

# **Bond Case Briefs**

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## **IRS Looks to Build on College and University Project.**

After releasing the almost complete results of more than 30 examinations of colleges and universities on their compensation and unrelated business income last month, the IRS plans to gather more information from across the exempt sector, an agency official told a congressional subcommittee May 8.

Speaking at a hearing of the House Ways and Means Oversight Subcommittee, Lois Lerner, exempt organizations director in the IRS Tax-Exempt and Government Entities Division, said the agency has “already started a second unrelated business income project.”

“We are looking at organizations that are reporting unrelated business activity on their 990s but they’re not filing a [Form] 990-T,” Lerner said. “We think that’s problematic.”

That project started in the current fiscal year, Lerner said, adding that she couldn’t predict when the examinations would be completed.

In response to a question from Ways and Means member Diane Black, R-Tenn., Lerner said plans are in the works to review multiple types of exempt organizations. “I think that it is very important to broaden this out and see what kind of activities are going on in other tax-exempt organizations, because this was a homogeneous group,” she said. “We want to look farther, and we are developing a project for our next year’s workplan that will do just that.”

Other colleges and universities may be included in the larger study, Lerner said.

Lerner was the lone witness at the hearing about the IRS’s colleges and universities compliance project final report released in April. The report provided findings of more than 30 examinations of colleges and universities on compensation and unrelated business income. With more than 90 percent of the exams finished, the IRS said they resulted in more than 180 adjustments to unrelated business taxable income amounts. The report also revealed that about 20 percent of the private colleges and universities examined failed to meet the rebuttable presumption standard for compensation. (Prior coverage .)

Subcommittee Chair Charles W. Boustany Jr., R-La., asked about the report, noting that colleges and universities and their advisers were frequently wrong about the classification of activities and allocation of expenses related to activities.

“What we did not see was organizations that didn’t seem to have a thought out reason for classifying things the way they classified them,” Lerner said. “But it is very factual related and there were disagreements between the IRS and the organizations, and I think by putting this report out and doing some other work around the issue that we can probably benefit the college and university sector as well as the exempt sector in general.”

“This investigation is notable for what you uncovered,” said Ways and Means member Joseph Crowley, D-N.Y. “And I think we’re all disturbed by what you have discovered in terms of abuse

within college and university systems.”

Boustany noted that discussions about tax reform are taking place and said the report contains some troubling details about tax-exempt organizations and how they report unrelated business income and determine executive compensation. He asked Lerner if the report suggested the presence of structural problems within the tax-exempt sector, or if more targeted changes were needed.

“I think that it’s really important for us to get more information than [on] just these 34 organizations, because they were selected because of potential noncompliant activity,” Lerner responded. “I would like to gather more information more broadly to see where the real issues are that could be addressed before changes were made.”

Lerner, in response to questioning from Oversight Subcommittee ranking minority member John Lewis, D-Ga., said that the examinations do not represent a statistically valid sample and that the results apply only to the 34 examined organizations. Four hundred questionnaires that were sent to randomly selected colleges and universities and were completed before the examinations, however, do represent a statistically valid sample and can be considered generally representative of how colleges and universities act, she said.

Lewis also asked whether anything was learned from the examinations that could be useful in investigating other areas of the exempt sector. Lerner said there was.

“This is the first time that we’ve actually looked beyond the fact that the organizations were using comparables to see whether the comparables were really in fact comparable,” she said. “And when I speak to groups about this, what I caution the board members and the executive directors about is, don’t just accept the report from a compensation consultant — you need to ask them questions about this. Because it can be done correctly, and obviously the organizations are trying to do it correctly.”