

Tax Exempt and Government Entities FY 2017 Accomplishments

March 19, 2018

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Message from the TE/GE Commissioners

In our FY 2018 Workplan Program Letter released on September 28, 2017, we promised to release the complete FY 2017 accomplishments under a separate document when final results became available.

We are pleased to announce that these results are now available and encourage you to read the functions' briefing documents below to learn more about the contributions of our tax administration programs.



David W. Horton

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Acting Commissioner, TE/GE



Robert S. Choi

A handwritten signature in black ink that reads "Robert Choi". The signature is written in a cursive, flowing style.

Acting Deputy
Commissioner, TE/GE

Exempt Organizations

Examinations – Exempt Organizations

For fiscal year 2017, Exempt Organizations (EO) completed 6,101 examinations. Below is a general breakout by primary issue examined for each return closed for the fiscal year.

Fiscal Year 2017 Closures by Primary Issue	Total
Filing, Organizational, Operational	2,332
Employment Tax Issues	1,905
Unrelated Business Income	603
Revocation/Termination	216
Inurement/Private Benefit	109
Political, Legislative, Governance	93
Other	843
Total Closures	6,101

- The Filing, Operational, and Organizational subcategory includes closures where the primary issue involves verifying the exempt activities of the organization or its filing requirements. Many instances involve the securing of delinquent returns.
- Employment Tax Issues includes unreported compensation, tips, accountable plans, worker reclassifications, and noncompliance with FICA, FUTA, and backup withholding requirements.
- The Unrelated Business Income subcategory items includes gaming, nonmember income, expense allocation issues, NOL adjustments, rental activity, advertising, debt financed property rentals and investment income.
- The Revocation subcategory includes actual revocations, terminations, and foundation status changes (see additional information, below).
- The Inurement/Private Benefit subcategory includes closures with advisories on the potential for an organization's activities to inure or provide private benefit to a disqualified person or other key individual associated with the organization. Adjustments in this category may include excise taxes.
- The Political, Legislative, and Governance subcategory includes closures with a primary emphasis on political, legislative and governance issues, including exempt function vs. taxable expenditures, financial oversight of the governing body, net investment income adjustments, and political expenditures of 501(c)(3) organizations.
- The Other subcategory items includes miscellaneous excise tax on gaming returns, taxes on self-dealing and failure to distribute income, healthcare issues, Chapter 41 and 42 taxes, and other abatements and penalties.

Exempt Organizations (cont.)

Below is a table of final revocations resulting from examinations for fiscal year 2017 and the primary reason for the revocations.

Fiscal Year 2017 Final Revocations by Issue	Total
Not Operating for an Exempt Purpose	36
Inurement/Private Benefit	3
Non-member use of facilities – IRC 501(c)(7)	3
Other	21
Total Revocations	63

- Other instances of revocation include those due to discontinued operations, failure to provide records and/or record requests, and operating as a different subsection (self-declarer).

Post Determination Compliance Program: In fiscal year 2017, we completed examinations of 1,400 exempt organizations that filed Form 1023 or Form 1024 and were approved pursuant to the streamlined process. The organizations were selected through a statistically valid sampling process. Roughly 57% of the examined returns closed with no changes. The remaining 43% of the examined returns had changes ranging from amendments to organizational documents and failure to file returns. Fourteen organizations were revoked or terminated.

Another phase of post determination compliance exams was started in fiscal year 2017 with a stratified random sample of 418 exempt organizations which were granted exemption under the streamlined determination process. These examinations were conducted to identify organizations that filed a Form 1023 or Form 1024 and attested to perfect their organizing documents during the determination process. As of the end of September 2017, 38 of the organizations have been examined and closed. Forty-five percent of those examined returns were closed with no changes. The remaining 55% closed with either amendments to their organizing documents or other written advisories.

We also continued post determination compliance examinations of exempt organizations that were granted tax exempt status through submission of a Form 1023EZ. A statistically valid random sample was used to select 1,182 organizations. As of the end of the fiscal year, 565 organizations have been examined and approximately 49% of those closed with no changes. The remaining 51% closed with amendments to their organizing documents or various other written advisories. Five of the examinations resulted in either terminations or revocations.

Return Selection Using Modeling Techniques: During fiscal year 2017, we implemented Forms 990, 990-EZ, and 990-PF case selection modeling technique that use filters previously tested. For the fiscal year, we closed 1,505 returns selected through this process with an examination change rate of 83%. This is a good development, showing our selection modeling is improving. Our overall change rate for all cases closed for the fiscal year was 82%.

Exempt Organizations (cont.)

Examinations – Federal State and Local Governments

During FY 2017, the Federal, State and Local Governments (FSLG) function was moved into Exempt Organizations (EO) from Government Entities (GE). The following table shows FSLG examination returns closed for the fiscal year.

Fiscal Year 2017 Closures by Segment	Total
Entities with Employment Tax Wages \$0<\$2.5M	202
Entities with Employment Tax Wages \$2.5<\$10M	371
Entities with Employment Tax Wages \$10<\$40M	638
Entities with Employment Tax Wages \$40<\$100M	229
Entities with Employment Tax Wages > \$100M	172
Information Return Examinations	15
Total Closures	1,627

FSLG employment tax issues included unreported compensation, worker reclassifications, noncompliance with accountable plans, FICA coverage, and backup withholding requirements.

Early Retirement Incentive Plan Compliance Initiative Project (CIP): This project addresses entities that provide "cash" (and other) options to their employees as an incentive to encourage them to voluntarily retire early. These options often result in employment tax issues that were not handled correctly by taxing the benefits under constructive receipt rules. As of the end of FY 2017, 304 Forms 941 were examined, resulting in assessed tax of over \$7.8M.

ACA Oversight

As required by the Patient Protection and Affordable Care Act (ACA), we continue to review hospitals for compliance with IRC section 501(r). For the fiscal year, we completed 1,193 reviews and referred 388 hospitals for field examination. Issues for which referrals were made included:

- Lack of a Community Health Needs Assessment (CHNA) under IRC 501(r)(3)
- No Financial Assistance and/or Emergency Medical Care Policies under IRC 501(r)(4)
- Billing & Collection Requirements under IRC 501(r)(6).

Exempt Organizations (cont.)

Compliance Checks

Exempt Organizations Compliance Unit (EOCU) addresses EO non-compliance issues. For the fiscal year, we had 1,289 Compliance Check closures.

Projects conducted:

- Combined Annual Wage Reporting (CAWR) Employment Tax Non-Filers
- 501(c)(7), Form 990T Non-filers
- Modernized Electronic Filing (MEF) Enforcement
- Charitable Remainder Trusts Non-filers
- Non-Exempt Charitable Trust (NECT) 1041 Non-filers
- 170(b)(1)(A)(vi) Self Declarer PF
- 990PF Non-filers.

EO Determinations

In FY 2017, Exempt Organizations Rulings and Agreements (R&A) received more applications than projected, and closed fewer applications than expected due to staffing attrition and increased hours per case. However, R&A implemented several processing changes to enforce the tax law more effectively. Changes included proposing adverse determinations where organizations do not provide complete responses to requested information and issuing rebuttal letters rather than revised proposed adverse letters when protests to proposed adverse determinations do not change the proposed determinations.

Form 1023-EZ submissions comprised 65% of total applications received for exemption under IRC Section 501(c)(3), slightly higher than expected. We worked with the Office of Chief Counsel to modify some of the Form 1023-EZ eligibility criteria. Changes included prohibiting organizations currently or previously exempt under a different subsection from using Form 1023-EZ to apply for recognition of exemption under IRC 501(c)(3) and prohibiting organizations with any pending application on file from submitting a Form 1023-EZ in lieu of the pending application. These changes were implemented in [Revenue Procedure 2017-5](#).

As required by the Protecting Americans from Tax Hikes Act of 2015 ([the PATH Act](#)), we continued to process Form 8976, Notice of Intent to Operate Under Section 501(c)(4), implemented in July 2016. In FY 2017, we received 2,182 notifications. We approved 82% of the notifications received, and rejected 17% (with the remaining notifications in process at year end). The most common reasons for rejection were failure to pay the user fee and unnecessary notification (e.g., the organizations were already exempt).

Fiscal Year 2017 EO Determination Cases	Total
Receipts	95,177
Closed Exemption Granted	91,975
Closed Denial of Exemption	68

Employee Plans

Examinations

For the 2017 fiscal year, Employee Plans (EP) completed 6,487 examinations. The categories of closed casework (conducted as field work and office correspondence, as appropriate) were:

Fiscal Year 2017 Closures by Workstream	Total
Specialty Programs	1,687
Traditional Casework	3,486
Focused Supplemental Work	1,314
Total Closures	6,487

- Specialty Programs included EP Team Audit (EPTA)/Large Case, multiemployer plans, IRC 403(b)/457 plans, cash balance plans, hybrid 401(k) plans (such as those with the age weighted new comparability feature), and leveraged/non-leveraged employee stock ownership plans.
- Traditional Casework included various plan types (profit sharing, money purchase, defined benefit) from within the risk-based audit program, as well as taxpayer and interagency referrals, 401(k) plans, claims, reported funding deficiencies, and non-bank trustee investigations.
- Focused Supplemental Work included project work supplemented by the Emerging Issues program, the Learn, Educate, Self-correct, Enforce (LESE) program, the Individual Retirement Arrangement (EPs, SAR-SEPs, SIMPLES) program and the Form 5500-EZ (one participant plan) program.

Compliance Checks

EP also used the Employee Plans Compliance Unit (EPCU) to identify areas of non-compliance in plan operation and form through compliance check contacts and continued with its mandated programs: (1) collection of multiemployer certifications and validations; (2) review non-bank trustee's notifications; and, (3) review pension plan funding for funding deficiencies. During FY 2017, 3,564 compliance checks were initiated and 3,768 compliance checks were closed, respectively.

Projects conducted in FY 2017 included:

- SIMPLE plans
- Merger/consolidations/transfers/spinoffs relating to Form 5310A filings
- Issues surrounding terminated/partially terminated plans
- Inflated assets and/or unusual investments
- SEP plan issues including coverage of employees
- 403(b) plan document requirements.

Employee Plans (cont.)

EP Determinations

Individually Designed Plans (IDP) Program: Key measures for the EP Determinations IDP program are shown below, broken down by receipts and closures.

Fiscal Year 2017 Individually Designed Plans	Total
Case Receipts:	4,680
➤ Individually Designed Plans - Form 5300	3,553
➤ Terminations - Form 5310 and Form 5316	909
➤ Adopters of Modified Volume Submitter Plans - Form 5307	218
Case Closures	10,024

For comparison purposes, total receipts for FY 2015 and FY 2016 were 8,973 and 11,353, respectively. Total closures for FY 2015 and FY 2016 were 9,780 and 7,738, respectively.

Pre-Approved Plan (PAP) Program: Key measures for the EP Determinations PAP program are shown below, broken down by receipts and closures.

Fiscal Year 2017 Pre-Approved Plans	Total
Case Receipts	286
Case Closures	750

For comparison purposes, total receipts for FY 2015 and FY 2016 were 679 and 593, respectively. Total closures for FY 2015 and FY 2016 were 198 and 106, respectively.

EP Voluntary Compliance

Key measures for the EP Voluntary Compliance program are shown below, broken down by receipts and closures.

Fiscal Year 2017 Voluntary Compliance Activity	Total
Case Receipts	4,183
Case Closures	3,169

For comparison purposes, total receipts for FY 2015 and FY 2016 were 3,437 and 4,098, respectively. Total closures for FY 2015 and FY 2016 were 3,990 and 4,001, respectively.

EP Technical

EP Technical produced 12 *Issue Snapshots* job aids that provide analysis and resources for a given technical tax issue to be used by employees when working cases. These [job aids](#) can be found on IRS.gov.

Indian Tribal Governments & Tax Exempt Bonds

As part of its reorganization, TE/GE combined the Indian Tribal Governments (ITG) and Tax-Exempt Bonds (TEB) functions. The scope and mission of a combined ITG/TEB will remain the same as it was when the functions were separate: assist Indian Tribes with addressing their federal tax matters and administer federal tax laws applicable to tax-advantaged bonds. The Government Entities Compliance Unit (GECU) also provides additional support, as needed.

Examinations

For the 2017 fiscal year, ITG examinations focused on employment tax and fraud investigations, while TEB examinations focused on claims, referrals, prison financings, small issue bonds, private placement governmental bonds, and IRC 501(c)(3) bonds. Meanwhile, Government Entities Compliance Unit (GECU) examinations focused on claims and employment tax.

The following table shows ITG, TEB and GECU examination closures for the fiscal year.

Fiscal Year 2017 Closures by Function	Total
Indian Tribal Governments	195
Tax-Exempt Bonds	717
Government Entities Compliance Unit	270
Total Closures	1,182

Compliance Checks

During FY 2017, compliance check contacts included employment tax compliance checks and tip agreement work that converted the Tip Rate Determination Agreement (TRDA) to the more appropriate Gaming Industry Tip Compliance Agreement (GITCA).

The following table shows completed ITG and GECU compliance checks for the fiscal year.

Fiscal Year 2017 Compliance Checks by Function	Total
Indian Tribal Governments	154
Government Entities Compliance Unit	480
Total Compliance Checks	634