

**Remarks of Sarah Hall Ingram
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Internal Revenue Service
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Nonprofit Governance – The View from the IRS**

Good morning. Meeting with you today – in this room – reminds me of my many hours at Georgetown – in fact, I think this was the classroom in which I had Professor Gustafson for Tax One. He taught the class with role-play ... for each lesson a student would be selected to take the part of the IRS and another as the taxpayer. In those days I was a shy and retiring student (don't laugh) doing my required tax course and thought it an absolute disaster to be fingered as the Commissioner on the very first day. Ah well, I learned a great deal as I remained in that role for the entire term – learned about intellectual exploration, practical applications, and the policy give and take whenever Congress seeks to shape behaviors and human beings seek to use or police the results.

But I digress – sort of. Today, I want to say how happy I am to be back at TE/GE working with you and the rest of the tax-exempt sector. And just as in my Tax One class so many years ago – we won't say how many – we are here to discuss the policy give and take whenever Congress seeks to shape behaviors and human beings seek to use or police the results.

I think we all – and by “all” I mean not only those of us in this room but the public at large – appreciate the special contribution the tax-exempt sector makes to the country. It is a vitally important sector that enjoys a privileged place not only in the tax code, but in our national psyche. We want the sector to do well. We need the sector to do well. We expect much of it. We want it to be populated by those who believe in, who are driven by, the concept of service. This is a concept that, of course, can be expressed in many ways. Those who aid the poor and the distressed, those who educate, who perform scientific research, who enliven our arts and our cultural life, who cure the sick, who provide religious leadership in our churches, synagogues and mosques – all are serving others. And all are an essential part of our national fabric and collectively reflect our diverse and creative nation.

It is a privilege for me to take on the position of Commissioner, Tax Exempt and Government Entities, and I hope to be of real service to this sector, to the public and to the fine folks in the TE/GE division. I welcome this opportunity to meet with this group and to address the important topic of non-profit governance. It is

an important conversation that we must continue – both here today and across the country.

On coming back to TE/GE, I am reminded how big the tax-exempt sector is, and how ceaselessly it grows. Good governance is important not only because of the nature of the work you do, but because of the sheer size of the sector, and its impact on the economy and the federal fisc.

The number of approved tax-exempt organizations in 2008 was 1.9 million, and that does not include all churches. This represents a 50 percent increase since 1995. In the three years I was away from TE/GE, the Service approved more than 200,000 new applications for tax-exempt status – that’s 182 organizations every day, Saturday, Sunday and federal holidays included. Even over the last year the number of applicants has not fallen off, but actually appears to have slightly increased.

Charities that are required to file returns with the Internal Revenue Service reported more than \$2.2 trillion dollars in assets in 2005. That was equivalent to the combined assets of the retail trade sector, the transportation sector, and the non-exempt portion of the health care sector.¹ On top of the \$2.2 trillion, private foundations reported holding an additional \$546 billion in assets. You, of course, already know how huge the sector is and understand both the continued growth since these 2005 figures as well as the impact of recent economic challenges.

It seems to me that in choosing to work within the tax-exempt sector you have responded to both a high calling and a great challenge. It is not an easy task to put these vast assets to good use, and to meet the high expectations that society places on the sector. Much depends upon you.

We at the Service understand that, and I understand it personally. I have no doubt about it. Accordingly, we want to help you where we can, and often that means not standing in your way. At the same time, however, the IRS does have the very clear obligation to see that the tax subsidy that the tax-exempt community enjoys – estimated by the Office of Management and Budget to be billions of dollars per year – is used properly, for the purposes and within the parameters the Congress has laid down.

I believe that adherence to principles of good governance is entirely consistent with both your task to accomplish your charitable objectives, and ours, to see that the tax-exempt sector complies with the Code. Indeed, I think practicing good governance helps advance these goals. I see good governance, then, as a tool – something practical and useful.

¹ Assets reported by charities in 2005 were \$2,241,887,000 versus \$2,241,598,000 for the retail trade, transportation and non-exempt health care sectors.

I'd like to share my views on governance this morning by addressing the issue from three points of view. First, I'd like to express my understanding of what TE/GE has been trying to do over the past several years, and where we are on governance today. Second, I'd like to give you my own perspective on governance, and identify for you some guiding principles for governance that I will follow during my tenure as Commissioner, TE/GE. Finally, I'd like to suggest some goals in this area for the near term – the next two to three years. I do this with some trepidation, of course, because we all recognize that the best laid plans of mice and men, and of TE/GE Commissioners, *gang aft agley*. Nonetheless, I'd like to let you know what we're steering toward.

What does "good governance" mean?

I think it would be useful, as a beginning, to sketch out what I mean when I say "governance" or "good governance," since there isn't a universally accepted definition and everyone probably has his or her own idea of what the term ought to mean.

I'm using the term "governance" in a somewhat limited way. I'm not interested in trying to usurp the business judgment of an organization's officers or board of directors or trustees. Nor am I a micro-economist concerned with whether an organization is maximally efficient in the way it provides its charitable services to the public. I do think, however, that a tax-exempt charity should actually provide charity; it should provide some meaningful and measurable benefit or service to the public.

Nor do I believe that the Service should try to lay down or enforce "one size fits all" rules about governance. Governance, after all, is not mathematics. There is not only one right answer or way of doing things. In my view, one of the great strengths of the non-profit sector is that it is a great engine of experimentation and new ideas. There can be, and should be, many varieties of good governance, many right answers.

Nor do I mean the IRS should intrude on areas under the jurisdiction and supervision of the attorneys general or charity officials of the states.

So if that is what good governance doesn't mean, what do I understand that term to mean from a federal tax perspective? When I speak of governance, I am speaking of a number of key organizational and operating principles that the IRS has already articulated, and that find their origin in the Internal Revenue Code. They are not expressly laid out in the Code, nor do they need to be, but the principles of governance that are of concern to the IRS should derive from the requirements for tax exemption, and should aid an organization in meeting them. Let me identify several of them.

A foundational principle is that the organization should clearly understand and publicly express its mission. This helps assure that the organization provides a public benefit and does not drift away from a charitable purpose. It helps an organization avoid practices that are inconsistent with tax-exempt status.

Equally important is the principle that the organization's board should be engaged, informed and independent. The board should have real responsibility and authority. It must, for example, be able to implement, in the life of the organization, the rules against inurement and self-dealing.

Another set of key good governance principles are those relating to the proper use and safeguarding of assets. These principles are supported by policies and practices that address executive compensation, that protect against conflicts of interest, and that support independent financial reviews.

Transparency is another key principle. I believe that board decisions should be reflected in minutes, that records supporting decisions should be retained for reasonable periods, that whistleblowers should be protected, and that each year's Form 990 should be complete, accurate and prepared in good faith.

My vision of governance is not of a vast scheme of rules, but of a more compact set of guiding principles. Not a battleship bristling with guns, but a sturdy lighthouse with a bright and steady beam. Others have certainly advanced the discussion – for example, the principles of good governance that Independent Sector and others within the tax-exempt community have articulated and proposed for adoption. For our part, the IRS has identified the principles we are most concerned with in the governance section of the Life Cycle tool on the Exempt Organizations website. They are also embedded in Part VI of the new Form 990.

I do recognize that many nonprofits are trusts. State law governs the fiduciary duty of the trustee and how trust assets may be used under the trust instrument. Other non-profits are unincorporated associations, which may be more flexible and informal than corporations or trusts, and the law concerning them may be less developed and less certain. Governance models are often built with a corporate structure in mind, however, so some governance characteristics well suited to a corporation may not fit other types of non-profits. But I submit that principles similar to the ones I've just referred to ought to apply – in some form – to nearly every type of organization that is exempt from federal tax.

What I am aiming at, under the rubric of "good governance," is the development by each organization of a system of internal controls that is appropriate to the organization itself. Let me say it again. One size does not fit all. But it is fair to ask all organizations whether they have in place systems, safeguards, or controls to minimize the risk of events occurring that contravene the Code's requirements for tax-exemption.

Asking for internal controls is not a radical idea. It happens everywhere, in every kind of organization. External auditors look for internal controls in audits of financial statements of all kinds of businesses, and write it up when they are lacking. The Treasury Inspector General for Tax Administration looks for them when it reviews TE/GE's programs. It is a familiar concept.

With this general definition of governance in mind, what has the IRS done over the past several years to advance the concept of good governance for tax-exempt organizations?

IRS Promotion of Good Governance

Somewhat controversially – at least to some – we have advanced the notion that there is a link between good governance and tax compliance. This concept seems intuitively true to many people. I certainly believe it; it does not seem like a controversial statement to me. But some have challenged this association of good governance and good compliance – not by pointing out cases in which well governed organizations nonetheless seriously violated the Code and put their tax-exempt status at risk – but simply by saying the point has not been proved.

These critics often note that effective governance arises from intangibles – the dedication and diligence of responsible officers and board members – rather than from the adoption of numerous rules and procedures. These, in their view, can pile up on top of each other to such an extent that they prevent good governance rather than promote it. Knowing who is right in this discussion is not easy.

We have set out to collect some information on the point. We are going to start asking agents, at the end of each examination, to fill out a check sheet about certain of the examined organization's governance practices and internal controls. The check sheet is intended to identify instances of noncompliance found during the exam, and also to gather information about whether the organization had, and used, any internal controls.

For each instance of noncompliance found – excessive compensation, political intervention, inurement, private benefit, material diversion of assets – the agent should ask, who made the decision to do it or to allow it? Was there a policy in place concerning the transaction or activity, for example, and if so, was it followed?

Let me be clear – we will be gathering objective data, not subjective views. And we will do this over time. As we collect enough information to be interesting, we'll share it with the community, and everyone can have a go at it.

I appreciate that this is not a statistically valid way of proving anything about good governance. With unlimited resources we would undertake a study that

would meet that standard. But this tally by our agents will tell us something, and we will read the results in conjunction with the studies that various members and observers of the tax-exempt sector have undertaken. I'll talk about several of them in a moment.

A second step we have taken in the direction of good governance has been to emphasize the importance of transparency and accountability in maintaining the public's confidence in the integrity of individual organizations and of the tax-exempt sector as a whole. We have done this in a variety of ways. A number of years ago, we collaborated with Guidestar to make Form 990 information accessible on the web. More recently, other players have also obtained and analyzed data. We revised the Form 990 so that the public, and the Service itself, will have access to more complete information about tax-exempts, presented in a more coherent fashion. Part of that effort was Part VI of the Form which includes 28 questions related to the size and independence of the board, to policies on conflict of interest and joint ventures, and to other areas such as gifts and compensation. We are just starting to receive the new 990s with their new information, and look forward to seeing what we and the public might learn.

By the way, we have been told that many organizations are using the 990 itself as an agenda for board meetings – expanding board members' knowledge and promoting their oversight of their organization. We also hear that some organizations will now use their 990s as a public relations document. While we didn't set out to do that, we certainly believe in the power of transparency, and are very comfortable with this development.

Our third step is in the determinations area where we encourage applicants for determination letters to consider incorporating some principles of good governance into their organizing documents. And we used our experience in developing the governance section of the 990 to design an educational tool on governance for charities. This is the Life Cycle tool I mentioned a moment ago, which we released in February, 2008.

Additionally, when the Cyber Assistant comes on line on January 1 – we're on track for that schedule – it too will offer applicants for tax-exemption an opportunity to consider adopting what we consider to be basic tenets of good governance. Cyber Assistant is an electronic tool that will help walk applicants for tax-exempt status through the determination letter process. By the way, in talking about the determination stage, I have been using the word "consider" deliberately. We may encourage applicants to incorporate principles of good governance into their organizational structures, and thereby reduce their risk of something going wrong later, but we are not requiring adherence to a particular set of rules. I'll discuss in a few minutes the training we have begun offering to our determination specialists to make sure they understand this difference.

Finally, in a small number of instances, we have seen how a wide-spread failure of governance led to serious problems within a particular segment of the tax-exempt community, and we have stepped in to address it. The best example is our joint project with the Department of Justice and the Federal Trade Commission several years ago involving the credit-counseling industry. In that case, a number of credit-counseling organizations had departed from their tax-exempt purpose of aiding debtors, and had converted themselves into fee-earning loan consolidators. We examined virtually every credit counseling organization in the country, and revoked the tax-exemption of over 40 percent of the industry, as measured by revenues. In a similar vein, we have looked at mortgage assistance organization and are now looking at foreclosure assistance programs. Again, we will learn from what we see operating well or badly with such organizations and analyze how governance controls related to the difference.

The Reaction of the Tax-Exempt Sector

The tax-exempt sector has had a variety of reactions to our efforts, which is to be expected when our community engages in an important conversation. Some have welcomed our involvement, and some have suggested we mind our own business. Some have warned us not to see charitable assets as “public money,” and not to be drawn to the conclusion that this creates a justification for us to control the particulars of tax-exempt governance. Overall the reaction has been cautious.

On the more enthusiastic side of the scale is Independent Sector, which has led the tax-exempt sector in embracing the adoption of good governance principles. Commissioner Shulman has spoken in praise of Independent Sector’s efforts, as did Steve Miller when he was the Commissioner of TE/GE. As you know, prominent members of the Senate Finance Committee are also sitting on the enthusiastic side of the scale.

The reaction of the states has been interesting to us. Notwithstanding that we have long had a very good relationship with them, we wondered if the states might push back against our efforts to some degree or another. We wondered if they might see our work as a raid on their authority and jurisdiction, an overstepping of bounds on our part. But by and large that did not happen. Having had a good pre-existing relationship no doubt helped, but it also appears that the state attorneys general and charity officials often lack the resources they feel they need to address charities fully. We have made an effort to work cooperatively with the states on issues of governance, and they have welcomed our efforts.

Everyone commented on our proposed revisions to the Form 990. The American Bar Association, the AICPA, and some 650 others sent in thoughtful and constructive comments – over 3,000 pages in all. Not all of the comments addressed the governance portions of the Form, but many did. And while one cannot easily characterize that response in one word or phrase, many commentators accepted that the IRS had a role to play here, and felt that, so far, we were playing it in a reasonable way.

TE/GE's own federal advisory committee, the ACT, presented us last June with a thoughtful paper entitled "*The Appropriate Role Of The Internal Revenue Service With Respect To Tax-Exempt Organization Good Governance Issues.*" The advisory committee acknowledged our "longstanding stake and legitimate interest in governance issues that relate directly to compliance with the laws under [the IRS's] jurisdiction." But the committee also noted that "[g]iven the diversity of the sector and the varying, and often unpredictable challenges facing an organization, the organization's governing board generally is in the best position to determine what the most appropriate practices are for its organization." It noted as well "the dearth of empirical evidence supporting the effectiveness of specific nonprofit governance measures," and suggested that the IRS "approach the governance area with caution."

The exempt sector has further contributed to the governance discussion by beginning to conduct studies of non-profit governance.

The Urban Institute conducted a study which it described as the first-ever national representative study of nonprofit governance. It was a survey of more than 5,100 nonprofits and covered the year 2005. Among its findings were these:

- 70% have trouble recruiting board members.
- If the CEO serves on the board, the board is less engaged and it may undermine the board's stewardship role.
- A large board does not necessarily result in weaker board performance or detract from board engagement.
- Smaller organizations that engage in financial transactions need more formal policies in place.
- Larger organizations often need to have other board members review transactions.
- Best practice guidelines or adopting new policies isn't enough to strengthen board performance and accountability.
- 75% of organizations did not require board members to disclose financial interests in entities that do business with the nonprofit.

BoardSource® conducted a survey in June, 2007, of 2,152 nonprofit leaders on board compensation, structures, oversight and performance. It was not a statistically valid sample, but its findings included these points:

- The average board size is 16 voting members.
- The average board meets 7 times a year and for a total of 16.5 hours per year.
- 14% of CEOs are voting members of the board, and 4% are also the board chair.
- 3% of charities pay their board members, and 29% reimburse them for travel and meeting expenses.
- 68% of charities require board members to contribute and 61% require them to identify other donors.
- 88% have a conflicts of interest policy.
- 92% have an external financial audit.
- 99% have a written mission statement.

Grant Thornton has conducted a non-profit governance survey for six years. The most recent one was in September, 2008. It was a Web survey of 652 non-profit officers. Half the organizations had annual budgets below \$20 million. Among this report's findings were these:

- 26% created governance policies for the first time last year.
- 71% reported having annual meetings to discuss executive compensation, and 68% reported documenting the discussion in formal minutes.
- 72% have a board or committee review the 990 – up from 40% a year earlier.
- 92% have a written conflict of interest policy – up from 62% 3 years ago.

These are interesting findings. Some are what I would have expected and others are more surprising. Over the next three or four years there will be other studies, and the tax-exempt sector will accumulate a body of information about the actual effect of particular good governance principles and practices. I look forward to having that information, to discussing its meaning with you and the rest of the tax-exempt community, and to incorporating the findings into our work.

So, what are my guiding principles on governance?

I've been reviewing with you the IRS's current stance on the issue of governance. Let me now shift the focus toward the future by speaking for a few minutes about how I see the concept of good governance fitting into our overall program. Then I will identify what I believe are some key guiding principles on governance.

Good governance as a tool for managing the risk of non-compliance]

I said earlier that I viewed good governance as a tool – a tool for managing against the risk of non-compliance, of an organization or person going astray.

Now let me explain, in a broad sense, how that tool works within the context of Exempt Organization's traditional determinations and examinations programs, and its new compliance tools, the Review of Organizations unit, which we call "the ROO," and the Exempt Organizations Compliance Area, the "EOCA," which, among other things, has allowed us to introduce and greatly expand our use of compliance checks.

As part of our own effort to be efficient, to be wise stewards of the public funds entrusted to us, we need to concentrate our efforts where they will do the most good. It's something we as responsible managers want to do, and it's something those who look over our shoulder – the IRS Oversight Board, or the Treasury Inspector General, for example – insist that we do as well. As a practical matter, we cannot subject every application for tax-exempt status to a painstaking, leave-no-rock-unturned review. Nor can we audit every organization's 990 every year. Nor would you want us to do so, right? To govern is to choose, and we must choose appropriately which applications or 990s to focus most attention on.

Our creation of the ROO and the Exempt Organizations Compliance Area, together with the new Form 990, creates compliance opportunities and choices we didn't have before. We are better able now to detect and follow-up on actions by organizations that are questionable or that appear to violate the Code. And, yes, we continue to work on the many suggestions for a voluntary compliance program – a program that would enable entities that find themselves out of compliance can work with us to bring themselves back into compliance.

All of these programs help us ensure compliance. They back up our determinations program, and give us some comfort that any compliance issues that were invisible at the application stage, but that emerge later, will come to light. They help us manage the risk of non-compliance.

Good governance helps us manage that risk as well. Where an applicant has a well-articulated mission, an engaged and independent board, and so forth, we have some basis for judging that this applicant will be more likely to carry out a tax-exempt purpose than a similar applicant without these safeguards. Where an organization has adopted good governance practices, we can reasonably expect that it poses less of a risk that it will misuse its tax-exempt status or its charitable assets than does an organization that has not adopted such principles. The adoption of good basic measures – tailored for that organization and not designed to eliminate every conceivable risk – honors the public's trust, and gives us some indications about how best to spend our enforcement resources.

That is how we can use the good governance approach. It works with the other institutional tools we have created to reduce the risk of non-compliance.

Before leaving this point, let me read to you a short quotation from the Commissioner of the Australian Tax Office in a speech he made on tax compliance by Australian businesses: *“A core feature of [Australia’s] Annual Compliance Agreements is an emphasis on strong corporate governance. The [Australian Tax Office] firmly believes that the level of corporate governance has a direct bearing on whether a company has a high, medium or low risk profile.”*

Exactly. Whether you are a commercial business, a federal agency, or a tax-exempt organization, it just makes sense. And just as there are public conversations about governance elsewhere, we need to continue to discuss what good governance looks like in the tax-exempt sector as well.

That said, let me turn to identifying for you some guiding principles that I will follow during my tenure as Commissioner of TE/GE.

One principle that I respect is that there is great variety in exempt organizations. Tax-exempts differ in every conceivable respect – in size, in purpose, in the nature of their leadership, in their organizational forms, in available resources. As we address governance, we do not want to crush this diversity beneath a cathedral of rules.

Another principle I will follow is that the IRS has a clear, unambiguous role to play in governance. Some have argued that we do not need to be involved, because we can count on the states to do their job and the sector to stay on the path of self-regulation. While both state regulation and sector self-regulation are important, and I welcome and respect them, they do not get the IRS off the hook. Congress gave us a job to do, and we cannot delegate to others our obligation to enforce the conditions of federal tax exemption. The federal tax law must be applied consistently across the country, and we will use both our education and outreach programs and a meaningful enforcement presence to accomplish this.

My views on governance are informed, of course, by the policy of the Internal Revenue Service as a whole and by the concerns of Commissioner Shulman. He is, as many of you know, a strong believer in the efficacy of sunlight. He believes that it can help cure weak institutions and protect healthy ones. He believes that transparency, accountability, and disclosure are virtues in the tax-exempt area, and I agree.

My views are also informed by the five-year Strategic Plan that the IRS has announced for the period 2009 - 2013. It is available on the IRS Web site, and if you look at it you will see that the continued focused oversight of the tax-exempt sector is a key enforcement objective. The Strategic Plan notes the size and complexity of certain segments of the tax-exempt sector, and the consequent risk to the tax base.

The Commissioner's views and the Strategic Plan call attention to the principle that a tax-exempt organization must be organized and operated for an exempt purpose. As basic a statement as that is, it is a guiding principle for me. I believe that it properly requires us to consider issues related in a most straightforward way to organizational governance. How is an organization organized? How is it operated? These questions inevitably involve a consideration of how the organization is governed.

So the Service and I as Commissioner, TE/GE, are not backing off of the principle that the IRS has a stake – and therefore a role to play – in encouraging tax-exempt entities to have good governance procedures in place to reduce the risk of non-compliance.

My next principle is one of balance and proportion. I referred to this earlier. We do not want a seat on any organization's board. It is not our job to define your mission or execute your plans. But where there is a general consensus, among those experienced and knowledgeable about organizational behavior and the nature of exempt organizations, that the adoption of a set of organizational or operational practices is likely to help an organization comply with the requirements for tax exemption, I think common sense tells us that it is appropriate for us to promote those practices.

And as a corollary to that guiding principle, I would add this: that where empirical evidence demonstrates that a governance practice we all thought was valuable proves not to be, we will abandon it. We will embrace empirical evidence. We would be crazy to ignore it.

In talking about encouraging good governance, we are also talking about timing. When is it appropriate for the Service to concern itself with governance? At the determinations stage, when the organization is just setting out? As the organization operates from year to year and files an annual Form 990? Or only when we discover through examination that a problem has occurred, that charitable assets have been squandered and the tax subsidy wasted. I think my earlier discussion of how we use governance to help manage the risk of non-compliance is particularly relevant here – my guiding principle is that the sailor should not be checking the navigation charts only after the boat has gone up on the rocks.

But that does not mean we must be rigid throughout the determinations process. One size does not fit all. This is a hugely diverse community. Further, the post-determination compliance programs I mentioned a moment ago – the ROO and the EOCA, together with the new Form 990 – allow us, in appropriate cases, to conduct a more nuanced evaluation of some features of a determination letter application.

Another principle concerning governance that I recognize is that Congress has never given managers of tax-exempts *carte blanche*. To the contrary, in adopting the section 4955 tax on political expenditures of 501(c)(3)s, the section 4958 excess benefit tax, and the section 4965 tax on prohibited tax shelter transactions, Congress clearly intended that organization managers be held accountable for certain specified acts. Congress created similar accountability for managers of private foundations in enacting sections 4941, 4944 and 4945, which penalize self-dealing, investments which jeopardize charitable purpose, and taxable expenditures. Each of these sections imposes an excise tax not only on the exempt organization, but on the managers themselves. Each recognizes the need for safeguards against specified bad practices.

The concept behind good governance that I am speaking of this morning is not punitive – but it does recognize a similar need for structures that safeguard the integrity of tax-exempt organizations, and that insure that the federal tax subsidy is spent for the purposes expressed in the Code.

A final – but very important – perspective I will take going forward will be the relationship between governance and the international aspects of tax-exempt organizations’ operations. The IRS Strategic Plan notes that taxpayers with international activities – including tax-exempt organizations – are growing in number and variety. It observes that the IRS must invest to meet the challenges of international tax administration. Commissioner Shulman emphasized this point strongly in his address to the Organization for Economic Cooperation and Development in Paris on June 2.

I want to be very clear that this concern is not merely about multi-national corporations and wealthy individuals seeking off-shore tax shelters. It extends as well to tax-exempt entities. To that end, I recently met with the directors of all five of TE/GE’s taxpayer segments, and we are working to increase our understanding of the international aspects of our taxpayers’ operations. In the exempt organizations area this includes foreign operations, foreign investments, and perhaps other areas as well. We need to understand how our taxpayers are involved internationally, and we will consider what governance challenges such involvement presents. It already seems likely that one of the things we will need to do is add questions to the Form 990 and 990-PF about participation in international transactions. And I want to note that the recently released 2009 reports of the ACT, our advisory committee, include discussions of many of these issues.

Goals for the next few years.

I think I’ve said enough about my guiding principles and perspectives. Now I’d like to move to a discussion of my goals for governance over the next few years.

I'll begin by adopting as a goal something that is already well underway – providing uniform and measured training about governance to our determination and examination agents. The ACT, our advisory committee, can claim much of the credit for pushing this idea. In their 2008 report, they expressed concern that agents were applying a variety of governance standards in an inconsistent and somewhat random way. They pointed out that determination specialists sometimes insisted that the applicant adopt a conflicts policy containing a specific feature, have a board with a particular number of members, or conform to various benchmarks of board independence. In the examinations program, the ACT noted that our practices varied in terms of what we might require or accept as a corrective action plan to avoid revocation or other penalties.

We responded to these concerns in November by adding a governance training program to the Exempt Organizations work plan. We provided an initial round of training in April to all of our exam agents and followed that with training for our determination specialists. And this month we are conducting training for our folks here in Washington, DC. We are striving to be balanced in the training. We emphasize that not all exempt organizations are alike and that one size does not fit all when it comes to governance. We present the ACT's 2008 report and go through its comments and concerns at some length. We talk about the actions the sector itself has undertaken on the subject of governance, and we point out the important role the states have. We introduce the findings and conclusions of the Urban Institute and Board Source studies. We are going to post these first-round training materials on the governance page of the EO Web site – in a few weeks once the first round of training is done – and I invite all who are interested or concerned about what we are up to to review them. We are not finished with the topic. We intend to provide our employees with additional training on governance. So please let us know whether and how you think we should improve or supplement the materials and our training program. We welcome your input and ideas.

A second goal of mine is to engage in a dialog with the sector about the governance of special categories of exempt organizations. I am thinking, for example, of private foundations, of member organizations, of small organizations that file the 990-EZ, and of the different issues that may arise if an organization is a corporation rather than a trust, or *vice versa*. Our IRS Strategic Plan has another point that is relevant here. We challenge ourselves to walk in the taxpayers' shoes. So when it comes to governance, we need to understand and to allow for the variety present in the tax-exempt sector and the needs of the various kinds of organizations.

A third goal is to review systematically the governance-related conditions that EO agents suggest to applicants for tax exempt status or organizations undergoing an examination. This will test whether the training we are doing to make the point that all organizations are not alike took root, and will also give us insight

into the range and frequency of governance issues that arise in the ordinary course of our work.

You will notice that I have not listed as a goal the announcement of a set of universal and mandatory governance principles. At the same time, however, I hope you have noticed a clear theme in what I have had to say: I have no intention of walking away from governance. TE/GE will stay engaged in nonprofit governance and how it relates to the risk of noncompliance with the Internal Revenue Code. We will be measured but we will be present. And in keeping with our tradition, we will be engaged in an on-going conversation with you about all aspects of this issue.

Conclusion

In the end, what matters most about governance right now is having the right public discussion – a discussion about identifying and promoting those principles of good governance that actually contribute to a vibrant and compliant tax-exempt sector. A sector that can flourish with the confidence of the public and can execute the richly diverse missions and roles for which Congress has created special tax treatment. That is a useful discussion, and better than one that turns inward and focuses on how much or how little authority the IRS has to promote a given principle of good governance.

Thank you for this invitation and for your attention this morning. It is exciting, and an honor, to be back in the exempt organizations world. It is invigorating to be engaged from the outset in this complex, at times controversial, but always important topic of governance. I'm glad to be working with you again, and look forward to the collegial give and take that is the hallmark of the constructive and remarkable relationship between the IRS and the tax-exempt community.