

Advisory Committee on  
Tax Exempt and Government Entities  
(ACT)

I. Barriers to Voluntary Compliance:  
*Governmental Employers' Perspective*

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## **Executive Summary**

Although the public sector or governmental employer community is relatively small proportionate to the nation's approximate 6.5 million employers, this community is a critical Internal Revenue Service (IRS) stakeholder and has very significant interactions with the IRS. According to the 2002 Census of Governments--GC02-1 (P) issued July 2002, there are approximately 88,000 governmental entities in the United States as of June 30, 2002.

Public employers have long acknowledged and promoted voluntary compliance as the key to effective and efficient tax administration. Voluntary compliance by public employers requires not only executing specific withholding and reporting functions, but also identifying and eliminating barriers, which prevent voluntary compliance. The Department of the Treasury and the IRS recognized that "governmental employers" represent a special and diverse community. The establishment of the Tax Exempt/Governmental Entities Division (TE/GE) and its Federal, State and Local Governments (FSLG) component acknowledged that public entities present unique needs and operational considerations.

The report that follows represents the third in a series of ACT reports addressing TE/GE and FSLG's organizational and functional development. The first two ACT reports offered numerous recommendations designed to facilitate a new organizational approach to servicing tax exempt entities and governmental employers. The ACT perpetuates and facilitates the on-going need for IRS and its stakeholders to view tax compliance and administration through a partnered vision. To its credit and as evidenced by follow up actions to previous recommendations, TE/GE fully embraces ACT involvement and the mutual benefits that partnered opportunities present.

The team approached this project through a variety of informational gathering methods and direct interviews with affected entities comprising the primary public sector employer and IRS interfaces. The underlying review was tied to a single concept—what, if any opportunities exist for FSLG and other IRS/Treasury entities to advance voluntary public sector employer compliance as expressed by state and local government employers. The recommendations resulting from this effort are presented in three major areas summarized below. Each area addresses a central opportunity as well as specific recommendations embracing barrier removal concepts. FSLG should remove barriers within its purview and, as well, advocate similar action by other IRS entities for crossover issues on behalf of its stakeholders.

This document provides a snapshot of state and local government sector employer views on the current employment tax environment. It identifies tax compliance barriers recognized by public employers across the nation as well as from IRS entities supporting this market segment. These barriers stem from legislative and budget decisions through the administrative remedies/structures used to implement those decisions. The issues, problems and resulting recommendations provide an

informational platform for IRS entities including FSLG to re-examine, re-engineer and re-energize IRS business practices. Although a number of recommendations crossover into other IRS and Treasury entities, this report provides FSLG with information to advocate its customer's needs, advance services and promote voluntary tax compliance. We realize that FSLG could not accomplish all of the recommendations on its own, but we also realize that FSLG is on the "front line" for its customers. We believe FSLG should serve as an advocate to IRS and other Treasury entities when FSLG becomes aware of fundamental customer needs that are not being met. For that reason, we have chosen to include that type of recommendation in this report.

### **Partner with the public employer community**

In this section, we have identified a number of recommendations that FSLG can independently achieve.

- **Recommendation:** FSLG market its web site directly to its stakeholders via the 13 national organizations and associations representing those stakeholders. Encourage stakeholders to promote FSLG site use/subscriptions with their members. TE/GE should also market the FSLG website in its materials.
- **Recommendation:** FSLG create a combined FSLG/Stakeholder work team to partner in subsequent web site/newsletter design, application and content development efforts. FSLG actively engage its customers to participate and share in an on-going ownership in FSLG products affecting employment tax roles.
- **Recommendation:** FSLG adopt stakeholder participation in IRS initiatives as a vital program objective; institute an on-going stakeholder work group to review IRS initiatives affecting stakeholders; provide timely feedback and promote information sharing.
- **Recommendation:** FSLG actively monitor inter-divisional initiatives (SB/SE, W & I, and LMSB) affecting FSLG stakeholders and advance stakeholder perspectives to insure end-to-end accountability from "idea to implementation".
- **Recommendation:** FSLG establish tangible customer service standards for both written and telephone customer inquiries. FSLG should annually measure its customer service performance by applying these standards and publicize the results in the Winter FSLG Newsletter.
- **Recommendation:** FSLG "place a face" in its public brochures and via its web site to those IRS entities that interface with public sector employers. The product should identify the players and illuminate a brief description of their respective functionality.
- **Recommendation:** FSLG adopt an opportunistic customer initiative strategy that "piggybacks" FSLG customer needs on other IRS divisional initiatives and eliminates sole reliance upon FSLG to represent customer needs. FSLG begin implementing this strategy using the Form 941/941c and refund issues.

## **Dismantle compliance barriers through identification of barriers**

In this section, we have identified a number of recommendations that we realize FSLG cannot achieve on its own. However, these recommendations involve items that are critical for state and local governments to be able to timely comply with their responsibilities as employers. It is our recommendation that FSLG become actively engaged in intra-Service discussions about these items to ensure state and local government concerns are considered. These issues strike to the essence of the state and local government relationship with the federal government in their role as employers.

- **Recommendation:** IRS expand the Form SS-4 (Application for Employer Identification Number) process to collect every new employer's e-mail address. The form identifies and IRS categorizes the employer as an SB/SE, W&I, LMSB or TE/GE customer. With those two pieces of data, IRS should automatically subscribe a new employer to the appropriate IRS website(s).
- **Recommendation:** IRS establish a central entity to track the timely release of annual tax information, including non-IRS parties which annually provide tax data, within an annual cycle which insures prospective tax implementation.
- **Recommendation:** IRS adopt as a servicewide policy to immediately provide interim direction whenever release of annual tax information is unavoidably delayed and provide a corresponding safe harbor for employers using this interim direction.
- **Recommendation:** IRS review and adjust its communication systems to insure that stakeholders receive adequate advance notification of operational changes, including impacts employers will experience when implementing those changes.
- **Recommendation:** IRS re-evaluate its publication program to insure the program:
  1. Empowers state and local government employers to properly execute tax responsibilities without subscribing to ancillary informational services;
  2. Provides an efficient and timely update process, which bypasses unnecessary IRS reviews/delays prior to publication;
  3. Encompasses formal governmental employer stakeholder and interdivisional/IRS organizational ownership of employer based publications; and
  4. Requires all publications affected by new rulings to reflect any new requirements stemming from those rulings.
- **Recommendation:** IRS adopt as a servicewide standard that all correspondence to state and local governments identify the appropriate operating division name (or highest organizational nomenclature) as well as the specific sub-organization of the division generating correspondence.
- **Recommendation:** IRS adopt as a servicewide standard that all correspondence to state and local governments provide a "subject description" that identifies the basis for the communiqué, which meets the "common person" test.

Correspondence must contain a concise statement outlining why an addressee is being contacted—a statement that any common person would readily understand.

- **Recommendation:** IRS assign a basic tracking code (date request is received) or indicator (description on the refund) that readily ties a state or local government employer's specific refund request to the corresponding issued refund check. Provide an explanation regarding the refund amount including the interest computation—a formula, number of days interest was paid, or inclusive dates the interest represents.
- **Recommendation:** IRS review its refund production cycle and initiate corrective measures to address communication shortfalls and implement a refund standard that returns state and local government employer funds with the same time sensitivity as IRS requires regarding underpayments and penalties.
- **Recommendation:** TE/GE, using its various newsletters, publicize IRS corrective measures and customer service tax refund standards.
- **Recommendation:** IRS review the Master File address change process as to state and local governments and implement safeguards to preempt erroneous address changes.
- **Recommendation:** IRS implement an expedited corrective process that rectifies inadvertent Master File errors on state and local governments within five workdays and provides an electronic media/outreach training program for state and local employers addressing this business problem.
- **Recommendation:** FSLG in conjunction with stakeholder participation, identify five tax regulations whose subjective requirements (such as de minimis fringe benefits) represent the most frequent compliance barriers to state and local government stakeholders. Working through the other IRS divisions and Chief Counsel, recommend projects via the IRS Priority Guidance Plan to address and replace subjective standards to the extent possible, with objective standards that promote independent tax compliance.

**Adopt the concept of voluntary compliance through barrier elimination as a strategic focus for customer services and regulatory actions.**

In this section, we identified two recommendations that FSLG and the Service should advance.

- **Recommendation:** Servicewide, IRS “value” its state and local government stakeholders' perspectives regarding compliance barriers and use barrier removal as a strategic focus for advancing voluntary compliance and customer services.
- **Recommendation:** Federal, state and local governments should have identical compliance remedies consistent with the IRS mission “to apply tax law with integrity and fairness to all”.

The ACT encourages FSLG to embrace a cultural ethic for barrier-free tax administration. FSLG and other IRS entities along with state and local government

employers can create mutually beneficial relationships exponentially to the growth of voluntary compliance. This growth can be powered by the elimination of tax compliance barriers. Sustained and viable relationships mandate that all parties “value” voluntary compliance. Each must actively work hand in hand to remove policy, procedural, structural and other communication shortcomings plaguing employment tax administration today.

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## Introduction

Although the public sector or governmental employer community is relatively small proportionate to the nation's approximate 6.5 million employers, this community is a critical Internal Revenue Service (IRS) stakeholder and has very significant reporting, taxation and other interaction with IRS. According to the 2002 Census of Governments—GC02-1 (P) issued July 2002; there are approximately 88,000 governmental entities in the United States as of June 30, 2002.

A governmental entity is defined as “an organized entity subject to public accountability, whose officials are popularly elected or are appointed by public officials, and which has sufficient discretion in the management of its affairs to distinguish it as separate from the administrative structure of any other governmental unit”. The U.S census recognizes seven basic types of government: federal, state, county, municipalities, townships, school districts and special districts.

Federal, State and Local Government (FSLG) defines its customer market segments into four groups: federal agencies, state agencies, local governments and quasi-governments. FSLG likewise views governmental associations and governmental practitioners as customers. For employment tax purposes, FSLG projects that public employers employ approximately 20% of the American workforce. According to the IRS 2002 Databook, the combined-annual federal employment tax liability for these employers/employees is approximately \$200 billion or 14.3% of the nation's annual employment tax liability of \$1,390,478,688,000.

The public employer community, unlike its private sector counterpart, does not exist on a profit center model or for a profit motive. Rather, governmental employers serve very specific social needs, e.g. education, public safety, etc. and act as guardians of the “public trust”. Governmental entities have severely restricted financial means. All funding and expenditures are continuously subject to public review and scrutiny. The public employer community can ill-afford the political and financial consequences of non-compliant tax behavior. Nor can it afford to operate in a tax environment imposing unnecessary administrative barriers, which in turn promote non-compliant behavior.

The Department of the Treasury and the IRS recognized that “governmental employers” represent a special and diverse community. The establishment of the Tax Exempt/Governmental Entities Division (TE/GE) and its FSLG component acknowledged that public entities present unique needs and operational considerations. These realities present formidable challenges to IRS in meeting its stated mission “to apply the tax law with integrity and fairness to all”. This is especially true given the significant absence of IRS interfaces with public sector employers prior to the IRS Restructuring and Reform Act of 1998. Today, FSLG still remains largely an unknown entity within the public employer community.

In late September 2003, Pamela Olson, the Treasury Department's assistant secretary for tax policy stated that IRS is using three fundamental strategies to encourage tax

fairness, compliance and simplicity. These strategies include: better communication, reducing disputes and rationalizing the tax system to make the system simple and meaningful. The ACT suggests adding to this three-prong strategy a critical denominator for governmental employers--empowering governmental entities to **independently** achieve compliance. This requires federal tax authorities to identify and then resolve situations where they create barriers that impede voluntary compliance.

Ms. Olson also stated that "IRS made the mistake of letting litigation function as a rulemaking process" further pointing out " understandings of the tax code generated through litigation do not serve the goals of tax fairness and consistency." The assistant secretary went on to conclude that better information in the hands of taxpayers reduces disputes and advances compliance. Litigation is often born through costly and contentious assessments tied to inadequate communication. Audits and downstream litigation are driven in large part by the failure to communicate and desire to maintain the familiarity of a status quo environment.

Public employers have long acknowledged and promoted voluntary compliance as the key to effective and efficient tax administration. Voluntary compliance by public employers requires not only executing specific withholding and reporting functions, but also identifying and eliminating barriers that prevent voluntary compliance. Public employers, unlike many of their private sector counterparts, do not view employment tax administration from a profit center motive. Rather, it is a required business function that is best served through objective and timely execution of clear, concise, and reliable requirements. Public sector employers seek solution-based alternatives, which meet the letter of the law.

Conversely, the private sector may be more willing to explore "the compliance envelope" as a business strategy. These employers navigate the challenging tax landscape to determine their fair share of taxes. At times, they also appear readily to accept the consequences for non-compliance and tax avoidance. To the private sector, these consequences are legitimate operating costs, including litigation. At no time can the public sector take that point of view--given state statutes governing public employee behavior and ethics.

This document provides a snapshot of state and local government employer views on the current employment tax environment. It identifies tax compliance barriers recognized by public employers across the nation as well as from IRS entities supporting that market segment. These barriers stem from legislative and budget decisions through the administrative remedies/structures used to implement those decisions. The issues, problems and resulting recommendations provide an informational platform for IRS entities including FSLG to re-examine, re-engineer and re-energize IRS business practices. Although several recommendations crossover into other IRS and Treasury entities, this report provides FSLG with information to advocate its customer's needs and advance services to promote voluntary tax compliance.

The ACT encourages FSLG to embrace a cultural ethic for barrier-free tax administration. The ethic should embrace a voluntary compliance model tied to both IRS induced as well as externally created barriers. As a business practice, FSLG and other IRS entities should assess products, services and guidance as either “barrier creators” or “compliance enhancers.” This determination should be made in the modeling phase and not after imposition via implementation. FSLG should encourage stakeholder participation in defining customer service, identifying barriers and securing their resolution. Stakeholders should also bring focus to externally created barriers such as legislative and budgetary decisions that impede voluntary compliance.

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## **Background: Progress To-Date**

This represents the third in a series of ACT reports addressing TE/GE and FSLG's organizational and functional development. The first two ACT reports offered numerous recommendations designed to facilitate a new organizational approach to servicing governmental employers. The establishment of TE/GE and FSLG in 1999 was a critical and essential acknowledgment that the IRS had underserved tax exempt and governmental entities in prior IRS organizational designs.

The ACT perpetuates and facilitates the on-going need for IRS and its stakeholders to view tax compliance and administration through a partnered vision. To its credit and as evidenced below, TE/GE fully embraces ACT involvement and the mutual benefits that partnered opportunities present.

TE/GE operates in a highly diverse and dependent environment. Administratively TE/GE is one of four primary IRS operating divisions. Unlike the other three divisions, TE/GE does not address a single class of customers. Rather, TE/GE services an extremely diverse customer base whose program needs are complex and largely uncharted. The other three operating divisions--Wage and Investment (W&I), Small Business and Self Employed (SB/SE), and Large and Mid-Size Business (LMSB)--service a common client base. SB/SE and LMSB likewise provide long standing, crossover program services such as examination, collection, and return processing for their customers as well as for TE/GE customers. The "shared" nature of TE/GE's customers directly places additional liaison, coordination and information sharing burdens onto TE/GE and its customers.

To communicate, represent and service its customers' needs, TE/GE must secure support through various IRS entities and navigate their respective bureaucratic structures. TE/GE also shares its customers with other IRS entities such as Governmental Liaison and Disclosure, Office of Chief Counsel, and Taxpayer Advocate, which maintain jurisdictional control over programs and operational responsibilities that directly impact TE/GE and its customers. TE/GE's end-to-end accountability, when articulating and successfully implementing its customers' needs, is severely tested within this dependent environment.

As an organizational newcomer, FSLG was allocated limited budgetary resources. These resources are inherently deficient to meet known and desirable program needs. All resources must be applied judiciously with an eye for maximizing value-added programs while meshing with the Commissioner's and other IRS competing priorities. To illustrate, FSLG has fewer than 95 employees. Approximately 64 FSLG Specialists are expected to provide an array of employment tax, reporting and compliance services to over 88,000 entities--1: 1375 ratio. Further compounding the ratio imbalance is the fact that these 64 Full Time Equivalents (FTEs) cover the geographical United States.

Logistically, it is virtually impossible to provide quality services to state and local government employers given the resource and spatial relationships. Employers rated

FSLG's Customer Support in eight areas with the highest satisfaction area (55.1%) for "available for assistance". Only 18.9% were satisfied with FSLG's "partner to remove compliance barriers" and 26% to "deliver appropriate technical training". Further, 75.1% of the responding employers indicated "no experience" with FSLG in "partner to remove compliance barriers" or 45.6% regarding "timely turnaround on issues". With the current budgetary environment, it is very difficult for FSLG specialists to be proactive in addressing customer technical needs nor establishing effective, ongoing customer interfaces.

It is against this backdrop of obstacles and opportunities that TE/GE seeks to excel. The following examples reflect recent advancements made within one TE/GE component--FSLG--and illustrate the success of the TE/GE-ACT partnership.

First, FSLG has made significant strides in creating its customer inventory database. There is no single greater need and goal than for FSLG to fully know its customer segment and its issues. The FSLG database now identifies over 87,900 customers and its initial construction phase was finished January 2004. Thereafter, FSLG turned its attention to maintaining an accurate and current database, which addresses customer's needs. (Note: the IRS Business Master-file increased over 15% between June--December 2003 to 80,828 identified return filers. FSLG is fast reducing the number of unknown customers as evidenced by this growth.

The ACT's 2002 recommendation encouraged FSLG to ensure that both state and federal partners could derive benefits from the database to enhance business practices. More specifically, the ACT suggested that IRS and the Social Security Administration (SSA) apprise States when new public employers were established, especially from the perspective of Section 218 Social Security Act provisions. In November 2003, the National Conference of State Social Security Administrators (NCSSSA) endorsed this recommendation and requested its implementation by 2004. (Note: the NCSSSA is one of several primary stakeholders that would directly benefit from this capability.) FSLG acknowledged on December 18, 2003 that it had implemented the ACT recommendation. FSLG's performance received solid marks from the affected stakeholders and represented quality customer service.

Second, FSLG instituted several communication vehicles--some targeted internal needs and some (like the FSLG web site) targeted its external stakeholder audience. FSLG's Director implemented a monthly newsletter to the field staff. The letter highlights new developments that directly impact Specialists and their customers. Although a subtle change, the recap reinforces the need for communication links between FSLG line and staff functionality. The letter does not eliminate all information gaps, however it accelerates information sharing and underscores the value of routinely connecting the FSLG team. The establishment of the FSLG web site was another TE/GE--ACT collaboration. This site provides the first external vehicle wherein FSLG's customers can directly access/interact with their IRS counterparts. On-line access promotes customer use--the value of that use is consistent with the site's informational parameters. As identified later in this report, additional consideration to the site is

warranted. However, FSLG receives positive marks for this service and for recognizing, as do state and local government employers, that a web site properly defined and managed is an invaluable asset for voluntary compliance.

Other notable developments stemming from the TE/GE--ACT partnership via FSLG include:

- proposing a Voluntary Closing Agreement Program for governmental employers;
- clarifying further the roles and responsibilities of FSLG Specialists;
- affirming the TE/GE Call Site as the "point of entry" for stakeholder inquiries;
- reestablishing ongoing meetings with the SSA pursuant to the 2001 IRS/SSA Memorandum of Agreement to address a myriad of coverage and service-based program issues stemming from Section 218;
- establishing customer services standards wherein each of the 50 states and their employment tax accounts are assigned an individual account liaison. The account liaisons reside at the Ogden Service Center and maintain direct contact with each state and address account related services regarding payroll tax deposits, returns and reporting. The Ogden/state liaison model has proven highly effective and demonstrates that mutually beneficial results for IRS and its customers can be achieved through routine communication and timely outreach;
- creating standardized and specific audit technique guidelines based on three market segments, federal, state and local governments; and initiating FSLG participation in the Annualized 941 work group whose mission crosses division lines.

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## Opportunities

The following areas provide opportunities to advance federal tax administration goals and address FSLG customer issues. These opportunities reflect a broad playing field wherein FSLG can remove compliance barriers. FSLG should also advocate action by other IRS entities regarding crossover issues that can readily promote cost effective, proactive and voluntary employment tax compliance via the public sector employer community. The opportunities noted fully embrace the three IRS fundamental business strategies cited by Treasury's Assistant Secretary for tax policy: tax fairness, compliance and simplicity.

- **Partner with the public employer community**

As reflected in the previous ACT reports, the initial thrust of FSLG activities encompassed organizational structure, staffing and implementing core operations. Those priorities precluded significant cultivation of interactive stakeholder relationships. These relationships are critical to advancing IRS goals as well as maximizing FSLG's scarce resources. Of the thirteen groups identified as likely FSLG stakeholder groups, only two appeared to actively work with FSLG prior to 2004 to illuminate actual market segment needs. The majority of the 13 stakeholders and their clients do not know or have not experienced FSLG in any meaningful interface. FSLG's outreach initiative in 2001-2003 fell short of its published goals of contacting each public employer and providing outreach services. Those who interfaced with FSLG reported wide variances between the nature and scope of these interfaces. The majority of state and local government employers were never contacted by this initiative. These employers remain wary of FSLG. They still perceive an inability to affect and secure any meaningful voice in services rendered by IRS.

FSLG's perspective of "market segment needs" remains largely "home grown" versus actual requirements delineated by employers. FSLG can address this and other barriers by expanding its marketing and informational services. It should actively partner with its customers (including governmental associations and governmental practitioners) and advocate their perspectives. FSLG's stakeholders should be an integral asset in assisting FSLG to review and investigate emerging issues and then, champion mutually advantageous endeavors.

TE/GE and FSLG confront many organizational obstacles including sharing their customers with other IRS entities whose organizational loyalties and/or priorities differ. Further, FSLG is unquestionably understaffed given its mission and vast, complex market segment. This market segment--both established governmental entities and new governmental employers--still have minimal knowledge of FSLG and the "new and improved IRS". The 1998 IRS Restructuring and Reform Act created direct IRS interfaces for public sector employers and now six years later, those interfaces remain elusive.

Though FSLG is dependent upon W&I, SB/SE, LMSB and Chief Counsel for many user activities such as customer account services, examination, collection and guidance, FSLG should aggressively use these organizations to address its clients' issues. FSLG can readily "piggyback" on other units/divisions initiatives to address public employer's needs and/or eliminate compliance barriers stemming from other IRS areas. To do so, requires FSLG to view compliance and information sharing from both an IRS and its client's perspective.

The first step requires FSLG to cultivate interactive relationships with its stakeholders and effectively act upon those relationships.

- **Dismantle compliance barriers through identification of barriers**

No matter how many employment tax laws Congress enacts or rules and regulations IRS issues, compliance cannot occur without a viable employer/IRS partnership. For this partnership to work, **all facets** of IRS must recognize that "how they do business" directly affects business success. Though FSLG cannot independently address and dismantle all compliance barriers, FSLG and TE/GE can advance crossover stakeholder issues to the appropriate IRS and Treasury entities for consideration.

Promulgating overtly complex regulations may "meet the test of law" and provide technically correct interpretations. However, regulations that are not routinely applied accurately or consistently make the regulatory process irrelevant. Providing inadequate guidance/insufficient training/questionable informational services inhibit compliance. Likewise, releasing guidance and necessary employment tax information untimely are formidable compliance barriers. **Business practices predicate business results.**

As recorded at the January 26, 2004 IRS Oversight Board hearing, organizations such as the American Bar Association (ABA) and the Tax Executive Institute stated that tax code simplification is needed for IRS to administer the tax system effectively. ABA Chairman of Taxation, Richard Shaw, stated, "Complexity creates significant obstacles to efficient and effective tax administration. It imposes substantial burdens on taxpayers that attempt to comply with the law; it has reduced the perceived fairness of the tax system; and it has created opportunities for tax abuses, forcing IRS to divert resources from compliant resources to enforcement. Simplification is not only a legislative responsibility, the IRS and Oversight Board must move things forward".

Tax administration is not advanced for state and local government employers (particularly when acting in their employment tax role) when IRS staffs are as equally confused about tax requirements as the employers that they assist. Tax administration cannot advance in this environment--it is gridlock.

The second step in eliminating barriers is to identify barriers to the responsible entities.

- **Adopt the concept of voluntary compliance through barrier elimination as strategic focus for customer services and regulatory actions**

Servicewide throughout the IRS culture, as evidenced by its publications, outreach and compliance efforts, voluntary compliance is frequently projected as an external activity--one performed by individuals and employers. Our surveys and discussions with employers found that state and local governmental entities do not perceive that the IRS collectively or through individual divisions embraced voluntary compliance as a legitimate internal IRS activity. TE/GE represents an exception to this finding. TE/GE has recently demonstrated within its Employee Plan program that voluntary compliance can be highly successful when approached as an IRS activity explored through cooperative efforts with its stakeholders.

In November 2003, the IRS Oversight Board released its "Annual Survey on Taxpayer Attitudes" conducted by RoperASW. The survey noted that "fear of an audit" is a major influence on tax compliance. However, the survey noted that the strongest influence on tax compliance is personal integrity. Of those surveyed, 73% considered it a "major influence" while another 15 % considered it "somewhat of an influence". These findings reinforce that voluntary compliance is readily obtainable if the environment for compliance is favorable. Conversely, audits produce fear. IRS may instill fear by demonstrating its ability to detect non-compliance and discourage the risk-reward calculus by those pushing the envelope. Fear also stems from a lack of confidence in performing tax roles. Through no fault of the taxpayer and/or employers, fear is produced by the "uncertainty" of applying ambiguous IRS rules, regulations etc.

Commissioner Everson readily concedes that our tax system involves complex rules and fine legal judgments. In his comments before the Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs he stated, " the tax laws are complex and taxpayers are permitted to take aggressive positions within the bounds of law". Neither the Roper survey nor IRS has addressed how much fear is derived from a hostile compliance environment. Public employers, in spite of their fiduciary responsibilities that preclude making a gift of public funds, inadvertently over-pay tax liabilities because they do not understand the rules and/or are afraid to make a mistake.

As a primary means to tax fairness, IRS must "value" voluntary compliance. It must recognize that voluntary compliance is best served by capitalizing upon the personal integrity of public sector employers and via elimination of IRS created compliance barriers. Tax fairness from IRS must also extend to all governmental employers—federal, state and local governments—through consistent and equitable treatment. Through TE/GE and FSLG leadership, it can demonstrate to other IRS and Treasury entities to view voluntary compliance as a critical internal business practice. TE/GE should approach business practices not from "business as usual", but rather "business through barrier removal". Likewise, governmental employers must actively participate--

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they must embrace an active partnership role in identifying barriers and offering viable solutions.

The third step is to recognize that IRS must maintain an ongoing business strategy that values voluntary compliance through elimination of IRS created compliance barriers.

## **Methodology**

The team approached this project through a series of informational gathering methods and direct interviews with affected entities comprising the primary public sector employer and IRS interfaces. The participants included: TE/GE staff, FSLG Director, Office of Outreach, Planning and Review (OPR), FSLG specialists, SB/SE Ogden Campus, Wage and Investment Division (W&I), Office of Chief Counsel, and a diverse cross-culture of the state and local government employers. The underlying review was tied to a single concept--what, if any opportunities exist for FSLG and other IRS/Treasury entities to advance voluntary public sector employer compliance as expressed by public employers.

The team's first step was to review ACT Reports I/II and related TE/GE and FSLG publications, information sources such as the Internal Revenue Manual 4.90, etc. These activities did not reveal that FSLG had actively assessed its impact on voluntary compliance. The team noted that most attention in addressing voluntary compliance stemmed from IRS expectations that with proper employer education, compliance could be achieved. To date, we have yet to discover any assessment measuring the effects (success or failure) of FSLG actions and services upon the public employer community's tax compliance performance.

For example, FSLG was to provide outreach to its market segment from 2001-2003. FSLG did not maintain statistics regarding individual governmental entities contacted. For Fiscal Years 2002 and 2003, FSLG stated it conducted 1525 outreach events with 83,820 attendees. This represented an event to attendee ratio of 1:55. The nature of these events and how many attendees actually represented unique state and local governmental employers are unknown. During this same period, FSLG indicated it responded to 8543 telephone inquiries. FSLG was unable to categorize the nature of the calls, geographical location and type(s) of outreach resulting from the calls. FSLG apparently did not solicit/quantify employers' needs or identify compliance barriers that outreach efforts were to address. Employer feedback from across the nation suggests that typical outreach activity encompassed a phone call indicating that a FSLG Specialist was assigned to an area versus actual outreach and training sessions. There was also no apparent follow-up measurement of outreach effectiveness then or now.

Based upon these and other informational responses, the team pursued a more in-depth data capturing exercise. Three perception or feedback documents were developed. The first document was tied exclusively to FSLG's national state and local government employer base. As with each feedback document, a draft was provided and critiqued by a user group and then by IRS. The focus group review addressed clarity and content issues; IRS review was principally designed as informational sharing. The team then selected a cross section of employer based organizations to complete the document.

Thirteen organizations were considered: American Institute of CPAs, American Payroll Officials, Employee Benefits Security Administration, Federation of Tax Administrators,

Governmental Finance Officers Association, National Conference of College and University Business Officials, National Association of Counties, National Association of State Auditors, National League of Cities, National Conference of State Social Security Administrators and National Association of Towns and Townships. The selected entities represented either clients who most likely performed traditional employer roles and responsibilities and/or those most likely not represented via other IRS sanctioned forums. Participating organizations included: National Conference of State Social Security Administrators; National Association of State Auditors, Controllers and Treasurers; National League of Cities; National Association of Counties (National Association of County Treasurers and Finance Officers) and National Association of College and University Business Officials.

Feedback documents were then distributed to a representative sample of each selected organization's membership. In addition, another 50 political subdivisions residing in one central state received the employer survey. The political subdivisions were primarily small, medium and large sized cities and boards of education. A total of 650 employers representing all 50 states were surveyed and 238 (36.6%) completed documents. The composite results of this effort are reflected in Exhibit A.

The second document targeted the IRS staff charged with providing compliance assistance to the public employer community, the FSLG specialist. The specialists represent the primary and essential link to state and local government employers--an ideal informational source for transcending compliance issues encompassing both IRS and customers' perspectives. The specialist compliance document especially targeted employer-based services and customer interfaces. All FSLG specialists, approximately 64, received feedback documents and 15 completed those documents. The 23.34 % response rate was disappointing given the subject matter and confidential nature of the feedback. The response rate may be indicative of other issues outside this project's scope. The composite results are reflected in Exhibits B. The team also reviewed and considered data secured via two previous IRS sponsored surveys: 2001 Climate Survey and TE/GE 2003 Survey.

The third document sought feedback from the SB/SE Ogden Campus staff which processes public sector employers' reporting and payment documents. The project team worked with Teams 1 and 2 of the SB/SE Accounts Management, Large Corporations, and TaxPayer Relations. These teams' customers are "LCI" coded entities representing about 230 governmental employers. The employers are entities that had previous compliance issues and/or large employers such as States whose accounts are each assigned a specific account representative. As the final processing stop, the Ogden data illustrated in broad terms both the success and shortcomings tied to compliance barriers. Approximately 15 team members received feedback documents and 12 (80%) returned documents. The composite results are reflected in Exhibit C.

The team also contacted various other IRS organizations and conducted interviews with entities such as Compliance Services--Fresno Questionable W-4 Program, Office of Chief Counsel--Income Tax and Accounting and TE/GE and SB/SE divisional staff in

the Office of Taxpayer Burden Reduction. These entities had either developed services for FSLG customers and/or provided venues for employer information sharing. The interfaces were designed to generally assess communication between FSLG and other IRS units--was FSLG actively seeking opportunities to secure and advocate its market segment views.

The project team's efforts were designed primarily to provide a window on the customer's world--view that captures "today's" environment. It provides TE/GE and FSLG an independent state and local government employer view of IRS--a perspective that demonstrates that current IRS business practices can be unnecessary compliance barriers.

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## **Discussion**

The state and local government employer market segment sees voluntary compliance in part, as a by-product of the IRS overall tax environment. The environment is viewed as cumbersome, complex, unresponsive and ill disposed for voluntary compliance. Employers echoed a common theme “that IRS needs to create a compliance barrier-free tax environment”. This sentiment was further supported by Nina E. Olson, National Taxpayer Advocate. In her National Taxpayer Advocate’s 2003 Annual Report to Congress, she stated, “IRS resources must be applied in a way that achieves a reasonable balance between enforcement activity, on one hand, and customer service and taxpayer rights, on the other”. She went on to say, “Congress and the IRS need to undertake more thorough research to ensure that legislative and administrative responses to perceived problems in tax administration are rooted in fact rather than impression or anecdote, and that initiatives actually achieve what they are designed to accomplish”.

The project team acknowledged that these and other employer perceptions were sufficient to conduct this and possibly subsequent ACT reviews. This report highlights a potpourri of opportunities and recommendations, which address these opportunities. For the IRS and its recent reorganization to be successful via the TE/GE and FSLG structures, compliance barriers must be removed. This document identifies a range of barriers within a fertile employment tax environment versus a compilation of a definitive barrier universe. The report encompasses IRS/Treasury entities and is designed to open minds to possibilities rather than to limit minds and possibilities to a single report.

For ease of review, the Discussion segment is broken into three areas. Each area addresses a central opportunity, including findings tied to each opportunity as well as specific recommendations embracing barrier removal concepts. Recommendations are directed to both IRS and Treasury entities; they also provide FSLG with information to advocate its customer’s needs, advance services and promote voluntary compliance.

### **Partner with the public employer community.**

Given the multitude of obstacles confronting FSLG, it can ill-afford to maintain passive relationships with its primary stakeholders. By actively and aggressively engaging business partnerships, FSLG is better poised to maximize its scarce resources. Stakeholder involvement has proven time and again to be an effective medium to advance mutually beneficial tax administration goals. Early and frequent cooperation allows IRS to draw from the experience and expertise of its customers to administer more effective programs and oversight resolutions.

Clearly, establishing and staffing FSLG consumed its early existence. With that phase nearly completed and the internal IRS expectations for compliance growing, FSLG must cultivate stakeholders and recognize the value they offer. Feedback from state and local government employers in late 2003 reflected the absence of a meaningful FSLG relationship. Until some preliminary efforts in January 2004, there was no ongoing,

formalized relationship between FSLG and most of its stakeholders. The ACT at the January 2004 session encouraged GE/FSLG executives to establish work groups from FSLG's primary stakeholders to assist FSLG on "public employer impacting" IRS initiatives. Work groups could not only act as an invaluable informational source, but also allow FSLG to concurrently consider federal, state and local government viewpoints.

To illustrate, the following are a few candidates for partnership consideration.

- **Inadequate Stakeholder awareness of FSLG's Web site**

**Problem:** FSLG's new web site remains a largely unused informational platform. State and local government employers are unaware of the site, which may be attributed in part to its newness. As of September 2003, FSLG's Office of Outreach, Planning and Review reported that 4,269 entities subscribed to the FSLG list serve and the number of "page visitations" was 35,432 between April and June 2003. FSLG stopped recording visitation statistics effective June 11, 2003. E-mail subscriptions rose by December 2003, to 5310--approximately a 26% increase. The ACT attributes a portion of this increase to its inadvertent marketing of the FSLG site via its contact with stakeholders and the state and local government employer survey process. The feedback document asked employers to assess the FSLG and other IRS online products--in doing so; employers reviewed the site and subsequently subscribed. At the conclusion of the survey period in February 2004, the E-mail subscription had risen to 6091 or a 14.7% increase over the December 2003 rate.

These figures are encouraging yet still represent marginal growth relative to FSLG's overall 88,000-customer base. Employer feedback paralleled these findings, as 81.7% of respondents indicated neither knowledge nor experience with the nine primary on-line IRS communiqués including FSLG's site (78.6%).

**Recommendation:** FSLG market its web site directly to its stakeholders via the 13 national organizations and associations representing those stakeholders. Encourage stakeholders to promote FSLG site use/subscriptions with their members. TE/GE should also market the FSLG website in its materials.

- **Stakeholder exclusion from FSLG's Web site marketing and newsletter content**

**Problem:** The most recent FSLG website redesign (winter 2003) was created with minimal if any customer involvement as to "marketing" the site. Though FSLG perceived this revision as structural, customer participation would have been extremely beneficial even if only to establish stakeholder communication links. Unlike the highly successful Employee Plan News produced by TE/GE's Employee Plan staff with active stakeholder participation, FSLG's Newsletter lacks meaningful stakeholder participation.

FSLG's web site and related quarterly newsletter exist primarily as informational sources to FSLG's stakeholders. If the stakeholders are not active participants in establishing and identifying their informational needs, then these products may be neither relevant nor likely to be utilized. FSLG customers must identify a "business value" to the site and the newsletter for each product to be successful. FSLG can advance "business value" by listening to its customers, embracing their ideas and marketing superior products.

To illustrate, FSLG specialists created several training products involving Fringe Benefits, Independent Contractors, and 1099 reporting that received outstanding endorsements from employers and stakeholder groups. These products were deemed superior to several IRS publications covering the same subjects. The FSLG products were written in "real world" terms in cooperation with stakeholder input. The products advanced voluntary compliance as they encompassed the employers' perspective and facilitated their tax administrative roles. Stakeholders began requesting in mid 2002 that these materials be placed on the FSLG web site. In doing so, state and local government employers could use these references and even self-train as an alternative to waiting for FSLG outreach. By FSLG making these materials directly available to employers, employers would be empowered to pursue voluntary compliance.

Stakeholders also strongly recommended that these training materials be provided/used by all FSLG specialists. With this approach, public employers across the nation would receive the same quality and consistent information needed to do their jobs. These tools would also minimize any expertise shortfalls by specialists lacking this technical expertise. (Note: sixteen former revenue officers occupy specialist positions--25% of the total sixty-four field based specialist positions. These former revenue officers' expertise was more narrowly aligned with collection activity and not the broader employment tax and related outreach/training functions now performed by specialists.)

Late in 2003 and with over a year of recurring stakeholder activism, these goals were achieved. Ultimately the training materials were made available to all FSLG specialists via FSLG's internal LAN based system and governmental employers via the public FSLG web site. It remains unclear however, if all specialists are required to use these materials when training.

When FSLG implemented these web site additions, it unfortunately did not market its action to either staff or its stakeholders. Whether by oversight or by design, failure to acknowledge these products, their availability and value represented a strategic shortfall. Stakeholders and specialists were surprised by FSLG's apparent reluctance to market successful products and customer services.

**Recommendation:** FSLG create a combined FSLG/Stakeholder work team to partner in subsequent web site/newsletter design, application and content development efforts. FSLG actively engage its customers to participate and share in an on-going ownership in FSLG products affecting employment tax roles.

- **Insufficient participation by public sector stakeholders regarding new initiatives services that directly impact employer's daily, quarterly or annual employment tax responsibilities**

**Problem:** FSLG stakeholders lack effective participation and a voice in IRS crossover initiatives that impact their tax roles and customer needs. Lack of representation of public employers remains a serious problem. The magnitude of this oversight will manifest into a highly visible IRS deficiency as compliance checks and audits occur. State and local government employers could ultimately use the absence of representation as a political medium to mandate additional IRS reform.

Public employer stakeholder and professional associations are rarely considered or consulted when IRS entities (other than FSLG) undertake structural reviews or initiatives. Presently, FSLG customers are unlikely to know about other IRS entity activities that directly impact them. For example, the majority of state and local governmental employers do not know about the Office of Taxpayer Burden Reduction (OTBR) within SB/SE Division. OTBR's mission is to achieve a significant reduction in unnecessary burdens for all taxpayers by targeting six areas:

- Simplifying forms, publications and notices;
- Streamlining internal policies, processes and procedures;
- Promoting less burdensome rulings, regulations and law;
- Developing burden reduction measurements;
- Partnering with all stakeholders to identify/address burden initiatives; and
- Chairing Taxpayer Burden Reduction Council (TpBRC) that coordinates IRS burden projects.

All IRS operating divisions, not only SB/SE, are represented on the TpBRC and can submit burden initiative recommendations through normal management channels to their TpBRC representative. FSLG has yet to submit initiatives to the TpBRC since TpBRC's first meeting on October 1, 2002. Nor, does it appear that any FSLG stakeholders have used this forum to address issues. Stakeholders can submit Forms 13285A--Reducing Tax Burden on America's Taxpayers--to the TpBRC. As the TpBRC appears to be a forum for issues that cross IRS operating divisions' responsibilities, the ACT sees opportunities for state and local employer concerns to flow into the TpBRC for consideration.

It is common for public employers to hear about IRS initiatives via clearinghouse services versus from IRS. It is also common for FSLG staff to hear about program initiatives affecting their customers from their customers. If FSLG headquarters is aware of initiatives, then it is not linking that information to stakeholders via stakeholder communiqués, web site announcements, etc. If unaware, then FSLG should consider reassessing its linkage to initiative efforts, which impact public employers and its downstream communication efforts.

The ability of public employers to influence FSLG activities is severely limited. FSLG has yet to nationally solicit customer input regarding types of guidance and training employers need. FSLG relies primarily on individual FSLG Specialists or upon compliance checks/audits as a basis for determining informational gaps.

Stakeholders were not asked to identify their educational needs before, during or after FSLG reduced outreach/training hours from 75% to less than 25% per year per specialist. State and local employers were concerned with the inadequate and inconsistent training delivered prior to FSLG's seemingly abrupt and unilateral shift to compliance checks/audits. They likewise lacked a communication forum to effectively register either their needs or complaints. Public employers' hope and anticipated confidence in the "new improved IRS" plummeted.

The following examples reflect the lack of participation by public stakeholders.

- In an early fall 2003 meeting, IRS circulated a "vision draft" of the IRS 941, and Employer's Quarterly Federal Tax Return and the complementary Schedule B, Report of Tax Liability for Semiweekly Schedule Depositors, for 2005. IRS relayed this vision document to four stakeholder groups for review: American Payroll Association, the National Payroll Reporting Consortium, National Society of Accountants, and the American Institute of Certified Accounts. No public sector stakeholder groups were asked to participate in either the meeting or the initial review /development of the document even though over 88,000 governmental entities use these documents. Further, IRS expected comments to come back through the four associations attending the November 2003 meeting. Public employers learned of this initiative via their subscriptions to the Bureau of National Affairs, Inc. Daily Tax Report. It was also noteworthy that the FSLG Quarterly Newsletter (December 2003)--issued mid November 2003--failed to mention this initiative.
- Earlier in 2003, a Form W-4 Summit meeting was conducted by W&I Division regarding the Questionable Form W-4 Program. Four stakeholder groups were asked to participate: Compliance and Product Strategy, Baker and McKenzie, American Payroll Association and Federal Liaison Service, Inc. Federation of Tax Administration. Again, private industry was well represented, however federal, state and local governmental employers were not. It remains unclear if TE/GE or FSLG were aware of the summit. It is also unclear if either TE/GE or FSLG were offered an opportunity to participate. The project team found no record that an offer to participate was extended to state or local governmental stakeholders. Likewise, the project team found no record that IRS publicized this initiative to state and local government employers--i.e. neither the FSLG Newsletter nor FSLG web site covered this initiative. Subsequent to the Summit however, a governmental stakeholder group independently sought out the Questionable W-4 Program staff. The stakeholder group illustrated various errors/shortcomings with employer and employee correspondence generated by the program and provided specific, corrective measures. The suggestions were quickly acknowledged and immediately

adopted. The suggestions effectively eliminated misleading business practices and clarified employer and employee responsibilities. The net result removed two compliance barriers.

Lack of knowledge and participation in IRS initiatives by the public sector community undermines the quality and benefits of these initiatives. It creates compliance barriers through exclusion and oversight.

**Recommendation:** FSLG adopt stakeholder participation in IRS initiatives as a vital program objective; institute an on-going stakeholder work group to review IRS initiatives affecting stakeholders; provide timely feedback and promote information sharing.

**Recommendation:** FSLG actively monitor inter-divisional initiatives (SB/SE, W & I, and LMSB) affecting FSLG stakeholders and advance stakeholder perspectives to insure end-to-end accountability from “idea to implementation”.

- **Customer service levels re employer inquiries and critical program actions such as refund requests are poorly controlled**

**Problem:** Neither FSLG nor other IRS entities have established timely customer support service standards or adhere to those standards. The project team was unable to find fixed performance standards regarding responses to written or telephoned customer inquiries. A frequent and major state and local government employer complaint was that IRS imposes a myriad of due dates to its clients--especially those affecting timely payment, reporting and responding to mandated IRS inquiries. However, IRS does not impose similar standards on itself. This double standard is a compliance barrier.

- To illustrate, FSLG does not maintain a required turnaround standard for either telephoned or written inquiries. IRM 4.90.2.3 regarding Outreach states, “Generally the FSLG Specialist should respond to a request for outreach assistance within 5 business days. IRM 4.90.2.4.1 states that “the Specialists should normally respond to a request for customer assistance within 5 business days”. **These guidelines are not requirements rather they are general parameters that produce uneven service levels and customer dissatisfaction.** Of the feedback respondents, only 42% rated FSLG satisfactory or higher for timely turnaround on issues.
- The IRM likewise did not provide response standards for inquiries for headquarter/OPR/FSLG Director inquiries--telephoned or written. The team noted that many state and local government employers had a mandatory response turnaround for telephone calls of twenty-four hours or one full business day and correspondence within 7 workdays.
- Other IRS requests such as inquiries from service centers regarding potential underpayments or Information Document Requests from the operating divisions were all assigned customer response due dates.

The public employers are highly sensitized to IRS mandated deadlines. It remains a mystery why FSLG and other IRS entities cannot provide comparable service standards when customers request action or respond to an IRS inquiry. At a minimum, customers should be provided business response standards and if the response timeframes are not met, an available recourse to correct that problem. State and local government employers indicated repeated frustration when waiting months for an IRS response--especially when dealing with critical service center issues and private letter rulings.

To illustrate, when an employer underpays an employment tax liability, the clock is running. For a Notice of Penalty Charge, IRS mandates payment in less than 30 days and if not paid within that timeframe, interest is assessed back to the notice date. This process occurs even when there is a strong possibility that IRS and not the employer made the error. For a Proposed Penalty Notice, employers must respond within 45 days from the date of the Notice if in the United States or 60 days if outside the country. However, when refunding tax overpayments, there is no IRS mandated refund issuance standard. IRS policy requires that interest must be paid if the refund is not issued within 45 days. However, that is not a business standard that requires refund issuance within 45 days or less.

**Recommendation:** FSLG establish tangible customer service standards for both written and telephoned customer inquiries. FSLG should annually measure its customer service performance by applying these standards and publicize the results in the Winter FSLG Newsletter. FSLG advance the need for customer service standards to other IRS entities that provide critical support services to FSLG's customers.

- **Inadequate knowledge by public employers of their IRS service providers**

**Problem:** FSLG customers remain organizationally naïve in understanding IRS organizational structure. The 1998 IRS Restructuring and Reform Act created direct IRS interfaces with public sector employers and now in 2004, those interfaces still remain elusive. The "new and improved IRS" continues to look like the "old IRS" to many public employers. Unfortunately, recent TE/GE and FSLG accomplishments have yet to reach the public employer community. A typical state and local government employer is unaware that multiple IRS entities can and will interface with that employer. Public employers did not recognize TE/GE nor FSLG or their respective functional roles. Surveyed employers likewise expressed minimal or no experience and/or knowledge of other IRS entities responsible for providing specific services to them.

FSLG must educate state and local government employers about its role and those of other IRS entities. FSLG must advance public employer needs to other IRS divisions whose organizational responsibilities encompass services to public employers but whose primary loyalties and/or priorities do not mirror FSLG's. Creating a "public face" for FSLG and its customers is a complex and critical priority.

Public employers can expect, at a minimum, to be impacted by these additional IRS entities:

1. Service Centers/Campuses--Combined Annual Wage Reporting Program, Questionable W-4 Program, Penalty and Interest Assessments re tax transaction/reporting, refunds;
2. Employee Plans (EP)--Issues regarding retirement benefits and retirement plans
3. Governmental Liaison (GL)--Inter governmental initiatives between governments acting as taxing authorities;
4. Taxpayer Advocate Service--Acts as customer ombudsman;
5. SE/SB Division--handles collection functions and employer functionality tied to programs such as wage levies and burden reduction;
6. Technical Unit-SE/SB--provides specialized tax account services involving large governmental entities and/or entities which were LCI-coded due to prior compliance issues; and
7. Exempt Organizations (EO)--provides determination and examination services for exempt organizations including public institutions of higher education and public hospitals.

State and local government employers expressed concern in not knowing how IRS is structured or the responsibility/ functionality tied to individual IRS organizations. The project team found no products (such as the IRS Roadmap or SERP) which readily educate public employers to their IRS counterparts and their organizational roles. This problem, when coupled with internal/external communication shortfalls between IRS organizations and their public employer customers, creates unnecessary communication barriers.

**Recommendation:** FSLG “place a face” in its public brochures and via its web site to those IRS entities that interface with public sector employers. The product should identify the players and illuminate a brief description of their respective functionality.

- **Expanding customer services for public employers while minimizing FSLG costs**

**Problem:** FSLG lacks resources to initiate significant customer services. Strategically, FSLG’s co-dependence upon other IRS organizations is a mixed bag. Though many IRS organizations can work autonomously, FSLG cannot. FSLG relies extensively upon other divisions to provide national services that ultimately encompass FSLG customers. As a result, FSLG funding for major customer based initiatives is proportionately smaller as its customer base does not encompass other divisions’ customers. If GE generally and FSLG specifically, lack funding to pursue customer initiatives, then both must piggyback their needs onto other’s developmental efforts.

To illustrate, the IRS Appeals Office created a “fast track settlement program” targeting large corporate accounts. Under the fast track settlement, a specially trained appeals officer facilitates discussion between the taxpayer and the examination team when a

contentious issue(s) arises while an audit is active. In November 2003, Appeals and SB/SE announced that Appeals was creating a similar program for small business taxpayers. These efforts are tied to reducing the lengthy appeals process. As of early 2004, GE and FSLG had yet to partner with Appeals to secure this program for public employers even though these employers would welcome a less lengthy and aggravating appeal process.

In mid 2003, the SB/SE Division began development of a video lecture entitled "Federal/State Payroll Tax Workshop CD ROM". This project was a cooperative effort with SSA, Department of Labor, and state tax agencies affiliated with the Federation of Tax Administrators. Product rollout in 2004 will primarily assist new employers (within SB/SE's purview) in understanding and meeting their employment tax obligations. One entity (Indian Tribal Governments) of Governmental Entities partnered in this endeavor, FSLG did not. Unfortunately, in not doing so, FSLG missed an opportunity to utilize SB/SE's resources to the direct benefit of FSLG's customers. With minimal front-end involvement, the video workshop could have been viable for public employers and an excellent FSLG voluntary compliance introductory tool. FSLG can still capitalize on SB/SE's efforts and minimize its cost by adapting the final CD-ROM to reflect a public employer setting.

These are just two examples where FSLG can create opportunities without necessarily incurring full or significant development costs. Given its limited funding, "creating and/or recreating the wheel" are not solid business strategies. FSLG must be opportunistic in using dependent relationships to FSLG and its customers' advantage. In doing so, FSLG should also apprise its staff and stakeholders of each successful result.

A prime opportunity which FSLG should pursue centers on SB/SE's Form 941, 941c and refund processes. State and local government employers expressed strong dissatisfaction with Form 941/941c report processing and refund operations. The Ogden Service Center noted for public employers on the Industry Issue Code Tracker Report for October 2003 through September 2004 that the two highest volume issues (out of 22 issue types tracked) were Form 941/941c and refunds. A common compliance barrier cited by public employers was service centers losing or misplacing Form 941 and 941c documents and requiring employers to submit duplicates. As noted previously, state and local government employers cited the refund process as inadequate, confusing, slow, etc--a serious and costly barrier. These problems are national in scope and reoccurring--it appears to be a systemic dysfunctionality. FSLG should enlist SB/SE to review and implement corrective measures on behalf of FSLG's customers.

By drawing from other IRS divisions' initiatives, operational roles and customer based services, FSLG can maximize benefits derived while minimizing resource demands. This likewise holds true for user involvement. When initiatives arise that benefit public employers, FSLG should cultivate their participation on other divisions' work groups. Encourage stakeholders to perform program support in lieu of FSLG resources--eliminate unnecessary buffers between stakeholders and other divisions.

**Recommendation:** FSLG adopt an opportunistic customer initiative strategy which “piggybacks” FSLG customer needs on other IRS divisional initiatives and eliminates sole reliance upon FSLG to represent customer needs. FSLG should begin implementing this strategy starting with the Form 941/941c and refund issues.

## **Dismantle compliance barriers through identification of barriers**

The following barriers were identified through the national feedback/survey processes. The issues encompass IRS/Treasury practices and represent real barriers to voluntary compliance as experienced and expressed by state and local government employers and IRS staff directly supporting those customers. They are legitimate opportunities for federal tax authorities to promote and achieve greater voluntary compliance by rethinking and revamping business practices.

- **Automate Web site employer subscription(s)**

**Problem:** Employer subscriptions to IRS on-line information services and use of those services are inadequate. The educational value and power of IRS web site use are diminished sans routine and regular employer use.

New employer tax accounts are established every workday. At least some of these employers undoubtedly fail to consider the scope of their tax informational needs. Nor do they take time to search out this information. These employers are too consumed with establishing a business function or governmental organization. However, these employers generally know that they must collect and report taxes and to do so, secure an Employer Identification Number (EIN).

**Recommendation:** IRS expand the Form SS-4 (Application for Employer Identification Number) process to collect every new employer’s e-mail address. The form identifies and IRS categorizes the employer as an SB/SE, W&I, LMSB or TE/GE customer. With those two pieces of data, IRS can automatically subscribe a new employer to the appropriate IRS website(s). This service eliminates employers from hunting for the appropriate site(s) and enables IRS to automatically push down new information to employers as it occurs. Any employer not wanting to maintain a subscription(s) could unilaterally cancel the subscription(s).

Note: A similar concept was implemented in January 2004 regarding federal EIN applicants being automatically registered for electronic tax deposits. When filed on-line by TeleTIN, applicants that were expected to have a federal tax obligation were automatically pre-enrolled in the Electronic Federal Tax Payment Systems (EFTPS).

- **Inability to release annual tax information timely (well prior to the start of new tax year) wherein employers can prospectively implement new requirements**

**Problem:** State and local government employers cannot apply new tax rates, benefit thresholds, valuation factors, etc. to properly withhold, report and remit taxes effective January 1 if this information is not provided well prior to January 1. The late release of essential tax data creates expensive retroactive corrective actions and untimely tax payments. Many governmental entities use very old legacy systems, which require labor intensive reprogramming for any change. These changes are often very time consuming and especially costly (particularly when done on a rush basis at year-end which forces holiday and overtime pay expenditures).

For example, for tax year 2003, the maximum automobile value used to determine if the "vehicle cents per mile rule" applies was not released before 2003 began. In fact, Publication 15-B stated that the information would be published in a revenue procedure in the Internal Revenue Bulletin in early 2003. The information was **not** subsequently released via any normal venue. Note: this same language appeared in the 2004 Pub 15-B.

Not only was this information not released before the start of the tax year, IRS did not provide employers any **interim guidance** until three months into the 2003 calendar year. Guidance only occurred at that time due to stakeholder requests for interim direction and safe-harbor relief for using that direction. Employers could not be compliant, through no fault of their own. Likewise, employers faced expensive retroactive processing for incorrectly projecting a 2003 rate and then later, correcting these projections. IRS' communication failure to provide timely interim direction needlessly jeopardized voluntary compliance and created additional administrative employer burdens.

FSLG was unaware that this information was not available until questioned by its customers. FSLG then proceeded to intercede with the IRS attorney responsible for drafting the Revenue Procedure containing the 2003 rate. Informally, FSLG was successful in getting authorization for employers to temporarily use the 2002 rate of \$15,200. Again, this action **only** occurred after the employer community raised the issue and requested interim direction. The 2003 problem was duplicated in 2004--this information was released in Rev. Proc. 2004-20 dated March 29, 2004. Rev Proc 2004-20's late release prompted Commerce Clearing House Incorporated (CCH) to note on April 8, 2004, "Beating last year's timetable by over six months, the IRS has just released its annual luxury auto cap figures". State and local government employers remain perplexed that values/rates that are effective each and every January 1<sup>st</sup> are not made available well before that date.

A second example involves the definition of a control employee when using the commute valuation method to value the personal use of an employer provided vehicle. Section 1.61-21(f) of the Regulations provides that a control employee may not utilize the commuting valuation method and defines such employee as an elected official or a government employee whose compensation is equal to or exceeds Federal Government Executive Level V. The Office of Personnel Management publishes this

compensation information. It is not generally available to employers until after the start of a new calendar year, again placing employers into retroactive employment tax application. In 2003 for example, Publication 15-B did not contain this data and referred customers to a web site for 2003 compensation information.

No single IRS entity is responsible for insuring that employers have all required employment tax information. No single IRS entity is responsible for telling employers that such information will not be provided/provided timely. Nor is there an IRS standard or policy that mandates that required annual tax information is provided well prior--a minimum two months--to the start of a new tax year. This timeframe permits employers to test and implement system changes prospectively and without significant costly retroactivity. There is no policy that requires IRS to provide interim direction pending receipt of delayed information. Absent these fundamental controls, state and local government employers cannot timely fulfill their tax responsibilities. By not managing the annual tax information stream, IRS creates another substantial compliance barrier.

**Recommendation:** IRS establish a central entity to track the timely release of annual tax information, including non-IRS parties which annually provide tax data, within an annual cycle which insures prospective tax implementation.

**Recommendation:** IRS adopt as a servicewide policy to immediately provide timely interim direction whenever release of annual tax data is unavoidably delayed and provide a corresponding safe harbor (and reliance) for employers using this interim direction.

- **Inadequate advance notice of implementation of new IRS processes**

**Problem:** IRS routinely fails to provide advanced publication of implementation schedules for either new operational business practices or what changes state and local government employers will experience. Only 63.1% of the respondents rated IRS notification/lead time for implementation programs and system changes as satisfactory or higher.

For example, IRS announced and implemented a revised Electronic Federal Tax Payment System (EFTPS) on July 21, 2003. Many state and local government employers learned of the implementation when they attempted to process tax payments on July 21, 2003. Although the changes to EFTPS were reasonably manageable, the IRS should not perform conversion activities without sufficient, advanced notice of the implementation date. Nor should employers face conversion activities and generate tax payments via trial and error. Employers must be afforded ample opportunity to know the changes and test their systems prior to using "live" data.

A second example was the new e-file System Framework that was implemented beginning 2004. In November 2003, IRS announced that participants in the Employment Tax e-File System on or before October 15, 2003 were required to reregister so that all required information would be housed on IRS's new database.

Participants were required to re-register by November 17, 2003. This requirement was due to a redesign of the e-File application process, which consolidated business Form 9041 and individual Form 8633 into a single process. Effective October 15, 2003, the Form 9041 became obsolete.

Not only was this timing inadequate, Form 8633 had requirements that were unacceptable in the public employer sector environment. These requirements included the Reporting Agent's home address, SSN, date of birth and fingerprints. It also stated that a credit check would be run on the Reporting Agent. These requirements might be appropriate for private sector employers/reporting agents, however, they were immediately questioned by at least one public sector stakeholder group, NASACT. NASACT identified these barriers to IRS and by December 9, 2003, FSLG officials confirmed that the e-File System did not require a credit check nor fingerprint card file for state and local government employers.

By failing to work with stakeholders, the timing and requirements tied to the Form 8633 process were fraught with barriers. The December 9, 2003 release of clarifying instructions for governmental employers readily pointed out informational deficiencies that likewise created employer confusion. For example, Line 3 on Form 8633 states "If you are a Not for Profit service, check the one box that applies--5 boxes are identified with one being titled "Employee Member Benefit". In the clarifying instructions, employers were told to check the Employee Member Benefit box for "routine payroll function". No public employer would intuitively associate payroll functionality as being "Employee Member Benefit". Further, Form 8633 completion instructions do not define Item three terms such as "Employee Member Benefit". Rather, the instructions state, "Check the box that applies". In the state and local government employer's environment, pay and benefits are generally two distinct service areas.

The e-File program's hastened timetable and lack of adequate stakeholder review prior to release of the Form 8633 and submission timetable adversely impacted employers and IRS's program conversion.

Other federal agencies such as the SSA are extremely active and effective when transitioning from one operational system or product to a new one. SSA's conversion to Magnetic Media Reporting and Electronic Filing or MMREF systems was underscored by extensive advanced dialogue, marketing outreach and stakeholder forums. SSA's success is largely due to the agency viewing and anticipating employer issues and needs well prior to implementation. SSA does not "spring" business practice evolution upon its customers, rather it works prospectively with its customer base to insure compliance and conformity. The results justify the front-end customer investment.

**Recommendation:** IRS review and adjust its communication systems to insure that stakeholders receive adequate advance notification of operational changes, including impacts employers will experience when implementing those changes.

- **Publications lack sufficient information and examples illustrating tax application for state and local government employers to properly execute their tax and withholding roles**

**Problem:** Employers indicated that they subscribe to national payroll/clearinghouse services to augment IRS publications. These services are designed specifically to sell products, which enable employers to execute employment tax roles. The products are typically written in user friendly language and provide an array of examples to illustrate regular administrative issues that arise from taxable and reportable pay and benefits. Many public employers viewed these subscription expenses as “forced costs”.

These costs occur because IRS does not provide employers with comprehensive tools via its publications to accomplish the tax mission. Public employers likewise want to proactively mitigate audit liabilities and minimize compliance costs. Employers fear IRS repercussions from “guessing how to follow general versus objective tax requirements”. Over 40% of all large governmental entities/respondents subscribed to payroll/clearinghouse services. Correspondingly, those respondents not subscribing to these services were predominately small governmental employers--special districts, cities or counties with fewer than 100 employees.

State and local government employers also lack confidence in IRS staff to equitably apply “facts and circumstances”. It remains a common business reality that public employers ask the same question to various IRS entities (Call Center, Specialist, etc.) and often answers are different. The result encourages “shopping around” for a favorable answer as well as apprehension in applying these answers.

As noted elsewhere in this report, the absence of objective and readily applicable tax standards/criteria is a long-standing IRS (and/or Congressional) generated compliance barrier. State and local government employers just want to know the requirements timely and implement them accordingly. Unfortunately, some IRS publications and guidance affecting FSLG customers fall significantly short of these marks. Publications often are merely guides whose information does not extend beyond information released in IRS rulings. The formal rulings are often highly technical and narrowly scoped which may not address the practical application of those rulings.

Unfortunately, therein resides the problem. When informational deficiencies exist and publications are irrelevant, the recourses available to public employers include: contracting for a payroll service, hiring a staff of tax attorneys to decipher the Internal Revenue Codes and hope they are correct, or take a best guess and implement what makes sense. For many public employers, options one and two are cost prohibitive.

The following illustrates a few of a single publication's shortcomings--Publication 15-B Employer's Tax Guide to Fringe Benefits--and why those shortcomings represent compliance barriers. Pub 15-B is the primary IRS reference source available to employers regarding fringe benefit tax administration. Employers noted Pub 15-B

lacked information and instructional aids, which produced downstream tax withholding and reporting deficiencies.

Publication 15-B identifies a fringe benefit “as a form of pay for the performance of services”. It also states that “a person who performs services does not have to be your employee. A person may perform services for you as an independent contractor, partner, or director”. It then adds “treat a person who agrees not to perform services (such as under a covenant not to compete) as performing services”. State and local government employers do not relate or understand what that definition means or requires--these employers typically deal in employer/employee relations. Publication 15-B further muddies the water by switching back and forth between employee versus a person performing services. The overview of De Minimis (Minimal) Benefits provides a suspect definition of employee versus staying with person performing services. It states, “**Employee.** For this exclusion, treat any recipient of a de minimis benefit as an employee”. Most employers do not translate this definition to encompass independent contractors, non-paid volunteers, public officials, directors of employer, etc. However, those entities are within that scope and employers are responsible for insuring appropriate treatment under that requirement.

Publication 15-B fails, as does the corresponding Income Tax Regulation Section 1.62-21(f), to define basic terms or criteria, which affect whether or not an employer may use an alternative valuation method. The regulation and publication state that all requirements outlined must be satisfied to utilize the commute valuation method. One requirement is that the employee must commute to and from work in a vehicle for bona fide non-compensatory reasons. Bona fide non-compensatory reasons are never defined. State and local employers cannot apply a requirement without knowing what the requirement entails.

Publication 15-B provides rules and regulatory requirements. Unlike some excellent IRS training materials such as FSLG's Fringe Benefit Training, which covers a subject and then provides 3 to 4 examples, Publication 15-B is nearly example free. The absence of clarifying examples diminishes the value of the publication. Many employers lack the tax savvy to effectively read between the lines. Likewise, these same employers may lack funds to purchase tax services, which decipher IRS requirements, regulations and publications and identify their impression of IRS administrative applications. IRS Publications which deliver requirements but fail to demonstrate real world application do not serve their audience.

**Recommendation:** IRS re-evaluate its publication program to insure the program:

- Empowers state and local government employers to properly execute tax responsibilities without subscribing to ancillary informational services;
- Provides an efficient and timely update process, which bypasses unnecessary IRS reviews/delays prior to publication;
- Encompasses formal governmental employer stakeholder and interdivisional/IRS organizational ownership of employer based publications; and

- Requires all publications affected by new rulings to reflect any new requirements stemming from those rulings.
- **Inadequate identification/information regarding IRS generated correspondence**

**Problem:** IRS correspondence fails to adequately identify the source of those generating correspondence in a manner useful and educational to employers. This barrier is a cross cutting issue applicable to all IRS entities and one that impacts many IRS stakeholders.

Public employers are required to interface with well over a dozen IRS organizations as a direct result of TE/GE and FSLG's dependence upon these organizations for technical services. State and local government employers routinely do not know which IRS organization is providing correspondence. Employers do not understand that entity's role and responsibility within the employment tax arena.

The following represent random examples supplied by employers, which illustrate inadequate identification/information.

- Lock-In letters generated by the Questionable W-4 Program do not identify the IRS division responsible for this national program. State and local government employers have no basis to think that anyone handled this program other than TE/GE and FSLG. Letters from the Service Campuses reflect they are from the IRS and a specific site (city) along with a unit name, such as Code and Entity Unit. Any employer that is unfamiliar with the campus functionality (many are), would not know that Code and Entity was part of the SB/SE and not TE/GE.
- IRS Letter 1995 (DO) (Rev.7-1995) Catalog Number 62794I, a general correspondence form letter, provides an IRS contact name, phone number, Employee Identification Number and tax year ended number. There is no identification of a given IRS unit or division responsible for that correspondence. The standard Information Document Request (IDR) 004-0004 likewise provides a contact name, telephone number, EIN number and a tax period. The form does indicate that the letter stems from TE/GE Division. However, it does not indicate which unit, in this case FSLG, which originated the correspondence. Governmental employers such as public colleges and universities would not know whether Exempt Organizations (EO) or FSLG generated the correspondence.
- FSLG Specialists acknowledged that they too were unfamiliar with the other IRS division's structures and functionality. Specialists cannot readily assist public employers to "find" the right IRS contacts if they do not know where to look. Specialists indicated concern that functional and organizational clarity was lacking and impeded their ability to assist employers. The absence of standard identification re normal communication mediums negates conducting business timely and effectively. It was unclear if FSLG specialists had received training on

the use of the IRS Roadmap released July 2003 or the Servicewide Electronic Research Program (SERP). The Roadmap is a website directory that locates primary management officials in all IRS business units and geographical areas. SERP provides IRS employees with a multitude of contact information for various IRS programs.

- A second flaw with IRS correspondence was the failure to identify the basis for correspondence in a meaningful way to the recipients. Computer generated IRS correspondence provides a significant amount of information important to internal IRS controls. However, the correspondence fails to provide a “subject description” or provides inadequate and oblique descriptions. The same problem exists with other routine IRS correspondence such as Compliance Check Opening and Closing Letters--refer to IRM 4.90.2.3.
- For example, a typical computer generated IRS letter states “Thank-you for your inquiry of mm/date/yr”. This opening fails to distinguish the letter’s subject matter or even the intended addressee. IRS also uses this same opening on letters wherein an employer never made an inquiry but rather, provided documents such as Form 941 or Schedule B per IRS’ request. These types of unclear and inaccurate basic communication are barriers.
- Employers, especially those possessing multiple EINS, noted that insufficient addressee information and subject matter identification made it nearly impossible to redirect correspondence to the proper recipient. Correspondence addressing a prior inquiry where no inquiry occurred generated unnecessary data searches. As a result, correspondence was either returned to IRS or “placed aside” with the idea that IRS would initiate another contact sometime “down the road”.

**Recommendation:** IRS adopt as a servicewide standard that all correspondence identify the appropriate operating division name (or highest organizational nomenclature) as well as the specific sub-organization of the division generating correspondence. For example, a letter from the Ogden campus should indicate that the letter is from Small Business/Self Employed Division along with the specific unit generating the letter--i.e. Code and Entity Unit 3, Ogden Service Center.

**Recommendation:** IRS adopt as a servicewide standard that all correspondence provide a “subject description” that identifies the basis for the communiqué, which meets the “common person” test. Correspondence must contain a concise statement outlining why an addressee is being contacted--a statement that any common person would readily understand. For example, if the Code and Entity Unit was contacting an employer regarding an address change assigned an Employer Identification Number (EIN), that Unit would include a subject line indicating: Confirmation of Employer Address Change for EIN xx-xxx-xxxx.

- **Inadequate identification/information regarding IRS generated refunds**

**Problem:** IRS refund checks generated by SB/SE lack sufficient information for employers to clearly identify the basis of the refund. This too represents a cross cutting IRS organizational barrier. Refunds can be issued for various reasons including overpayment of taxes, interest, penalties and additions to tax. The absence of clear identification tied to a refund creates undue hardships for employers. This is especially true for public employers who share “the employer” role with multiple internal entities. States, large cities or county governments may have multiple entities using the same EIN for refund purposes that are unique to each entity.

Refund checks for employment taxes reflect an EIN, the Form generating a refund (F-941 Ref) and a tax quarter date (i.e.09/99). The checks reflect a single figure for interest with no corresponding information. Refund checks for other reporting such as 1099 likewise reflect other references such as CVLPEN, and an EIN with a quarter date. The check likewise provides an interest amount if applicable with no corresponding information.

IRS Notice 134 normally accompanies the refund check. The Notice states, “the amount of the enclosed refund check may be different from the amount you were expecting. If you haven’t already received our separate notice explaining why, you should receive it soon”. It goes on to say, “If you think we may have made an error, please call us or send a letter describing it. If you are certain the refund check is too large, please return the check with your letter and we will send you the correct amount. If the refund is too large and you don’t return the check, you may owe us interest”. This Notice acknowledges that employers may have no idea what the refund represents nor the basis for the amount.

The absence of information on the refund checks generates additional employer burdens and IRS resource expenditure. For example, if an employer files different refund requests for the same tax quarter, accounting for refunds paid and those pending cannot necessarily be tracked solely by amounts. Depending on the organizational structure of a governmental entity, more than one entity can be responsible for filing and processing refunds; they may use the same EIN.

Employers likewise do not know that the interest being paid is correct--there is no information indicating when interest payments began or how many days the interest payment represents. If the refund amount is different from what the employer requested, the employer must expend considerable resources to determine what it is for and whether it is correct. The accuracy of the refund amount and the explanation for that amount should be provided with the refund.

**Recommendation:** IRS assign a basic tracking code (date request is received) or indicator (description on the refund) that readily ties a state or local government employer’s specific refund request to the corresponding issued refund check. Provide

an explanation regarding the refund amount including the interest computation--a formula, number of days interest was paid, or inclusive dates the interest represents.

**Problem:** The IRS refund process is not customer friendly. For example, employers complain that the Philadelphia Campus “unilaterally” refunds employee FICA taxes and notifies employers to correct their records without contacting the employer first and allowing them to research a claim. In many cases according to employers’ records, impacted employees (such as non-resident aliens) were not entitled to a refund. That in turn creates an imbalance between Form 941 and Form W-2 reporting plus creates uncertainty if the employer should then likewise seek a refund for employer share of SS/MED taxes.

This problem is further compounded as state and local government employers may have multiple refund requests pending and IRS does not apply a turnaround refund standard. IRS pays interest if a refund is not issued within 45 days. However, few if any employers can effectively “remember” how many outstanding refunds exist or the specific amount of those refunds as they relate to a specific issue.

Another frequently cited complaint was the automatic allocation of credits to other tax liabilities without adequate communication with employers. This process not only makes employer reconciliation nearly impossible, it creates crossover issues when a government unit for one tax receives credit for another government unit’s tax responsibility. Crediting taxes under the current method might work well for IRS, however, it creates barriers for public employers.

**Recommendation:** IRS review its refund production cycle and initiate corrective measures to address communication shortfalls and implement a refund standard that returns state and local government employer funds with the same time sensitivity as IRS requires regarding underpayments and penalties.

**Recommendation:** TE/GE, using its various newsletters, publicize IRS corrective measures and customer service tax refund standards.

- **Inadequate controls to an employer’s Business Master file account**

**Problem:** The Business Master file controls are inadequate with respect to address changes. Unlike name changes, which require written confirmation prior to making a change, address changes occur without adequate validation. IRM 4.19.3.20.1.4 outlines standards for updating address changes including that a “return (including an amended return) filed by a taxpayer with new address information is considered” sufficient notification.

Unfortunately this process fails to neither recognize nor control address changes with large and diverse public sector employers in mind. These employers often have shared employment tax responsibilities and larger governmental employers, such as states and large cities/counties, routinely have one or multiple EINs assigned to different entities

for unique programs administered by the State, city or county. Though the EIN may be shared or separate, the individual addresses for these separate entities with different reporting responsibilities are unique.

For example, a state may use one EIN for reporting employment taxes through a central department or each state department may be assigned their own EIN. This practice may occur for Form 1099 reporting, as well as other reporting such as excise taxes, values tied to stored alcoholic products, heavy highway vehicle use, etc.

Under the current process, various IRS staff can initiate changes to an employer's EIN account by inputting to the Code and Entity Unit at the Service Center. It can also be erroneously and inadvertently changed by a governmental entity filing a return for one type of business activity with a different address than say a governmental entity reporting employment taxes.

The filing entity can check an address change box and provide a new address because the address preprinted on the return reflects the second entity's address. The second entity's address appears because it was the address of record on the Business Master file. When the new return is processed, the new address is entered. Immediately, any IRS notices, returns, correspondence are directed to the new Master file address. The recipients, who do not work with these materials, either "toss them" or return them to IRS.

Unlike an "account name change" which requires a letter sent to the filer to verify the change, address changes do not require validation (i.e. articles of incorporation). The effects of this problem are far-reaching and costly to public employers. Failure to receive communiqués and mandatory quarterly returns pose immediate financial liabilities to public employers. Also, due to the disclosure rules, an employer cannot readily isolate the party changing an address by working with the service center. The problem is recurring and each corrective action spans months. This problem is likewise the basis for public employer concern regarding a possible IRS E-file capability of online address changes.

**Recommendation:** IRS review the Business Master File address change process as to state and local governments and implement safeguards to preempt erroneous address changes plaguing public employers.

**Recommendation:** IRS implement an expedited corrective process that rectifies inadvertent Business Master File errors on state and local governments within five workdays and provides an electronic media/outreach training program for state and local government employers addressing this business problem.

- **Absence of regulations which provide objective and clear requirements**

**Problem:** IRS issues guidance via revenue procedures and regulations that lack objective standards, which support full and independent compliance via employer

administration. Although state and local government employers positively attempt to improve regulations prior to their release via comment periods, administratively workable regulations remain the exception and not the norm. Further, when business practices reinforce the suspect nature of outdated regulations, IRS is slow to react.

Regulations for De Minimis Fringe Benefits underscore both barriers. IRC 132(e) states that a De Minimis fringe benefit is property or service provided by an employer for an employee that has a small value and accounting for it is unreasonable or administratively impractical. The value of the benefit is determined by the frequency provided to each employee or if this is not administratively feasible, by the frequency provided to the whole workforce. By definition, this benefit is open to and in fact has, been interpreted widely with extreme results. Throughout the years, IRS has ruled time and again as to specific items/frequency that met/fail the de minimis concept. IRS has given advice for example in ILM 200108042 that a benefit of \$100 did not qualify as de minimis. Payroll organizations state in their training seminars that although there is no fixed amount, employers can use very liberal values--exceeding \$100. Clearly, these approaches do not advance tax compliance nor tax equity. They do however, advance discourse and an uneven playing field wherein opinion and not standards, are the focus.

State and local government employers routinely seek concrete definitions of what the de minimis terms of unreasonable, administratively impractical, small value, etc. mean in real world terms. Employers asked IRS to set a de minimis value wherein items under that ceiling qualify for exemption. IRS steadfastly refuses to set a monetary standard and instead, forces both employers and IRS staff to constantly spar over "facts and circumstances". The de minimis exemption represents a small revenue source, which receives a disproportionate amount of attention. IRS can eliminate significant employer anxiety and administrative complexity by ending an arbitrary and subjective standard. Employers may not agree with the ultimate objective standard, however, it is preferred to subjective standards because it is administratively workable and it provides 100% compliance confidence.

We suggest IRS look to a parallel analogy, the elimination of the receipt requirement for 100% of all travel expenses, to underscore what is possible with de minimis and related subjective requirements. Clear, concise, objective and administratively compatible requirements advance employer compliance. IRS previously required a receipt for 100% of all travel expenses. Based on strong and repetitive customer lobbying, IRS implemented a \$25 or more threshold for most travel based expenses. Expenses under \$25 dollars and sans lodging no longer require a corresponding receipt to satisfy documentation requirements. This standard was operational until September 30, 1995; IRS raised the threshold to \$75 effective October 1, 1995.

This shift in rule making not only reduced employer costs, it made compliance easier without creating a loss in revenue streams. It was an intelligent business decision, which recognized that "doing business as usual" was not viable. It affirmed that compliance could be advanced without sacrificing program controls. Applying an

objective standard enabled employers to administratively comply, but unlike de minimis benefits, they could also readily articulate this standard to employees.

**Recommendation:** FSLG in conjunction with stakeholder participation, identify five tax regulations whose subjective requirements (such as de minimis fringe benefits) represent the most frequent compliance barriers to the stakeholders. Working through the other IRS divisions and Chief Counsel, recommend projects via the IRS Priority Guidance Plan to address and replace subjective standards (to the extent possible), with objective standards that promote independent tax compliance.

## **Adopt the concept of voluntary compliance through barrier elimination as a strategic focus for customer services and regulatory actions.**

Voluntary compliance can be highly successful when approached as an IRS activity explored through cooperative efforts with its stakeholders. It requires IRS to recognize first that barrier elimination and tax fairness must originate within the Service as a strategic focus for tax administration. The Service must “value” voluntary compliance and capitalize upon the integrity of state and local government employers. IRS should recognize that old compliance models reinforce and perpetuate questionable business practices--in many cases, those practices impede equitable tax administration.

### **Prospective, voluntary compliance is not a strategic focus**

**Problem:** Throughout its history, IRS has relied upon audits as its primary compliance strategy and means to assure tax fairness. This strategy was supported by a myriad of tools including those that punished noncompliance. IRS remains reasonably sophisticated in creating audits and assessing a plus or minus revenue stream generated by audits. As reflected in recent FSLG efforts, IRS is substantially less sophisticated in measuring the success of its outreach and educational compliance based programs and in achieving tax fairness.

IRS has yet to establish effective measurements of programs or their ability to promote independent, voluntary compliance. There is no accurate means today to compare the effectiveness of post employment tax audits to that of compliance achieved via empowerment of educated state and local government entities. Due to this inadequacy, compliance is perpetuated and driven by the “audit/then educate” model.

The “audit/then educate” model presumes that the tools, knowledges and capabilities pre-exist and if just used, produce compliant behavior. The theorem also presumes an employer is likely to be non-compliant--at least until the audit results demonstrate otherwise. Once non-compliant behavior is identified, the Service initiates corrective measures including training. **The theorem does not address the adequacy or inadequacy of employers to prospectively comply based upon the tools and information provided.** The “audit/then educate” model remains seriously flawed and

represents a costly and reactive versus proactive means to achieve compliance in the area of FSLG customers.

**Recommendation:** Servicewide, IRS “value” its state and local government stakeholders’ perspectives regarding compliance barriers and use barrier removal as a strategic focus for advancing voluntary compliance and customer services.

- **Uneven application of compliance measures exists between federal employers and all other state and local government employers.**

Federal employers, though liable for paying employment taxes under the same regulations as private/state/local government employers, are not subject to the same corrective actions for non-compliant performance. The project team recognizes that Congress and Treasury must address this problem. However, we note that a legislative change on this point would be the way to achieve parity between the federal employers and state and local employers.

A 1978 Comptroller General of the United States opinion (B-161457) states that as an employer, the Government of the United States, its agencies and instrumentalities were subject to various IRC requirements including withholding of employment taxes via 3402(a), 3404, 3102, and 3122. The opinion noted that the IRC provisions requiring the payment of interest and penalties, IRC sections 6601, 6656, 6659, 6671, are general provisions applicable to all taxes under the IRC. However, the opinion concluded, “The rationale for applying these provisions against the private sector employer is not present when the employer is the United States since the funds are already in the hands of the United States”.

The Comptroller General supports this determination by a simple litmus test, “The United States as an employer is liable for the payment of salaries and employment taxes in the same manner as the private sector employer. However, these payments come from the appropriated funds of the particular Federal agency or instrumentality employer, which are available only for the purposes for which they are appropriated. As such, these funds would not be available for the payment of interest and penalties pursuant to the above stated rule”. The opinion closes by saying, “that even though Federal agencies may not use their appropriations for payment and penalties, it is our view that such agencies are required to meet the statutory filing deadline and should take all necessary steps to insure compliance deadlines”.

State and local public employers viewed this administrative distinction and uneven application of compliance remedies as unfair and discriminatory. State and local governmental employers see no tax distinction between themselves and their federal counterparts. Like federal agencies, the payment of salaries and employment taxes come from appropriated funds which are only available for the purposes by which their legislative or executive branches of government appropriate and authorize. The project team could not identify a state or local governmental employer who routinely budgeted or appropriated funds specifically to pay IRS levied penalties and interest. Further,

through various federal “pass through” or “pass down” funding programs, state and local governments are using federally appropriated funds to directly pay employee salaries for mandated federal programs.

Unlike its private sector counterparts and mirroring its federal peers, state and local governmental employers are not profit driven entities. There is no public service motive to sanction state or local noncompliance. Quite the contrary, the combination of checks and balances including public and political accountability demand compliance. Neither state nor local jurisdictions can print money to cover IRS levied penalties and interest. These entities cannot unilaterally increase taxes or fees to pay these assessments. They can however, be forced to terminate operations and cease existence if compelled to pay penalties and interest for which there are no appropriations. These results bring a sharp focus to the separation of state and federal powers, due process and the equity of federal tax administration.

FSLG likewise faces a difficult compliance challenge with federal employers. If the assessment and payment of assessed penalties and interest are not available tools, how does IRS secure compliant, federal behavior? The team found no documentation answering this question. The team did note (GAO-04-74) that IRS escalated attention to this issue while attempting to correct long-standing, non-reporting of Form 1099 data by federal agencies. The Commissioner stated that IRS Policy Statement P-2-4 (based on the GAO Comptroller General Decision B161457) provides that federal agencies are not subject to penalties. The Commissioner noted that if an agency does not wish or is unable to comply with its Form 1099 MISC reporting responsibilities, there is nothing that IRS can do but rely on voluntary compliance on the part of the agency. GAO-04-74 recommendations did not address the Commissioner's concerns regarding General Decision B161457.

**Recommendation:** Federal, state and local governments should have identical compliance remedies consistent with the IRS mission “to apply tax law with integrity and fairness to all”.

## **Conclusion**

This report represents the third in a series of ACT reports addressing TE/GE and FSLG's organizational and functional development. The underlying review was tied to a single concept--what, if any opportunities exist for FSLG and other IRS/Treasury entities to advance voluntary public sector employer compliance as expressed by state and local government employers.

As a result, this document provides a snapshot of state and local government employer views on the current employment tax environment. It identifies tax compliance barriers recognized by state and local government employers across the nation as well as from IRS entities supporting this market segment. The issues, problems and resulting recommendations provide an informational platform for IRS entities including FSLG to re-examine, re-engineer and re-energize IRS business practices in this environment. Although several recommendations crossover into other IRS and Treasury entities, this report provides FSLG with information to advocate its customer's needs, advance services and promote voluntary tax compliance.

FSLG and other IRS entities with state and local government employers can create mutually beneficial relationships that produce exponentially growing voluntary compliance powered by the elimination of tax compliance barriers. Sustained and viable relationships mandate that all parties "value" voluntary compliance. Each must work hand in hand to remove policy, procedural, structural and other communication shortcomings plaguing employment tax administration today.

**EXHIBIT A**

**EMPLOYER SURVEY INFORMATION**

**VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY SAMPLE PROGRAM PERFORMANCE**

1. Please indicate your level of satisfaction with the IRS in the following areas (mark "no experience" if you have not dealt with an item):

	NO EXPERIENCE	VERY DISSATISFIED	DISSATISFIED	SATISFIED	VERY SATISFIED
Meeting your tax information needs timely					
Meeting your tax information needs accurately					
Providing training services					
Delivering customer service					
Processing private letter requests--turnaround time/cost					
Providing lead time to implement program and system changes (i.e. W-2 changes, withholding rates, etc)					
Understanding your employer environment					
Providing reliable technical assistance					
Processing employer Form 941, 941c, 843, tax payments and tax refunds					
Performing compliance checks, reviews and audits					
Working with other federal entities (i.e. Social Security Administration, etc.) to solve employer issues					

**CUSTOMER SUPPORT**

2. Please indicate your level of satisfaction with your Federal, State, Local Government Specialist (FSLG) in the following areas (mark "no experience" if you have not dealt with the Specialist on an item):

	NO EXPERIENCE	VERY DISSATISFIED	DISSATISFIED	SATISFIED	VERY SATISFIED
Available for assistance by phone, fax, electronic mail, or in person					
Understand your governmental organization's structure					
Know other IRS functions, services and structures					
Deliver appropriate technical training					
Partner to remove compliance barriers					
Satisfy public employer information needs					
Provide timely turnaround on issues					
Conduct compliance checks, review and audits					

**COMMUNIQUES**

3. Please indicate your level of satisfaction with IRS on-line products used to meet your employer information needs (mark "no experience" if you do not know the product).

	NO EXPERIENCE	VERY DISSATISFIED	DISSATISFIED	SATISFIED	VERY SATISFIED
Digital Dispatch					
e-News					
IRS Newswire					
IRS Tax Tips					
Employee Plan News					
Tax Stats Dispatch					

FSLG Newsletter					
Quick Alerts					

**EXHIBIT A**

**VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY SAMPLE (CONT.)**

**COMMUNICATION**

4. Please indicate your level of satisfaction with the following used to meet your "employer" information needs (mark "no experience" if you have not used a product or worked with a listed entity):

	NO EXPERIENCE	VERY DISSATISFIED	DISSATISFIED	SATISFIED	VERY SATISFIED
IRS Web Site					
FSLG Web Site					
Ogden Service Center					
Government Liaison					
IRS Publications: Pub 15 Employer's Guide					
Pub 15a Employer's Supplemental Tax Guide					
Pub 15b Employer's Tax Guide to Fringe Benefits					
Pub 463 Travel, Entertainment, Gift & Car Expenses					
Pub 508 Tax Benefits for Work Related Education					
Pub 535 Business Expenses					
Pub 963 Federal-State Reference Guide					
Office of Chief Counsel					
FSLG --Area Groups/Specialists and Outreach, Planning/Review staffs					
Taxpayer Advocate Service Office					
Customer Account Services					
Wage and Investment					
Subscriptions to Tax and Payroll Informational Services					

**PROGRAM ADMINISTRATION**

5. Please indicate your level of satisfaction with IRS administration for the following programs (mark "no experience" if you have not dealt with a listed item):

	NO EXPERIENCE	VERY DISSATISFIED	DISSATISFIED	SATISFIED	VERY SATISFIED
Collections					
Informational Reporting (W-2)					
Informational Reporting (1099)					
Federal Filing Requirements (941, 941c, etc.)					
Electronic Fund Transfer Tax Payment System (EFTPS)					
Form W-4 "Lock-In Letter" Program					
Fringe Benefits					
Employee Business Expenses					
Worker Classifications/Independent Contractors					
Refund Program (Form 843)					
Call Center					

**EXHIBIT A**

**VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY SAMPLE (CONT.)**

**TRAINING**

6. Please indicate your level of satisfaction with any FSLG educational outreach efforts/training you received in the **last 12 months**. Mark "no training" if you have not participated in FSLG educational outreach or attended FSLG training.

NO TRAINING				
VERY DISSATISFIED				
DISSATISFIED				
SATISFIED				
VERY SATISFIED				

Frequency of training provided				
Availability of education/training options				
Availability of on-line, tutorial educational/training				
Availability of Employer Tax Orientation training				
Confidence in educational/training information reliability				
Subject matter knowledge level of Specialists as trainer(s)				

**Voluntary Employer Compliance**

Please identify three IRS business practices, policies or requirements which you believe hinder voluntary employment tax compliance by governmental employers.

1. \_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_

**GENERAL COMMENTS—Employer's perspective**

Please identify any other suggestions or comments regarding federal employment tax program administration from your employer's perspective.

1. \_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT A**

**VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY -- RESULTS**

<b>VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY</b>					03/18/04
TOTAL SURVEY = 238					
<b><u>PROGRAM PERFORMANCE</u></b>					
Please indicate your level of satisfaction with the IRS in the following areas (mark "no experience" if you have not dealt with an item)	VERY SATISFIED	SATISFIED	DISSATISFIED	VERY DISSATISFIED	NO EXPERIENCE
Meeting your tax information needs timely	12.6%	58.0%	9.2%	1.7%	18.5%
Meeting your tax information needs accurately	11.4%	62.2%	4.2%	0.8%	21.4%
Providing training services	7.1%	26.9%	10.1%	0.8%	55.0%
Delivering customer service	7.1%	50.0%	11.8%	1.3%	29.8%
Processing private letter requests--turnaround time/cost	1.7%	17.2%	10.1%	3.8%	67.2%
Providing lead time to implement program and system changes	7.6%	55.5%	8.8%	1.3%	26.9%
Understanding your employer environment	5.0%	41.2%	6.7%	1.7%	45.4%
Providing reliable technical assistance	4.6%	38.7%	10.9%	2.5%	43.3%
Processing employer Form 941, 941c, 843, tax payments/tax refunds	12.2%	64.3%	9.7%	2.1%	11.8%
Performing compliance checks, reviews and audits	2.9%	33.2%	5.9%	0.0%	58.0%
Working with other federal entities (i.e. Social Security Administration)	6.7%	32.8%	7.1%	0.4%	52.9%
<b>TOTAL</b>	<b>7.2%</b>	<b>43.6%</b>	<b>8.6%</b>	<b>1.5%</b>	<b>39.1%</b>
<b><u>CUSTOMER SUPPORT</u></b>					
Please indicate your level of satisfaction with your Federal, State, Local Government Specialist (FSLG) in the following areas (mark "no experience" if you have not dealt with the Specialist on an item):	VERY SATISFIED	SATISFIED	DISSATISFIED	VERY DISSATISFIED	NO EXPERIENCE
Available for assistance by phone, fax, electronic mail, or in person	13.9%	41.2%	9.2%	2.9%	32.8%
Understand your governmental organization's structure	10.5%	34.0%	6.7%	1.3%	47.5%
Know other IRS functions, services and structures	8.0%	30.7%	3.4%	0.8%	57.1%
Deliver appropriate technical training	6.7%	19.3%	8.4%	0.4%	65.1%
Partner to remove compliance barriers	5.9%	13.0%	4.6%	1.3%	75.1%
Satisfy public employer information needs	6.7%	36.1%	7.6%	3.4%	46.5%
Provide timely turnaround on issues	9.2%	32.8%	9.2%	3.8%	45.6%
Conduct compliance checks, review and audits	3.4%	18.5%	3.4%	1.3%	73.7%
<b>TOTAL</b>	<b>8.0%</b>	<b>28.2%</b>	<b>6.6%</b>	<b>1.9%</b>	<b>55.5%</b>
<b><u>COMMUNIQUES</u></b>					
Please indicate your level of satisfaction with IRS on-line products used to meet your employer information needs (mark "no experience" if you do not know the product).	VERY SATISFIED	SATISFIED	DISSATISFIED	VERY DISSATISFIED	NO EXPERIENCE
Digital Dispatch	2.9%	12.6%	0.8%	0.4%	83.2%
e-News	4.6%	23.9%	0.8%	0.4%	70.2%
IRS Newswire	2.1%	11.8%	0.0%	0.4%	85.7%
IRS Tax Tips	4.6%	29.8%	0.4%	0.4%	64.7%
Employee Plan News	1.7%	8.0%	0.8%	0.0%	89.5%
Tax Stats Dispatch	0.8%	3.4%	0.4%	0.4%	95.0%
FSLG Newsletter	3.4%	14.3%	2.1%	1.7%	78.6%
Quick Alerts	2.1%	9.7%	0.8%	0.4%	87.0%
<b>TOTAL</b>	<b>2.8%</b>	<b>14.2%</b>	<b>0.8%</b>	<b>0.5%</b>	<b>81.7%</b>

**EXHIBIT A**

**VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY – RESULTS (CONT.)**

<b>COMMUNICATION</b>					
Please indicate your level of satisfaction with the following used to meet your "employer" information needs (mark "no experience" if you have not used a product or worked with a listed entity):	VERY SATISFIED	SATISFIED	DISSATISFIED	VERY DISSATISFIED	NO EXPERIENCE
IRS Web Site	18.5%	65.5%	2.9%	0.4%	12.6%
FSLG Web Site	4.2%	14.7%	2.5%	0.4%	78.2%
Ogden Service Center	4.2%	21.4%	2.1%	0.4%	71.8%
Government Liaison	5.0%	11.3%	2.1%	1.3%	80.3%
IRS Publications: Pub 15 Employer's Guide	11.3%	67.6%	1.3%	0.0%	19.7%
Pub 15a Employer's Supplemental Tax Guide	10.1%	60.5%	1.7%	0.0%	27.7%
Pub 15b Employer's Tax Guide to Fringe Benefits	8.8%	51.1%	3.8%	0.0%	35.3%
Pub 463 Travel, Entertainment, Gift & Car Expenses	5.0%	42.9%	1.7%	0.0%	50.4%
Pub 508 Tax Benefits for Work Related Education	3.4%	34.0%	0.8%	0.0%	61.8%
Pub 535 Business Expenses	3.4%	36.1%	1.3%	0.0%	59.2%
Pub 963 Federal-State Reference Guide	5.9%	33.2%	0.4%	0.8%	59.7%
Office of Chief Counsel	0.4%	2.1%	0.8%	0.4%	96.2%
FSLG --Area Groups/Specialists and Outreach, Planning/Review staffs	4.6%	12.6%	2.9%	0.8%	79.0%
Taxpayer Advocate Service Office	1.7%	7.1%	0.8%	0.8%	89.5%
Customer Account Services	0.8%	18.5%	2.5%	1.3%	76.9%
Wage and Investment	0.4%	4.2%	0.0%	0.4%	95.0%
Subscriptions to Tax and Payroll Informational Services	4.2%	13.9%	0.4%	0.4%	80.7%
TOTAL	5.4%	29.3%	1.7%	0.4%	63.2%
<b>PROGRAM ADMINISTRATION</b>					
Please indicate your level of satisfaction with IRS administration for the following programs (mark "no experience" if you have not dealt with a listed item):	VERY SATISFIED	SATISFIED	DISSATISFIED	VERY DISSATISFIED	NO EXPERIENCE
Collections	1.3%	23.5%	3.4%	0.4%	71.4%
Informational Reporting (W-2)	6.7%	72.3%	2.5%	1.3%	17.2%
Informational Reporting (1099)	5.0%	60.5%	2.5%	0.8%	31.1%
Federal Filing Requirements (941, 941c, etc.)	7.1%	71.4%	5.0%	1.3%	15.1%
Electronic Fund Transfer Tax Payment System (EFTPS)	23.9%	51.3%	0.8%	0.4%	23.4%
Form W-4 "Lock-In Letter" Program	1.7%	7.6%	0.4%	1.3%	89.1%
Fringe Benefits	3.4%	27.7%	3.4%	1.3%	64.3%
Employee Business Expenses	2.1%	20.6%	2.1%	0.4%	74.8%
Worker Classifications/Independent Contractors	1.7%	24.8%	3.8%	0.8%	68.9%
Refund Program (Form 843)	0.8%	4.2%	2.1%	0.8%	92.0%
Call Center	2.9%	21.4%	9.2%	1.3%	65.1%
TOTAL	5.2%	35.0%	3.2%	0.9%	55.7%
<b>TRAINING</b>					
Please indicate your level of satisfaction with any FSLG educational outreach efforts/training you received in the last 12 months. Mark "no training" if you have not participated in FSLG educational outreach or attended FSLG training.	VERY SATISFIED	SATISFIED	DISSATISFIED	VERY DISSATISFIED	NO TRAINING
Frequency of training provided	3.4%	13.0%	7.1%	0.4%	76.1%
Availability of education/training options	3.8%	13.0%	6.7%	0.8%	75.6%
Availability of on-line, tutorial educational/training	1.3%	3.4%	3.8%	0.8%	90.8%
Availability of Employer Tax Orientation training	1.7%	7.1%	3.4%	0.8%	87.0%
Confidence in educational/training information reliability	6.3%	13.4%	2.9%	0.0%	77.3%
Subject matter knowledge level of Specialists as trainer(s)	10.1%	9.7%	2.1%	0.0%	78.2%

Barriers to Voluntary Compliance:  
*Governmental Employers' Perspective*

TOTAL	4.4%	9.7%	4.3%	0.5%	80.8%
OVERALL	5.6%	28.9%	4.0%	0.9%	60.6%

**EXHIBIT A**

**VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY- COMMENTS**

*Please identify three IRS business practices, policies or requirements which you believe hinder voluntary employment tax compliance by governmental employers. Note: Comments were not edited.*

1. IRS does not respond quickly to user needs nor applies enough time or resource to meeting legitimate employer needs.
2. Communication between various IRS groups that interface with the same employer regarding training and compliance issues is virtually nonexistent – the right hand does not know what the left hand is doing.
3. IRS rules and regulations are administratively extremely difficult to follow... IRS needs to write regulations that whenever possible, provide objective and quantitative standards (bright line tests).
4. IRS employees refused to put advice in writing. They advise obtaining private letter rulings which are expensive and time consuming.
5. FSLG staff view function as raising revenue versus assisting in compliance though they advertise it as their mission.
6. The technical staff assigned to assist governments is not as trained or experienced as other IRS staff. FSLG is not a priority with the IRS.
7. IRS Philadelphia unilaterally refunds employee FICA taxes and notifies us (employer) to correct our records. It is suggested the employer be given an opportunity to research the claim and if appropriate make the refund.
8. IRS refund checks do not provide enough information to identify what the refund is for.
9. IRS automatically allocates credits to other taxes without communicating with the employer. This process makes our reconciliation more difficult.
10. Large employee turn over requires continual education programs.
11. Private letter rulings are slow (up to 2 years) & can cost up to \$40-\$50,000.
12. Regression in uniform/timely release of employment tax information.
13. Lack of education for these employers as to their employment tax requirements/responsibilities.
14. Lack of a uniform, formal voluntary compliance program for these employers.
15. Finding an IRS contact to resolve an issue. Wading through the various divisions hoping to find a department title that can assist with resolving a specific tax issue is a very frustrating and time-consuming task.
16. Lack of apparent interaction with SSA to resolve tax and coverage issues usually guarantees differing interpretations.
17. Inability of IRS to resolve tax issues in a timely manner.
18. Complexity of the tax code and the ability to be understood by a large portion of the payroll community.
19. Not contacting State Administrators about compliance checks before visiting the agency.
20. Discontinuing workshops that help educate employers.
21. IRS should automatically supply Publication 963 to state and local employers.
22. Unclear instructions.
23. Unavailability of an expert at the call center.
24. Lack of confidence in knowledge the person answering the question.
25. Publications and/or instructions can be very confusing & hard to correctly interpret.
26. If FSLG training is available, more info on it needs to be sent out. Need it in all areas – not just big cities.
27. Talking with a different person each time you call the service center.
28. Cellular telephone – taxable fringe benefit – this should be classified as a de-minimus benefit – booking nightmare!
29. Lack of training.
30. Regulations are not easy to understand
31. Elimination of Next Day payment of taxes for larger \$ payrolls.
32. 30-day response time for letters sent by the IRS may not be enough time due to the postal system.
33. Interest & penalties are assessed & levied before we have time to correct the problem or respond to letters issued by IRS.
34. Clarification of Section 125 certification.
35. No definitive rules for independent contracts -- they are guidelines that you have to decide for yourself.
36. \$100,000 Next Day deposit rule... dollar amount should be raised or moved to semi-weekly deposit.
37. Web based quarterly reporting with fileable 941 and schedules would simplify reporting without having to pay for third party software.
38. It seems that the Schedule B of the 941 is not always posted even when the Schedule B is attached to the 941. Then you provide the information numerous times and the situation still does not get taken care of. Then the IRS levies your bank account.
39. As a policy, we make sure the 941s equal the W-3 before we send in the W-3 and W-2s, then we still get letters saying the wages don't match.
40. Regular "briefs" would be very beneficial instead of always the complete supplement.

Barriers to Voluntary Compliance:

*Governmental Employers' Perspective*

41. IRS response is slow and fails to apply resources to meet real needs.
42. Communication is strained within IRS – the various IRS units don't know what other units are doing or why they are doing it.

## EXHIBIT A

### VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY- COMMENTS (CONT.)

43. IRS regulations are too complex and hard to follow. IRS should break down the complexity and use bright line measurements; need to simplify.
44. Paying for private letter rulings are too expensive and slow. IRS employees will not commit direction or guidance to writing. IRS leaves it customers hanging.
45. FSLG says its mission is assisting in compliance; its actions reflect revenue generation as a priority.
46. FSLG seems like it has no priority.
47. Complicated tax rules and regulations and how to apply them to an entity's payroll process.
48. Compliance with modifications of technical systems.
49. Clarification of some publication.
50. Updating of IRS website.
51. Reply delays of 3 months or longer.
52. Complexity of requirements.
53. Lack of reliable source of answers to tax questions.
54. Unwillingness of IRS to put answers in writing without taxpayer requesting a PLR.
55. Posting W-2's accurately.
56. De minimis is too small.
57. Tax withholding for "Election Employees" is too difficult to put into realistic practice. All election employees have to be looked at individually and handled manually. Can't automate.
58. IRS refunds employee FICA taxes and then tells employers to fix employer records. Shouldn't IRS check with employers before refunding?
59. Not enough information to identify what refunds are for.
60. Reconciliation is hard enough—it is made harder when IRS automatically credits refunds to employer accounts without talking to employers to make sure that the right EIN account is posted to.
61. The service has to either get serious about W-4 compliance or stop requiring employers to submit exempt or more than 10 deductions on W-4s. Requiring the employers to monitor this information is completely useless if it's never enforced.
62. We had a situation where we sought guidance on a relatively new taxation issue and requested support from our FSLG specialties and received no direction.
63. Whenever there is an error it takes --- forever --- to resolve the problem.
64. You never know if correspondence was received or if it went into the "Black Hole".
65. Notice when reporting/depositing requirements are change – No notice is given until IRS catch it.
66. I like free training --- more training in the forms/annual payroll, etc.
67. Instructions are often too complicated for some employers to understand... keep it simple.
68. Change requirements for next day deposit for deposit over \$100,000.
69. It's normal to talk to "many different individuals when trying to get a problem resolved & can be told something different by each one.
70. IRS will remove a payment from another tax return (990-T and apply it to tax area ((41) when the issue on the 941 has already been addressed. The Service Center Agents are sometimes unable to return the funds to the correct tax account for the university.
71. Continual slow process of applications for W-7 forms – Individual Taxpayer Identification Numbers (ITINS). It has been taking a least 2 months to get the ITIN back from the IRS.
72. Applying retroactive adjustments to Form 104 when a negative amount results.
73. Not offering a state agency <115(a)> a similar letter of determination <501(c)(31)> for grantors.
74. Requiring universities and colleges to report Form 1098-T information.
75. Lack of information being provided to person who disseminates.
76. Lack of crossover among offices or sites that answer similar questions.
77. Lack of ability to respond to entire problem
78. One office would not even speak to me as I was not a practitioner nor official, would only respond to practitioners.
79. Not having a W-4NR for non-resident alien employees.
80. Taxable fringe benefits for cars – need better definitions.
81. Earned Income Credit – forms are difficult for employees to complete.
82. Availability of authoritative guidance on tax issues. Pubs are great info but are not authoritative.
83. Difficult to reach anybody when needed.
84. A few of the individuals that I have talked with did not have a clue to solve the problems.
85. Publication/manual & form could have been simplified to make the job easier.
86. As a result of overlapping regulations, "compliance" is not quite clear.

Barriers to Voluntary Compliance:

*Governmental Employers' Perspective*

- 87. Technical guidance is not clearly stated.
- 88. Technical folks seem uncertain of correct action or we receive differing opinions.
- 89. EFTPS set up to Internet not very easy.
- 90. The change from disk reporting to wire/Internet reporting will be difficult for our agency.
- 91. Expectation that we will know what's wanted for compliance – but no training.

**VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY- COMMENTS (CONT.)**

- 92. Inability to receive clear directions.
- 93. Lack of communication.

**EXHIBIT A**

**GENERAL COMMENTS—EMPLOYER'S PERSPECTIVE SURVEY- COMMENTS**

*Please identify any other suggestions or comments regarding federal employment tax program administration from your employer's perspective.*

1. Employers should be able with a high degree of confidence to secure and apply information that enables them to voluntarily comply with tax law. IRS, through its business practices continues to create a hostile compliance environment and creates barriers that impede voluntary compliance.
2. Simplify the tax deposit requirements for semiweekly depositors by eliminating the \$100,000 next day deposit requirement and adopting a fixed deposit period schedule.
3. Remove deposit penalty rules or rewrite to include thresholds to identify and apply to abusers.
4. Apply tax deposits as directed by the employer.
5. When we submit a 941c the IRS always asks for another copy of the 941c to justify the adjustments. What happened to the original 941c?
6. FSLG specialist holds training and then tells employers to call us to get copy of 218 agreement.
7. FSLG rep in Alaska (Gary Petersen) is wonderful to work with. Very helpful & responsive.
8. The creation of FSLG with its focus on govt. employers was a positive step.
9. IRS needs to partner with SSA to enhance their website. In addition, IRS needs to take control of their respective tax forms that have been produced through public funds. Requiring entity to pay a vendor to produce their tax form is absurd.
10. I welcome any helpful comments or news items – our contact(s) have always been very beneficial.
11. Overall, I have been very pleased with the IRS representative for my state.
12. It is imperative the IRS continue the education process via workshops. Retirement of key personnel in the next 5-10 years will have a detrimental impact on state and local & federal government agencies.
13. The fact that the IRS requires us to submit certain W-4 forms for review and then does not conduct the review hinders compliance.
14. Assigned tax liaison is a person we must reach by long distance. Voice mail says they will make attempts to answer calls in 5 business days. That level of response simply does not work. Liaison person knows nothing about our business, has little experience, is not invested in our success, does not measure paltry tax issues against our total tax payments, and does not follow up timely.
15. Fear loss of outreach and information resources as IRS staff is now focusing on compliance review.
16. Large # of forms should be available. Employers should not have to stand the cost of mandatory forms (W-2's).
17. There have been great strides by the IRS & SSA made in the last 10 years. The IRS specialist I spoke to was not knowledgeable enough to give me an answer. They just gave me a web-site to search to find the answer. A vocal response would be better.
18. Very frustrated with response from Ogden via letters – took over a year to clear up and intervention from a local IRS agent (which then it was cleared within the month).
19. I think most employers really are trying to complete the forms to the best of their ability and understanding to be honest in their business practice.
20. I was called by an IRS tax advocate last month concerning one of our landlords which had a lien placed against them in error. It was handled very efficiently by the advocate and the lien was removed within a couple of days. I was very impressed.
21. I am very satisfied with all of the correspondence & training from IRS & SSA.
22. Notices should be relevant to the specific situation instead of standardized notices.
23. Response to correspondence is very, very slow. Rules on worker classifications need to be simplified.
24. FLSG Liaison did not understand our large government problems and did nothing to solve our issues. Never available to take calls, never returned calls, never helped in any constructive way.
25. Why does IRS separate 941c from the original 941? They always ask for backup copies of the 941c to justify any adjustment.
26. Under the recent structure of the IRS, dealing with Ogden, Utah makes problem resolution virtually impossible. We can easily deal with the local FSLG representative and fellow staff. However, no one at the local level is empowered to physically access our account and make corrections. We have literally spent years reconciling our withholding account with the IRS. Even though we can agree locally, adjustments must be made in Ogden by a stranger who did not have the benefit of reconciling several quarters worth of transactions, most of which were incorrect adjustments initiated by the service center. The inordinate delays in making corrections cause additional unnecessary transactions and the cycle repeats itself. It would seem that a customer striving to comply and sending over \$26 million annually would receive better service.
27. It would be helpful to provide employers with written procedures for dealing with employees who question the legality of the federal tax laws and to receive written support from the IRS of our need to comply with your tax

Barriers to Voluntary Compliance:

*Governmental Employers' Perspective*

regulations for these individuals. Dealing with these employees is time consuming and it is hard to satisfy them with a verbal response from the IRS. At times, they bring their union representatives into the process, and they are doubly hard to satisfy.

**EXHIBIT A**

**GENERAL COMMENTS—EMPLOYER'S PERSPECTIVE SURVEY- COMMENTS (CONT.)**

28. More communication is necessary between Ogden Service Center and other IRS facilities.
29. Simplify the tax deposit requirements for semiweekly by eliminating the \$100,000 next day deposit requirement and adopting a fixed deposit period schedule.
30. Remove deposit penalty rules or rewrite to include thresholds to identify and apply to abusers.
31. Apply tax deposits as directed by the employer.
32. Please find persons who can answer problems & respond quickly.
33. We have received 941 penalty notices for almost every quarter for the past two years. Every problem has been an IRS error and all penalties have been removed. However, there is a great deal of effort expended by the IRS and employer that could have been avoided by carefully handling the 941 returns.
34. I would like to be able to do 941s online each quarter. Monthly reporting is a breeze with web reporting as is the W-2 transmissions.
35. Most gov employers want to comply -- it is usually lack of knowledge and that hinders ones effectiveness. Your sensitivity to the situations is always appreciated.
36. It would be helpful to reach a live person to direct you, especially in cases where you're not sure where you want to end up.
37. It's difficult to get EFTPS transferred from phone to Internet.
38. Quicker response on e-mail inquires would be helpful.
39. If we could help in designing a program to help in the education of our employees for fringe benefits and business expenses that would be a tremendous help.
40. It would be nice if they had regional seminars for payroll clerks to attend.
41. IRS should call employers ASAP when discovering mistakes or errors in withholding payments for quick fixes!
42. Local training – even through conference calls
43. I would like information for online submission of 941, 1099 and W-2's.
44. Very difficult to get through on phone, then get transferred several times and eventually disconnected.
45. For the past 5 quarters, there have been problems with the processing of our 941 reports. Always get notices that the submittal was missing the Schedule B which is not accurate.
46. It can be very frustrating when we try to fully understand how to comply and the technical guidance we receive seems to be uncertain or cannot provide specific citations.
47. Provide simple and easy to understand instructions/publications.
48. Provide "faster" help for employers to solve problems – courtesy & respect to every caller, as we employers have to provide the best customer service to our customers/employees.
49. If you could have the federal tax tables ready in early December it would be very helpful.
50. Laws are too many and complicated.
51. Private Letter ruling letters take too long for answers.
52. The IRS had a web site that would allow taxpayers to submit questions. That service is no longer available effective January 1, 2004 – wish the service could be reinstated.

**EXHIBIT B  
 FSLG SPECIALIST FEEDBACK INFORMATION  
 BARRIERS TO VOLUNTARY EMPLOYER TAX COMPLIANCE SAMPLE SURVEY**

**PROGRAM PERFORMANCE**

1. Please assess your level of satisfaction with the IRS in the following areas (mark "no experience" if you have not dealt with an item):

	NO EXPERIENCE	VERY DISSATISFIED	DISSATISFIED	SATISFIED	VERY SATISFIED
Meeting your program information needs timely/accurately					
Providing viable training that enables you to address employer issues					
Delivering quality support services to FSLG Specialists					
Supporting suggestions to improve products/services					
Providing lead time to implement program and procedural changes (i.e. compliance checks, audits,, etc)					
Understanding stakeholders' political and organizational structures					
Providing reliable technical publications					
Resolving account issues/returns ( Forms 941, 941c, 843, tax payments and tax refunds					
Inputting to case selection issues					
Working effectively with TE/GE groups (EO, EP, etc.) to solve employer issues					
Working effectively with Social Security Adm. to solve employer issues					

**CUSTOMER SUPPORT**

2. Please indicate your satisfaction regarding the percentage of time allocated (spent) to assist employers (mark "no experience" if you have no dealt with an item):

	NO EXPERIENCE	VERY DISSATISFIED	DISSATISFIED	SATISFIED	VERY SATISFIED
Being available by phone, fax, electronic mail, or in person to provide services					
Assisting each employer in your assigned geographical area					
Knowing other IRS functions, services and structures to assist employers					
Delivering appropriate technical training					
Partnering with employers to remove compliance barriers					
Satisfying employer information needs					
Providing timely turnaround on issues					
Conducting compliance checks, review and audits professionally					

**COMMUNIQUES**

3. Please assess the value of the following IRS on-line products to satisfy your customers "employer" tax information needs (mark "no experience" if not familiar with a product):

	NO EXPERIENCE	NOT VALUABLE	SOMEWHAT VALUABLE	VALUABLE	VERY VALUABLE
Digital Dispatch					
e-News					
IRS Newswire					
IRS Tax Tips					
Employee Plan News					
Tax Stats Dispatch					

FSLG Newsletter					
Quick Alerts					

**EXHIBIT B**

**BARRIERS TO VOLUNTARY EMPLOYER TAX COMPLIANCE SAMPLE SURVEY - (CONT.)**  
**COMMUNICATION**

4. Please assess the value of IRS services/products to enable employers to voluntarily understand and comply with tax law (mark "no experience" if you have not dealt with an item):

NO EXPERIENCE
NOT VALUABLE
SOMEWHAT VALUABLE
VALUABLE
VERY VALUABLE

IRS Web Site				
FSLG Web Site				
Ogden Service Center				
Other Service Centers				
IRS Publications: Pub 15 Employer's Guide				
Pub 15a Employer's Supplemental Tax Guide				
Pub 15b Employer's Tax Guide to Fringe Benefits				
Pub 463 Travel, Entertainment, Gift and Car Expense				
Pub 508 Tax Benefits for Work Related Education				
Pub 535 Business Expenses				
Pub 963 Federal-State Reference Guide				
Chief Counsel's Office/Area Counsel				
FSLG Outreach, Planning and Review staff				
FSLG Group Manager				
On-line FSLG data resources				
Customer Account Services				

**PROGRAM ADMINISTRATION**

5. Please assess how successful you feel IRS has been in administering the following programs with FSLG's customers (mark "no experience" if you have not dealt with a listed item):

NO EXPERIENCE
VERY UNSUCCESSFUL
UNSUCCESSFUL
SUCCESSFUL
VERY SUCCESSFUL

Collections				
Informational Reporting (Form 1099, W-2, etc.)				
Federal Filing Requirements (Form 941, 941c, etc.)				
EFTPS				
Form W-4 Lock-In Letters				
Fringe Benefits				
Employee Business Expenses				
Worker Classification				
Section 115/Political Subdivisions				

**TRAINING**

6. Please indicate whether the percentage time spent training/outreaching with your customers in the last 12 months (including training materials used) was sufficient to meet your customer's needs. Mark "no training" if you have not provided training or educational outreach in the past 12 months.

NO TRAINING
VERY INSUFFICIENT
INSUFFICIENT
SUFFICIENT
VERY SUFFICIENT

Frequency of training provided				
Frequency of outreach services performed				

Barriers to Voluntary Compliance:  
*Governmental Employers' Perspective*

Availability of on-line, tutorial training tools					
Availability of classroom training materials					
Confidence in training materials reliability					
Frequency of partnering with other Federal or State entities in training					

**EXHIBIT B**

**BARRIERS TO VOLUNTARY EMPLOYER TAX COMPLIANCE SAMPLE SURVEY - (CONT.)**

**Barriers to Voluntary Employer Compliance**

*Based upon your FSLG Specialist experience, please identify three barriers regarding IRS business practices, policies or requirements which you believe prevent voluntary tax compliance by your customers--governmental employers.*

1. \_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_

**GENERAL COMMENTS—Employers Perspective Regarding Tax Administration**

*Based on your customer interfaces, what are the most frequent complaints expressed to you by public sector employers regarding IRS and employment tax compliance?*

1. \_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT B**

**BARRIERS TO VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY RESULTS**

**VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY**

02/02/04

FSLG SURVEY = 15

**PROGRAM PERFORMANCE**

Please assess your level of satisfaction with the IRS in the following areas (mark "no experience" if you have not dealt with an item):

	VERY SATISFIED	SATISFIED	DISSATISFIED	VERY DISSATISFIED	NO EXPERIENCE
Meeting your program information needs timely/accurately	0%	60%	33%	7%	0%
Providing viable training that enables you to address employer issues	27%	60%	7%	7%	0%
Delivering quality support services to FSLG Specialists	13%	20%	47%	13%	7%
Supporting suggestions to improve products/services	7%	27%	27%	27%	13%
Providing lead time to implement program and procedural changes	0%	47%	20%	27%	7%
Understanding stakeholders' political and organizational structures	7%	60%	13%	20%	0%
Providing reliable technical publications	7%	80%	13%	0%	0%
Resolving account issues/returns	13%	47%	33%	7%	0%
Inputting to case selection issues	13%	33%	27%	13%	13%
Working effectively with TE/GE groups to solve employer issues	7%	40%	7%	27%	20%
Working effectively with Social Security Adm. to solve employer issues	33%	40%	13%	7%	7%
TOTAL	12%	47%	22%	14%	6%

**CUSTOMER SUPPORT**

Please indicate your satisfaction regarding the percentage of time allocated (spent) to assist employers (mark "no experience" if you have not dealt with an item):

	VERY SATISFIED	SATISFIED	DISSATISFIED	VERY DISSATISFIED	NO EXPERIENCE
Being available by phone, fax, electronic mail, or in person to provide services	40%	47%	13%	0%	0%
Assisting each employer in your assigned geographical area	33%	53%	13%	0%	0%
Knowing other IRS functions, services and structures to assist employers	20%	33%	40%	7%	0%
Delivering appropriate technical training	7%	60%	27%	7%	0%
Partnering with employers to remove compliance barriers	7%	60%	7%	13%	13%
Satisfying employer information needs	7%	73%	20%	0%	0%
Providing timely turnaround on issues	0%	60%	33%	7%	0%
Conducting compliance checks, review and audits professionally	20%	67%	0%	13%	0%
TOTAL	17%	57%	19%	6%	2%

**COMMUNIQUE'S**

Please assess the value of the following IRS on-line products to satisfy your customers "employer" tax information needs (mark "no experience" if not familiar with a product):

	VERY VALUABLE	VALUABLE	SOMEWHAT VALUABLE	NOT VALUABLE	NO EXPERIENCE
Digital Dispatch	0%	13%	13%	0%	73%
e-News	0%	13%	13%	0%	73%
IRS Newswire	0%	7%	13%	0%	80%
IRS Tax Tips	0%	27%	27%	0%	47%
Employee Plan News	7%	20%	0%	7%	67%
Tax Stats Dispatch	0%	7%	0%	0%	93%
FSLG Newsletter	53%	20%	13%	7%	7%
Quick Alerts	7%	13%	7%	0%	73%
TOTAL	8%	15%	11%	2%	64%

**EXHIBIT B**

**BARRIERS TO VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY- RESULTS (CONT.)**

**COMMUNICATION**

Please assess the value of IRS services/products to enable employers to voluntarily understand and comply with tax law (mark "no experience" if you have not dealt with an item):

	VERY VALUABLE	VALUABLE	SOMEWHAT VALUABLE	NOT VALUABLE	NO EXPERIENCE
IRS Web Site	36%	36%	21%	0%	7%
FSLG Web Site	29%	36%	21%	0%	14%
Ogden Service Center	0%	14%	21%	43%	21%
Other Service Centers	0%	14%	7%	29%	50%
IRS Publications: Pub 15 Employer's Guide	43%	29%	21%	0%	7%
Pub 15a Employer's Supplemental Tax Guide	43%	36%	14%	0%	7%
Pub 15b Employer's Tax Guide to Fringe Benefits	50%	29%	14%	0%	7%
Pub 463 Travel, Entertainment, Gift and Car Expense	50%	29%	14%	0%	7%
Pub 508 Tax Benefits for Work Related Education	20%	27%	33%	0%	20%
Pub 535 Business Expenses	21%	43%	29%	0%	7%
Pub 963 Federal-State Reference Guide	57%	29%	7%	0%	7%
Chief Counsel's Office/Area Counsel	20%	13%	13%	33%	20%
FSLG Outreach, Planning and Review staff	13%	20%	20%	33%	13%
FSLG Group Manager	20%	33%	7%	20%	20%
On-line FSLG data resources	20%	27%	20%	13%	20%
Customer Account Services	27%	0%	33%	13%	27%
<b>TOTAL</b>	<b>28%</b>	<b>26%</b>	<b>19%</b>	<b>12%</b>	<b>16%</b>

**PROGRAM ADMINISTRATION**

Please assess how successful you feel IRS has been in administering the following programs with FSLG's customers (mark "no experience" if you have not dealt with a listed item):

	VERY SUCCESSFUL	SUCCESSFUL	UNSUCCESSFUL	VERY UNSUCCESSFUL	NO EXPERIENCE
Collections	0%	13%	13%	33%	40%
Informational Reporting (Form1099, W-2, etc.)	13%	53%	27%	7%	0%
Federal Filing Requirements (Form 941, 941c, etc.)	20%	53%	27%	0%	0%
EFTPS	13%	60%	0%	0%	27%
Form W-4 Lock-In Letters	7%	7%	0%	20%	67%
Fringe Benefits	20%	53%	20%	7%	0%
Employee Business Expenses	13%	20%	33%	7%	27%
Worker Classification	7%	47%	40%	0%	7%
Section 115/Political Subdivisions	0%	0%	20%	0%	80%
<b>TOTAL</b>	<b>10%</b>	<b>34%</b>	<b>20%</b>	<b>8%</b>	<b>27%</b>

**TRAINING**

Please indicate whether the percentage time spent training/outreaching with your customers in the last 12 months (including training materials used) was sufficient to meet your customer's needs. Mark "no training" if you have not provided training or education

	VERY SUFFICIENT	SUFFICIENT	INSUFFICIENT	VERY INSUFFICIENT	NO TRAINING
Frequency of training provided	13%	40%	47%	0%	0%
Frequency of outreach services performed	20%	33%	40%	7%	0%
Availability of on-line, tutorial training tools	7%	13%	20%	0%	60%
Availability of classroom training materials	21%	57%	0%	7%	14%
Confidence in training materials reliability	40%	47%	13%	0%	0%
Frequency of partnering with other Federal/State entities in training	27%	20%	13%	20%	20%

Barriers to Voluntary Compliance:  
*Governmental Employers' Perspective*

	21%	35%	22%	6%	16%
<b>OVERALL</b>	17%	35%	19%	9%	21%

EXHIBIT B

**Barriers to Voluntary Employer Compliance Survey -COMMENTS**

*Based upon your FSLG Specialist experience, please identify three barriers regarding IRS business practices, policies or requirements which you believe prevent voluntary tax compliance by your customers--governmental employers. Note: Comments were not edited.*

1. Difficulty of obtaining timely, accurate, and courteous service from Service Center functions.
2. The inability or unwillingness of IRS consul to provide timely and specify written guidance regarding unique issues.
3. Unaware of these tax laws and our (FSLG) sudden escalation of conducting workshops.
4. It's yet to happen, but in the future I believe we will be limited to time changes to customers frequent via e-mail, telephone. Etc.,
5. The IRS wants to treat a state like a business. For example TIN mismatch penalties when the state issues 50,000 1099s and has less than ½% error rate. – They can't get 100% accurate, we need to be realistic.
6. Collection is assessing tax or levying our customers while we are trying to assist them.
7. Compliance checks aren't controlled or indicated on IDES. Focusing on audits instead of outreach activities and compliance checks will cause customers to be less candid, inhibiting voluntary compliance.
8. Drastically reducing outreach activities will limit the number of taxpayers we can reach with information to one-on-one audits.
9. Newly Elected Officials need training on substantially the same issues each year.
10. Elected/Control employees put pressure on payroll offices not to report taxable fringe benefits to them.
11. Gov. budget constraints sometimes lead to reclassification of employees to independent contractors to save on payroll taxes.
12. Lack of cohesion and purpose between TEGE functions—crossover issues aren't being addressed, i.e., interplay between allowable benefits (like post-retirement medical benefits plans) and employment taxes.
13. Lack of guidance on alien withholding for governmental entities.
14. Where to find internal information throughout the IRS.
15. National office is rigid in their policies. They are not successful in a state which is small & has only one statewide local govt.
16. The outreaches are not being conducted to small govt. that can't send someone to a meeting at another location.
17. To early for --- focus on exams, more outreach education is still needed.
18. Exams are drastic swings form previous years.
19. Lack of knowledge of how states are organized and how they work. This includes how they are financed and what are the local politics of the entity.
20. Lack of information on 941 for proper classification of returns for exam. There could be a special 941 for Government entities that has questions about the entity and their 218 agreement or that they have no agreement. (a 941-form).
21. Managers do not have the appropriate skills to manage and they do not have a functional understanding of the requirements of the job. Resources are not appropriately allocated and utilized to reach program objectives.
22. FLSG does not know its customers and their needs to administer the tax laws.
23. IRS educational products need to be more user-friendly.
24. Based on the internal political hierarchy within TE/GE, FSLG does not receive adequate support to adequately implement program objectives. This failure directly affects the quality of the practices, policies, and requirements within FSLG.
25. Compliance checks selected when there are indicators of missing or diligent returns.
26. Lack of technical alert from OPR.

Barriers to Voluntary Compliance:

*Governmental Employers' Perspective*

27. Lack of communication per voice mail from the Directors office and OPR.
28. We need to survey our customers – government employers—to determine their needs.

**EXHIBIT B**

**Employers Perspective Regarding Tax Administration Survey - COMMENTS (CONT.)**

*Based on your customer interfaces, what are the most frequent complaints expressed to you by public sector employers regarding IRS and employment tax compliance?*

1. The unresponsiveness, unreasonable, and ignorance/arrogance of Service Center Collection personnel.
2. The ones that attended the IRS workshops wanted them annually. Once they found out our business plan was steering away from outreaches, they were very disappointed.
3. A public employer can't just write a check to pay a tax assessment like a private company can.
4. Penalties are not reasonable
5. It takes council forever to issue an opinion.
6. The Ogden Service Center has not been helpful in resolving governmental employer attempts to resolve issues involving penalties.
7. Customers can seldom get meaningful help from the service center phone numbers shown on IRS notices.
8. It's hard for rank-and-file staff members of public employers to get training on employment tax requirements.
9. Notices are difficult to understand.
10. The most frequent complaint I hear is about the Service Centers. Unresponsive IRS employees. Forms lost that an employer has sent in. This lack of customer assistance frustrates the employers and leads to negative impressions of the IRS.
11. We have never been audited so why are we now (subject to exam)?
12. Where can we find information specific to governmental entities?
13. Lack of training & understanding of the laws
14. No direct Pub's for employers that are not taxed.
15. Don't know who to contact.
16. Unable to reach IRS Service Centers.
17. I am often asked when we will be teaching IRS classes again in any state.
18. More, most are pleased with the new office that was created for government entities.
19. They often complain that we "never told them this before".
20. Why haven't they been informed about these matters or issues by their internal or independent auditors?
21. Their employees are very low paid anyway--fringe benefits are the only way they can compensate them.
22. We are being "petty" about the cell phones. Cell phones should be treated the same as any other phone.
23. Inconsistent answers to their tax questions: knowing whom to contact about their tax issues; penalties erroneously assessed; deposit problems with Service Centers.

**EXHIBIT C  
 IRS CAMPUS FEEDBACK INFORMATION**

**IRS CAMPUS FEEDBACK INFORMATION SAMPLE SURVEY**

**CUSTOMER CONTACT**

Please assess the level of expertise demonstrated by federal, state and local government customers regarding their "employer" tax role (mark "no opinion if no experience with an item):

NO OPINION
NO SKILLS
MINIMAL SKILLS
SKILLED
VERY SKILLED

Federal agencies				
State agencies				
County agencies				
City agencies				
School districts				
Other agencies (i.e. special districts, quasi governmental entities, etc.)				

**Comments/Suggestions:** \_\_\_\_\_

**PROGRAM PERFORMANCE**

Please assess your level of satisfaction in the following areas when dealing with public sector employers (mark "no opinion" if no experience with an item):

NO OPINION
VERY DISSATISFIED
DISSATISFIED
SATISFIED
VERY SATISFIED

Meeting employers' informational needs timely				
Initiating regular contact with these employers				
Understanding your customers' employer environments				
Directing employers to other IRS functions, services & structures to resolve their problems				
Providing accurate technical assistance to employers				
Providing training to employers re employment tax responsibilities accounts				
Partnering with employers to remove compliance barriers				
Working employer accounts to your expectations				
Working with other IRS areas to promote voluntary compliance				

**Comments/Suggestions:** \_\_\_\_\_

**CUSTOMER PROBLEMS**

Please assess how serious you feel the following problems are when working with public sector employers (mark "no opinion" if no experience with an item):

NO OPINION
NOT SERIOUS
LESS SERIOUS
SERIOUS
VERY SERIOUS

Each EIN entails working with many customers versus a single contact				
Different customers with one EIN routinely ask the same repetitive questions				
Customers ask you to perform services outside your control				
Customer turnover requires constant retraining of new customers				
Customers do not understand how IRS works nor its organizational structure				
Customers do not have IRS reference/instructional materials (i.e. Employer Guide, Supplemental Employer's Guide, etc)				
Customers do not understand IRS reference/instructional materials				
Customers are difficult to contact				
Customers are too proactive				

Customers require training outside your area of responsibility					
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**Comments/Suggestions:** \_\_\_\_\_

**EXHIBIT C**

**IRS CAMPUS FEEDBACK INFORMATION SAMPLE SURVEY - (CONT.)**

**CLIENT KNOWLEDGE**

How proficient do you believe your customers are in dealing with the following subject matters (mark "no opinion" if no experience with item):

NO OPINION				
NOT PROFICIENT				
LESS PROFICIENT				
PROFICIENT				
VERY PROFICIENT				

Form 941 requirements/form completion				
Form 941 C requirements/form completion				
Tax Deposit processes/requirements				
Form W-2 requirements/reporting				
Form W-2c requirements/reporting				
Power of Attorney Requirements				
Form 1099 Reporting requirements/reporting				
Penalty and interest assessment processes				
Appeal process for penalties and assessments				
Role of service center IRS campus personnel				

**Comments/Suggestions:** \_\_\_\_\_

**CUSTOMER AWARENESS**

Please assess problems your customers most frequently cite which impact voluntary employment tax compliance (mark "no opinion if no experience with item):

NO OPINION				
NOT A PROBLEM				
PROBLEM				
MINOR PROBLEM				
MAJOR PROBLEM				

IRS rules and regulations are too vague				
IRS rules and regulations are too complicated				
Employers cannot find information required to perform the job				
Instructional tools and publications create questions/not answer them				
IRS representatives provide conflicting information on routine matters				
IRS is not responsive				
IRS refund process is cumbersome and slow				
IRS is too fragmented				
IRS does not understand employer's problems				
Other (use comment/ suggestion area to explain)				

**Comments/Suggestions:** \_\_\_\_\_

**GENERAL COMMENTS- what should be done to remove barriers that prevent voluntary customer compliance?**

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EXHIBIT C

IRS CAMPUS FEEDBACK INFORMATION SURVEY RESULTS

VOLUNTARY EMPLOYER TAX COMPLIANCE SURVEY					02/02/04
IRS CAMPUS SURVEY = 12					
<b><u>CUSTOMER CONTACT</u></b>					
Please assess the level of expertise demonstrated by federal, state and local government customers regarding their "employer" tax role (mark "no opinion if no experience with an item):	VERY SKILLED	SKILLED	MINIMAL SKILL	NO SKILLS	NO OPINION
Federal agencies	8%	42%	8%	8%	33%
State agencies	0%	50%	17%	0%	33%
County agencies	0%	33%	33%	0%	33%
City agencies	0%	42%	17%	0%	42%
School districts	0%	33%	25%	0%	42%
Other agencies	0%	25%	8%	0%	67%
TOTAL	1%	38%	18%	1%	42%
<b><u>PROGRAM PERFORMANCE</u></b>					
Please assess your level of satisfaction in the following areas when dealing with public sector employers (mark "no opinion" if no experience with an item):	VERY SATISFIED	SATISFIED	DISSATISFIED	VERY DISSATISFIED	NO EXPERIENCE
Meeting employers' informational needs timely					
Initiating regular contact with these employers	8%	50%	17%	0%	25%
Understanding your customers' employer environments	0%	50%	25%	0%	25%
Directing employers to other IRS functions, services, structures to resolve problems	0%	92%	8%	0%	0%
Providing accurate technical assistance to employers	8%	83%	8%	0%	0%
Providing training to employers: employment tax responsibilities accounts	0%	50%	33%	0%	17%
Partnering with employers to remove compliance barriers	0%	33%	33%	0%	33%
Working employer accounts to your expectations	8%	83%	8%	0%	0%
Working with other IRS areas to promote voluntary compliance	0%	42%	33%	0%	25%
TOTAL	4%	62%	19%	0%	16%
<b><u>CUSTOMER PROBLEMS</u></b>					
Please assess how serious you feel the following problems are when working with public sector employers (mark "no opinion" if no experience with an item):	VERY SERIOUS	SERIOUS	LESS SERIOUS	NOT SERIOUS	NO OPINION
Each EIN entails working with many customers versus a single contact	8%	50%	8%	17%	17%
Different customers with one EIN routinely ask the same repetitive questions	0%	8%	25%	25%	42%
Customers ask you to perform services outside your control	0%	8%	33%	25%	33%
Customer turnover requires constant retraining of new customers	0%	8%	50%	25%	17%
Customers do not understand how IRS works nor its organizational structure	0%	25%	33%	33%	8%
Customers do not have IRS reference/instructional materials (i.e. Employer Guide)	0%	25%	17%	33%	25%
Customers do not understand IRS reference/instructional materials	0%	33%	42%	17%	8%
Customers are difficult to contact	0%	8%	17%	67%	8%
Customers are too proactive	0%	8%	8%	58%	25%

Barriers to Voluntary Compliance:  
*Governmental Employers' Perspective*

Customers require training outside your area of responsibility	0%	17%	50%	25%	8%
TOTAL	1%	19%	28%	33%	19%

**EXHIBIT C**

**IRS CAMPUS FEEDBACK INFORMATION SURVEY RESULTS - (CONT.)**

<b><u>CLIENT KNOWLEDGE</u></b>					
How proficient do you believe your customers are in dealing with the following subject matters (mark "no opinion" if no experience with item):	VERY PROFICIENT	PROFICIENT	LESS PROFICIENT	NOT PROFICIENT	NO OPINION
Form 941 requirements/form completion	33%	42%	17%	0%	8%
Form 941 C requirements/form completion	33%	33%	0%	25%	8%
Tax Deposit processes/requirements	33%	33%	25%	0%	8%
Form W-2 requirements/reporting	8%	50%	25%	8%	8%
Form W-2c requirements/reporting	8%	50%	25%	8%	8%
Power of Attorney Requirements	17%	50%	8%	17%	8%
Form 1099 Reporting requirements/reporting	8%	42%	17%	8%	25%
Penalty and interest assessment processes	8%	33%	50%	0%	8%
Appeal process for penalties and assessments	8%	33%	17%	17%	25%
Role of service center IRS campus personnel	8%	33%	42%	8%	8%
TOTAL	17%	40%	23%	9%	12%
<b><u>CUSTOMER AWARENESS</u></b>					
Please assess problems your customers most frequently cite which impact voluntary employment tax compliance (mark "no opinion if no experience with item):	MAJOR PROBLEM	MINOR PROBLEM	PROBLEM	NOT A PROBLEM	NO OPINION
IRS rules and regulations are too vague	8%	17%	25%	17%	33%
IRS rules and regulations are too complicated	25%	8%	17%	17%	33%
Employers cannot find information required to perform the job	0%	25%	17%	33%	25%
Instructional tools and publications create questions/not answer them	0%	25%	17%	17%	42%
IRS representatives provide conflicting information on routine matters	8%	17%	17%	33%	25%
IRS is not responsive	8%	25%	0%	42%	25%
IRS refund process is cumbersome and slow	0%	8%	25%	33%	33%
IRS is too fragmented	17%	8%	17%	25%	33%
IRS does not understand employer's problems	0%	17%	17%	33%	33%
TOTAL	7%	17%	17%	28%	31%

**EXHIBIT C**

**IRS CAMPUS FEEDBACK INFORMATION SURVEY RESULTS - (CONT.)**

*What should be done to remove barriers that prevent voluntary customer compliance?*

No comments received from the IRS Campus surveys.