

# EXHIBIT M

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# Congress of the United States

## U.S. House of Representatives

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July 23, 2013

Daniel Werfel  
Principal Deputy Commissioner  
Deputy Commissioner for Services and Enforcement  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

Dear Mr. Werfel:

As the Chairmen of the Committee on Ways and Means Subcommittees on Oversight and Social Security, we are writing to inquire about recent reports that the Internal Revenue Service (IRS) accidentally released thousands of Social Security numbers.

According to audits released by [Public.resource.org](http://Public.resource.org), Social Security numbers were accidentally included on 990-T forms distributed by the IRS and posted on the agency's website on data for political nonprofits filing under Section 527 of the Internal Revenue Code. More than 2,000 Social Security numbers were released before the link was disabled. If true, these reports are especially concerning because the Committee's investigation of IRS targeting of Tea Party groups revealed that the IRS knew about this risk, but did not safeguard against it.

Documents received by the Committee include a speech delivered by then-Director of the Exempt Organizations Unit, Lois Lerner, to the Washington Non-Profit & Tax Conference on March 21, 2013. (See attached.) In the speech, Lerner acknowledges that Social Security numbers are at risk of inadvertent release under current agency practice, although she placed responsibility with applicants not the IRS. While I understand that the IRS makes approved applications for exempt status available for public examinations pursuant to Section 6104 IRC, it is incumbent on the IRS to do more to safeguard taxpayers from identity theft. According to the Taxpayer Advocate Service (TAS), it

received 26,354 identity theft cases between October 2012-March 2013. In the TAS Annual Report to Congress for 2012, the Taxpayer Advocate concluded that the IRS fails to help hundreds of thousands of identity theft victims, some of whom wait six months or longer for resolution. It is wrong for the IRS to at once fail to safeguard against a known identity theft risk and then fail to make its victims whole.

To assist the Committee in better understanding IRS's actions, we ask that you provide the following information by no later than August 6, 2013:

1. Since July 2008, how many individual Social Security numbers have been publicly released? Of these, how many individuals were victims of identity theft through tax fraud or otherwise?
2. In the attached speech Lerner seems to indicate that public admonitions not to include Social Security numbers and written notices on certain forms were the exclusive safeguards available to the agency to protect against identity theft. What other more robust safeguards has the IRS put in place? If there were regulatory or statutory impediments to implementing such safeguards did the IRS seek a rule or statutory change? If not, why not?
3. Are the above referenced audits of Public.resource.org materially accurate? If not, describe what the agency believes to be deficiencies in the reports.
4. To the extent the Public.resource.org reports are accurate, have you notified the affected taxpayers of their vulnerability to identity theft, not limited to tax fraud?

Please contact staff at: (202) 225-3625 if you have questions. Thank you in advance for your cooperation in this matter.

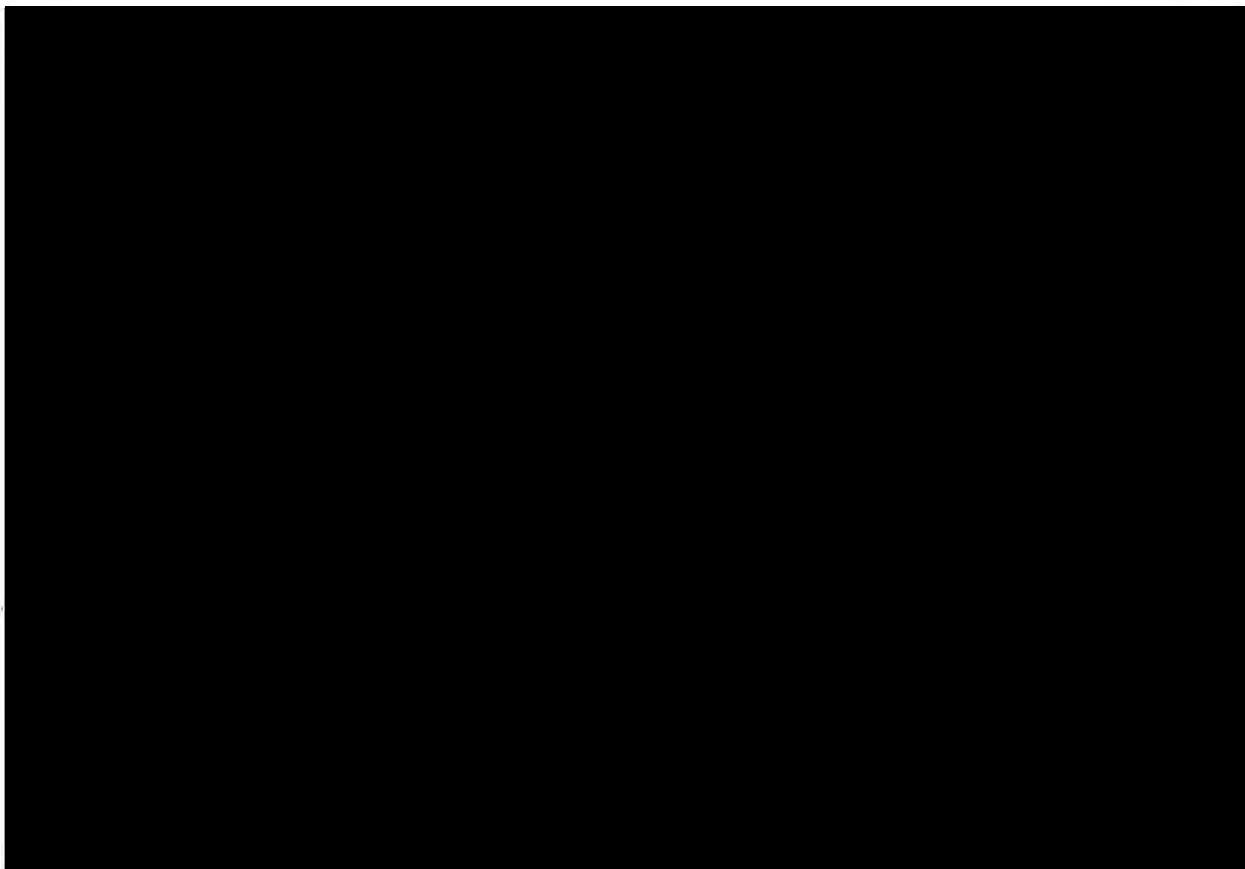
Sincerely,



CHARLES BOUSTANY, Jr., M.D.  
Chairman  
Subcommittee on Oversight



SAM JOHNSON  
Chairman  
Subcommittee on Social Security



*What follows are the March 21 remarks of Lois Lerner, Director, Exempt Organizations, as delivered to attendees of the annual Washington Non-Profit & Tax Conference.*

**Lerner:** These luncheon meetings are the best diet in the world for me because I can never eat before I give a talk. I would fall asleep halfway through the speech but enjoy your lunch.

My division headquarters moved to 900 North Capitol Street about a year and a couple of months ago into the new frontier that is known as NOMA. It's a little magical acronym that they put together to make us think it's a nicer place than it actually is. But they keep telling us the neighborhood's going to be better and I think that it probably will someday.

The one thing I like about it is we have much better office space than we had in our other office, so that's a plus, but there's no place to eat there. It's difficult to get a cab. I'm hearing today that there's a Starbucks but I haven't seen it yet, so I am going to take that news back.

In any event, we're at the corner of North Capitol and K Street. K Street is the dividing line. Nothing new has happened on K Street. It will eventually, but not in my area yet. So beyond my office, there are a lot of liquor stores right now and when the cab picked me up to come there, he had to go up a couple of blocks north before he could turn.

I thought, this just couldn't have happened if I had asked for it. I'm sitting at the traffic light and I'm looking at these signs that say in big, bold letters, "Owe the IRS? Pay without losing any of your money!" So if any of you would like the phone number to call, I'll give it to you afterwards because I haven't figured that one out yet myself.



Before I start talking, my staff has asked me to ask you how many of you are signed up for our e-newsletter EO Update? Most of you. This is a good crowd. I was in Minneapolis and down in Florida last week before very big crowds and only a few hands went up. I think it's a really, really useful tool for practitioners and people who are working in this area. Usually you have to go online to sign up but today one of my staff people, Susan Ruth, is manning a booth here at the conference, so if you want to sign up for the EO Update, just go out and talk to Susan. She'll sign you right up and you'll be all set. As I said, it's a really good tool and you will appreciate it.

## **The EO Workplan**

Mostly I am going to talk about our workplan today and what is going on. I want to leave some time for questions at the end. Our workplan is really the tool that we use to be as transparent as possible with you. We ask for a lot of transparency from you and we want to be as transparent as we can.

So over the years, we've developed this workplan that lays out our projects, what we intend to do, what we're interested in, and I think it's been very well received by the sector. In fact, I think sometimes when we're late with it, we get a little bit of, hmm, what is going on, are they still going to do this? It does take a lot of people and a lot of time to put it together but we do think it's a really important piece of what we do.

So this year while we were putting it together, I'm thinking, gee, I think we've been a little remiss here in how we're doing this. We go out and we tell the sector that we're interested in this and we're going to do these projects and to you, it translates to, okay, for 2013, Lois's office is going to do X, Y and Z. So by 2014, she ought to be telling us what she found. That's not exactly how it works.

Most of my projects are very, very complex. They have lots of planning and lots of phases and almost never can we do the entire project within one calendar or fiscal year. And here's why. We start out by strategic planning. I've talked to you about that before. But then once we decide to do the project, we actually have to plan out how we're going to do it, who is going to do it, and how that is all going to work.

If we're going to have a questionnaire, we have to put people together to draft the questionnaire. If we are going to do exams, we need to put together statistical samples and we have to work with our research people to do that. We also sometimes have to do specialized training for our agents because they may be working in an area that we haven't looked at for a long time or we're trying to gather specific types of information and we want to be as consistent as we can on that.

We also have to gather data from inside the IRS and outside the IRS to put together case files so we can have a full picture of the organizations. We have to do some data analysis and issue identification and then we go ahead and conduct either a determination project or an examination project. And then when that's all done, we have to analyze the information and figure out how we're going to report that information out to you.

Add to that the fact that all the new projects have to be phased in to our already ongoing work. So it's pretty challenging and I don't think that we have done a good job explaining that to you, so what we're going to try to do going forward is give you a better sense of what we're going to accomplish in a particular year.

So, for example, maybe I announce that we're going to be looking at X issue, and in 2013 we might be developing the questionnaire. We will tell you in 2013, here's the larger issue. We're going to do a project in 2013, we'll be developing the questionnaire. Then the next year we'll tell you we're sending out the questionnaire and we're going to analyze it and report the results of our analysis. And then the following year we might say, we've done that and we're going to look at some organizations and do exams, and on and on and on.

I think chunking that out is going to make it less frustrating for you and for us because my folks work really,

really hard and then they hear the sector saying, you aren't doing anything, we haven't heard anything about it, that's frustrating to you. On the other hand, from your perspective, well, gee, she told us four years ago she was going to do this and we haven't heard word one about it, did they forget? We didn't forget. It's just a lot of work and we're working on it.

### **The Self-Declarer Project**

My next topic is a very good segue into a project that's taking some time but you're going to see some results, and that is our 501(c)(4), (5) and (6) self-declarer project. We developed a project to look at these organizations. We've never taken a look at, in the same context, organizations that decide not to come in for recognition but instead self declare and start filing 990s.

Nothing wrong with that, it's just an area that we thought we ought to take a look at to make sure that they are doing things correctly, that they are self-declaring under the correct subsections, and that we understand better why they chose not to come in or if they're going to come in. Is there some kind of trajectory if an organization has been around a long time?

So, drum roll: this afternoon, Mr. Streckfus, at 2:00 pm, if you get the EO Update or you go on my website, you will see the (4), (5), (6) questionnaire. We're putting it up on the Web for all to see and we're doing this questionnaire slightly differently from past questionnaires.

We used to send the questionnaire out to you and you had to fill it out by hand. That was really terrible. It took you forever, it took us forever to analyze the results. We then went to sending a disk with the questionnaire and that was a little bit better but now we have a process whereby we can put the questionnaire up on the website, we can send you a PIN number so that only people with a PIN number can go in and fill out the questionnaire and we can get the results almost instantaneously.

But we want the rest of you who aren't getting that letter to know what's in the questionnaire so you can go to the website and there's also a non-fillable form so you know what we're asking. For those of you who get the EO Update, you'll get it directly. For those of you who don't, it's going on the website I think about 2:00 pm today. It's going to go to 1300 organizations, (4)s, (5)s and (6)s, who filed a 990 for tax year 2010 and 2011 indicating that they were an organization that did not come in for recognition. And we're asking lots of different things and I think you will find it very interesting.

How many of you have been involved with an organization that has received a compliance check questionnaire? Okay, not that many. We use the compliance check questionnaires because they enable us to gather lots of information either from a particular part of the sector or across the sector on a particular issue. They don't take the same kind of resources as an examination does but they give us a lot of information and they help us focus our resources for exam on the organizations that we really need to be looking at.

When we send them to organizations, the letter they get says, this is a questionnaire, it is not an exam. You don't have to fill it out. If you don't fill it out, we might refer you for exam, so we get about a 95% compliance rate [laughter]. I believe in carrots. I tell you that because that has been the case with every questionnaire we've used up to now and we've used many of them. The next project I am going to talk about, that's not what happened.

### **The Group Ruling Questionnaire**

The next project is the group ruling questionnaire, which we put out I think a month and a half ago. A couple of years ago our Advisory Committee to TEGE took on group rulings as its project. Group rulings allow a parent organization to come in, present the IRS with sort of a representative sample of what the subordinate

organizations would look like. If we agree that they are exempt, we give the parent a group ruling and all the subordinates are also exempt by virtue of the parent's exemption and group ruling. The parent can add and subtract to that group ruling without having to come back to the IRS for permission to do so. This has gone on for many, many years.

In the context of automatic revocation, we saw some things that we thought were very disturbing. One was many, many, many subordinates in a group ruling being auto-revoked for failure to file for three years. Now, remember, the parent is responsible for general supervision and control of these organizations and in making sure that they follow these rules. So it was disturbing to us that there are all these subordinates not filing and losing their exemption.

The second thing that we saw that I thought was more interesting was that we've got about 4,000 non-church group ruling holders and about 220 of the parent organizations lost their exemption automatically because they didn't file for three years even though their subordinates were filing. So what's the impact on the subordinates?

The subordinates don't have their own exemption if they're a (c)(3). If they're a (c)(4), for example, they can hold themselves out, but the (c)(3) subordinates get their exemption by virtue of the parent having the group ruling. When the parent loses its exemption, the group ruling is dissolved. Even though the subordinates were doing what they were supposed to do, they find themselves in this very strange limbo land where they don't have exemption even though they've done everything right.

So, in light of those factors, we thought it's probably a good idea for us to put out a questionnaire to group ruling holders and find out what they're doing to meet their responsibilities as a parent, how they communicate to their subordinates, what kinds of things that they consider when allowing somebody to come into their ruling or go out of their ruling.

It's a quite extensive questionnaire and I think it's another one you might be interested in looking at. But what I found most interesting was we sent it out to about 2,000 central organizations, group ruling holders, not the subordinates, not churches, 2,000 parents received the questionnaire, were asked to fill it out with that same letter that we send to everybody. We said you don't have to, but if you don't, we might refer you for exam.

Out of those 2,000, 500 did not respond. That's a huge number, 25 percent, compared to the usual five percent. So we want to look behind that and we'll move to open exams for those organizations to see what lies behind their reluctance to fill out the questionnaire and also we'll end up gathering information that they could have given us on the questionnaires. So stay tuned for what we find in that area.

Just to manage expectations, for the responses to the questionnaire, we'll be able to analyze those pretty quickly, but the exams will take some time so you won't be hearing about the results of those for a couple of years.

### **Auto-Revocation Update**

Let's see what else there is. Some of you are really tired about hearing about the auto-revocation updates. I keep doing it because they do impact the rest of my work. As of March, we've had about 500,000 organizations that have shown up on the automatic revocation list for failure to file for three years. About 37,000 organizations have come back and requested reinstatement. What I find really interesting is about 44,500 private foundations were auto revoked for failure to file. That was a surprise to me. I did not expect that in the private foundation world. And about 400 of those have come back and regained their exemption.

So why is this important to you if you're not one of the people that is working with an organizations that has been automatically revoked? It's important because it has put some strain on our determinations process. In



addition to all the new organizations that are coming in and asking for recognition of their exemption, we have a significant number of really large organizations that have always had a filing requirement that are asking us for retroactive reinstatement.

Now, we put out two pieces of guidance when the automatic revocation came into play. We gave the small organizations that had to file a 990-N, and maybe really hadn't heard the news yet, a transition period where they could come in and pay us \$100. If they met the criteria for exemption, we gave them retroactive recognition back to the date of their revocation. That was one-year only for those very small organizations.

In the other piece of guidance, we made it very clear that larger organizations that had had filing requirements and greater resources were going to have a much harder row to hoe in the context of getting retroactive reinstatement. We did not expect that we would get a lot of those requests, but we actually have because they need retroactive reinstatement not so much for the IRS but for many other reasons. So that has put a real strain on our resources. I know that you're all concerned that we're taking a very long time to deal with new applications, but that is one piece of the puzzle.

### **Application Processing Backlog**

Another piece of the puzzle is our web page. How many of you go to look at the web page to see what's called "Where's my application?" to see where you might be? We put this web page out several years ago to try to give some sense of how long you might have to wait if you have an application pending. At that time, our process had two buckets. One was screening, which means if you come in and we look at your application and everything looks good to go, we approved it right away and that's great, you are okay.

If we can't do that because we need more information from you or we have to ask you some questions, then you have to get assigned to a revenue agent for more development on your case. Much of my staff was working on that piece and that was taking longer than it does now. What we've done is change the process to help move more cases out of the second bucket.

We have added an intermediate process. So as you go through screening, we might find that everything is okay except we need something that is missing in the documents in your application. Instead of having to assign that case out to a revenue agent to get that missing information, we hand it off to a lower level staff person who can reach out to you and as soon as the document comes in, they put it in the file and close the case, so you're then good to go.

Those screening cases I think accounted for about 70 percent of my closures last year and I believe the timeframe for those and don't quote me on this or hold me to this because I don't know the actual number but I think it was somewhere around 90 to 120 days. That's pretty good. That's a big piece of what we do.

The other piece is what is holding folks up and most people in this room probably are doing applications that go into those other categories. These are categories where for various reasons we need more information, perhaps the 1023 or 1024 wasn't filled out very well; it didn't have all the information we needed to make a decision.

Perhaps it's an issue that we have a focus group of people working on because it's a hard issue and it makes sense for us to have the same people doing it over and over again because then we're more consistent, there being a higher level of sophistication about the issues. So those kinds of things interfere with applications necessarily being processed as quickly as you might like. That's kind of the bad news part.

But the good news part is that page that we developed a couple of years ago to say, these are the buckets that you can fall into and here's about how long it takes, doesn't really make sense under our new process. So what we're doing right now is we're developing a new page to give you a better sense of where your application



might really be. I can't give you specifics, but I can give you an overview. I think you're going to be probably pleased when you see what we've done. I think that hopefully will come out in the next month or two.

### **Auto-Revocation Process Problems**

A couple of other things that have happened in the automatic revocation process that I want to share with you because you may be dealing with it. One is what I call hijacked EINs. We have seen in this process large organizations, generally colleges and universities, but not always, that have other kinds of organizations in their ambit that hijacked the college and university or other organization's EIN and filed a 990-N with that EIN.

I have had some very high profile colleges come into me and say, I'm trying to file my 990 but it's bouncing back because somebody else has filed with my EIN already, and now everything in our system has been changed so that that EIN is reflecting the wrong name and address. That's not only a problem we have, but it's an IRS problem, and here's why.

You each have a Social Security number -- your Social Security number. Nobody else is supposed to use that Social Security number and you know if they do, there's a problem for you. It's the same with organizations. Their EIN is the same as their Social Security number. It's a unique identifier to each organization.

The problem is usually with small organizations, generally sororities and fraternities. In one case it was an ambulance society and they're just doing their little thing and they don't know better and they think, oh, we've got to fill this out, they want an EIN, I saw that on a piece of paper in the dean's office. I'll use it. No!

That is exactly what is happening. No one is doing anything with a bad motive, it's just kind of silly and creates lots of problems. If you have a client or an organization that is in that place, please contact my office. You can call the call site. They're going to contact my office anyway. We will work it through for you as quickly as we can. We don't want you to be in that situation.

In one case, it was very odd. I can't talk about names but the name that it got changed to was not even related to the educational organization. So our filing system, when you submit your tax forms with your Social Security number, the system is going to assume that that's really you unless there's something on there that tells us it isn't you.

The same thing happens with the EIN. When you submit something with an organization's EIN, and most of the time the name is somewhat close or it has that organization's name in it, my system is going to accept that. So if there is a problem, you need to let us know right away.

The system will in fact adjust the address because if you legitimately are sending in a form and you've changed your address, we should have the new address in our system. You file using your unique identifier so we think it's you. That's just the way automatic systems work.

I can't stress enough how if you have this problem don't roll your eyes and say, oh, I can't believe the IRS. It is the way it works. You need to come in and we'll fix it. Also, please take the opportunity to tell these small organizations what the EIN is for and how they're creating havoc.

The other thing that I learned just two days ago about self-declarers is a rule under automatic revocation, and this is the law, not me, if the organization is automatically revoked, the only way it can get its exemption back is to apply for reinstatement through the application process even if it didn't have to do that the first time. So those (c)(4)s, (c)(5)s, (c)(6)s, (c)whatevers that didn't have to apply but are holding themselves out, if they are auto-revoked, they now have to apply to come back in.

Those group ruling subordinates that didn't have their own ruling but didn't file and got automatically revoked cannot just be pulled back into a group ruling. Instead, they have to come in and apply. I found this out by accident because somebody came to ask me a question and she said, she's a grantor, I want to grant some money to this new small organization but they're part of a group ruling and the group ruling parent has not yet sent in its annual list of whose in the group ruling, so you don't have anything on your record about this organization.

We got to chatting about it and she wanted to know their foundation status and other things. I asked her a few questions and she said, well, they had been automatically revoked. So I said, oh well, the group ruling parent can't take a sub that's been automatically revoked and bring it back into the group ruling and if you try to do that, when we look at the information that you're presenting us, we will see that it was automatically revoked and we will not include it on the group ruling roster, at which time she said, oh no, it wasn't part of the group ruling, it had its own (c)(3) status before it was automatically revoked and so it didn't want to go back into the IRS so we got a new EIN and asked the group ruling holder to bring it back inside the group ruling.

So all of you people who think that all EOs are really good and why do we even have my office, it's this kind of stuff that goes on. So these are people who are trying to circumvent the group ruling rules, while all of you are saying it's taking forever for my application to go through and these people are screwing around. That's going on and I don't know if it's purposeful, but I do know that it's important for people to understand getting a new EIN is not the answer. It's like getting a Social Security number, they're very easy to get. You can get one, we'll enter it in our system but when we actually start looking and you've got two EINs, and one of them is revoked, unless you came back in, the other is not going to be legitimate in terms of your status. So keep that in mind.

### **Social Security Numbers**

That reminds me that last year I was talking a lot about Social Security numbers on 990s. I won't give you the lecture again because I did it last year but basically *The Chronicle of Philanthropy* did a big study showing that a lot of Social Security numbers were on the 990s. We cannot redact Social Security numbers on the 990s unless they're on the Schedule B. Legally, the only thing we can redact is Schedule B. We do have a process when we see them, we put them on disk and we sell them to folks [laughter] -- not the Social Security numbers, the 990s.

We do put a notice when we're selling them to purchasers of a disk saying there is personal information such as Social Security numbers on the disk, so you may want to redact them, before you make it public, but we don't have any control over their doing that. So that's a reminder. I don't think it's happening anymore. Most of the personal data was I think pre-2009. I don't think it's happening so much on the new 990 but just in case, do be careful.

For the instructions for tax year 2012 we have put a reminder notice on the 990, 990-EZ, 990-PF, 5227, 990-T, 1023, and 1024, and we'll be adding that wording to the heading of sections on all of those forms in 2013. We're trying to do our part. Just remind your clients this is something beyond our control and they're not going to want it out there for all to see.

### **Interactive Form 1023**

One of the other good things I need to talk about is another piece going back to the determination process because we are constantly trying to save time in our process and move more quickly. It's just really hard to do because we don't know what we're going to get in at the beginning of the year. I don't mean just numbers but types of applications.

Many of you over the years have heard me talk about Cyber Assistant, which was a tool that we were trying to design to make it easier for organizations to fill out their 1023 online in the hope that we would get better information in the 1023s and more cases could be screened out. We were also hoping ultimately that they could file electronically. That wasn't part of the first part but we really did want this interactive form that would make it easier for organizations to fill out the application form.

This was probably eight or nine years ago when we started down that road. Unfortunately, we ran into a whole bunch of IT problems with the product. It worked inside but it didn't work outside. It was going to cost an enormous amount of money to do it so we really haven't been focusing on that.

However, here's the good news. Last year my Advisory Committee decided to look at the 1023 as their project. If you haven't looked at that report, you might want to look at it. All very, very good ideas about making it electronic, having electronic filing, having approved ones electronically available, all kinds of records. I don't oppose any of those ideas but they all cost time and money. And so I don't know when those pieces are going to happen. But one thing they did say was make available the educational materials from when you were doing the Cyber Assistant. Is there some way we can post that educational material? So we said we will look into it.

Well, as you all know, the IT world moves very quickly and some things that were absolutely impossible or very costly four years ago, it's sort of like buying an iPhone or whatever. When it first comes out people run down to the store and pay a lot of money. A couple of years later, it's much more affordable. So the same thing happens in my world and we looked into it and for a much, much smaller cost, we were able to use that information. We're working with a vendor right now to put together an interactive 1023.

Our Advisory Committee has already reviewed it and made comments. It's looking really, really good. You know I hate to give you timeframes for when things are going to come out. But we're really shooting for this thing to come out in the summer. Don't hold me to the summer because my mantra is everything takes longer than you think, if anything can go wrong, it will, and everything is harder than you might imagine. But I really do think you're going to see this before the end of the fiscal year. I think it will be very helpful to you and very helpful to us. So thank you for that and now I will take questions.

**Attendee:** Do you see sequestration affecting your your group's ability to continue doing the job that it has been doing?

**Lerner:** The question is whether sequestration is going to affect our ability to do our work. I think sequestration is going to affect every government agency's ability to do its work. We will all be effected in different places but it is a huge cut in money that we all have to make which means I spend a lot of my day with other executives in the IRS looking at where we can save funding so that we can minimize the furlough days that our people will have to take and then there's other things as well, but we are each given a certain amount that we must cut from our budget. You may not know this but sequestration isn't just IRS you need to cut whatever the percentage is. It's each program within each agency that has to cut a particular percentage. So we will actually be cutting and we'll look at that and work with that and try to do the best we can.

**Attendee:** We have a subordinate that was automatically revoked. They've reapplied and been reinstated. Can you subsequently add them back to the group exemption?

**Lerner:** You can, but I will tell you one thing that we are doing. We are explaining in the letter to the subordinates, now that you have your own exemption, you don't have to be part of the group exemption for my purposes. You may want to be part of that group and retain your exemption. Are you willing to tell me what your group is or what kind of group it is?

**Attendee:** It's a medical association.



**Lerner:** Okay, so they could still be part of your medical association without being a part of your group ruling. That may take away some headaches for you because you don't have to oversee whether they're filing and all that good stuff. And from their perspective, they're in the system; if they're (c)(3)s, they're on Pub 78 and all of that stuff, and we will communicate with them in the event there's another legal change that has implication for them.

So we're just letting people know that. It's obviously their choice but in many ways I think it benefits the parent because I have heard absolute horror stories when I go around and talk to group ruling holders who say: "Well, they won't listen to me." Then I say: "What do you want me to do about that?" The way I describe it is, they're like teenagers under 18 and so you're responsible. But once they have their own exemption, they're over 18 and you can kick them out of the house, or you can keep them in the house but you're no longer responsible.

**Attendee:** There was talk about doing away with group filings. Has there been any further developments?

**Lerner:** She's asking me about one of the recommendations in the ACT report that we should get rid of the ability for a group 990 filing. So, if you're in a group, the parent has to file. A parent can also file a group return on behalf of all the subordinates or some of the subordinates or it doesn't have to file a return on behalf of any subordinates.

Sometimes I think I don't know how these rules came about. They don't make any sense in our modern world, and I think that's what the ACT's recommendation was. In terms of the modern world we live in, more transparency and all of you having to fill out these 990s and explaining what is going on in a lot of detail in their organizations, why should a group ruling holder get a better deal than you have? It doesn't make sense for transparency. So that's one of the things we're looking at. I think we want to get more information about what is really going on behind the scenes and so we are using a questionnaire. So, in other words, a learning process.

**Attendee:** Would you talk about some of the questions on the self-declarer's questionnaire?

**Lerner:** No. It's a very broad questionnaire. You need to go look at it. It's big. It's a lot of things. As I said, one of the reasons we did this was because we were looking at some of these 990s and the activities of organizations that were filing under particular subsections. And it wasn't clear to us that they had really selected the right subsection, not that they couldn't be exempt, but that they were doing things that their chosen Code section wasn't the right Code section for them. We're also interested in why some choose to go ahead and apply and others don't. We also interested in, as I said, if you start out with not applying when you're pretty small and as you grow you decide you want to apply.

Just for informational purposes, the reason an organization might want to apply is to have reliance on the letter they get from the IRS. If they think they're doing everything right within their subsection, they don't need that. The only time they're going to need it is when the IRS comes knocking on your door and says, gee, we're auditing you and we have no clue why you think you're exempt because you're not.

You don't have any reliance, there's no letter to say I told the IRS and the IRS said you're good to go. That's the only distinction. I don't want to give the impression that you're bad if you don't apply and you're good if you do. The law allows for both, we're just curious about it. So it's a broad range of questions and these are all 990 filers so we're not talking about those who don't have to file.

**Attendee:** Do you have any issues with identity theft since the 990 is a public document. People know the EIN, the address, the board. Is there any thought maybe to redacting the EIN off the 990 before it's made public?

**Lerner:** The IRS has no authority under the statute to redact anything from the 990 except the Schedule B



donor information. Technically, what we should be doing is redacting all of the identifying information and putting the Schedule B out. If somebody asks me for a Schedule B without the identifying information, I would give them a Schedule B with the amounts of the contributions and nothing else. But for our purposes, to avoid getting stuff out there that wasn't intended, because remember this is a process, we've got 1.5 million organizations filing and this stuff comes in, people are going through it, it's a very big process. To avoid protected information going out more often than we would like, which is really zero, we take the entire Schedule B off, but we have no authority to redact anything else. It would have to be a statutory change.

**Attendee: \*\*\***

**Lerner:** She's asking if you are a group ruling holder, then once a year we send you a list of the information we have about your group. It's your job to say no, no, no, these guys aren't here any more and these are our new ones. And that's done with pen and paper, and she's asking me if there are any plans to make that electronic.

I would just say that there are plans for the IRS to make everything electronic; the question is when. Lots and lots of IRS people are chasing the same IT resources so I can't tell you when it's going to happen. I know it will make it easier for all of us. Would it help if we sent it to you on a disk? I don't know if we could do that. I will take that back and maybe have some discussions with others.

**Attendee:** Any update on the college and university final report?

**Lerner:** Thank you for asking that question, which I wanted to discuss. The question is, is there an update on the colleges and universities report? That's another one that's been going on for a while and you're thinking we're kind of snoozing, what the heck are you doing, taking so long?

We put out a questionnaire to about 400, 500 colleges asking about lots of things, their demographics, their endowments, their compensation packages, UBIT issues, and we got a lot of information and we put it out in a first report I think probably two and one half years ago about that, it might be longer. We also decided that we were going to do some examinations on two issues, one with UBIT, one with compensation. We always look at compensation, it's a continuing thing for us.

What we saw in the questionnaires was that most organizations said that they tried to use the rebuttable presumption to set their compensation and we heard that over and over again but we've also seen some very interesting comparable information as we go through this. So in the colleges and universities, I think we probably told everybody we're going to look behind the comparables. Are they really comparable? What are we seeing there?

In the UBIT area, we saw lots and lots of activities being characterized as unrelated by some colleges and universities and related by others. It doesn't mean one is right and one is wrong, but we wanted to look behind that and see what were the facts and circumstances, were these really related activities or if they were unrelated, how come nobody ever has to pay any taxes on them? So those are the two things we're going to be doing.

These are large organizations and they take a long time for us to get through the exams, but I am not going to predict today, but I can say I think you will be seeing some reporting out on this hopefully by the end of this fiscal year. We have a review process on this obviously but I don't have control over that, but we'll put something together soon. Anything else? Well, thank you very much. I appreciate the opportunity to speak to you. And please sign up for our EO Update.