



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

July 7, 2011

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION
COMMISSIONER, TAX-EXEMPT AND GOVERNMENT
ENTITIES DIVISION

FROM:


Steven T. Miller
Deputy Commissioner for Services and Enforcement

SUBJECT:

Guidance for SB/SE Estate and Gift Tax and TE/GE Exempt
Organizations

Questions have been raised regarding the application of gift tax to contributions to I.R.C. § 501(c)(4) organizations. This is a difficult area with significant legal, administrative, and policy implications with respect to which we have little enforcement history. My office will be coordinating with the Office of Chief Counsel to determine whether there is a need for further guidance in this area.

Until further notice, examination resources should not be expended on this issue. It is anticipated that any future examination activity would be after the coordination described above and would be prospective only after notice to the public. Thus, the Service should not expend examination resources initiating referrals or developing audits. Accordingly, all current examinations relating to the application of gift tax to contributions to I.R.C. § 501(c)(4) organizations should be closed. This directive reaffirms and expands the suspension on March 23, 2011, of such examinations by SB/SE Estate and Gift.

This directive has no impact on any decision to pursue, or on the scope of, any examination of I.R.C. §§ 501(c) and 527 organizations, including the correct application of the tax under I.R.C. § 527(f). Nor does this directive have any impact on other estate or gift tax examinations that do not involve the issue of whether gift tax applies to contributions to I.R.C. § 501(c)(4) organizations.

cc: Chief Counsel