

**PREPARED REMARKS OF
LINDA STIFF
ACTING COMMISSIONER OF
INTERNAL REVENUE
BEFORE THE
TAX EXECUTIVES INSTITUTE**

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Good afternoon and thank you for that warm welcome.

Thank you also for the opportunity to address what I consider to be one of the IRS' most important stakeholders.

Over the years, we have had a cooperative relationship with TEI even when we did not always agree on various issues.

I think the basis for that cooperation is that we share many common interests.

The IRS wants to get it right in terms of tax administration. We want to ensure compliance with the tax laws.

You want to get it right in terms of complying with the tax laws.

You also need a level of certainty – so do we. And we both want that certainty faster and sooner rather than later.

We both want to be more efficient. At the IRS, we want efficiency not only in tax administration but in how we manage our organization.

I am working with my leadership team to ensure a culture in the Internal Revenue Service that balances service and enforcement, and to establish an environment of collaboration – internally across the IRS and externally with stakeholders.

Such a collaborative relationship – between the IRS and this group, TEI – has never been more important as we each work through some significant challenges and changes over the next few years.

One of those challenges is dealing with the ever changing nature of what we do.

For the IRS, the most obvious indicator of change is that I am here today as the Acting Commissioner.

I assumed that role in September succeeding Kevin Brown who had in become Acting Commissioner last May. Kevin took over from Mark Everson who had served as Commissioner since 2003.

As you probably know, both Mark and Kevin are now at the American Red Cross. And we wish them the best.

Another key change impacting TEI is the change at the top of LMSB.

Many of you heard Frank Ng speak earlier at the session on International Initiatives. Frank has just become the Commissioner of our Large and Mid-Size Business division replacing Debbie Nolan who retired.

We all know that change is inevitable and that dynamic organizations take advantage of the opportunities that change provides.

I like to think that the IRS is such an organization, and that we will seize this opportunity.

Today, I stand before you with one desire – to start a dialogue with you.

I am not here to lecture you about what you need to do to comply with the law.

Rather, I want to start a conversation that allows us both to take advantage of common interests as well as better understand the areas in which we differ.

In that context, there are several areas that I would like to cover in the next few minutes. Much is written, and much is said about disclosure – transparency.

From a historical perspective it is useful to note the dramatic changes in the manner in which the IRS interacts with you and your companies.

When LMSB stood up in 2000 as part of the restructured IRS, our business processes were firmly rooted in tradition. And that tradition provided an experience for you and for us – let me try to describe it.

Compliance activities affecting your companies were, essentially, a function of performing in-depth, time consuming, labor intensive, paper bound examinations that typically started a few years after filing and took about five years to complete, sometimes in a very adversarial environment.

That approach became increasingly unacceptable as the corporate tax environment was changing much faster than our internal capabilities. These changes included several significant factors:

The complexity of the tax law increased; your businesses became increasingly global; and increased competitiveness in the marketplace led to the development of creative and aggressive tax structures and transactions.

This in turn forced us to reassess our approach to tax administration and compliance.

That reassessment is, in many ways, evolutionary.

We continue to learn and evolve.

Through these changes, transparency has increased as a result of Sarbanes-Oxley, improved governance, E-file mandates, and M-3s.

Last year we all saw this focus on transparency increase yet again with the introduction of FIN 48 disclosure requirements.

From talking to my staff and from reviewing the transcript of previous liaison meetings between TEI and our LMSB leaders and team, I know there has been and continues to be a high level of uncertainty regarding the impact of FIN 48 disclosures by the IRS. This uncertainty was heightened by the recent PSI interactions with specific companies.

As I think many of you know, in 1984 we adopted a policy of restraint on our requests for tax accrual workpapers.

This policy remained unchanged until 2002 when we modified it so as to request workpapers for transactions that claimed a benefit from a listed transaction or financial irregularity.

There are no current plans to change this policy.

However, we are training our field agents on financial statement analysis and FIN 48 to improve their risk management skills.

We have advised them that like any other public information, we should be looking at the FIN 48 disclosures and making the appropriate inquiries based on the agent's judgment and experience with the taxpayer.

However, the IRS will continue to monitor developments in accounting standards and practices, to monitor the environment and to assess the soundness of our policies and practices as the environment changes. Because transparency is important to sound tax administration.

One of the reasons transparency is important is that we must do everything we can to reduce the tax gap.

While we believe – and the data supports – that the lions share of the tax gap is in the small business/self employed sector, there is a concern that substantial dollars are being lost through various off-shore activities.

There is also a concern that some international corporations, in the guise of trying to avoid double taxation, are trying to really eliminate all taxation.

When we think about the corporate tax gap and the drivers of noncompliance, I believe that there are basically three primary drivers. The first is complexity, both legal complexity and administrative complexity.

The second might be an issue where the law is clear but a certain amount of ambiguity remains, whether it is a valuation issue or perhaps a methodology.

So, there's complexity, ambiguity, and the third driver would be intent.

One of our challenges at the Internal Revenue Service is to determine and distinguish between taxpayers who want to comply but can't because of complexity or ambiguity and taxpayers who consciously choose not to comply.

Unfortunately, there is not always a bright line, but we have rolled out new tools, both service and enforcement, to be better able to identify and treat taxpayers commensurate with their behavior.

As we evaluate various methods to improve transparency and reduce the tax gap – specifically in the corporate arena – I can assure you of two things.

First, our actions will be done in a way that is both thoughtful and responsible. We want to make sure that we drive the right type of taxpayer behavior and not be overly burdensome to taxpayers.

Second, I commit to seek external stakeholder input similar to what we have done on previous issues in the last several years.

For example, last year there was a lot of concern over whether we were going to request workpapers under Sarbanes-Oxley section 404.

We did not have a lot of experience with this and were uncertain whether the information would be useful.

We actually brought in some corporate taxpayers and asked that they share with us what was in those workpapers.

Based on that, the IRS determined that we do not want to request those papers routinely and we generally would seek them only under the criteria expressed under our policy of restraint – it is a listed transaction or there are financial irregularities.

Well then, if we believe that complexity of the law and ambiguity can create a point of disagreement and if we both want to get to the right answer, what is the *ideal* scenario to arrive at a resolution.

Would it not make sense that we would come to the table knowing and understanding the issue, lay out the facts, apply the law and try to come to the right answer?

Or, if we agreed to disagree, we then proceed to the next step in a quick and focused manner.

That's exactly what our Compliance Assurance Program – or CAP program – is designed to do.

It is a pre-filing compliance assurance process that focuses on issue identification and resolution through real-time interaction between the taxpayer and IRS.

When we launched the CAP pilot program in 2005, we had 17 companies participating. Last year we 34 taxpayers participated and for 2007 the number has risen to 73.

The results thus far appear positive. Our initial cases worked under CAP resulted in a reduction in time from filing to case closure from 52 months to just fewer than 6.

CAP represents a fundamental shift in the compliance process.

But, CAP is not the only way we have changed our approach to compliance. We continue to combine traditional examinations with non-traditional approaches such as pre-filing agreements or industry issue resolutions.

One of the most significant initiatives we are taking is the use of issue focused examinations.

This involves concentrating on high risk tax issues and ensuring that we utilize a strategic approach to manage them.

We identify compliance issues through examinations, Schedule M-3 reviews, and other sources and then they are prioritized and tiered based on how prevalent they are across industry lines and the level of compliance risk they present.

Tier 1 issues are those that are of high strategic importance and have significant impact on one or more industries.

This could include areas involving large number of taxpayers, where there is a significant dollar risk, a substantial compliance risk or high visibility and where well established compliance guidance exists.

Tier 2 issues reflect areas of potential high non-compliance and/or significant compliance risk to the IRS or to a particular industry.

This might include emerging issues where the law is fairly well established but where there is a need for further development, clarification, direction or guidance.

Tier 3 issues are those that are typically industry related and have been identified as issues that should be considered by IRS teams when they conduct their risk analysis.

We have also recognized the importance of leveraging technology to improve both tax administration and compliance.

I need to say thank you to all. We just completed a very successful corporate tax filing season and technology was key.

Over 40,000 Forms 1120 and 1120S were e-filed.

What was so encouraging is that many of these returns were e-filed *voluntarily*.

Our Modernized E-file program – or MeF – is contributing to improvement in our upfront cycle time – the time it takes from the point a return is filed to the start of an audit.

That time has been reduced 26 percent in the last three years.

The final issue I want to comment on this afternoon is globalization and its impact on tax administration.

The integration of international economies creates opportunities for taxpayers to exploit differences in tax rules of differing countries.

In the past year we have strengthened our organizational capability to address international tax administration challenges. Frank Ng has led this effort as a Deputy Commissioner and will continue to in his new role.

We have now started a process to try to integrate the international expertise that Frank has helped develop with our domestic programs.

As cross border transactions increase and foreign jurisdictions increase their scrutiny of transfer pricing issues, our tax treaty double taxation activities will potentially increase because of foreign initiated adjustments.

We must work closely with our treaty partners to ensure principled transfer pricing methodologies are properly applied around the world.

Finally, let me say that while the IRS is responsible for administering the tax laws of the United States, all of us have a responsibility to ensure compliance with those laws.

An efficient and effective tax administration system is in everyone's best interest.

We have made significant progress at the IRS in balancing service and enforcement, rolling out new issue management tools, reducing cycle time, increasing currency, leveraging technology, increasing our risk assessment and transparency.

We have increased audit coverage and hired and trained a significant percentage of our workforce in the past four years.

Having said all this, Frank and I recognize that even with these new tools and even with process re-engineering and a highly skilled workforce, in today's environment, we can only significantly improve compliance and efficiency by being increasingly nimble and flexible to ensure that we audit the right issues, the right taxpayers, and by using the right tools.

As I close, let me say that I know you – the corporate taxpayers – also have a vested interest in an efficient and effective tax administration system.

Corporations take great pride in their reputation, as well you should.

Corporations step up to their social responsibilities to the public and to their community.

Corporations take pride in being good employers and in serving their customers with excellence.

I believe that most corporations want to get it right and comply with the tax laws. That's a belief and premise from which Frank and I commit to lead the IRS.

Thank you for the opportunity to be here and I will take any questions that you may have.