

**Advisory Committee on Tax Exempt and Government Entities
(ACT)**

Gateway Opportunities: FSLG and its Customers

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GATEWAY OPPORTUNITIES: FSLG AND ITS CUSTOMERS

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Gateway Opportunities: FSLG and its Customers

EXECUTIVE SUMMARY

It is estimated there are more than 72,000 federal, state and local governmental entities in the United States that are involved, as employers, in federal employment tax withholding and wage reporting. This number includes a conglomeration of entities ranging from federal government agencies, states, cities, counties, institutions of higher learning, and local academic institutions to those agencies with few employees such as water and sewer districts, housing authorities, fire protection districts, airport boards, etc. These tens of thousands of public employers rely on the Tax Exempt/Government Entities Division (TE/GE) for guidance in complying with the myriad of federal requirements that encompass diverse operational concerns.

These governmental employers do not always perceive a clearly defined and formally designated “point of entry” at the IRS. By “point of entry” we mean an IRS office or representative with whom contact is the normal first step initiated by a federal, state or local government entity to resolve an issue with the Service. Federal, state and local governments may become confused and frustrated in their attempts to navigate through the IRS while seeking assistance. This frustration is encountered not only by governmental employers, but also by TE/GE which acknowledges its difficulty in finding its way to all these customers.

The *Gateway Opportunities: FSLG and its Customers* project committee recognizes the tremendous challenge faced by TE/GE in identifying and working with the thousands of federal, state and local entities who have quite diverse needs.

The committee conducted a series of interviews with leadership from various IRS divisions to understand how such components interrelate with federal, state and local governments. The committee has also reviewed certain other operations of the IRS to learn how assistance efforts for their customers are proceeding, some of which are working very well.

The following recommendations are based on the committee’s best efforts to fashion a system of cooperation and efficiency that will serve TE/GE's Federal, State and Local Governments component (FSLG) and its customers for years to come. In all cases, additional education of the federal, state and local government agencies and/or IRS representatives will enhance the system. The recommendations (in summary) include:

- **Public employers need direct access to issue-specific areas.** We recognized that a “forced” point of entry is not the most efficient way to accept incoming requests for assistance. Some government entities, however, will not know the specific IRS office best suited to handle their issue. In those cases, it is recommended that the TE/GE Call Site be used as the entry point.

- **Build FSLG employee facilitation skills and navigational experience.** FSLG's goal is to get the right person on the issue and encourage timely and appropriate attention to the issue in question. FSLG should continue to emphasize among its specialists the service mentality that has been developed over its initial two years.
- **Develop best practices for establishing relationships with state and local governments.** Experienced FSLG employees have developed direct points of contact throughout their state that have proven very effective. It is recommended that FSLG assemble its most experienced specialists and build upon their successes. We suggest this group should develop best practices for establishing working relationships at the state and local level.
- **Clarify roles and responsibilities of the federal, state and local government specialists.** It is not expected that FSLG employees become skilled on issues outside the employment tax arena of the public employer. TE/GE should formalize the respective roles and responsibilities of their employees for responding to government entity tax issues. We recommend that FSLG continue working with the Government Liaison staff to refine the standards and responsibilities that each is charged with for federal, state and local governments.
- **Enhance cross-function education and communication within TE/GE.** It is recommended that TE/GE encourage greater information sharing and better communication across the division. The unique nature of the technical issues and employment tax problems facing state and local governments should be stressed.
- **Build accurate and comprehensive inventory of federal, state and local government entities.** Each State and its local governments may be organized very differently which results in different needs. It is imperative that the many state and local agencies be identified, and their differences recognized, to ensure an efficient and accurate assistance program.
- **Communicate identities of new governmental employers to the Social Security Administration (SSA).** FSLG and the SSA share the objective of providing quality service to federal, state and local government employers. Neither FSLG nor the SSA currently identify or catalogue the establishment of new governmental employers. There are also no procedures in existence for the exchange of such information. It is recommended that FSLG implement a process to identify new entities by using existing IRS system coding, classify such entities within its database, and sharing the information with the SSA.

INTRODUCTION

Government entity (GE) customers do not have a clear “point of entry” at the Internal Revenue Service (IRS) for addressing the range of tax issues they face. Government entities, as taxpayers, include federal, state and local government (FSLG) units. Yet their tax compliance concerns sweep across the Tax-Exempt and Government Entities (TE/GE) division of IRS, as well as other divisions of IRS, and include the following areas: tax-exempt bonds, employee plans, unrelated business income, employment tax, information reporting, excise tax, foreign withholding and reporting.

A General Accounting Office (GAO) report, issued in July 2002, focuses on TE/GE’s inability to track government entity tax issues internally. It should be noted that while this report was issued in 2002, FSLG hired most of its employees in late 2001 and 2002 and, since that time, has made significant progress in addressing issues raised in this report. However, some federal, state and local government units, their advisors and IRS personnel may still be confused on how to most effectively channel their issues through the IRS.

Just as federal, state and local government customers have difficulty finding their way through the IRS, so does the IRS acknowledge difficulty finding its way to all these customers. TE/GE’s Federal, State and Local Governments unit (FSLG) has a good general understanding of the needs of the customer base. However, work needs to be done to clearly understand characteristics of various market segments within the overall customer base (i.e., political structure within each state, county, city, etc.).

In an attempt to address these basic issues, our ACT project committee set out the following charge for itself:

- Review and understand how current IRS units interrelate with federal, state and local government entities in various ways
- Recommend ways in which TE/GE can best engage and respond to federal, state and local government entity tax customers
- Recommend how federal, state and local government entity customers might best leverage and maximize the value of the reorganized IRS structure

The project team organized a work plan through which information was gathered and these questions were addressed. The work plan included a series of interviews with leadership from various IRS units. The project committee also reviewed various documentation related to such issues as: program mission statements, division work plans, relevant position descriptions, GAO reports, Internal Revenue Manual updates, information systems codes, customer call statistics, and the like.

OVERVIEW

Government Entity Customers

The IRS has identified some 72,000 federal agencies, state governments, and local municipalities that file Forms 941. Many states and larger local governments have multiple Employee Identification Numbers (EINs) or multiple subsidiary units feeding payment information through a single payroll and Form 941 tax filing.

To illustrate the scope of government entity customers, consider the state of North Carolina. North Carolina's government entity population is described as follows:

- 200 state entities and agencies (i.e., including colleges and universities)
- 100 counties
- 117 local education authorities
- 543 cities
- 1200+ special districts, boards and authorities (e.g., economic development, water, sewer, housing, health, airport, alcoholic beverage)

In addition to the categories above, other government clients may include the following:

- Federal agencies and entities (e.g., Department of Treasury, Department of Agriculture)
- Federal quasi-governmental entities (e.g., U.S. Postal Service)
- State and local quasi-governmental entities (i.e., legislatively established, legally separate operations)
- Inter-state instrumentalities (i.e., entities formed across state lines, such as regional port authorities or regional transportation authorities)
- Charter schools (i.e., state sanctioned/funded schools, alternatives to public schools)

The number of EINs assigned to these various entities differs dramatically across the states. A state's entities and agencies may operate under multiple EINs or a single EIN, while each city and county may also have its own unique EIN. Similarly, public colleges and universities within a state could be operated under a single EIN or function with unique EINs.

Even where there is a consolidation for 941 filing purposes, FSLG believes that it ultimately needs to reach local units that feed information to a consolidated government reporting entity, because many tax compliance decisions are made at a local unit level. FSLG would like to reach all FSLG customers to communicate law changes, educate and undertake compliance checks and examinations. This 72,000 estimate of government clients does not include any subdivisions of government, quasi-government agencies, interstate instrumentalities or other federal, state or local government units that file no Form 941. FSLG estimates that the total number of governmental clients could be several times the number of 941 filings.

Impact of IRS Reorganization

Prior to the IRS reorganization, state and local government entities were served by various components within the IRS, including the Fed-State Office which functioned out of the Commissioner's Office. Although the Fed-State Office was originally created to address the interface between the federal government and state government on tax administration (i.e., joint filings, information sharing, joint administration), in some situations, the Fed-State Office often become involved in tax compliance matters, particularly employment tax matters.

The IRS reorganization design team recognized the difference between 1) a government unit as taxpayer and 2) the relationship of partnering with a state or local government on how to collect taxes and share information and systems. The government as taxpayer had different needs and interests than the government as joint administrator. The team's review of government units also revealed how many departments there could be in a state government and the different tax functions those departments are assigned. For example, overseers of state employment tax issues are not necessarily involved in bond transactions. Another example is that the state department responsible for withholding and remitting federal taxes for state employees may be wholly separate from the state department responsible for distributing and monitoring federal highway grants.

Because of these unique functions, a decision was made to create two separate functions, Government Liaison (GL) and Government Entities (GE), for IRS purposes:

- GL- oriented toward joint federal, state and local tax administration efforts
- GE - oriented toward governmental taxpayer compliance and education

Also, the reorganization determined that Tax-Exempt Bonds (TEB) should be separated out of Exempt Organizations (EO), where it had been administratively housed. TEB activity is transaction oriented, and the related laws are extremely technical. The design team felt TEB should be viewed from the perspective of the end user of proceeds by governments. The consensus was that tax-exempt bonds were principally designed to fund state and local government activities and that if the TEB area was set aside as separate area, it would contribute to a broader understanding of financing and other aspects of TEB transactions.

TE/GE Service Platform

Tax Exempt Government Entities (TE/GE) serves state and local customers through three very different service paradigms:

- Taxpayer Based Units

- Federal State Local Government (FSLG)
- Exempt Organization (EO)
- Transaction/Technical Based Units
 - Tax Exempt Bonds (TEB)
 - Employee Plans (EP)
- Supporting Service Units
 - Call Site Operations (Customer Account Services)
 - Processing Center (Ogden Service Center)

By definition, federal, state and local government entities are considered taxpayer customers of FSLG. However, a state or local government entity might be inclined to approach FSLG for an issue for which FSLG does not have issue responsibility. The Employee Plans (EP) division, for example, has been delegated legal authority for state and local retirement plan issues, and the Tax Exempt Bonds (TEB) division has been delegated legal authority for state and local bond issues.

Because TE/GE has organized its responsibility around technical issues (i.e., bond transaction, employee plan, collections, unrelated business income) and entities (i.e., state government unit, IRC section 501(c)(3) organization), the customer service platform for state and local taxpayers is complicated. FSLG customers potentially intersect with many divisions of the IRS.

As one example, state universities that do not have IRS recognition of IRC section 501(c)(3) status are considered to fall within the jurisdiction of FSLG for employment tax purposes. Yet such public universities have tax compliance requirements that encompass a range of issues, including unrelated business income tax, tax-exempt bonds, and employee plans. Moreover, the Exempt Organizations (EO) division has the comprehensive college and university audit experience within TE/GE and will typically conduct audits for EO compliance.

Points of Intersection between “FSLG” and Other IRS Units

Exhibit A provides an overview of the potential points of contact between a federal, state or local government entity and the IRS.

The project team scheduled a series of interviews with representatives from these other areas of IRS to pursue the following questions:

- How do these other units understand their mission with respect to federal, state and local government customers?
- How do these units define their working relationship with FSLG?
- How do these units view the mission of FSLG?
- What lessons, learned within these units, might be applied to FSLG?

The project team also interviewed management of the IRS TE/GE division of Indian Tribal Governments (ITG). Similar to state and local government entities, tribal nations have a wide range of tax compliance issues they must address. The new ITG program is considered a success among its customer base for its ability to facilitate the resolution of the tax issues of tribal nations.

TE/GE Partnership with Social Security Administration

In 1987, tax responsibility for FICA withholding and reporting was transferred from the Social Security Administration (SSA) to IRS. Prior to this transfer of responsibility, social security tax reporting was managed through a consolidated reporting by each state (i.e., including all EIN numbers), on behalf of all state and local government entities, directly to SSA. Since this transfer of responsibility, reporting has been decentralized generally to the EIN level of activity. However, responsibility for administering social security coverage has remained with SSA and the states under their Section 218 agreements. A Section 218 agreement is a voluntary agreement entered into by a state with SSA to provide social security coverage to certain public employees.

When SSA was collecting data directly, it was easier for SSA to maintain its records. SSA also had a system for periodically reviewing and updating its customer base. In the new model, SSA has lost its ability to identify new state and local government entities. In response to concerns expressed by SSA, IRS and the states about payments, reporting, and coverage, the SSA Inspector General (IG) conducted a study. An IG report issued in 1996 identified a potential exposure to the social security trust funds (i.e., potentially > \$17 billion) associated with non-compliance related to lack of information exchange, data collection and oversight reviews. The report recommended that IRS and SSA work together to address these potential weaknesses. During 1997-2000, the IRS, SSA and state social security administrators conducted a comprehensive outreach program. As a result, an additional \$ 631 million was collected over a 3-year period of time. This led IRS, in a 2000 letter, to report to the National Conference of State Social Security Administrators that the estimated exposure reported in 1996 was likely higher than actual exposure.

During most of the years since 1987, IRS and SSA have maintained an informal working relationship regarding the roles and responsibilities for continuing program administration for public employers and public employees. In April 2002, however, a Memorandum of Agreement was executed between IRS and SSA to formalize the relationship. See Exhibit B.

The administration of social security coverage depends on good data, and the SSA needs help from IRS in updating its inventory of state and local government clients.

Quality employer data exchange from the IRS to SSA is critical for sound administration of the SSA coverage program.

A joint IRS-SSA Section 218 committee was established to address joint coverage and compliance issues. Quarterly meetings take place during which education and compliance issues are addressed. The committee has addressed information exchange related to changes made to worker status or changes in earnings of a worker covered under Social Security (Voluntary Closing Agreements and examination results) and how SSA might refer information about entities that were having reporting problems to FSLG. However, the committee has not yet focused on information exchange related to identification of new state and local government units that may not understand their Social Security and Medicare coverage obligations to their employees.

SSA faces the following issues related to data exchange:

- Government entity does not comply with the coverage rules applicable to an existing Section 218 agreement
- Government entity has no Section 218 agreement but also offers no retirement plan to its employees
- Protecting the Social Security Trust Fund - If employees are covered by Social Security but employer did not pay, then SSA is obligated to provide coverage, by law, even if funding is not provided to the trust fund by employer or employee
- SSA must be able to retain accurate records and to ensure that public employees entitled to Social Security benefits actually realize those benefits
- Inaccurate records or compliance require substantial resources, both to amend W-2s for past years and to fund potentially “unfunded” benefits
- Social security paid into system for some employees where there is no Section 218 agreement, but the employees are covered by a retirement system
- Information identifying new entities is needed to enable SSA to coordinate with the states on how new entities are to be covered
- Difficulty identifying interstate instrumentalities (i.e., considered “states” for social security coverage purposes under Section 218). Interstate instrumentalities may be unaware of their unique status as a “state,” these special Social Security and Medicare coverage rules for government employees and their responsibilities as a “state” employer
- Lack of communication and legal counsel around data issues and data exchange considerations

ISSUES IDENTIFIED THROUGH INTERVIEWS AND DATA REVIEW

Organizational Boundaries

- In the old IRS, many professionals inside the Fed-State Office worked out ad-hoc one-on-one taxpayer relationships through their employment tax work and relations with various state officials, such as state social security administrators. Today, even

with the new IRS structure, some individuals in state government approach Government Liaison (GL) with taxpayer compliance issues, because GL has been so visible historically. State staff should know when to go to GL and when to go to an FSLG specialist, but some may well not yet. It appears there may still be lingering uncertainty, though much diminished, about the reorganized IRS and the new FSLG division of TE/GE. At the field level, some Government Liaison staff may be having a difficult time letting go of tax compliance relationships and turning those relationships over to FSLG. GL acknowledges the need to continue to clarify roles, but feels it will be easy to get the message out to 58 Government Liaison staff located in the states and the District of Columbia.

- The committee recognizes that FSLG has made significant progress in developing appropriate stakeholder relationships and in identifying government clients and associations with whom it should further develop stakeholder relationships. Notable examples of this include presentations and outreach to National League of Cities, National Association of Public Pension Attorneys, National Association of State Auditors, Controllers and Treasurers, and the National Conference of State Social Security Administrators. The individual State representatives have also spent countless hours meeting with customers, learning their state's governmental structures and personnel, and providing outreach. The committee recognizes this task is a difficult one that will take time. Unlike, EP and EO, organizations that have longstanding affiliations with industry organizations, FSLG is obviously new to this effort.
- GL and FSLG have made a commitment to partner at the state level to reach state and local entity customers. FSLG has many of the same relationships within the state as GL (i.e., controllers, state social security administrators, etc.) FSLG reports that its area managers report monthly on their “cross operating division / function” partnership efforts. We recommend this partnering continue to be fostered and encouraged.

Ambiguous Responsibility for Outreach Activities

- One area of confusion in roles and responsibilities may arise in context of “outreach” activities. Both FSLG and GL perceive and promote their responsibilities as including outreach (i.e., “soft contacts”). It is possible that when either wants to do soft contacts, (outreach), one will cross over into the other’s territory. In certain documentation, the national ranks of FSLG and GL agree on a consistent, clarifying message regarding outreach responsibilities. Specifically, while GL is the primary point of contact with and normally responsible for outreach activities with state and local governments, outreach related to taxpayer compliance is the jurisdiction of FSLG, not GL. See Exhibit B for an excerpt from the GL IRM and a June 29, 2001 memorandum authored by Bob Wenzel, Deputy Commissioner of Internal Revenue, both noting that TE/GE is the primary compliance outreach, education and enforcement contact for state and local governments as taxpaying entities. 11.4.1.6.2 of the Internal Revenue Manual provides that the Field Governmental

Liaisons serve as the primary point of contact with state and local agencies with federal agencies located in their jurisdiction. However, FSLG is responsible for compliance outreach, education and enforcement contacts with state and local governments as taxpaying entities.

Varied Operational Structures of State and Local Governments

- State and local governments are often organized very differently in terms of how they manage their payroll and FICA, pension plans, and other tax compliance and administration. Both GL and FSLG are faced with a variety of different state models of tax administration and need to understand how different states operate differently.

Identification of Customers

FSLG has an objective of providing quality customer service to its government clients across the United States. At the same time, the Social Security Administration (SSA) is charged with collecting wage and tax data via Forms W-2 and also with administering social security coverage agreements that provide various levels of social security and/or Medicare coverage to FSLG clients. Both FSLG and SSA are invested in identifying and classifying this share client base. In context of these objectives, FSLG and SSA confront the following issues:

- FSLG has compiled an initial listing of its state and local government clients based on the number of clients that currently file Form 941, and it has attempted to augment this inventory from the US Census. Yet FSLG believes more complete identification of these clients is needed for education and outreach purposes that will lead to enhanced compliance. FSLG would like to identify the various tax reporting components of these clients, in addition to compiling name of entity, local contact, e-mail to include on list serve.
- The identification of newly created state or local government entities is a key element for FSLG and SSA to fulfill their missions. Such newly formed entities are usually created by the state or by an existing political subdivision, such as county or a city. These entities face challenges with their social security/Medicare coverage, tax compliance, information return reporting, customers service, and educational resources.
- In addition, the identification of quasi-governmental entities and interstate instrumentalities is another challenge facing FSLG. Both FSLG and SSA desire categorization of this select and specialized segment of their client base. Although the unique distinction of these entities may not be of high priority for FSLG, interstate instrumentalities must be treated as “states” for purposes of administering Social Security and Medicare coverage requirements.

Customer Confusion

- During the course of this project, we spent considerable time investigating whether state and local taxpayers have been provided consistent direction about the first point of entry in IRS to address or resolve their variety of tax issues. FSLG has published FSLG specialist phone numbers in recent FSLG newsletters; thus, many state and local entities are now going directly to state FSLG specialists. Call site numbers have also been published in other FSLG communications. While remarkable progress has been made to provide direction to FSLG clients, we believe some state and local government taxpayers may still be confused about the appropriate first point of contact when a question or issue arises.
- The following government client actions would suggest lingering customer confusion about their first point of entry on a tax issue:
 - Client calls local FSLG specialist when routine concern / question could have been handled by Call Site
 - Client calls local FSLG specialist for a question or concern related to an employer plan issue, a bond issue or an unrelated business income tax issue

Conversely, the IRS would expect government clients to call an FSLG specialist directly about particular employment tax and social security tax compliance concerns and not GL.

Role of FSLG and FSLG Specialist

FSLG specialists manage a range of questions that come to them directly; serve as key persons for education and outreach; and undertake compliance checks/examinations in the employment tax and information reporting areas. Comprehensive position descriptions were developed to define FSLG specialist roles and responsibilities.

- The committee is concerned that FSLG specialists neither presume they must be all things to all government clients, nor assume too limited a role in performing their duties. The FSLG specialist position is still relatively new, and specialists need more time to develop their experience and execute their new roles and responsibilities. One area of particular interest to the project team is how specialists perceive their roles with regard to technical issues outside the purview of FSLG.
- FSLG often describes its role as “advocate” with regard to its government client customer base. FSLG’s intent, to provide “end-to-end accountability” and “customer service” to government entities, is noteworthy. The use of this particular terminology can be misunderstood, however. Other technical units of IRS (i.e., tax-exempt bonds or employee plans) would not view FSLG’s role as including

“advocacy” for a particular resolution of technical issues under non-FSLG jurisdiction.

FSLG Resources

- As mentioned earlier, the FSLG customer base, as defined by 941 filers, is approximately 72,000 taxpayers. (The US Census last identified 87,900 federal, state and local government entities as follows: 1 federal, 50 state, and 87,459 local government units.) FSLG staff estimate the total number of government clients (i.e., those filing through consolidated 941s) to be a multiple of this number by several times. With only 80 FSLG specialists, resources to serve this customer base are limited. To put this in perspective, assume a count of 87,900 government clients. The resulting ratio of specialist to taxpayer is approximately 1100 to 1. ITG, by comparison, staffs approximately 60 specialists to support 564 federally recognized tribes (with over 2200 tribal entities), at a ratio of 10 to 1. Staffing will continue to be a challenge as this division matures.
- FSLG has been very successful at resolving issues with federal agencies, universities, and other state and local government entities. However, some issues that require resolution with government entities are politically sensitive with the potential to impact nationwide market segments. Such political issues often inhibit legal and administrative resolution in a timely manner.
- Because FSLG focuses its technical attention on employment tax compliance, certain efficiencies could be achieved across TE/GE by leveraging FSLG employment tax expertise into the Exempt Organizations area. Without additional resources to FSLG, this concept is unlikely to be applied.

CRITICAL CONSIDERATIONS

- FSLG struggles with dilemma of nominally serving a particular market segment but limited to resolution of various employment tax and reporting issues
- FSLG struggles with a huge taxpayer population but limited human resources
- At the national level, GL and FSLG communicate their respective roles consistently (with the exception of a little ambiguity around “outreach”)
- Recommendations must recognize the distinction between advocacy and facilitation
- Recommendations must recognize the distinction between taxpayer driven compliance and practitioner driven compliance
- Successful evolution of ITG program offers some ideas for FSLG; however, organizations have varying levels of resources available
- Customer Account Services (CAS) demonstrates an increasingly substantial capacity to respond to general employment taxpayer questions in an accurate, timely and effective manner.

- Information systems technology offers options for better identifying state and local government entities

PRINCIPLES TO GUIDE RECOMMENDATIONS

- Recommendations should minimize unnecessary bureaucracy
- Customers prefer direct “point of entry” for addressing questions
- Recommendations should not disrupt existing TE/GE programs, such as ITG, that work well.
- IRS roles and responsibilities related to government entity customers must be clear
- Good communication between IRS divisions and effective cross-functional partnering are critical to customer service

RECOMMENDATIONS

Taxpayers Need Direct Access to Issue Specific Areas

- The project team recognizes the most efficient “point of entry” will not be FSLG in some matters involving government entities. During our review, we concluded that taxpayers should be able to go directly to the IRS area best suited to address their particular issues. We considered what process makes the most sense for customers as a first stop. If a government entity already knows where to go, we are not recommending “forcing” them into FSLG as an “entry point.”
- If the government entity is unsure where to enter, we recommend the Call Site serve as the “entry point.” In that event, assistors who answer the 1-800 calls would respond to first inquiries from state and local government entities. Given FSLG resource limitations, Customer Account Services (CAS) offers a resource for first call response. In the last year, FSLG has made significant progress in training call site assistors:
 - The IRM Manual for CAS personnel was rolled out in October 2002 (See 21.3.8.10 for FSLG sections)
 - CAS staff is well trained to handle calls
 - Recent statistics demonstrate CAS capacity to respond effectively to calls

We recommend continued training by FSLG staff to CAS staff.

- FSLG should consider expanding the direction currently provided on its web site for federal, state and local government units on where to go to resolve taxpayer issues. (See current web site provided in Exhibit C.) Expanded direction should include additional links, including the following:
 - For information on employee plans, contact Employee Plans

- For information on tax-exempt bond questions, contact Tax-Exempt Bonds
- For unrelated business income tax information, contact Exempt Organizations
- If FSLG becomes the “point of entry” by taxpayer choice, by default, by referral or for other reasons, we envision the following FSLG responses:
 - If taxpayer approaches FSLG with inquiry about which entry point is appropriate, FSLG should facilitate by redirecting taxpayer to most appropriate entry point.
 - If taxpayer has experienced difficulties in navigating process at either call site or specific issue point of entry, FSLG should facilitate by trouble-shooting the problem and find best point of entry for taxpayer.
 - If call site or other unit of IRS refers taxpayer to FSLG about a technical issue for which FSLG is responsible (i.e. employment tax), FSLG specialist will be responsible for resolution.
 - If taxpayer has matter outstanding with another area of IRS and comes to FSLG due to dissatisfaction with handling of matter, FSLG should serve as facilitator to see if taxpayer can be given better understanding of issue, realistic time frame, or whatever would be helpful in establishing a better relationship between the taxpayer and the IRS area handling the matter.

Build FSLG Facilitation Skills and Navigational Experience

- When FSLG functions in a facilitator role, its goal should be to get the right people on the issue and facilitate timely and appropriate attention to taxpayer issues. Similar to ITG, FSLG could consider an omni buds function for state and local taxpayers who are not sure why an issue is significantly delayed somewhere in the IRS. FSLG would necessarily need to evolve into this position and work through the related growing pains.
- FSLG specialist would benefit from additional training and experience to gain a better understanding of the overall IRS organizational structure, responsibilities of key leadership in areas outside FSLG, and processes around issues resolution.
- When FSLG plays the role of facilitator, navigational skills will be critical. FSLG should provide understanding and be able help explain issues to taxpayer even if it has no delegated authority. FSLG will need to instill in its work force a sense that “this is my job,” to take that call and manage it for someone who does not know their way around the IRS. FSLG should continue to reinforce the service mentality it has developed over its initial two years.

Develop Best Practices for Establishing Relationships with State and Local Governments

- We recognize that across the states, individual FSLG specialists have found effective points of contact throughout state and local government. FSLG specialists have moved, independently, to establish direct relationships with state oversight departments, social security administrators, state and local government agencies and associations that serve government entities.

We suggest FSLG assemble its most experienced specialists to collaborate, leverage upon their individual successes, and develop a best practice for establishing appropriate working relationships at the state and local level. In this effort, FSLG might consider what value might be realized through the following types of relationships:

- Payroll Associations
- County Treasurer Associations
- Leagues or Associations of Counties and Cities
- National Associations of State Auditors, Controllers and Treasurers
- Government Finance Officers Association
- National Conference of State Social Security Administrators

Clarify Roles and Responsibilities of FSLG Specialist

- We do not expect FSLG to try to become skilled at those specialized compliance issues outside the employment tax area that impact government entities. Within the IRS, FSLG and other units within TE/GE should formalize their respective roles and responsibilities for responding to government entity tax issues, perhaps through memorandums of agreement.
- We recommend FSLG continue to work with GL at a national level to reinforce standards for state level representatives of both units on the following:
 - Responsibility for state and local taxpayer employment tax matters resides with FSLG
 - Responsibility for outreach and education for state and local governments as taxpaying entities resides with FSLG
 - Responsibility for outreach and education for state and local governments as joint tax administrators resides with GL
 - Process exists for GL to hand over taxpayer compliance and outreach to FSLG representatives and for FSLG representatives to transfer tax administration issues to GL representatives

- We recommend FSLG continue to work with GL to develop national level programs that will facilitate working relationships between field GL and FSLG personnel with the following objectives:
 - Identification of all potential state and local taxpayer entities that may have education and compliance needs
 - Identification of various process owners and who will take lead for facilitating issues with multiple owners (i.e., investment, wage, electronic tax administration, systems, etc.) to completion

Cross-Functional Education and Communication within TE/GE

- Encourage greater information sharing and better communication, across TE/GE, about the nature of technical issues and problems facing state and local government entities. Cross functional / cross divisional efforts to share substantive issues and educate each other should be expanded. Not only should FSLG continue to internally market its role and expertise to other units, but FSLG should actively pursue education from other units on their issues that may affect state and local government taxpayer entities. Moreover, we strongly urge the other TE/GE units to actively pursue ways to communicate with and educate FSLG about activities in their areas that impact FSLG customers.
- Consider a model that would assign specific responsibility in each TE/GE unit, at a high level of leadership, to facilitate the resolution of FSLG taxpayer issues that must be addressed outside of FSLG. Specifically, Employee Plans, Tax-Exempt Bonds, and Exempt Organizations might each designate a person in their unit that would carry responsibility as the unit liaison to the FSLG staff and also be responsible for timely resolution of FSLG taxpayer issues.
- FSLG needs to know what is going on in other areas of IRS that impact their customers. TE/GE should consider developing a communication practice standard wherein field representatives from various TE/GE units would communicate with FSLG specialist on issues that impact FSLG customers.

Build Accurate and Comprehensive FSLG Customer Inventory

- A number of strategies might be applied to develop an accurate and comprehensive inventory of state and local government entities. IRS has captured an initial list of federal, state and local government entities by extracting from the current IRS systems entities that file Form 941 and whose current IRS accounts are coded F (i.e. Federal Agencies), G (i.e. State and Local Government) and T (i.e. Section 218 Agreement). See Exhibit D for current IRS coding system. This listing could be validated and augmented through other means:

- US census of governments (i.e., FSLG project in process)
 - States government books and records
 - Associations of state and local government entities and municipalities
 - Secretary of State office records
 - County level registrations
 - SS-4 filing data indicating “government” status
 - Associations of cities and towns and counties
 - School board associations or teachers unions for school districts
 - Economic development commissions
 - Libraries
 - The Tax Directory – Governmental Officials Worldwide
 - taxdir@tax.org - Tax Analysts
 - www.tax.org
 - www.treas.gov/tigta/audit_reports.htm #2002-10-102
- Other resources for identifying state, quasi-governmental, interstate instrumentalities, and local government entities might include the following:
 - State auditors may be able to help with identification of quasi-state and local government agencies
 - Call sites are data oriented and may have call information
 - State departments of management, budget and/or employment security provide data, but in each state these units report to different places; no two state governments are set up alike.
 - GL believes it can be a conduit on behalf of TE/GE and suggests a joint letter to state organization as part of an outreach effort.
 - Federal agencies such as SSA or the Department of Labor

Communicate Identities of New Governmental Employers to SSA

- Neither FSLG nor SSA currently identify or catalog the establishment of a new governmental employer. Additionally, if the data were available, there are no existing procedures for the exchange of this information between these two federal partners. FSLG should consider implementing a process to identify these newly formed entities by using existing IRS system coding, classify such entities into its existing data base and share this information with SSA under their existing Memorandum of Understanding (MOU). This process will increase compliance with payroll tax withholding, payroll tax payments, wage reporting and social security/Medicare coverage. Additionally, early identification of these entities enables FSLG and SSA to avoid costly and time-consuming retroactive resolution of withholding, reporting, reporting, earnings record and coverage errors.

**EXHIBIT A
POINTS OF INTERSECTION WITH IRS**

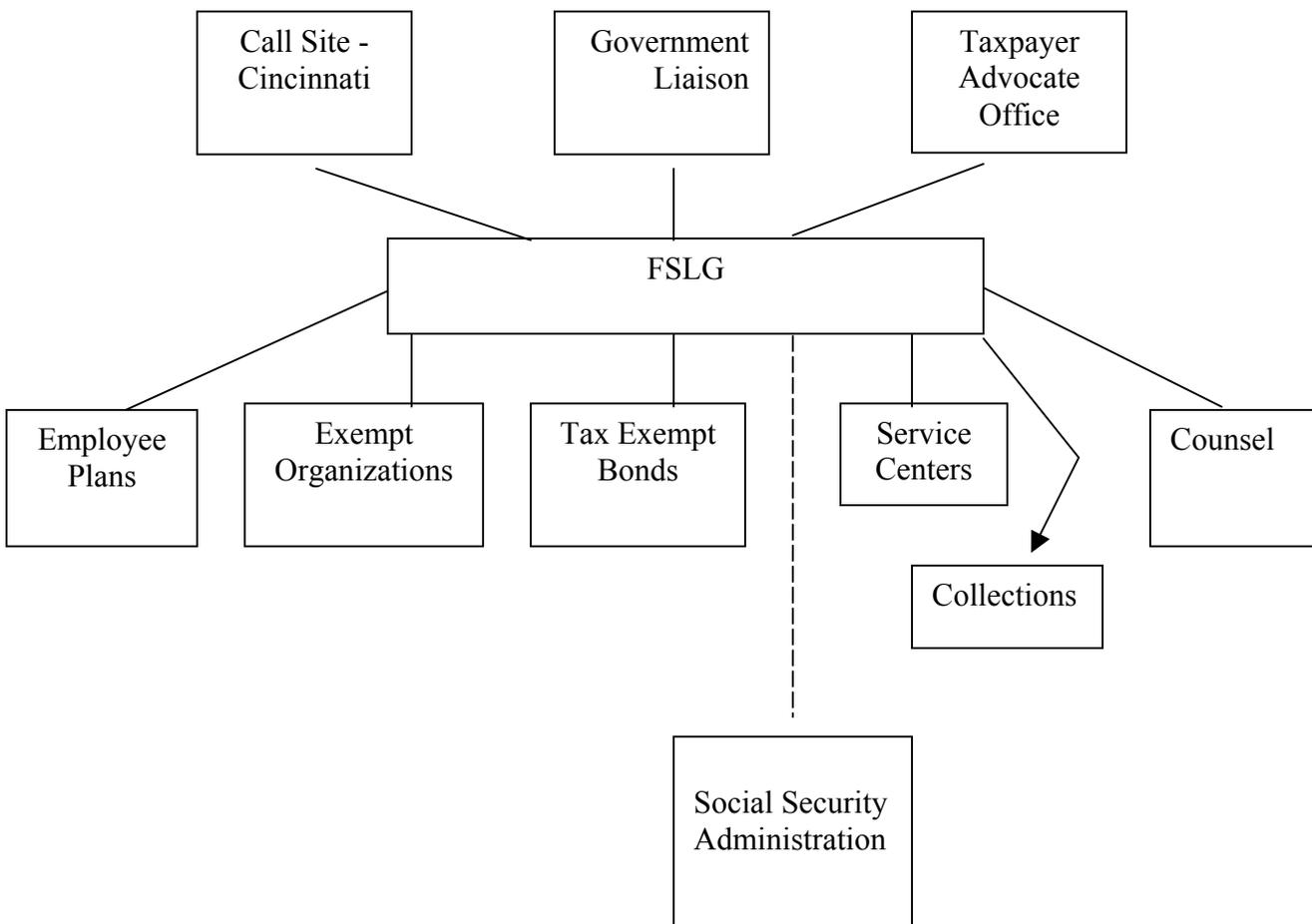


EXHIBIT B

(Memorandum of Agreement between IRS and SSA)

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
SOCIAL SECURITY ADMINISTRATION
AND THE
INTERNAL REVENUE SERVICE
FOR
STATE AND LOCAL GOVERNMENT COMPLIANCE ISSUES**

**Section 1.
Purpose**

This Memorandum of Understanding (MOU) specifies the responsibilities of the Social Security Administration (SSA) and the Internal Revenue Service (IRS) with respect to reporting and compliance requirements for state and local government employers under the Social Security Act (Act) and the Internal Revenue Code (Code). This includes specifying the responsibilities of both agencies for performing compliance reviews, educating public employers, and improving the reporting process between SSA and IRS to detect compliance problems.

Additionally, this MOU addresses activities intended to improve the wage reporting of state and local government entities. These specifically include the responsibilities of the IRS and SSA regarding meeting the educational needs of public employers and improving the operational and informational exchanges between the agencies.

**Section 2.
Background**

Public Law 99-509, enacted October 21, 1986, revised Section 218 of the Act and Sections 3121 and 3126 of the Code to transfer from the states and SSA to the IRS responsibility for the collection of Social Security contributions from state and local government employers under Section 218 Agreements. Prior to 1987, the State Social Security Administrators were responsible for reporting covered wages to SSA, collecting the Social Security and Medicare contributions from public employers, and depositing those amounts to the Social Security Trust Funds. Beginning January 1, 1987, state and local government employers became responsible for the reporting and payment of Social Security and Medicare taxes directly to the IRS.

A "Section 218 Agreement" is a written agreement between a state and SSA to provide Social Security and/or Medicare coverage for employees of a state or local government. Beginning January 1, 1951, Section 218 Agreement coverage was available for the services of employees in positions not covered under a retirement system. These

non-retirement system positions are referred to as absolute coverage groups. The Social Security Amendments of 1954, effective January 1, 1955, allowed states to voluntarily extend Section 218 Agreement coverage to the services of employees in positions covered under a retirement system. These groups are referred to as retirement system coverage groups. Since April 20, 1983, coverage under a Section 218 Agreement cannot be terminated unless the state or local government entity is legally dissolved.

In 1986, Public Law 99-272 mandated Medicare coverage for all state and local government employees hired, or rehired, after March 31, 1986. In 1990, Public Law 101-508 mandated Social Security coverage, effective July 2, 1991, for virtually all state and local government employees not covered by either a public retirement system or a Section 218 Agreement.

Section 3. Responsibilities

The SSA is responsible for the Social Security and Medicare coverage provisions under the Act. The IRS is responsible for the Social Security and Medicare taxation provisions under the Code.

With respect to state and local government taxation issues, under the authority of Chapter 21 of the Code, IRS is responsible for:

- Administering the Federal Insurance Contributions Act (FICA), including the mandatory Social Security and Medicare provisions concerning services performed by state and local government employees;

Assuring that there is proper reporting and collection of Social Security and Medicare taxes by state and local governments under the FICA through examination and other compliance programs; and

- Interpreting the FICA provisions applicable to state and local governments through published guidance, e.g., Regulations, revenue rulings, and revenue procedures, and through non-precedential advice to taxpayers and IRS personnel, e.g., private letter rulings and field directives.

With respect to state and local government coverage issues, under the authority of Sections 218 and 210 of the Act, SSA is responsible for:

- Making rules and Regulations and establishing procedures, not inconsistent with Title II of the Act (42 U.S.C. 401 et seq.), which are necessary or appropriate to carry out certain provisions of the Act;

- Adopting reasonable and proper rules and Regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits under the Act;

Maintaining and executing Section 218 Agreements and Modifications to such agreements;

Determining the coverage status of state and local government employees covered under a state's Section 218 Agreement and modifications thereof, and the mandatory coverage provisions under Section 210 of the Act, for Social Security and Medicare benefit purposes; and

- Assuring the accurate crediting of earnings to all workers; maintaining accurate earnings records; verifying the earnings amounts provided; and correcting erroneously posted amounts, as required by law.

Section 4. Educating State and Local Government Employers

IRS will advise and educate state and local government employers about Social Security and Medicare taxation provisions under the FICA, including those provisions relating to reporting and deposit processes for Social Security and Medicare taxes.

SSA will advise and educate State Social Security Administrators and state and local government employers about the Social Security and Medicare coverage provisions under Sections 210 and 218 of the Act and the Annual Wage Reporting (AWR) process.

IRS and SSA will promote better state and local government reporting practices by conducting periodic joint educational workshops for state and local government employers.

SSA and IRS will review IRS Publication 963, Federal-State Reference Guide for State and Local Government Employers, a multi-agency document published by the IRS, to determine whether a revision of the publication is necessary. New editions of Publication 963, or supplementary publications (additions/deletions), will be created jointly by the IRS and SSA.

Section 5. Improving the Coordination Process Between IRS and SSA

IRS and SSA agree to implement a standing Section 218 Committee beginning in Fiscal Year 2002 to discuss policy, procedural, and compliance issues relating to Social Security and Medicare coverage and taxation of state and local government employees.

The Section 218 Committee will meet semiannually, or more frequently, if appropriate, to evaluate findings and develop proposals and alternatives for executive decision-making.

The Section 218 Committee will evaluate information exchange methods for data concerning state and local government employers and will periodically provide recommendations for improving the coordination process. As an essential part of this process, the Committee will study the feasibility of perfecting the Section 218 Agreement/Modification information retained in IRS and SSA databases. The Section 218 Committee will consider sharing perfected Section 218 Agreement/Modification data with State Social Security Administrators.

Section 6. Disclosure of Federal Returns and Federal Return Information

SSA is bound by the provisions of Section 1106 of the Act and Section 6103 of the Code. IRS is bound by the provisions of Section 6103 of the Code.

Section 6103(l)(1)(A) of the Code authorizes the IRS, upon written request, to disclose returns and return information with respect to taxes imposed by chapters 2, 21, and 24 to SSA for purposes of SSA's administration of the Act.

The term "Federal Return" means a "return" as defined in Section 6103(b)(1) of the Code. The term "Federal Return Information" means "return information" as defined in Section 6103(b)(2) of the Code.

Pursuant to the Act, the SSA is charged with responsibility for administration of the Act. Federal Returns and Federal Return Information (whether originals, paper copies, photocopies, microfilm, magnetic media, or any other form) received from the IRS pursuant to Section 6103(l)(1)(A) will be used only to the extent necessary for the purpose of SSA's administration of the Act. Such information shall not be used for the SSA's administration of any other statute.

The term "SSA Representative" means an officer or employee of the SSA designated in writing by the SSA to the Commissioner, IRS, as an individual who is authorized to inspect or receive Federal Returns and/or Federal Return Information with respect to chapters 2, 21, and 24 taxes on behalf of the SSA as provided by Section 6103(l)(1)(A) of the Code, but only so long as the duties and employment of such officer or employee require access to such Federal Returns and/or Federal Return Information for purposes of administration by the SSA of the Act.

Upon the occurrence of any change in employment, duties, or other relevant matters affecting an SSA Representative's authority to access Federal Returns and Federal

Return Information, or status as an SSA Representative, the SSA shall promptly advise in writing the Commissioner or his or her designated representative of such change.

The term "disclosure" means the making known to any person in any manner Federal Return or Federal Return Information. An SSA Representative to whom a Federal Return or Federal Return Information has been disclosed may only disclose such return or return information to another officer or employee of the SSA only to the extent necessary for the purpose of SSA's administration of the Act. Disclosures to contractors and administrators are not allowed.

In accordance with Section 6103 of the Code, this agreement shall constitute a request for the Commissioner, IRS to disclose returns and return information with respect to taxes imposed by Chapters 2, 21, and 24 of the Code to the SSA for purposes of its administration of the Act. Specifically, when the IRS becomes aware of a state or local government employer whose noncompliance with the reporting requirements has resulted in a failure to correctly report employee wages for Social Security purposes, the IRS will provide SSA with the information identifying such entities so, if needed, SSA will be able to contact the employer and obtain the information required to correct employees' earnings records.

Section 7. Disclosure Safeguards

As an express condition for the inspection and disclosure of Federal Returns and Federal Return Information, the SSA agrees to comply with the safeguards and requirements prescribed by Section 6103(p)(4) of the Code and with such provisions governing implementation of such safeguards and requirements as may be established by Regulations and written procedures; provided by existing Regulations; or contained in IRS Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies.

The SSA will make its officers and employees aware that under Section 6103(a) of the Code, they are required to maintain the confidentiality of Federal Returns and Federal Return Information and that under Section 6103(a)(1), as Federal Officers or Employees, they are prohibited from disclosing Federal Returns or Federal Return Information except as specifically authorized under the Code. The SSA will also make its officers and employees aware that the Code's confidentiality restrictions are enforced by criminal penalties for individuals convicted of willful unauthorized disclosure of Federal Returns or Federal Return Information (see Section 7213 of the Code), criminal penalties for individuals convicted of unauthorized access/inspection of Federal Returns or Federal Return Information (see Section 7213A; and 18 U.S.C. 1030(a)(2)(B)), as well as a civil damages remedy against the United States available to persons whose Federal Returns or Federal Return Information has been unlawfully accessed or disclosed by any Federal officer or employee (see Section 7431 of the Code).

**Section 8.
Notices and Contacts**

SSA will provide any information required under the MOU to the Director, Government Entities, or to such other person(s) as that Director or the Commissioner, IRS or his designee shall designate. The IRS will provide any information required under this MOU, in accordance with Section 6103 of the Code, to the Deputy Commissioner for Disability and Income Security Programs of the SSA, or to such other SSA Representative(s) as the Deputy Commissioner shall designate.

**Section 9.
Funding**

Each agency will be responsible for funding the costs it incurs in performing its responsibilities under this MOU.

**Section 10.
Effective Date, Modifications and Termination**

This MOU will become effective upon signature by the authorized representatives for IRS and SSA. Any modification or amendment of this MOU must be agreed to by both parties in writing and will be effective upon the date of execution or such other date as may be provided in the modification or amendment. This MOU can be terminated by either IRS or SSA upon written notification of the other party at least 90 days in advance of the termination date.

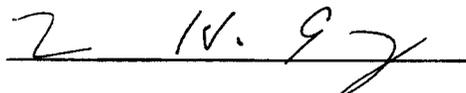
**Section 11.
Signatures**

Internal Revenue Service
Commissioner,
Tax Exempt and Government Entities

Social Security Administration
Deputy Commissioner for
Disability and Income Security
Programs



Date: 2-8-02



Date: APR - 4 2002



EXHIBIT C

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

DEPUTY

June 29, 2001

MEMORANDUM FOR DIVISION COMMISSIONERS

CHIEF COMMUNICATIONS AND LIAISON
NATIONAL TAXPAYER ADVOCATE
CHIEF, APPEALS
CHIEF COUNSEL

FROM: Bob Wenzel /s/ Bob Wenzel
Deputy Commissioner of Internal Revenue

SUBJECT: Governmental Liaison Program – Clarification of Role

The purpose of this memo is to clarify the role of the Governmental Liaison function in the modernized IRS and how that function will work in partnership with the operating and functional divisions.

In the past few months, we have heard from our state and local partners about contacts they have had with the IRS. The general tenor of their concerns is that representatives of different IRS operating divisions have made independent contacts with the same individual or office for different, but often related, purposes. The resulting confusion underscores the need for the Governmental Liaison Program - a program designed to work within the IRS to coordinate outreach and build and maintain relationships with our operating and functional divisions, state and local governments and federal agencies.

Role of the Governmental Liaison Program

Organizationally, Governmental Liaison (GL), formally known as FedState, is a function of the Office of Governmental Liaison and Disclosure (GLD) under Communications and Liaison (C&L). It was developed in the modernization design to ensure that:

- All contacts with other government tax entities are well coordinated and that IRS resources are used in an efficient and effective manner;
- All joint activities are consistent with IRS direction;
- Issues identified by our partner organizations are consistently surfaced and addressed;
- Contacts with local Congressional offices (Congressional Affairs Program) for non-case, general tax administration activities are handled efficiently;
- Major data exchanges with the states are managed consistently.

In order to achieve these objectives it is essential that the IRS Governmental Liaisons (GLs) be the primary point of contact with these entities. As a result, **all** such contacts need to be coordinated with the C&L field Governmental Liaisons, or national Governmental Liaison office. *(The only exception is when the IRS division relationship with the authority is related to its tax reporting responsibilities. For example, the Tax Exempt and Governmental Entities Division is the primary compliance and outreach contact for state and local governments as taxpaying entities.)*

If you are contacted directly by a government entity, please notify the C&L field GL or GLD Area Manager. The GL or GLD Area Manager will help the operating division determine how best to work with these stakeholders, and what the appropriate GL involvement should be on a case-by-case basis.

The table below helps illustrate various roles and responsibilities of Governmental Liaison and the operating divisions:

C&L Field Governmental Liaisons	C&L National Governmental Liaison Office	Operating Division's Embedded FedState Coordinator	TE/GE – Federal, State and Local Governments
<p>Coordinates activities between IRS and state and local governments and federal agencies located in the states.</p> <p>Primary point of contact for local Congressional offices (Congressional Affairs Program) for non-case, general tax administration activity.</p>	<p>Develops policy and provides oversight for the overall IRS Governmental Liaison program.</p> <p>Ensures consistency for all IRS GL activity.</p> <p>Works with ODs' embedded FedState Coordinators.</p>	<p>Coordinates GL activity within division, for example: compliance initiatives, partnering, outreach pilots.</p> <p>Works with C&L National GL office to establish strategic direction for ODs' GL activities.</p>	<p>Responsible for compliance outreach, education and enforcement contacts with state and local governments in its relationship with them <i>as taxpaying entities.</i></p>

Contact Information

C&L Governmental Liaisons are located in each state and the District of Columbia. They report to seven GLD area managers located in New York, Baltimore, Atlanta, Chicago, Dallas, Denver, and Oakland. Currently, the GLs are meeting with territory managers to explain their role and offer their assistance to the operating divisions. For

your convenience, I have attached a list of Governmental Liaisons or you may find their names and numbers at <http://notesnt4.aus.swr.irs.gov/GovtLiaison.nsf>

In order for this process to work, your cooperation is essential. Thank you in advance for your support. If you have any questions or need further clarification, please call Clare Calaby, Acting Director, Office of Governmental Liaison, at 202-622-5155.

Attachment
GL Contact List:



[Home](#) > [Government Entities](#) > [Federal, State, & Local Gov'ts](#)

Federal, State, & Local Gov'ts

Tax Information for Federal, State, & Local Governments

[New! See our Calendar of Events for 2003!](#)

FSLG is participating in a series of conferences & workshops for federal, state, and local governments around the country during the upcoming calendar year. Check our Calendar of Events for locations and dates.

[Publication 963 - Federal-State Reference Guide](#)

The 2002 revision of this publication provides state and local government employers a comprehensive reference guide for Social Security and Medicare coverage and Federal Insurance Contributions Act (FICA) tax withholding issues.

[Revenue Procedure 91-40](#)

This revenue procedure sets forth rules relating to the minimum retirement benefit requirement prescribed under section 31.3121(b)(7)-2 of the Employment Tax Regulations.

[Helpful Tip No. 1](#)

Want to visit us again? Just remember <http://www.irs.gov/govts>. It's that easy!

[Helpful Tip No. 2](#)

Are you a government employer with a technical or procedural question? Write to us!

Search IRS Site for:

Search Forms and

Publications for:

[Search Help](#)

contents

[Federal, State, & Local Gov'ts](#)
[Government Liaisons](#)
[Indian Tribal Gov'ts](#)

resources

[e-file](#)
[Forms and Publications](#)
[Where To File](#)
[Contact My Local Office](#)
[Frequently Asked Questions](#)
[Taxpayer Advocate](#)

topics

[About FSLG](#)
[FSLG Newsletter](#)
[FSLG Customer Services](#)
[Calendar of Events](#)
[More Topics ...](#)

EXHIBIT E
CODES TO IDENTIFY TE/GE ACCOUNTS
(Bold Identifies FSL Entity/Account)

1. BOD Code

- a. WI
- b. TE**
- c. LM
- d. SB

2. BOD Client Code within BOD Code "TE"

- a. B - Bonds
- b. F - FSL**
- c. I - ITG
- d. 1 - Bonds Issued by ITG
- e. 2 - Bonds Issued by FSL**
- f. 3 - Bonds Issued by EO

3. Employment Code

- a. G - State and Local Government**
- b. F - Federal Employer
- c. T - Section 218 Agreement**
- d. I - ITG

4. Filing Requirement Code

- a. 941
- b. 940
- c. etc.

"L" code means large corporation case. This code also appears in the entity of an account. If one wanted to identify large corporation TE/GE FSL accounts, he would request all accounts with the following codes:

- a. TE BOD code
- b. F BOD client code
- c. L code (i.e. Large Corp)