worked within our office, without need for coordination. If more than one CC office is involved, I would allow additional time for coordination because it takes time to combine different work product into a coherent whole. If coordination is needed, a minimum of 2-3 weeks seems more realistic. Glad to discuss at your convenience. Thanks. Susan

2/24 - EO first draft
3/6 - CC first draft
3/21 - EO revision
4/4 - CC revision
4/12 - meeting and course correction
4/16 - CC annotated draft
4/20 - expanded CC draft reflecting discussions at 4/12 meeting