

# **Bond Case Briefs**

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## **Exemption Applicants Can Appeal Determinations, Koskinen Says.**

The Service has changed its process for reviewing organizations' appeals of unfavorable determinations for tax-exempt status, IRS Commissioner John Koskinen said May 7 at a hearing of the House Ways and Means Oversight Subcommittee.

Previously, some conservative groups' appeals were directed to a trio of IRS executives rather than to the independent appeals function established for that purpose by the Internal Revenue Service Restructuring and Reform Act of 1998. The changes should safeguard exemption applicants' right of appeal, whether they originally went through the exempt organizations office in Cincinnati or through IRS headquarters in Washington, Koskinen said.

Koskinen was responding to a question by subcommittee Chair Charles W. Boustany Jr., R-La., who noted that some groups alleged that the IRS had denied their rights to appeal the determinations.

Boustany also inquired about what he called the apparent subversion by former IRS official Lois Lerner of internal agency controls to prevent taxpayer targeting. Koskinen said, "I think the process that I hope will reassure Americans is that, not only do we have a structure in place, [but] we're trying to build a structure that will accept and be welcoming to people who say there's a problem that needs to be looked into," whether the source is Congress, IRS oversight bodies, taxpayers, or IRS employees.

Asked by Boustany about alleged abuse of audit selection criteria by IRS examiners against conservative groups and donors, Koskinen told the committee that the IRS is negotiating with the National Treasury Employees Union, which represents most IRS workers, over performance awards given to employees disciplined for being delinquent on their taxes. The commissioner said he hoped that a ban on such awards would be included in the union's contracts and in IRS regulations and policies, although he did not specify a time frame.

"Legislation is kind of a blunt instrument," Koskinen told Rep. Sam Johnson, R-Texas, who is promoting his No Bonuses for Tax Delinquent IRS Employees Act of 2014 (H.R. 4531), which seeks an absolute ban on such awards. "You will be satisfied, I hope, with our union negotiations, that policies we have are appropriate," Koskinen said.

The NTEU's contract with the IRS expires October 1, although the two sides can agree to an extension.

The commissioner also weighed in on the debate over reviving private collection of debts owed to the IRS, as included in the Senate Finance Committee's tax extenders bill (the Expiring Provisions Improvement, Reform, and Efficiency (EXPIRE) Act of 2014 (S. 2260)). Previous experiences with the strategy revealed it to be unexpectedly expensive and inefficient, Koskinen said. Private debt collection was also limited because it did not include enforcement authority, he noted.

Koskinen said a recent phone scam, in which fraudsters representing themselves as IRS employees called taxpayers and threatened them with jail unless they paid supposed tax debts, raises questions about the public reception to private collections. “If you’re surprised to be hearing from us on the phone, you’re probably not hearing from us,” he said, noting that the IRS does not initiate contact by phone.

The commissioner also made a pitch for Congress to enact several administration proposals, including accelerating due dates for information returns to facilitate faster and better matching with tax returns to prevent refund fraud, and authorizing the IRS to regulate return preparers.

Granting the IRS correctible error authority also would allow the Service to make more corrections to taxpayers’ returns using independently verifiable information, without initiating an audit as is required now, Koskinen noted.

Subcommittee ranking minority member John Lewis, D-Ga., expressed concerns about the IRS’s budget.

“Your workload is getting heavier,” Lewis said. “The issues you face are becoming more and more complex. But your appropriation keeps getting smaller.” Noting the Service’s ongoing battles against tax-related identity theft and its grappling with needs of low-income and elderly taxpayers, compared with the Service’s continued funding crunch, Lewis asked, “Are you being set up for failure, for disaster?”

Koskinen replied, “No, we have a very can-do agency.” But he added, “I am very concerned. I’ve never dealt with an organization, even a major one in bankruptcy, that is so consistently understaffed across the board.”

The IRS Oversight Board in a May 7 report said the Service’s shrinking and uncertain budget and “unfunded legislative mandates” are harming both enforcement and taxpayers’ ability to comply with tax laws.

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by [William Hoffman](#)