

Testimony of Steven T. Miller
Commissioner, Tax Exempt and Government Entities
Internal Revenue Service
Before the
Oversight Subcommittee
House Ways and Means Committee
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Oral Statement

Chairman Ramstad, Ranking Member Lewis and members of the Subcommittee, I appreciate the opportunity to testify this morning.

To encourage employment tax compliance by tax-exempt entities, the IRS begins with customer education and outreach and follows up with document matching, examinations, collections, and traditional forms of enforcement.

We start with an expansive educational effort. Our Exempt Organizations function conducts workshops and maintains numerous publications and an active internet website.

Our enforcement efforts are best understood by dividing the discussion into two categories. First is the Combined Annual Wage Reporting program or CAWR and its related programs. Second is the examination program run out of TE/GE. Now ideally, Forms 941 and similar returns we receive should match the Forms W-2 and W-3 that SSA gets. To verify this, the CAWR program matches reported earnings and reported withholding of taxes. To reconcile differences, the IRS, working with SSA, maintains three programs.

The first two, SSA CAWR and IRS CAWR, deal with instances where the Agencies have received all returns but there was a mismatch in the information reported. The third program deals with instances where the IRS does not have a Form 941 to match the SSA data.

Under the first two programs, for 2004, mismatch issues relating to almost 30,000 TE/GE taxpayers were pursued. We estimate that about 20,000 of these were section 501(c)(3) organizations.

The third CAWR program identifies and refers potential 941 non-filers. TE/GE receives around 4,000 CAWR referrals per year, substantially consisting, in terms of dollars, of governmental taxpayers and pension plans. Since 2001, the potential value of tax owed by referred TE/GE entities has declined dramatically from \$1.29 billion to \$180 million in 2004. Of the \$180 million, \$17 million relates to section 501(c)(3) taxpayers.

Our Exempt Organizations function has pursued Form 941 non-filers not through the CAWR but through a different program that matching 941s to charities' Forms 990. Where compensation exceeds a certain amount on the 990 but no 941 was found, EO conducted more than 800 examinations in recent years to resolve the issue.

However, few improper non-filers were found, so we recently discontinued the program, while continuing to look for better ways to select cases. As part of this effort, this winter we will pilot a new computer-based modeling system to select better cases, including employment tax cases.

Outside of the CAWR and similar programs, the examination of employment tax issues is integrated into EO's general examination program, and it is within this structure that the great majority of EO employment examinations are conducted. Out of our general exams and some special employment tax initiatives, we examine 1,200 plus employment tax returns annually.

Beyond our document matching and examination programs is the collection program. In determining whom to pursue in the collection process, charities are treated like other taxpayers. As a result, in the collection area, our information

reports are such that any numbers I use relate to all TE/GE taxpayers and all taxes, not just employment tax. So, for example, in FY 2005, a total of 282,000 first notices were issued to TE/GE taxpayers. A little over half were resolved by the taxpayer's self-correction during the notice process.

Only 27,000 TE/GE taxpayers continued past the notice phase in 2005 for potential contact by telephone or by a revenue officer. As stated, whether or when these get worked is determined by criteria that are not TE/GE-specific.

Let me wind up by stating that the IRS has a credible and considered program for enforcing the employment tax law as it applies to charities.

While the law does not generally contemplate the revocation of a charity's tax-exempt status for failure to comply fully with employment tax law, it does give us other tools to insist that charities meet their employment tax obligations, and we have active programs in place to do just that.

Thank you.