



IRS Initiatives - Part I

The IRS recently issued a report from its Tax Exempt and Government Entities unit, which focused on the Exempt Organizations group's ("EO") activities. This report describes the EO's accomplishments from FY 2010 and the programs it is focusing on in FY 2011.

This article summarizes some of the primary accomplishments and focuses of the EO in the previous few years. This report indicates the areas that the IRS has increased its attention. If your organization falls into any of these areas, we recommend that you spend some time ensuring that your organization is compliant.

The IRS report also reported some of its primary focuses for the upcoming year. In our next newsletter, I will go through some of those areas. The full report can be found at the IRS.gov website at http://www.irs.gov/pub/irs-tege/fy2011_eo_workplan.pdf.

- *IRS Examinations* - IRS audit staff and examinations have steadily increased over the past several years. Overall examinations have increased from 449 in 2008 to 549 in 2010 (a 22% increase over a two-year period!).
- *Tax-Exempt Status Revocation* - Organizations that failed to file annual information returns for 3 consecutive years by the 10/15/2010 deadline will have their exempt status automatically revoked as of the original due date of their third return. In early 2011, the IRS will notify these organizations and will publish their names by posting a list of revoked organizations on IRS.gov. An organization that wishes to retain its tax-exempt status must apply to have its tax-exempt status reinstated, even if it was not originally required to file an application for exemption.
- *Combined Annual Wage Reporting* - Over the past three years, EO has reviewed approximately 4,000 organizations each year to identify: organizations that reported wages on W-2s but had not filed Form 941; organizations that showed officer compensation on their Form 990 but had not filed Forms W-2 or 941; and any non-501(c)(3) organizations that had not filed Form 940 to report federal unemployment tax. EO is using the data collected during this study to focus examination resources on organizations with a high probability of non-compliance in the compensation-reporting area.

- Consumer Credit Counseling Project – The IRS has examined 63 of the largest credit counseling organizations in the country, and has revoked, terminated or proposed revoking the tax-exempt status of 41 of these organizations. Based on the high-level of non-compliance by these organizations, the IRS has since revoked, terminated or proposed revocation of tax-exempt status for over 59% of the group.
- Down Payment Assistance Project – The IRS issued a revenue ruling in 2006 relating to seller-financed Down Payment Assistance programs that primarily serve the private interests of home sellers by funneling down-payment assistance from sellers to buyers through self-serving arrangements. The IRS stated that these types of organizations should not have a 501(c)(3) tax-exempt status. Subsequently, EO examined Down Payment Assistance organizations that are fully funded by home sellers and revoked, terminated, or proposed revocation for 87 out of 91 of these organizations. EO is also now preventing these types of organizations from receiving tax-exempt status upon application, denying over half of the 600 applications that have been recently received.
- Executive Compensation Compliance Initiative: Loans Project – Due to a report released by EO several years ago regarding executive compensation, concerns were raised about substantial loans to officers, directors, trustees and key employees. Based on these concerns, EO performed 200 compliance checks, 50 single-issue examinations, and 169 full examinations. Of the 169 examinations, 75 written advisories were issued (44%), 39 change or delinquent returns were secured (23%), and 18 proposed revocations/terminations were filed (11%). Only 37 (22%) of the organizations that were examined had no change proposed by the IRS.
- Investment Income – IRC §501(c)(7) Compliance Project – While investment income (interest, dividends, royalties, etc.) is generally non-taxable to most exempt organizations, it is taxable for 501(c)(7) organizations (social clubs). EO reviewed over 80 of these types of organizations and found delinquent Forms 990-T, collected income tax, and revoked the tax-exempt status of 60% of the examined clubs.
- Non-Exempt Charitable Trust (NECT) Project – NECTs are required to file both a Form 1041 and either a Form 990 or 990-PF. Since many of these types of organizations were not filing Form 1041 along with the 990/PF, EO sent compliance checks regarding the missing forms. Out of the compliance checks, 15 organizations were examined by the IRS and 10 subsequently filed the correct forms with the IRS.

- *Political Activities Compliance Initiative (PACI)* – 501(c)(3) organizations are strictly prohibited from expending any assets on political activities. Over the years, there have been numerous allegations made against charitable organizations and their political activities. Due to the volume of allegations, EO has examined over 250 organizations during each of the 2004, 2006 and 2008 federal election years. Most of the examinations have resulted in a warning to comply with the prohibition of political activities, but the IRS has revoked the tax-exempt status of 7 organizations due to serious findings. The IRS has also undertaken this examination for 2010 but the findings were unavailable before printing of this report.
- *Qualified State and Local Political Organizations (QSLP) Project* – These types of organizations were exempt from filing Form 8872 with the IRS (while Form 8871 still required). When the law was changed to exempt Form 8872, over 3,600 organizations identified themselves as QSLPOs and discontinued filing the form. Due to the large number, the IRS launched an investigation to determine the accuracy of the QSLPO claims, and found that organizations are correctly identifying themselves as QSLPOs.
- *Supporting Organizations – The 509(a)(3) Compliance Project* – Since 2006, EO has issued new directives to its agents to properly identify noncompliant supporting organizations at the application stage of the exempt process. EO has also examined over 300 organizations, in which it has terminated 30, revoked the tax-exempt status of 72, and reclassified 59 as either private foundations or public charities (20 of the examinations have yet to close).

As you can see, the IRS EO unit has been very active over the last several years regarding issues it feels have a high level of non-compliance. It is important for you to ensure that your organization is compliant in all areas of tax law, but especially in these areas described above. If you have any questions regarding these EO projects, or any tax-related issues in general, feel free to contact Andy Arend (aarend@gbq.com or 614-947-5204) or any GBQ individual.

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