Written Comments of Frances X. Degen, EA
On behalf of
The National Association of Enrolled Agents

IRS Oversight Board Public Forum
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Testimony of Francis X. Degen, EA
President-Elect, National Association of Enrolled Agents[i]
before the Internal Revenue Service Oversight Board
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Thank you, Mr. Chairman and members of the IRS Oversight Board for asking the National Association of Enrolled Agents to testify before you today on the roll of outside stakeholders in leveraging the resources of the Internal Revenue Service. My name is Frank Degen and I am President-elect of the NAEA, which is the premier organization representing the interests of the 40,000 Enrolled Agents (EAs) across the country. EAs are the only practitioners in whom the IRS directly attests to their competency and ethical behavior. Over the years, NAEA has worked to increase the professionalism of our members and the integrity of the tax administration system.

Before I focus on today's topic, allow me to begin with a related issue. We all know that the Oversight Board was established largely to provide strategic oversight to the IRS and to provide stability to the agency. In fact, NAEA supported the creation of the board as a defense against the tendency of policymakers to swing wildly between two extremes: funding taxpayer service to the exclusion of funding compliance programs on the one hand and funding compliance programs to the exclusion of funding taxpayer service on the other. At the end of the day, **both** of these strategic objectives must be adequately funded for the system to work correctly. It is with this in mind that I urge the board to continue to advocate for an adequate IRS budget. An adequate budget includes funding to meet reasonable goals both for taxpayer service and compliance, as well as funding for the technology investments the agency needs to support its strategic objectives in these two areas. Particularly given the recent Congressional and public focus on the tax gap, which IRS estimates at some $311 billion **annually**, the board must work with Congress, as well as with the Department of Treasury and the Office of Management and Budget to ensure appropriate funding. We all need to remember that the IRS collects the lion's share of the government's revenues and interacts with more citizens than does any other government agency. Its budget allocation should reflect this essential position within the government. I think we can all agree that balancing the federal budget on the back of the IRS is a surely penny-wise and pound-foolish endeavor.

The budget issue dovetails nicely with today's topic. While I would argue that IRS has good reason to leverage its external stakeholders without respect to its budget, the recent lean budgets make **meaningful** partnership all the more important. In order to leverage IRS' outside stakeholders, I suggest policymakers consider three actions:

1. **Promote** current Circular 230 practitioners;
2. **Expand** the current system for regulating individuals practicing before the IRS;
3. **Simplify** the Internal Revenue Code.

At a macro level, policymakers need to recognize that the current system already dramatically leverages outside stakeholders. The IRS budget for fiscal year 2005 exceeds 10 billion dollars. Independent academic sources estimate Americans annually spend at least $100 billion, and quite possibly a lot more, on complying with the requirements of our tax system. Keep in mind that this figure includes payments to practitioners, who now prepare over half of all personal returns. Clearly, the government's contribution, while not insignificant, is the tip of the proverbial iceberg when it comes to administering the tax system. Recognizing this contribution will be the first step in understanding how to make it even more efficient.

More specifically, the IRS, along with policymakers at Treasury and Congress, needs to do everything within their means to promote, support, and enhance Circular 230 practitioners and their credential to taxpayers. The IRS is making a major shift toward beefing up compliance. What we can learn from the current system is that the professionalism of the practitioner completing the return at the front end of the process is one of the most important factors in increasing compliance. The old computer adage of "garbage in, garbage out" is certainly apt here. If the information on the return is purposefully incorrect, then the task of ensuring compliance shifts to the agency and overall compliance costs surge dramatically. Let's face it, the IRS has gone through the time and effort via Circular 230 to create a regime that certifies competency and integrity; it needs strenuously to support those practitioners that equally have taken the time and effort to certify competency, to enroll, and to stay current under the program.

In the same vein, IRS publications, instructions, and general public awareness announcements need to educate the public about Circular 230 practitioners and why enrollment is significant. IRS should also specifically warn of the downsides of engaging an incompetent or unethical tax preparer – namely penalties, interest, and the cost of defending against the IRS. We have every reason to believe that a more widespread use of Circular 230 practitioners would have a significant effect on compliance among earned income credit and small business taxpayers, two areas of particular interest to the IRS. A public relations campaign could do as much for compliance as any other expenditure by the agency. It is easy to see such a campaign declaring: "When you assume your barber is licensed, you are probably right, but when you assume your tax preparer is licensed, you're probably wrong. Given that the ramifications of a bad haircut pale in comparison to the ramifications of a poorly or fraudulently prepared return, shouldn't you ask to see your preparer's license?"

Onto our second suggestion: During the last Congress, key members of the tax-writing committees considered whether to regulate all return preparers. NAEA has worked closely with Senators Grassley and Baucus as well as with Congressmen Portman and former Congressman Houghton to ensure that in meeting this goal they do not reinvent the wheel. We believe strongly that if Congress is going to expand oversight of all preparers, its legislative changes should focus on expanding and promoting the current regulatory regime rather than creating a redundant and almost certainly confusing new system. We are neutral on whether all preparers should be required to become Enrolled Agents or some lesser enrolled designation, but do feel strongly that to avoid confusion and, more critically, possible opposition from state accountancy boards, the legislation should direct the Department of Treasury to enroll individuals under a modified Circular 230. Additionally, the legislation must ensure adequate funding to the Office of Professional Responsibility by dedicating all practitioner fees and penalties to its operation. The office must be able to police the 'bad apples' credibly in order for the public to have the utmost confidence that enrolled individuals are of the highest caliber. Simply passing a law that governs hundreds of thousands of preparers without providing beefed up enforcement will merely push the problem preparers underground and make a mockery of the entire effort.

In the area of simplification, President Bush's commission, the Department of Treasury, IRS, and Congress need to remember that for low and middle income taxpayers, the measure of simplification is simple: how long does it take or how expensive is it to do my return every year. For such taxpayers, the focus should be on the practical, not on the theoretical or grand economics. Additionally, and I cannot stress this enough, do not add to the IRS's woes by creating a whole new tax system for them to administer without repealing an old tax regime. For instance, if policymakers are going to institute a value added tax or new consumption tax, they need to eliminate one of the existing systems such as the corporate tax or payroll tax. At the risk

of sounding like Chicken Little, requiring IRS to administer yet another tax could be the last straw for the tax administrator.

Before I close, I would like to make a number of observations with respect to current IRS partnership efforts. IRS should continue to support a number of programs that may appear to provide only strictly customer service, but in reality have real returns for compliance. Immediately after the passage of the IRS Restructuring and Reform Act, the IRS instituted a significant program of public liaison with local practitioners around the country. These forums made a real contribution to improving efficiency in helping taxpayers comply with the tax laws. Recently, our members have seen these meetings decrease in both quality and quantity. The result is that communications or liaison meetings are merely opportunities to be talked at, rather than opportunities to communicate about opportunities and challenges that the EAs see when working with taxpayers and IRS. This shortsighted movement will only increase downstream costs for the agency as it attempts to respond after the fact to problems that could have been resolved cheaper with better communications upfront.

Another example of front-loaded investment with tens of millions of dollars of return has been the e-Services program. By allowing practitioners to go online to resolve many mundane taxpayer problems, it has freed up thousands of staff hours at the agency and saved taxpayers millions of dollars worth of practitioner costs. It is our sincere hope that the IRS will continue to expand this program with new technology investments and by opening it up to all Circular 230 practitioners. While expanding electronic filing continues to be an important priority, it should not stand in the way of good tax administration. Once again the agency needs to do everything within its power to strengthen and enhance the enrolled credential rather than inadvertently promote a new credential, in this case Electronic Return Originator or ERO. Our members have noticed a marked increase in advertising that seems to suggest that being an ERO indicates some level of competency in the preparation of returns. This is a serious problem for the system.

In closing, Mr. Chairman and members of the board, the National Association of Enrolled Agents and its members stand ready to work with you and Commissioner Everson to do their part to improve voluntary compliance and trim the tax gap. It is up to policymakers, however, to do their part to encourage the use of Circular 230 practitioners, expand and enhance the current system of regulating practitioners, and simplify the tax system for all taxpayers. Remember to maintain lines of communication, including new investments in upgrading the existing e-Services program.

Thank you and I stand ready to answer any questions the board may have.

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[i] The **National Association of Enrolled Agents (NAEA)** is the professional society representing Enrolled Agents (EAs), which number some 40,000 nationwide. Its 11,000 members are licensed by the U.S. Department of the Treasury to represent taxpayers before all administrative levels of the Internal Revenue Service (IRS), including examination, collection and appeals functions.

While the Enrolled Agent license was created in 1884 and has a long and storied past, today's EAs are the only tax professionals tested by IRS on their knowledge of tax law and regulations. They provide tax preparation, representation, tax planning and other financial services to millions of individual and business taxpayers. EAs adhere to a code of ethics and professional conduct and are required by IRS to take Continuing Professional Education. Like attorneys and Certified Public Accountants, Enrolled Agents are governed by Treasury Circular 230 in their practice before the IRS.

Since its founding in 1972, NAEA has been the Enrolled Agents' primary advocate before Congress and the IRS. NAEA has affiliates and chapters in 42 states. For additional information about NAEA, please go to our website at www.naea.org.