IRS Oversight Board Public Meeting
February 3, 2010

A SUMMARY OF DISCUSSION AND COMMENTS

OVERVIEW OF THE IRS OVERSIGHT BOARD PUBLIC MEETING

On February 3, 2010 the IRS Oversight Board conducted its annual public meeting with external stakeholders to listen to their comments and insights regarding the IRS and the tax administration system. Board Chair Paul Cherecwich, Jr. welcomed the attendees to the ninth public meeting conducted by the Board. He said the meeting would consist of three panels that address important issues in tax administration, and be followed by two stakeholders presenting discussion papers to the Board.

The Chair then introduced the Board's guests for the forum, James R. White, Director Strategic Issues, Government Accountability Office (GAO); and J. Russell George, Treasury Inspector General for Tax Administration (TIGTA), who was represented by Joseph Hungate, Deputy Inspector General, TIGTA. He then introduced Board member Bob Tobias, moderator of the first panel.

This report summarizes the central themes that emerged at the public meeting.

CENTRAL THEMES FROM THE 2010 PUBLIC MEETING

Panel 1: Hiring, On-Boarding and Enculturation of a High Performing Workforce

Moderator: Bob Tobias, Board Member
Panelists:

- *Colleen M. Kelley, National President*, National Treasury Employees Union
- *Danny R. Snow, Thompson Dunavant PLC, Memphis, TN,* American Institute of Certified Public Accountants
- *John M. Palguta, Vice President,* Partnership for Public Service
- *David L. Clark, Managing Director, Professional Development Program,* Government Accountability Office

Bob Tobias welcomed the panelists and introduced each one. In his introductory remarks, he defined enculturation as the process where the currently established culture teaches an individual the accepted norms and values of the culture to enable the individual to become an accepted member and fulfill the needed functions and roles of the group. He said the Board was interested in looking at enculturation in the context of the large number of IRS new hires in the past year (approximately 8,000). Enculturation offers opportunities in both directions for the new employees and for the IRS as both learn from each other. The challenge for the IRS is to assimilate this new talent using a comprehensive, inter-connected approach to create high performing individuals that contribute to a high-performing organization.

The panelists first discussed their thoughts on the recruiting and hiring processes where the processes are treated as separate functions. The panelists suggested that for these processes to be successful, they must be viewed as a series of linked events.

Theme: Recruiting, hiring, and enculturating are an inter-connected chain of events.

Panelists agreed that the recruiting, hiring, and on-boarding process is a chain of connected events with many players. One panelist from public accounting pointed out that communication between various departments is critical, because business units are often evaluated on their performance and understand that successful employees contribute to better performance of the unit. They view hiring, recruiting, managing, developing, and motivating the workforce as a shared responsibility, with employees, managers, and executives all involved.

The panelist from GAO described its process as a continuous stream. GAO staff work together to determine if the recruit is the right person for the GAO, and if the GAO is the right fit for the recruit. New hires at GAO come in at the generalist level, and are developed to be successful no matter where they are placed within GAO. The competency model for every employee at GAO includes a competency called "developing people;" employees are rated on their ability to recruit, retain and train, in a continuous stream, qualified staff.

Theme: For continuing involvement of employees, there must be a structure or system, vehicles that encourage involvement, enculturation, and the sharing of values

Panelists discussed the importance of creating a work environment where employees feel comfortable enough to provide honest feedback to management, and the use of a structure or system to provide the mechanism for doing that. One private accounting firm uses a Staff Advisory Committee with middle management that the employees feel comfortable approaching. The GAO employs a continual survey approach for feedback that includes new hire surveys, exit surveys, customer satisfaction surveys, employee development surveys, and others. This type of feedback is embedded in the GAO culture because it is a data-driven organization, and also because it uses surveys to determine the direction of its professional development program. The NTEU noted that the newly-formed union at GAO presents another path for employees to provide their concerns and feedback directly to management.

Theme: The most complex part of on-boarding is developing an environment where the new hires learn the culture of the workforce and the existing culture is sufficiently flexible to learn from new employees

Panelists discussed the importance of employee development and training, as an extension of the recruiting and hiring process, to assimilate new hires into the culture of the organization. Smart managers involve their employees in the process of managing the workforce, and in doing so create a better organization. The Partnership for Public Service set up a Strategic Planning Review, designed to allow younger employees who desired to influence the strategic direction of the non-profit organization to meet together and help plan various aspects of the operations of the organization.

GAO utilizes a professional development program, and focuses on individuals who know what GAO does, like the culture, understand that they can contribute to influence the culture. An employee with this understanding will be happy and productive and feel that they have made the right decision to work at

GAO. The goal of retention is to have the right people stay and the right people leave. If GAO hires the right people, gives them challenging work, gives and gets regular feedback, and leverages their commitment to public service, both the individual and the organization will be successful.

Panelists said setting up a structure or vehicle to encourage the involvement of employees and the sharing of values is the first step in the enculturation process. Next steps include gathering information through communication and survey results, designing what changes are needed, and then implementing changes that have been discussed and decided. All of these combined contribute to making employees feel they are valued contributors to the success of the organization.

Theme: Expanded personnel flexibilities have a positive impact on recruiting, hiring and retention

Panelists discussed whether the IRS should be using more of the workplace flexibilities that private firms use to attract and keep applicants. The NTEU representative pointed out that the IRS does not always have the technology available to allow employees to telecommute from home, and often it is a question of resources. Tele-commuting can also be an obstacle in certain jobs where teaming is important, but NTEU believes those issues could be worked out. Private accounting firms use generous time flexibilities during their least-busy times during the year, and also allow employees to use community service time toward their work time, which is a great morale booster.

For many new employees, an important question is "am I going into an environment where I will be able to influence my development? Where I will be able to maximize my contribution?" Panelists agreed that people come into government because they believe they are doing something worthwhile, and they want good leadership, meaningful work, and to be engaged in their own development process.

Panel 2: Enhanced Approaches to Dealing with the Tax Gap Attributable to Small Business

Moderator: Raymond T. Wagner, Jr. Board Member
Panelists:

- *Frank Degen, EA, Past President and Spokesperson*, National Association of Enrolled Agents
- *Roger Harris, President and COO,* Padgett Business Services/SmallBizPros, Inc.
- *William Comiskey, Deputy Commissioner Tax Enforcement, State of New York Department of Taxation and Finance,* Federation of Tax Administrators
- *Roger Novak, General Partner, Novak Biddle Venture Partners*, National Venture Capital Association

Ray Wagner introduced himself, and then introduced the panelists. He noted that approximately half the tax gap is estimated to be attributable to non-compliance from small business and self-employed taxpayers. He also noted that many ideas for reducing the tax gap also carry with them additional burdens for business owners, for tax preparers and for the IRS itself. He asked the panel members to explore some practical and realistic steps that could be taken to move small business toward greater tax compliancy without imposing undue burdens on them. He began by asking the panelists for their thoughts about how the IRS can expand its efforts to address small business non-compliance without putting unreasonable burdens on small business.

The panelists began by dividing non-compliance in the small business community into two groups, the accidental and the intentional. Panelists agreed that each would be addressed differently, but that businesses would have to accept some additional burden in order for there to be a significant reduction in the tax gap. Increased enforcement would address intentional non-compliance, while other methods could be employed to address accidental, or unintentional, non-compliance.

Theme: The largest burden that small businesses face is unfair competition from competitors who are not compliant with tax laws; businesses should instead look to the advantages of being compliant.

One panelist, a venture capitalist, said that entrepreneurs seeking venture capital must be compliant with all of their taxes, because the ultimate goal is to grow the company and then take it public. To do that, clean financials with no irregularities are absolutely necessary. The panelists viewed the rewards of developing a successful company and being an integrated part of the business community as greater than any perceived rewards from not complying with the tax laws.

Theme: Increase the perception that there are consequences for small business non-compliance

The panelist from New York State discussed marketing enforcement and creating the perception, for those who make a willful choice not to comply, that enforcement is real and taxpayers will be held accountable. He suggested improving the quality and quantity of data received by state governments, and better coordination with the IRS. Better data gathering, analysis, and utilization, as well as better decision making, will have an impact on enforcement. He also said the New York tax department is trying to do more with web-based services to provide information in clearer and simpler terms to business taxpayers.

Mr. Wagner asked him if there was a way to tie compliance into state licensing efforts; for example, a taxpayer must be compliant with state taxes to renew his plumbing license, or even a driver's license. The panelist said the tax department was attempting to negotiate with licensing departments, but it would require a waiver of tax confidentiality from any license applicant as part of the process. It could be a very effective mechanism if all issues could be worked out.

Theme: Simplification and education would have an impact on the small business tax gap

Some panelists said that simplification of tax forms and an effort by the IRS to better educate new small businesses would have an impact on compliance for those businesses that want to comply but may not know exactly what they need to do. Another panelist suggested small businesses be encouraged to use a dedicated bank account for all of their business transactions as a way to simplify their recordkeeping and as a way to verify by third party reporting. One panelist suggested that earlier intervention and faster action against delinquent taxpayers by the IRS would help keep taxpayers from getting behind in their tax obligations.

Another panelist suggested that IRS' proposed program to regulate tax preparers might be another way to deliver education: educate the preparers, and they in turn will educate their clients. When practitioners believe that there are consequences and accountability for non-compliance, they will share that message with their client base.

Theme: More collaboration between states and the IRS with regard to data collection and data analysis would reveal more instances of non-compliance

The panelist from New York State said relations between his state and the IRS were excellent, and that they share information and generate a lot of revenue from the data matches. He said the two organizations were collaborating in audit investigations and partnering in other complex areas to pursue those who may have abused the tax system. He said they were looking at better ways to share data and invest in technology to match data quicker. Multiple data points can indicate that an individual needs to be examined more closely to detect potential areas of non-compliance or fraud.

The panelist representing a venture capital firm also said there are new versions of business analytics software used by his company that can digest massive amounts of data that could provide tax agencies with other sources of information.

In closing, the panelists suggested that the IRS needed more resources to address the problem of small business non-compliance, and also suggested that the IRS continue to solicit input and expertise from outside the Service for ideas about effective ways to close the tax gap.

Panel 3: Corporate Board Governance of Tax Risk

Moderator: Deborah Wince-Smith, Board Member
Panelists:

- *Edward S. Knight, Executive Vice President and General Counsel,* NASDAQ
- *Loughlin Hickey*, *Global Head of Tax* , KPMG
- *Neil Traubenberg, VP Corporate Tax, Sun Microsystems*, Tax Executives Institute and Manufacturers Alliance/MAPI

Deborah Wince-Smith introduced the panelists and noted their accomplishments. She said that today's companies are dealing with the challenges of a global economy and all the risk and tax implications that accompany it. She said that Commissioner Shulman has been a leader in articulating the linkages between enterprise risk and tax, and raising the issue of what boards and companies need to know about their roles and responsibilities in this area. She quoted the Commissioner in saying that "Board members are important to making sure that the tax system works well and is worthy of the confidence of the American people."

The panelists agreed that as a result of the recent economic climate, corporate boards have focused more on defining their responsibilities and assessing risk management, as well as a heightened sensitivity about ethical compliance in public companies. In the international arena, there are many competing systems of financial standards, ethical standards, and tax law principles. Boards must be able to handle a high degree of technical complexity.

The panelists' main themes encompassed benefits and risks to having a dialog between corporate boards and tax authorities, best practice considerations, and next steps going forward.

Theme: There are benefits and risks to both the IRS and corporate boards in having a conversation about corporate board governance of tax risk

The panelists discussed benefits to both companies and tax authorities, primarily through the reduced cost of compliance activity and better allocation of resources. Corporations benefit from certainty related to costs, and taxing authorities benefit from positive revenue streams. An added benefit is that trusted relationships have a positive influence on tax administration.

Risks to both companies and taxing authorities include increased compliance costs and system risk that tax laws are not applied fairly across all taxpayers. Risks to corporate boards include finding the time to delve into complex tax matters and concern that board members, not specifically educated in tax issues, would be hesitant to take a position with regard to a complicated tax issue. Boards tend to focus on strategy and process rather than transaction details.

Theme: Emerging best practices point the way to corporate board management of tax risk through appropriate controls and processes

The panelists talked about the U.S. system as locked in stasis, confrontational, time intensive and compliance intensive. They discussed potential models for corporate governance for tax emerging in other countries, such as Chile, Australia and the United Kingdom. The Organisation for Economic Cooperation and Development (OECD) produced general administrative principles for corporate governance and tax risk management in July 2009 that provides a roadmap for building enhanced relationships. The end result is that countries want to provide the fewest barriers to get investment, jobs and high technology in their country and one way to do that is to have a tax system that is an asset to both companies and the tax authority.

Theme: An approach to further engagement would include partnership, trust, transparency, certainty, and enhanced productivity

The panelists discussed next steps in the dialog initiated by the Commissioner. One panelist said that both sides must recognize that a change of behavior is needed. After both the IRS and corporate boards signal that they are willing to change to meet a new dynamic, a next step would be to work closely with those organizations that are prepared to move forward. Panelists agreed that to proceed will require effort to establish a road map or best practices, with the ultimate goal being to establish a platform for an effective, competitive system.

Open Discussion

Moderator: Ed Eck, IRSOB Operations Support Committee Chair

Ed Eck welcomed representatives of two stakeholder groups to the final portion of the public forum. He said they would each present a discussion paper to the Board regarding issues important to their constituents. He said this is important because what the Board learns from stakeholders informs and shapes its conversations with the IRS during the year.

Presenters:

- Tony Tullo, Director of Compliance for Automatic Data Processing (ADP) for the National Payroll Reporting Consortium (NPRC): *Restoring Fairness in IRS Penalty Administration*

The representative of the National Payroll Reporting Consortium discussed the effectiveness of the IRS' penalty administration program. The NPRC suggested that the best use for the IRS program is as a tool to encourage voluntary compliance; instead, NPRC claims the program is too inflexible and that the IRS is not waiving penalties in cases where it has the authority to do so. NPRC urged the IRS to rebalance the administration of the program. Board members discussed the consistency of the program and questioned whether penalty relief actually improves taxpayer perceptions that the tax law is being fairly enforced.

- Larry Gray, CPA, for the National Association of Tax Professionals (NATP): *Oversight of Tax Return Preparers: A Major Step in Reducing the Tax Gap?*

The representative from the National Association of Tax Professionals applauded the IRS' return preparer regulation program, but had some concerns about the risks presented by the high level of taxpayer and practitioner dependence on consumer and commercial software. The NATP also supported the three-year transition period, and urged that the IRS exercise caution and prudence in the selection of vendors to manage the registration and continuing professional education processes. Board members asked about the role of existing tax professional organizations as the IRS implements the new program, and Mr. Gray responded that organizations likely would focus on research and education.

At the conclusion of the meeting, Chairman Cherecwich thanked the panelists for their participation and the meeting was adjourned.