



Program Letter

MESSAGE FROM THE COMMISSIONER

Hello,

It's a delight and a privilege to sign this Fiscal Year 2020 Program Letter as TE/GE's new Commissioner. TE/GE's employees are a hard-working and dedicated team, and this letter builds on their many achievements during the past year. We also look ahead to FY 2020 and as we welcome many new faces to TE/GE from our hiring efforts; I invite them and all readers to dive into the details in the following pages to learn more about our priorities. And speaking of new faces, it's a great pleasure to welcome Edward T. Killen as TE/GE's new Deputy Commissioner.

Each year, TE/GE works hard to deliver the best possible tax administration. It's what we're paid to do and what the public expects of us. TE/GE strives to ensure that service and enforcement co-exist throughout all taxpayer interactions. We protect the integrity of the tax system when we enforce the tax laws fairly, which is a service to taxpayers who voluntarily comply with the law. In FY20, we will continue to pursue the most egregious noncompliance by evolving our technology tools and data analytics. In addition, FY20 brings new tax laws passed by Congress that will affect our future course.

I was fortunate to have the opportunity to assist in leading the IRS-wide implementation of the 2017 Tax Cuts and Jobs Act (TCJA), and I saw firsthand how diligently TE/GE worked to assess the impact of TCJA on TE/GE customers and stakeholders. In FY 2019, we implemented and provided additional guidance on TE/GE-related provisions of TCJA, and in FY20 we'll continue to look for ways to help taxpayers and their representatives navigate the many changes made by TCJA. In addition, we have begun to assess the impact of the latest legislation, enacted in July 2019 – the Taxpayer First Act. This legislation will change not only IRS tax administration processes but possibly our future operating structure, so FY20 will continue to provide us opportunities to refine our programs and improve the overall customer experience.

Under IRS Commissioner Charles Rettig's leadership, the entire IRS is engaged in an ambitious drive to "improve efficiency, modernize its systems and business processes, and find ways to better serve taxpayers." So, this year's Program Letter is best read with this context in mind. TE/GE is working every day to improve customer service, to implement mandatory e-filing by exempt organizations, to make required forms available online, to make payment easier using Pay.gov, to offer secure electronic taxpayer correspondence and to protect the integrity of voluntary compliance by enforcing the tax laws fairly.

These are exciting times in TE/GE and I am so proud to once again be part of what we do here. I hope you will be proud too as we continue fulfilling our mission of providing top-quality service to all taxpayers.

Tammy



Tamera Ripperda
TE/GE Commissioner



Edward T. Killen
TE/GE Deputy Commissioner

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FISCAL YEAR 2020 COMPLIANCE PROGRAM

TE/GE delivers a compliance platform that is divided into six portfolio programs: Compliance Strategies; Data-Driven Approaches; Referrals, Claims and Other Casework; Compliance Contacts; Determinations; and Voluntary Compliance and Other Technical Programs. Data is used to identify and address existing and emerging high-risk areas of noncompliance and steer the decisions on how best to apply optimal resources.

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Compliance Strategies are issues approved by TE/GE's Compliance Governance Board to identify, prioritize and allocate resources within the TE/GE filing population. Using a web-based portal, TE/GE employees submit suggestions for consideration by the Board. Once approved, these issues are considered priority work. As more issues are developed and approved, those with a higher priority may potentially replace Compliance Strategies currently described in this document.

Data-Driven Approaches. 5

Data-Driven Approaches use data and queries to select work based on quantitative criteria, which allows TE/GE to allocate resources that focus on issues that have the greatest impact. TE/GE is committed to integrating data into its processes and procedures and will use return data and historical information to identify the highest risk areas of noncompliance.

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Referrals allege noncompliance by a TE/GE entity and are received from sources within and outside the IRS. Claims are requests for refunds or credits of overpayments of amounts already assessed and paid; they can include tax, penalties and interest, or an adjustment of tax paid or credit not previously reported or allowed.

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Compliance Strategies

Compliance Strategies are issues approved by TE/GE's Compliance Governance Board to identify, prioritize and allocate resources within the TE/GE filing population. Using a web-based portal, TE/GE employees submit suggestions for consideration by the Board. Once approved, these issues are considered priority work. Below we share the strategies that the Board has approved so far. As more issues are developed and approved, those with a higher priority may potentially replace Compliance Strategies currently described in this document. In this manner, TE/GE continuously ensures that it is focused on the highest known priority and emerging risks. If you're interested in learning more about the technical issues discussed below, search for the key term in the search box of the IRS.gov website.

Employee Plans

- Employee Stock Ownership Plans (ESOP): determine whether the employee stock has been properly valued, the annual allocation of employee stock meets the nondiscrimination requirements and the employer loans follow the conditions and terms of the plan document.
- IRC Section 403(b)/457 plans: examine 403(b) plans for universal availability, excessive contributions and proper use of catch-up contributions under IRC Section 414(v); and examine 457(b) plans for excessive contributions and proper use of the special three-year catch-up contribution rule. This strategy was delayed from FY 2019 and will begin in FY 2020.
- Salary Reduction Simplified Employee Pension (SARSEP) plans: determine whether the deferral test is met, as well as the participation rules and the IRC 416 top-heavy contribution requirements.
- Simplified Employee Pension (SEP) IRA plans: determine if the plan properly includes all employees who have met the plan's eligibility requirements, including those employees working for related employers. Related employers may include a controlled group of corporations that includes their business; trades or businesses under common control with their business; and affiliated service groups that may include their business.
- Terminated cash balance plans: assess terminated plans with cash balance features that may have exceeded IRC Section 415 limitations or generated a reversion which is subject to an excise tax.

Exempt Organizations

- Hospital organizations with unrelated business income (UBI): focus on unrelated business taxable income (UBTI) reported on Form 990-T, Exempt Organization Business Income Tax Return, where expenses materially exceed gross income.
- IRC 501(c)(7) entities: focus on investment and nonmember income by tax-exempt pleasure, social and recreation clubs.
- IRC Section 4947(a)(1) Non-Exempt Charitable Trusts (NECTs): organizations that under-report income or over-report charitable contributions.
- Previous for-profit: organizations formerly operated as for-profit entities prior to their conversion to IRC Section 501(c)(3) organizations.
- Private benefit and inurement: organizations show indicators of potential private benefit or inurement to individuals or private entities by way of private foundation loans to disqualified persons.

Federal, State and Local Governments/Employment Tax

- CP2100 Backup Withholding Notice: determine if mismatched and/or missing taxpayer identification numbers on Form 1099-MISC, Miscellaneous Income, indicate failure to comply with backup withholding requirements. Addresses compliance with exempt organizations and federal/state/local governments.
- Forms W-2/1099 matches: compare wages reported on Form W-2, Wage and Tax Statement, with payments reported on Form 1099-MISC to determine if income should have been subject to Federal Insurance Contribution Act (FICA) tax and income tax withholding. Addresses compliance with exempt organizations and federal/state/local governments.
- Small employer employment tax: determine if fringe benefits are properly taxed for FICA and income tax withholding. Addresses compliance with exempt organizations and federal/state/local governments.

Indian Tribal Governments

- CP2100 Backup Withholding Notice: determine whether mismatched and/or missing taxpayer identification numbers on Form 1099-MISC, Miscellaneous Income, indicate failure to comply with backup withholding requirements.
- Forms W-2/1099 matches: compare wages reported on Form W-2, Wage and Tax Statement, with payments reported on Form 1099-MISC to determine if income should have been subject to Federal Insurance Contribution Act (FICA) tax and income tax withholding.

Tax Exempt Bonds

- Public safety bonds: determine whether federal government use and management contracts cause excessive private business use that adversely affects the tax-exempt status of public safety bonds.
- Sinking fund over-funding: determine whether over-funding causes the bonds to be arbitrage bonds, which negatively impacts their qualification as Tax Credit Bonds.
- Variable rate bonds: determine whether the issuances comply with the rebate and yield restriction rules under IRC Section 148, the bond and investment yields were properly computed and rebate or yield reduction liability (if any) was correctly determined.

Data-Driven Approaches

Data-Driven Approaches use data and queries to select work based on quantitative criteria, which allows TE/GE to allocate resources that focus on issues that have the greatest impact. TE/GE is committed to integrating data into its processes and procedures and will use return data and historical information to identify the highest risk areas of noncompliance.

Employee Plans

- Research, Applied Analytics, & Statistics (RAAS) collaboration: sample the results of data queries and models to test indicators of noncompliance for various plan types (for example, profit sharing, money purchase, 401(k) and defined benefit).

Exempt Organizations

- Query sets (previously referred to as models): continue to improve compliance query sets based on information reported on Form 990, Return of Organization Exempt From Income Tax; Form 990-EZ, Short Form Return of Organization Exempt From Income Tax; Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation; and Form 5227, Split Interest Trust Information Return.
- RAAS collaboration: continue to review various items and activities, including private benefit/inurement.

Federal, State and Local Governments/Employment Tax

- Query sets: continue to improve compliance query sets to identify returns of government entities containing the highest risk of employment tax noncompliance.

Referrals, Claims and Other Casework

Referrals allege noncompliance by a TE/GE entity and are received from within and outside the IRS. Claims are requests for refunds or credits of overpayments of amounts already assessed and paid; they can include tax, penalties and interest, or an adjustment of tax paid or credit not previously reported or allowed. The public can submit a referral on individuals or businesses on Form 3949-A, Information Referral, or Form 211, Application for Award for Original Information, or submit a specialized EO referral on Form 13909, Tax-Exempt Organization Complaint.

Employee Plans

- Referrals: continue to pursue referrals received from internal and external sources that allege possible noncompliance by a retirement plan.
- Claims: continue to address requests for refunds or credits of overpayments of amounts already assessed and paid. These claims can include tax, penalties and interest, or be a request for an adjustment of tax paid or credit not previously reported or allowed.
- Other casework: continue to investigate nonbank trustees (NBT) to verify that they have satisfied the NBT regulations and pursue promoter investigations.

Exempt Organizations

- Referrals: continue to pursue referrals received from internal and external sources that allege noncompliance by an exempt organization and pursue taxpayer and interagency referrals, including information items from sources within and outside the IRS that allege noncompliance with an employment tax law by an exempt organization.
- Claims: continue to address requests for refunds or credits of overpayments of amounts already assessed and paid, including tax, penalties, interest, or an adjustment of tax paid or credit not previously reported or allowed.
- Other casework: continue to examine entities that filed and received exemption using Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Additionally, support IRS-wide compliance efforts on IRC Section 4980H with respect to certain exempt employers.

Federal, State and Local Governments/Employment Tax

- Referrals: pursue taxpayer and interagency referrals, including information items from sources within and outside the IRS that allege noncompliance with an employment tax law by a government entity.
- Claims: continue to address high-dollar, complex employment tax claims filed by federal, state and local governments.

Indian Tribal Governments

- Referrals: continue to prioritize referrals received from within and outside the IRS warranting examination resources that allege possible noncompliance by a Tribal entity.
- Claims: continue to address employment tax claims filed by Indian tribes.
- Other casework: increase detection of abusive schemes by training additional agents and using existing reporting pathways and internal research. Also, continue to maintain the program to ensure tip reporting compliance of Indian Tribal Government entities and their tipped employees, including (1) securing tip agreements, (2) refreshing expiring tip agreements, (3) revoking tip agreements on noncompliant agreement holders and (4) conducting tip examinations for entities with low tip reporting and no tip agreements. In addition, continue, in appropriate circumstances, to convert casinos using the Tip Rate Determination Agreement (TRDA) to the industry-specific Gaming Industry Tip Compliance Agreement (GITCA).

Tax Exempt Bonds

- Referrals: continue to prioritize referrals received from within and outside the IRS warranting examination resources that allege possible noncompliance by a bond issuer.
- Claims: continue to address claims for overpayment of rebates and claims for credit payments on Direct Pay Bonds.

Compliance Contacts

Compliance Units are employed to address potential noncompliance, primarily using correspondence contacts known as “compliance checks” and “soft letters.”

A compliance check is correspondence with organizations to inquire about an item on a filed return to determine if specific reporting requirements have been met or to determine whether an organization’s activities are consistent with its stated tax-exempt purpose. It is not considered an examination, however, there may be situations when a compliance check is referred for examination.

A soft letter is correspondence with organizations that provides notification of changes in tax-exempt law or compliance issues. A response to these letters is not expected. However, responses may be received and converted into a compliance check. These contacts allow TE/GE to establish a presence in the taxpayer community in a manner that reduces the cost to the IRS while limiting taxpayer burden.

TE/GE will continue educating taxpayers via compliance checks and soft letters while seeking to improve return filings and filing accuracy on issues of noncompliance, including but not limited to:

- To determine whether an exempt organization; Indian tribal government; or federal, state and local governmental entity is adhering to recordkeeping, return filing and information reporting requirements, including:
 - » Combined Annual Wage Reporting (CAWR) – Federal Unemployment Tax Act (FUTA): exempt organizations that are required to, but fail to file Form 940, Employer’s Annual Federal Unemployment Tax Return.
 - » Credit Balance Nonfiler: entities that have credit balances but fail to file employment tax returns.
 - » Financial Assistance Policy (FAP): tax-exempt hospital organizations that did not comply with IRC Section 501(r)(4).
 - » Form 990-T Nonfiler: IRC Section 501(c)(7) organizations that reported investment income on Form 990/990-EZ but did not file Form 990-T, Exempt Organization Business Income Tax Return.
 - » Form 1099 Stop Filer: entities that were required to file, but failed to file Form 1099-MISC, Miscellaneous Income.
 - » IRC Section 501(c)(12) Mutual or Cooperative Telephone Companies: organizations that may have failed to meet the 85%-member income test.
 - » IRC Section 4947(a)(1) Non-Exempt Charitable Trusts (NECTs): exempt organizations that are required to file, but fail to file Form 1041, U.S. Income Tax Return for Estates and Trusts.
- To determine whether a retirement pension plan is adhering to recordkeeping and information reporting requirements, including:
 - » Funding deficiencies.
 - » Indirect service requirements where employees may have been improperly excluded.
 - » Missing codes, such as business codes, plan characteristics and so on.
 - » Nonfilers of Form 5500-EZ.
 - » Stop filers of Form 5500/5500-SF.

Determinations

Determination letters are issued to exempt organizations on exempt status, private foundation classification and other determinations relating to exempt organizations and to retirement plans that satisfy the qualification requirements of federal pension law.

Exempt Organizations continues to expect a large volume of determination application receipts. We will continue to look at process efficiencies, as well as expect to hire more revenue agents to address the work and offset anticipated attrition losses.

Revenue Procedure 2019-20 expanded the Employee Plans Determination Letter Program to permit plan sponsors to submit (1) determination letter applications for individually designed statutory hybrid plans for a 12-month period beginning September 1, 2019, and ending August 31, 2020, and (2) determination letter applications for certain individually designed merged plans on an ongoing basis. Projected receipts of 2,000 statutory hybrid plan applications are expected to be filed during this 12-month period. The determinations inventory is expected to be more than double during FY 2020 due to the change to the Determination Letter Program. Also, review of defined contribution pre-approved plans will be completed and opinion letters issued by June 30, 2020.

Voluntary Compliance and Other Technical Programs

The Voluntary Correction Program (VCP) enables a plan sponsor (at any time before audit) to pay a limited fee and receive IRS approval for correction of plan failures. Other technical programs, including Knowledge Management, work to ensure the quality and consistency of technical positions, provide timely assistance to employees and preserve and share TE/GE's knowledge base.

Employee Plans

- Voluntary correction applications submitted electronically through Pay.gov are worked under the Employee Plans Compliance Resolution Program (EPCRS). Employee Plans enters into compliance statements with plan sponsors to resolve failures to comply with the plan qualification requirements, avoiding plan disqualification.
- This year, Employee Plans will also be training and integrating new hires into the Voluntary Compliance function.
- In addition, Employee Plans will focus on actuarial letter rulings, 60-day rollover waivers and technical assistance work for its taxpayers.

Tax Exempt Bonds

- Tax Exempt Bonds will continue to resolve noncompliance in tax-advantaged bond issues through its voluntary closing agreement program.