



ACCOMPLISHMENTS LETTER

MESSAGE FROM THE TE/GE COMMISSIONERS

Greetings,

We're pleased to share with you our Accomplishments Letter for fiscal year 2019. This letter closes the book on our FY19 performance in the compliance area, one of our highest priorities. We issue this letter to you now because the numbers for FY19 are complete and these numbers help tell the story of our actions and achievements during the fiscal year ending September 30, 2019. As the Internal Revenue Service's stewards for five critical sectors – Exempt Organizations, Employee Plans, Federal, State and Local Governments, Indian Tribal Governments, and Tax Exempt Bonds – we are proud that our work in FY19 supported our goal of preserving the integrity of these critical sectors and met the agency's primary goal of protecting the integrity of a strong, fair system of tax administration.

Since we created the current compliance platform, the program has grown and evolved in both its methods and effectiveness. We continue to improve on strategies and tools such as data analysis to guide decisions on where to deploy our resources. We're especially proud of our online portal that encourages suggestions from our subject matter experts – our employees.

Highlights of our accomplishments during FY19, all of which support the goals of the IRS Strategic Plan for 2018-2022, include:

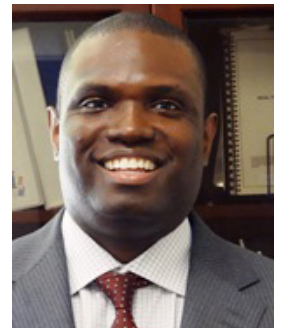
- Expanded the use of Pay.gov to make payments easier, which helps empower and enable taxpayers to comply.
- Expanded the Employee Plans (EP) Self-Correction Program under the Employee Plans Compliance Resolution System, which helps improve voluntary compliance.
- Expanded the EP determination letter program. This is one of our many initiatives to protect the integrity of the tax system and encourage compliance.
- Collaborated with IRS business partners, including the Small Business/Self Employed Lead Development Center, to counter fraud and abuse. Working with our partners protects tax system integrity and drives effectiveness and efficiency in TE/GE and IRS operations.
- Established an Employer Shared Responsibility Payment compliance program for Applicable Large Employers under the Affordable Care Act. Modernizing our processes drives efficiencies and lessens burden on taxpayers.
- Expanded educational efforts, soft letters and compliance checks, which empowers taxpayers and supports voluntary compliance.
- Released additional educational videos and informational articles and participated in many outreach events. Education and outreach efforts encourage voluntary compliance and help demystify tax administration.
- Significantly increased hiring, invested in employee training and strengthened our Knowledge Management program. These actions actively support the goal of maintaining a well-equipped, diverse, flexible and engaged work force.

Our past work and accomplishments laid the groundwork for success in the months ahead. Data-driven approaches, compliance checks and soft letters, the voluntary correction program and streamlining processes – these all go to improving the taxpayer experience and strengthening our compliance efforts.

Thank you for your support of our mission to provide robust and fair tax administration and congratulations TE/GE on another successful year. For more information about our roadmap for the current fiscal year, please read [TE/GE's FY 2020 Program Letter](#).



Tamera Ripperda
TE/GE Commissioner



Edward T. Killen
TE/GE Deputy Commissioner

Tammy *Edward*

TE/GE SNAPSHOT

In September 2019, TE/GE welcomed Tammy Ripperda and Edward Killen as the new TE/GE Commissioner and Deputy Commissioner, respectively.

The entities that fall within TE/GE's jurisdiction are diverse in form and function, ranging from a small business' retirement plan to a multi-billion dollar bond issuance. The one thing they share is that they are all exempt from or not subject to federal income tax. Although these organizations are exempt from taxation on their income, they contribute substantially to the economy because they control trillions of dollars in assets and may be subject to other federal taxes, such as excise and employment taxes.

To help this diverse set of organizations meet their tax obligations and to enforce the tax laws, as part of overall IRS initiatives, TE/GE continues to invest in its workforce. We hired 200 people during fiscal year 2019, consisting of 55 revenue agents, 19 tax compliance officers, 77 tax examiners and 49 other positions, bringing our staffing numbers to 1,521, a nearly 5% gain from the end of the prior year. We also continue to train these new hires—through on-the-job training—and all staff through specialized training needed to work compliance issues.

TE/GE's Organizations

Employ almost
25% of the
American
workforce

Control over \$31
trillion in assets¹

Account for about
20% of nearly \$1.3
trillion in federal
tax expenditures²

Figure 1: FY19 TE/GE Staffing



¹ In 2010 dollars. Represents the latest data available for assets for U.S. retirement plans (2018), 501(c)(3) organizations (2016), private foundations (2016) and outstanding municipal debt (2018).

² Tax expenditures are defined in the law as "revenue losses attributable to provisions of the federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability."



In FY19, TE/GE continued to identify compliance work through our compliance strategy process. This process, in which compliance strategies require review and approval from the TE/GE Compliance Governance Board, allows the division to address significant compliance and resource challenges through the strategic use of resources, training and tools. This helps TE/GE focus on the highest risk and emerging issues using different treatment streams—from examinations and compliance contacts to educational letters and technical guidance. Compliance strategies are developed around areas of noncompliance using information collected through employee experience and input. Using a web-based portal, TE/GE (and other IRS) employees submit issues for consideration by the TE/GE Compliance Governance Board. Once approved for a compliance treatment, these issues are considered priority work.

Since the inception of the compliance strategy portal in 2017, we have received over 400 submissions from employees and approved 53 compliance strategies. Of these strategies, 79% have been started.

TE/GE delivers a compliance program that is divided into four portfolios:

- **Compliance Strategies:** issues of noncompliance approved by TE/GE’s Compliance Governance Board and identified using information collected through employee input.
- **Data-Driven Approaches:** enforcement activities resulting from the use of data and queries to select cases based on specified quantitative criteria.
- **Referrals, Claims and Other Casework:** includes (1) examinations resulting from referrals received from internal and external sources that allege possible noncompliance for an entity under TE/GE’s jurisdiction, and (2) requests for refunds or credits of amounts already assessed and paid, including tax, penalties, interest, or an adjustment of tax paid or credit not previously reported or allowed. This includes claims for employment tax refunds or credits paid by these entities and claims for credit payments on Direct Pay Bonds.
- **Compliance Contacts:** compliance checks and soft letters to educate taxpayers and improve return filings and filing accuracy on issues of noncompliance.

In addition, we continued to process:

- Applications for tax-exempt status and employee plan qualification through the Exempt Organizations (EO) and Employee Plans (EP) determinations programs,
- Requests to make voluntary corrections for failures on employee plans, and
- Voluntary resolutions of violations of bond tax rules.

We also continue to improve our processes. In FY19, TE/GE made great strides in leveraging the Lean Six Sigma (LSS) program office to conduct a process improvement exercise around our examination process. The team, comprised of TE/GE management and examination agents, identified areas of improvement and consistency for consideration. The recommendations range from improved examination procedures to information technology (IT) system changes. The LSS Exam Team initiated a pilot in FY19, using over 140 agents, tax law specialists and managers from all five TE/GE compliance functions, to test the draft TE/GE Exam Process/Handbook and system improvements. We await those results, along with feedback from our pilot members as we work toward a broader implementation in FY20.

³ Compliance Strategies may have more than one treatment. For example, one compliance strategy may have an examination and compliance check component.

TE/GE collaborated with a diverse group of stakeholders to strengthen its programs in FY19. We partnered with IT to drive key components of the IRS modernization plan. We continue to pilot taxpayer digital communications for the Tax Exempt Bonds (TEB) sector, allowing for encrypted, electronic responses to IRS requests to be delivered through a cloud-based solution. The capability has the exciting potential to speed up our processing times while at the same time supporting our goal of electronic case files. We worked hard in FY19 to articulate key business requirements in critical agency initiatives such as Enterprise Case Management, where our EO Customer Support unit will be the first business use case in 2020. And we are excited to have worked on a Robotics Processing Automation (RPA) product that is scheduled for delivery to our Referrals Unit in 2020. With RPA's ability to make manual processes more automated and consistent, we're looking forward to leveraging those efficiencies.

We also spent the year working with stakeholders across the agency to strengthen our abilities in the areas of fraud, promoter investigations and abusive transactions. Our Exempt Organizations agents continue to work with Small Business/Self-Employed (SB/SE), Large Business and International (LB&I) and Criminal Investigation (CI) on syndicated conservation easements cases. We had the opportunity to send agents for specialized training in areas ranging from promoter/abusive transactions to cyber currency, as well as TE/GE managers to join their SB/SE and CI counterparts for virtual compliance councils across the country, discussing compliance issues of common interest.

Finally, in FY19, the Exempt Organizations function established procedures to manage casework for the Employee Shared Responsibility Payments as they relate to tax-exempt churches. Following the guidance provided in Internal Revenue Code (IRC) 7611, TE/GE drafted and received approval of the necessary letters for case work to begin. This allows an important program to move forward while respecting the unique circumstances of this sector. The program will continue through FY20.

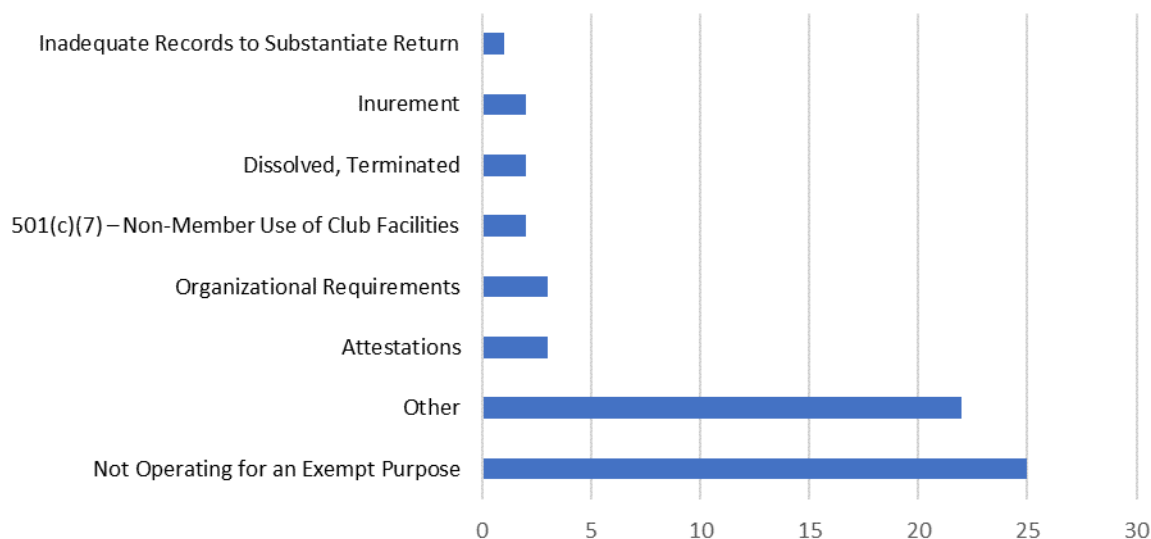
Exempt Organizations

■ Examinations

	STARTED	CLOSED
Compliance Strategies	246	21
Data-Driven	1,948	1,982
Referrals, Claims and Other Casework	1,611	1,672
Totals	3,805	3,675

Exempt Organizations completed examinations of 3,675 returns in FY19, including the Form 990 series (990, 990-EZ, 990-PF, 990-N, 990-T) and their associated employment and excise tax returns. We proposed revocations (without protest) for 60 tax-exempt entities as a result of these examinations. A breakout of these proposed revocations by issue is provided in the figure below.

Figure 2: FY19 EO Proposed Revocations (Without Protest) by Issue



Compliance Strategies

Exempt Organizations initiated and continued several compliance strategy examinations to address noncompliance in this sector, including:

- IRC 501(c)(7) entities: examined taxation of investment and nonmember income by tax-exempt social and recreation clubs.
- Previous for-profit: examined organizations formerly operated as for-profit entities prior to their recognition as organizations exempt from taxation under IRC Section 501(c)(3).
- Private benefit and inurement: examined organizations that showed indicators of potential private benefit or inurement to individuals or private entities by way of private foundation loans to disqualified persons.
- IRC Section 4947(a)(1) Non-Exempt Charitable Trust (NECT) organizations that under-reported income or over-reported charitable contributions.

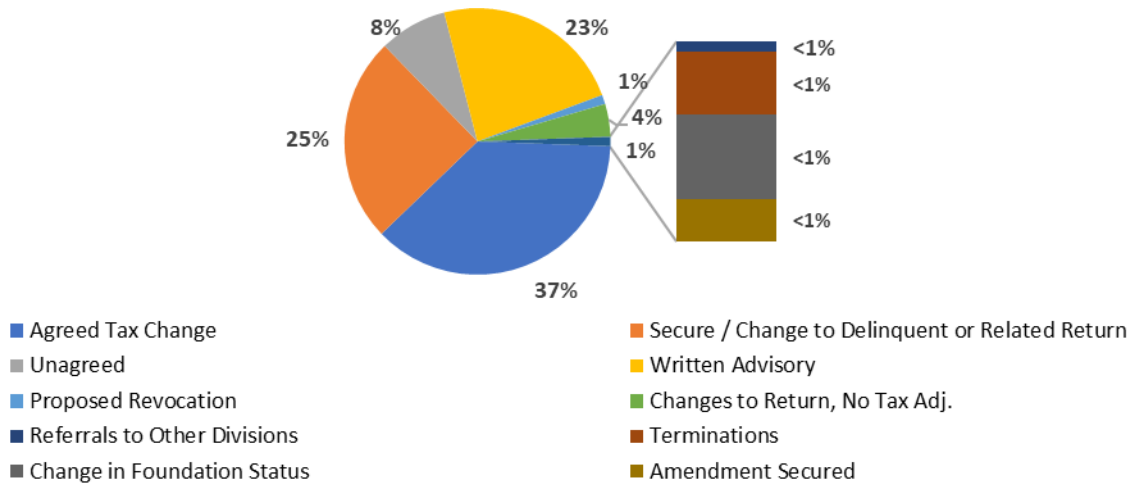
While only 21 compliance strategy examinations closed in FY19, there are several hundred examinations in process. Of those examinations that resulted in a change, the most prominent issues relate to unrelated business income, foundation status, operational issues, IRC 4941 tax on self-dealing and filing requirements.

Data-Driven Examinations

Exempt Organizations has several data-driven compliance examinations underway, including on:

- Tax-exempt organizations selected through compliance query sets based on information reported on Form 990, Return of Organization Exempt from Income Tax; Form 990-EZ, Short Form Return of Organization Exempt from Income Tax; and Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation.
- Tax-exempt organizations identified by collaborating with the IRS Research, Applied Analytics and Statistics office to research noncompliance indicators of private benefit/inurement, related employees and for-profit partnerships, officer business partnerships and under-reported credit card income.

Figure 3: EO Data-Driven – Types of Exam Changes

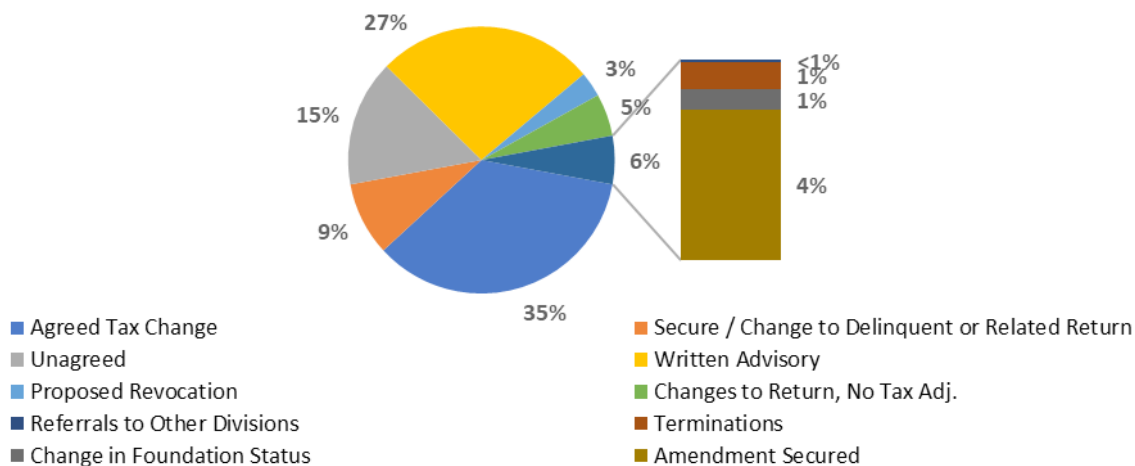


As the figure above shows, for the EO data-driven examinations that resulted in a change this past year, 37% resulted in an agreed tax or penalty change and 1% resulted in proposed revocation. The most prominent issues found in these EO data-driven examinations that resulted in a change related to filing requirements, employee classification, unreported compensation, unrelated business income and excise taxes.

Referrals, Claims and Other Casework

Exempt Organizations also examined entities that filed and received exemption using Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, and referrals from inside and outside the IRS. These referrals include hospital examinations referred from reviews conducted by TE/GE for compliance with IRC Section 501(r) and other noncompliance issues.

Figure 4: EO Referrals, Claims and Other – Types of Exam Changes



As the figure above shows, of the examinations that closed as change, 35% closed with an agreed tax or penalty change and another 27% closed with a written advisory. The most prominent issues in these change cases include filing requirements, unrelated business income, excise taxes, organizational requirements and employee classification.

In Exempt Organizations, we also pursued promoter investigations. Exempt Organizations worked on promoter investigations related to conservation easements. In addition, we support several client examinations in partnership with SB/SE-led investigations.

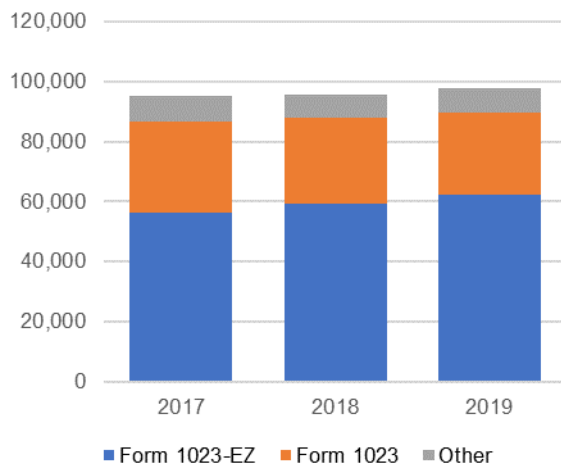
Determinations

Exempt Organizations closed 101,880 determination applications in FY19, including over 92,000 approvals, approximately 86,000 of which were approvals for 501(c)(3) status.

The figure to the right shows Exempt Organizations’ receipts of applications for tax-exempt status, private foundation classification and other EO-related determinations. The figure reflects receipts by Form 1023, Form 1023-EZ and other forms including Forms 1024, 1024-A, 1028 and 8940. Closures have continued to keep pace with increased receipts as TE/GE closed nearly 92,000 applications each in both FY17 and FY18 and 101,880 applications in FY19. This has been made possible through process efficiencies, including the continued processing of the Form 1023-EZ, which can be processed with about 82% fewer hours applied than Form 1023 applications.

With the growing use of the Form 1023-EZ since its introduction in 2014, TE/GE continues its efforts to understand the impact and opportunities from this important change to its determination program. With multiple years of 1023-EZ application data available on [IRS.gov](https://www.irs.gov), and existing pre- and post-determination programs in place, TE/GE partnered with the MITRE corporation in late 2018 to look at several aspects of the 1023-EZ program and propose recommendations. MITRE confirmed some of our current practices, such as validating that our sampling rate for the pre-determination program is more than sufficient to provide statistically valid results. They also looked at some of the form revisions, such as the question “Are you applying for recognition as a church, school or hospital?” and agreed that the question helped in our work of identifying those entities not eligible to file the Form 1023-EZ. In addition, they offered recommendations on how we can improve future data analytics in the area of the 1023-EZ. We continue to study those recommendations for continued improvement and effectiveness of the program.

Figure 5: EO Determination Receipts



The figure below provides the taxonomy (as categorized by the National Taxonomy of Exempt Entities (NTEE) codes) of 501(c)(3) organizations approved in FY19 by application type. The visual provides the categories with the highest proportion of organizations. As you can see, Form 1023-EZ approvals in FY19 were mostly organizations categorized as human services; education; arts, culture and humanities; religion-related; and recreation and sports.

Those organizations that were approved after filing a Form 1023 were largely organizations categorized as religion-related; human services; philanthropy, voluntarism and grantmaking foundations; education; and arts, culture and humanities.

Figure 6: Taxonomy of 501(c)(3) Organizations Approved in FY19

1023EZ			1023		
Human Services	Arts, Culture & Humanities	Religion-Related	Religion-Related	Human Services	
				Education	Arts, Culture & Humanities
Education	Recreations & Sports	Philanthropy, Voluntarism & Grantmaking Foundations	Philanthropy, Voluntarism & Grantmaking Foundations	Youth Development	Health Care
		Youth Development			

Employee Plans

■ Examinations

	STARTED	CLOSED
Compliance Strategies	959	758
Data-Driven	1,756	1,607
Referrals, Claims and Other Casework	2,460	3,483
Totals	5,175	5,848

Employee Plans closed 5,848 examinations in FY19. We proposed revocation/disqualification on 8 plans as a result of these examinations for issues including:

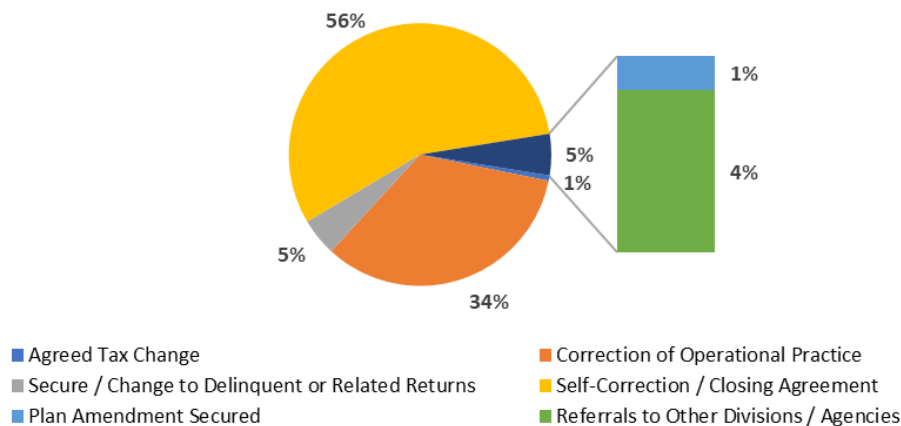
- Failure to value all assets at fair market value;
- IRC 457(b) operational issues, including catch-up contributions, excess contributions and unforeseen emergency distributions;
- Vesting issues for cash balance plans;
- Salary Reduction Simplified Employee Pension (SARSEP) plan document noncompliance and having more than 25 participants; and
- Savings Incentive Match Plan for Employees (SIMPLE) plan participation and/or coverage issues and late deposits of salary deferrals.

Compliance Strategies

Employee Plans' examination compliance strategies include:

- Distributions: industries that experience a decline in employment may also experience difficulties with compliance on plan distributions to participants. This strategy is designed to verify that participants received correct distribution amounts with a sample of cases in the oil and gas extraction and petroleum production industries.
- Form 5500/Form 5500-SF stop filers: contacted plan sponsors that did not file one or more required returns.
- Small plans with large assets: determined whether small plans with trusts holding large assets have correctly limited deductions on Form 1120, U.S. Corporation Income Tax Return, in accordance with IRC Section 404.
- Terminated cash balance plans: examined terminated plans with cash balance features that may have exceeded IRC Section 415 limitations or generated a reversion, which is subject to an excise tax.

Figure 7: EP Compliance Strategies – Types of Exam Changes

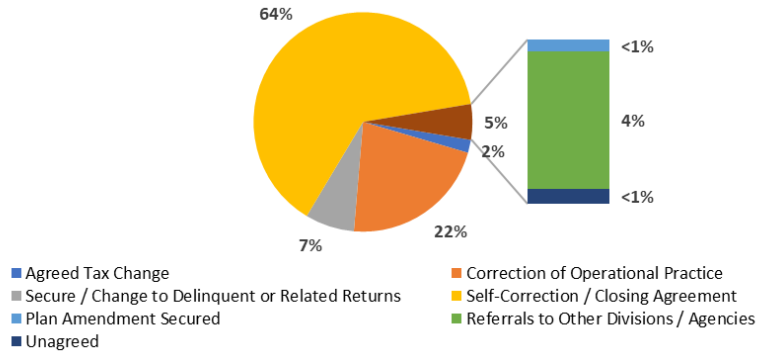


As the figure above shows, for the EP compliance strategy examinations that resulted in a change this past year, 56% were closed through self-correction (39%) or closing agreements (17%) during the examination. In addition, the most prominent issues found in these EP compliance strategy examinations include 401(k) operational issues, contributions/earnings/allocations, inadequate or no fidelity bonds, participation/coverage and distributions.

Data-Driven Examinations

Employee Plans continues to collaborate with the IRS Research, Applied Analytics and Statistics (RAAS) office to identify indicators of noncompliance for various plan types—such as profit sharing, money purchase, 401(k) and defined benefit plans—with the applicable tax laws.

Figure 8: EP Data-Driven – Types of Exam Changes

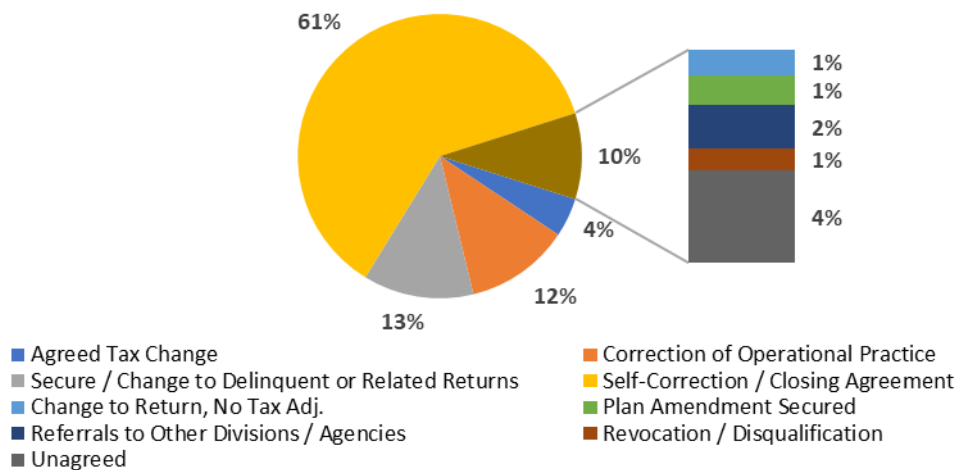


As the figure above shows, 64% of EP data-driven examinations that resulted in a change closed as a closing agreement (33%) or through self-correction (31%) during the examination. The most prominent issues found in these examination changes include contributions/earnings/allocations, failing to amend plan documents or amending late, 401(k) operational issues, distributions and participation/coverage issues.

Referrals, Claims and Other Casework

In Employee Plans, we also verified that non-bank trustees (NBT) satisfied the NBT regulations and pursued promoter investigations. This examination portfolio also included referrals from internal and external sources, claims initiated by taxpayers requesting a refund and fraud related work. In fiscal year 2019, EP also continued to focus on open promoter investigations. As is common with promoter schemes in TE/GE, the TE/GE entity – in this case, the plan – is used as a conduit in a potentially abusive transaction. In addition, like Exempt Organizations, EP is working client examinations to support SB/SE-led investigations. This exam portfolio also includes cases to train new agents or training for specialty areas.

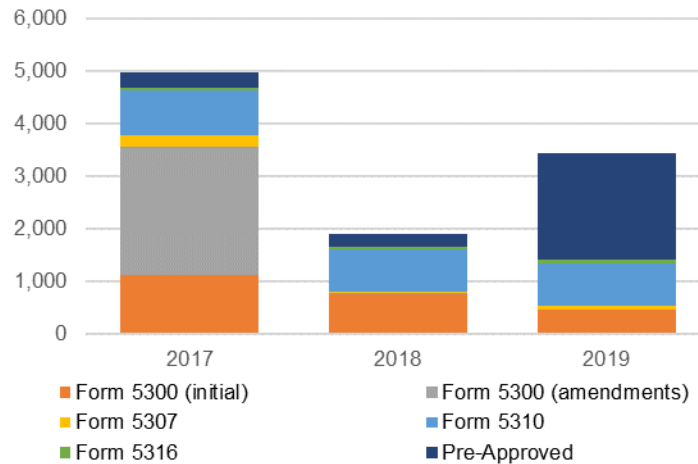
Figure 9: EP Referrals, Claims and Other – Types of Exam Changes



As with the other exam portfolios, 61% of change cases were closed through a closing agreement (40%) or self-correction (21%) program during the examination. The most prominent issues found in EP's Referrals, Claims and Other Casework include 401(k) operational issues, contributions/earnings/allocations, failing to amend plan documents or amending late, 403(b)/457 issues and participation/coverage issues. Additionally, all FY19 EP revocations/disqualifications resulted from examinations in this portfolio.

■ Determinations

Figure 10: EP Application Receipts (FY17 – FY19)



Employee Plans closed 1,514 determination applications in FY19. The figure above illustrates the receipt of Employee Plans determination letter applications and pre-approved plan applications over the last three fiscal years. For the determination letter program, the decline in receipts of Forms 5300 and 5307 over this three-year period was because FY16 was the last year of the cycle system, FY17 was the transition year and FY18 was the first year where only initial and terminating plans were accepted.

With the opening of the Form 5307 defined benefit program in May 2018, EP Determinations received few applications in FY19 but expects the rate of receipts to increase by April 2020 as the program closes. On September 1, 2019, EP Determinations opened the first filing period for amended hybrid plans. Most of those receipts will arrive by August 2020.

Pre-approved plan receipts increased in FY19 as the third amendment cycle for defined contribution plans closed on December 31, 2018. The table below shows the number of closures for EP determination letter and pre-approved plan applications over the past three fiscal years. As expected, application closures have decreased due to the decrease in application receipts.

Closures by Application Type	2017	2018	2019
Form 5300, Application for Determination of Employee Benefit Plan (initials / amendments)	6,620	4,305	497
Form 5307, Application for Determination for Adopters of Modified Volume Submitter Plans (adopters)	2,344	62	19
Form 5310, Application for Determination Upon Termination (plan terminations)	1,012	900	797
Form 5316, Application for Group or Pooled Trust Ruling (group or pooled trust rulings)	48	66	69
Pre-approved plans (lead plans, minor modifications and word-for-word adopters)	750	935	132
Totals	10,774	6,268	1,514

Voluntary Correction and Other Technical Programs

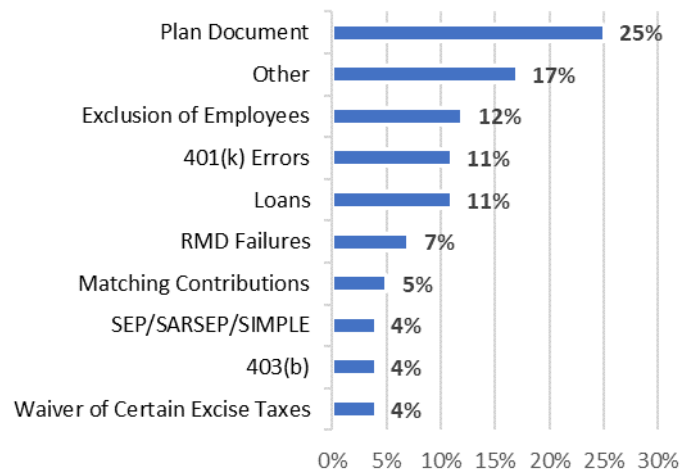
The Voluntary Correction Program (VCP) enables employee plan sponsors (at any time before examination) to pay a fee and receive IRS approval for correction of plan failures. Other technical programs, including Knowledge Management, help

to ensure the quality and consistency of technical positions, provide timely assistance to employees, and preserve and expand TE/GE's knowledge base.

Employee Plans implemented Pay.gov for payment of user fees with VCP submissions, effective January 1, 2019. EP also converted the VCP submission process to an all-electronic format, allowing applicants to submit their VCP application, supporting documents and user fee payments through Pay.gov. Paper submissions were accepted until March 31, 2019, and all VCP submissions after that date were required to be electronic.

EP expanded the Self-Correction Program (SCP) under EPCRS to provide additional opportunities for employers to self-correct certain plan failures that would otherwise have to be addressed through the VCP or the Audit Closing Agreement Program (Audit CAP). Revenue Procedure 2019-19, effective April 19, 2019, explains these modifications to the SCP.

Figure 11: Failures Corrected through EP VCP



EP received 2,655 voluntary correction applications and closed 2,265. The figure above provides the types of failures corrected through the VCP in FY19. The other category includes compliance failures related to contribution allocations, distributions, safe harbor, compensation, pension benefit determinations, vesting discrimination and top-heavy issues.

In addition, EP focused on actuarial letter rulings, 60-day rollover waivers and technical assistance work for its taxpayers by closing 135 of these requests.

Government Entities

■ Federal, State and Local/Employment Tax (FSL-ET)

	STARTED	CLOSED
Compliance Strategies	321	303
Data-Driven	690	1,063
Referrals, Claims and Other Casework	36	36
Totals	1,047	1,402

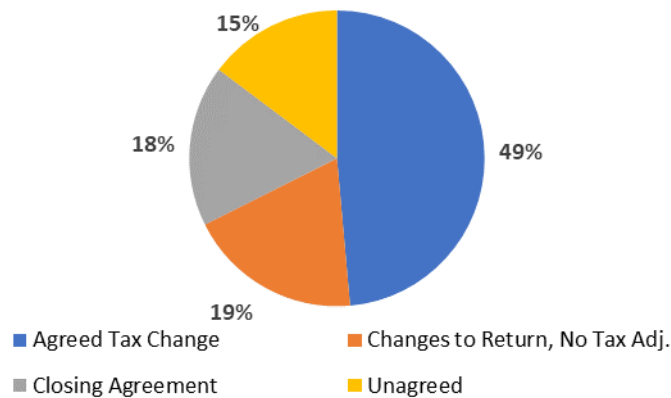
The FSL-ET (while under the EO organization) area addressed noncompliance issues with federal, state and local government entities and employment tax issues with some tax-exempt organizations. The area completed over 1,400 examinations in FY19.

Compliance Strategies

FSL-ET started and closed over 300 compliance strategies to address noncompliance including:

- Backup withholding: examined entities that failed to comply with backup withholding requirements due to mismatched and/or missing taxpayer identification numbers on Form 1099.
- Early retirement incentive plans: determined whether federal, state or local government entities that provided cash (and other) options to employees as an incentive for early retirement applied proper tax treatment to these benefits.
- Forms W-2/1099 matches: compared wages reported on Form W-2, Wage and Tax Statement, with payments reported on Form 1099-MISC, Miscellaneous Income, to determine if income was subject to Federal Insurance Contribution Act (FICA) tax and income tax withholding. This could be a result of a worker classification issue or the mischaracterization of payments that should have been treated as wages but were not.

Figure 12: FSL-ET Compliance Strategies – Types of Exam Changes

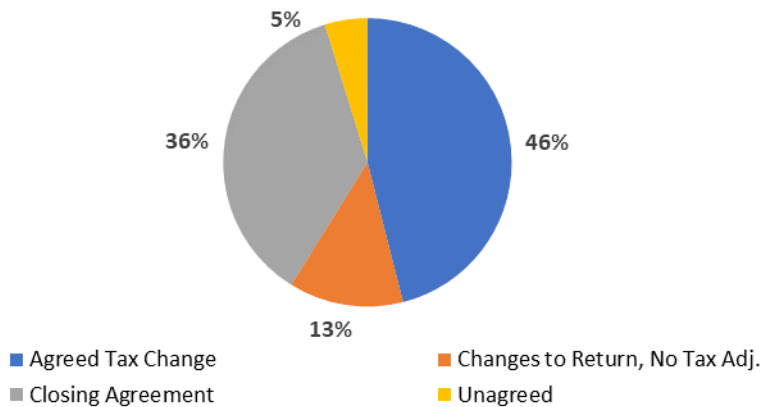


As the figure above shows, 49% of examination changes were agreed tax changes and 18% closed with a closing agreement. The most prominent issues found in these change examinations were on unreported compensation, employee classification, backup withholding and taxable fringe benefits.

Data-Driven Examinations

FSL-ET examined several government entities—including federal agencies and state and local governments, such as cities, counties and schools—using queries that identify possible employment tax noncompliance.

Figure 13: FSL-ET Data-Driven – Types of Exam Changes



As the figure above shows, 46% of examination changes in the data-driven portfolio were agreed tax changes while another 36% were closing agreements. The most prominent issues found in these change examinations relate to taxable fringe benefits, unreported compensation and non-accountable plans (allowances that should be taxable).

Referrals Claims and Other Casework

While only 36 referrals were examined by FSL-ET in FY19, they resulted in several tax changes. The most prominent issues found in these examinations relate to employee classification, taxable fringe benefits, FICA taxes and unreported compensation.

Indian Tribal Governments (ITG)

	STARTED	CLOSED
Compliance Strategies	33	41
Data-Driven	113	171
Referrals, Claims and Other Casework	93	103
Totals	239	315

ITG continued to maintain a service and enforcement presence with tribal entities in FY19. ITG closed over 300 examinations in FY19 and continued to provide assistance as requested/needed to these entities—based on a government-to-government relationship—to help tribes comply with the tax law.

Compliance Strategies

ITG continued to focus on employment tax and filing compliance through the compliance strategies completed in FY19. These strategies include:

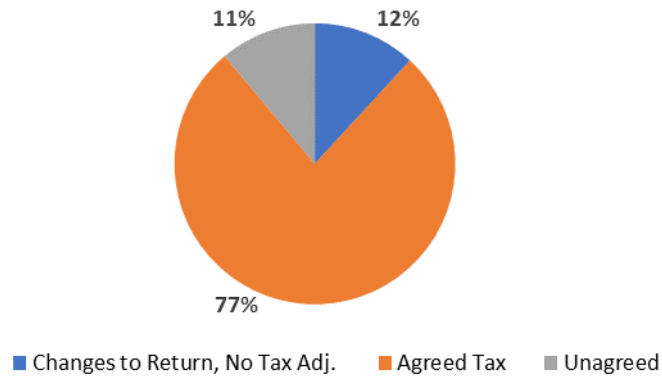
- Backup withholding: examined entities that failed to comply with backup withholding requirements due to mismatched and/or missing taxpayer identification numbers on Form 1099.
- Forms W-2/1099 matches: compared wages reported on Form W-2, Wage and Tax Statement, with payments reported on Form 1099-MISC, Miscellaneous Income, to determine if income was subject to Federal Insurance Contribution Act (FICA) tax and income tax withholding. This could be a result of a worker classification issue or the mischaracterization of payments that should have been treated as wages but were not.

While ITG closed only 41 compliance strategy examinations, the most prominent issues found in the change examinations relate to employee classification and federal income tax withholding.

Data-Driven Examinations

ITG's data-driven exams include tip compliance examinations, fraud examinations and other examinations.

Figure 14: ITG Data-Driven – Types of Exam Changes



Of the change examinations, 77% resulted in an agreed tax, largely coming from one data-driven strategy. The most prominent issues found in these change examinations relate to filing requirements, FICA tax issues, backup withholding, employee classification and federal income tax withholding.

Referrals, Claims and Other Casework

ITG also ensured tip reporting compliance of ITG entities and their tipped employees by:

- Securing tip agreements,
- Refreshing expiring tip agreements,
- Revoking tip agreements on noncompliant agreement holders,
- Conducting tip examinations for entities with low tip reporting and no tip agreements in ITG, and
- Converting casinos using the Tip Rate Determination Agreement (TRDA) to the industry-specific Gaming Industry Tip Compliance Agreement (GITCA) in appropriate circumstances. GITCA provides a voluntary compliance agreement designed specifically for the gaming industry to promote tax compliance among tipped employees and establish tip rates for all participating employees.

In ITG, 99% of these change examinations resulted in changes to the return with no tax adjustments (for example, changes to the tax base data (such as income or deductions) but no changes to tax liability or refundable credits). The most prominent issues with these examinations were unreported compensation and the understatement of income tax.

■ Tax Exempt Bonds (TEB)

	STARTED	CLOSED
Compliance Strategies	222	211
Data-Driven	N/A	N/A
Referrals, Claims and Other Casework	102	104
Totals	324	315

TEB closed 315 examinations in FY19. TEB's examination portfolio was comprised of only compliance strategies and referrals, claims and other casework in FY19.

Compliance Strategies

TEB's FY19 examination compliance strategies included:

- Cost of issuance: determined whether the costs of issuance on private activity bonds exceeded 2% of the proceeds of the issue, which adversely affects the tax-exempt status of a bond.
- Notice of defeasance: determined whether bond issuers took remedial actions under Treasury Regulations Section 1.141-12 or Treas. Reg. Section 1.142-2 without meeting all requirements under the applicable regulations.
- Public safety bonds: determined whether federal government use and management contracts caused excessive private business use that adversely affected the tax-exempt status of public safety bonds.
- Sinking fund over-funding: determined whether over-funding caused certain bonds to become arbitrage bonds, which negatively impacted qualification as tax-credit bonds.

88% of TEB's FY19 change examinations in this compliance portfolio resulted in a written advisory to the bond issuer while over 9% were referrals to other operating division or TE/GE functions.

Referrals, Claims and Other Casework

TEB's FY19 closures in this portfolio were largely referrals and a project examining private activity bonds issued by 501(c)(3) organizations.

88% of the change examinations within this exam portfolio were agreed tax changes. The remaining change examinations were unagreed cases and written advisories to the bond issuer. The most prominent issues found in the cases examined were arbitrage—claims for refund, rebates and yield restriction—and private benefit.

■ Government Entities Compliance Unit (GECU) Examinations

	STARTED	CLOSED
Compliance Strategies	481	48
Data-Driven	N/A	N/A
Referrals, Claims and Other Casework	36	1,904
Totals	517	1,952

In addition to the compliance contacts and soft letters the GECU completed in FY19 (discussed below), the GECU also closed 1,952 examinations, 1,901 of which were related to claims filed by school districts in a state requesting FICA tax refunds for amounts paid after changes to the state's laws. All claims related to this issue are now closed.

TE/GE Compliance Contacts

	STARTED	CLOSED
Employee Plans Compliance Unit	2,158	2,260
Exempt Organizations Compliance Unit	1,488	1,470
GECU & TE/GE Compliance Unit	7,012	6,298
Totals	10,658	10,028

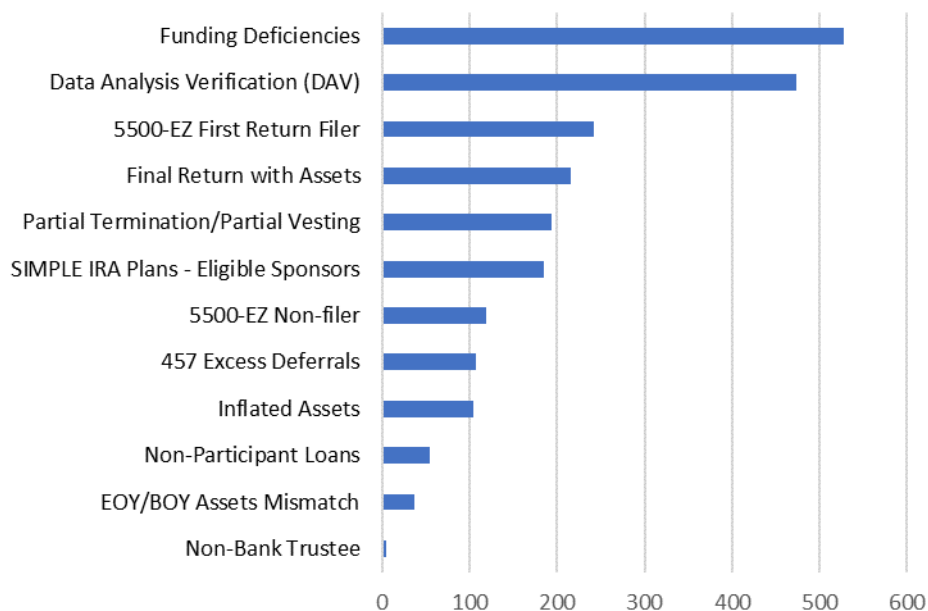
In FY19, TE/GE continued educating taxpayers through compliance checks and soft letters to improve return filings and filing accuracy on issues of noncompliance. These contacts allow TE/GE to establish a presence in the taxpayer community in a manner that reduces administrative costs and minimizes taxpayer burden.

Employee Plans conducted several compliance checks to ascertain whether a retirement plan adhered to recordkeeping and information reporting requirements, including:

- Deductions in excess of 25% of compensation,
- Voluntary compliance 150-day compliance statement follow-ups,
- SEP-IRA plans with required minimum distribution failures, and
- Stop filers of Form 5500/5500-SF.

These checks resulted in nearly 2,300 closures, 7% of which were referred to examination for further evaluation.

Figure 15: EP Compliance Checks – Types of Closures



TE/GE undertook several compliance checks to address compliance with tax-exempt organizations, Indian tribal governments and federal, state and local governments. These were conducted in the Exempt Organizations Compliance Unit (EOCU), Government Entities Compliance Unit (GECU) and the TE/GE Compliance Unit (TECU). These compliance checks addressed:

- Discrepancies between Form W-2 and either Form 941, Employer's Quarterly Federal Tax Return, or Form 944, Employer's Annual Federal Tax Return.
- Noncompliance with IRC Section 501(r)(4) Financial Assistance Policy (FAP) by tax-exempt hospitals.
- Failure to file:
 - Form 940, Employer's Annual Federal Unemployment Tax Return, when required to do so.
 - Form 990-T, Exempt Organizations Business Income Tax Return, by IRC Section 501(c)(7) organizations that reported investment income on Form 990/990-EZ.
 - Form 1099-MISC, Miscellaneous Income, by organizations required to do so.
 - Form 1041, U.S. Income Tax Return for Estates and Trusts, by IRC Section 4947(a)(1) Non-Exempt Charitable Trusts.
 - Form 990-N, Annual Electronic Filing Requirement for Small Exempt Organizations, by entities that stated they were supporting organizations.

These checks resulted in nearly 7,800 closures, 6% of which were referred to examination for further evaluation.

TE/GE also continues to review approximately 3,000 tax-exempt hospitals (on a rolling three-year basis) for adherence to IRC Section 501(r). In FY19, TE/GE completed 812 reviews (not included in the table above) and referred 53 hospitals for examination, 49 of which were for possible Affordable Care Act noncompliance. The most common issues found related to the hospital's lack of a Community Health Needs Assessment (CHNA) under IRC 501(r)(3) and financial assistance policies under IRC 501(r)(4).

TE/GE sent approximately 5,000 information letters to exempt organizations to remind them of their responsibilities under the tax law, including on:

- The new 21% excise tax for paying over \$1 million in compensation to any "covered employee" under the Tax Cuts and Jobs Act.
- Nonmember gross receipts approaching the 15/35% limitation permitted for IRC Section 501(c)(7) organizations.
- IRC Section 501(c)(12) organizations meeting the required 85% member income test and filing the appropriate tax return.

Outreach

In FY19, TE/GE continued its education and outreach efforts. During the year, TE/GE employees attended 102 outreach events, such as tax law conferences, tax training for tribal employees and employee benefits conferences. Of the 102 events:

- 20 addressed exempt organizations and their representatives;
- 24 addressed federal, state and local government partners;
- 27 addressed employee plan sponsors, administrators and their representatives;
- 27 addressed Indian tribal governments; and
- 4 addressed tax exempt bond stakeholders.

TE/GE increased awareness of [StayExempt.irs.gov](https://www.irs.gov/efile), an educational site for exempt organizations. TE/GE promoted the site at outreach events to exempt organizations and their representatives. We also worked with our IRS partners, including Wage & Investment, to raise awareness of the resources available on this site. User traffic increased by 102% during the fourth quarter of FY19.

In addition to outreach events, TE/GE reached taxpayers through electronic newsletters and posted Issue Snapshots and videos to IRS.gov. TE/GE sent out 51 electronic news messages to subscribers, including:

- 10 TE/GE-wide messages (to subscribers of all functional newsletters),
- 14 EO Updates,
- 11 EP News issues,
- 7 ITG News issues,
- 4 TEB Community Updates, and
- 5 FSL-ET News issues.

We posted 12 [Issue Snapshots](#) to IRS.gov including three for EO, two for EP, two for ITG, three for TEB and two for FSL-ET. The table below provides some of the recent topics covered by these snapshots. TE/GE also posted six videos on the [IRS video portal](#) for taxpayers.

Function	Topic
EO	Private Foundations – Issues Encountered Once a Self-Dealing Transaction Has Occurred
	Benefits Considerations for Fraternal Organizations Described in IRC Section 501(c)(8)
EP	Preventing the Occurrence of a No Allocation Year under IRC Section 409(p)
	Hardship Distributions from 401(k) Plans
FSL-ET	Third Party Payer Arrangements – Professional Employer Organizations
	Qualified Tuition Reduction
ITG	Per Capita Distributions on Net Gaming Profits and the Kiddie Tax
	Availability of the Work Opportunity Tax Credit to Tribes and Tribal Entities
TEB	Private Business Use – Management Contracts
	Rehabilitation Requirement under IRC Section 147(d) for Financing Acquisitions of Existing Property

TE/GE is proud of our FY19 accomplishments. We've successfully executed our compliance programs and helped protect the integrity of the tax system. We've fairly administered the tax laws when processing applications from organizations and retirement plans in our EO and EP determinations programs. And, we've empowered taxpayers to voluntarily comply with their obligations through our correction programs and proactive communications and outreach. Our past achievements will form the basis of our success as we pursue the goals and priorities for the current fiscal year that we announced in the [TE/GE FY 2020 Program Letter](#).