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## TRUST COALITION<sup>1</sup>

### EXECUTIVE SUMMARY TO TABLE OF CITED ABUSES

**1. Introduction.** The testimonies presented at the June 22, 2004 hearing of the U.S. Senate Finance Committee entitled “Charity Oversight and Reform: Keeping Bad Things From Happening to Good Charities” and the accompanying written submissions to the hearing record (collectively, the “Hearing Record”) cited a number of alleged abuses by nonprofit organizations. In our review of the 429-page Hearing Record, we identified 94 alleged abuses which are summarized in the attached TRUST Coalition Table of Cited Abuses.<sup>2</sup> The 94 cited alleged abuses range from general descriptions of perceived problems in the exempt organizations sector to specific incidents of abuse by identified charities. Of the 94 alleged abuses cited, we found that current laws, regulations, and reporting requirements already address all but 2.<sup>3</sup>

**2. Overview of Laws, Regulations, and Reporting Requirements Addressing Alleged Abuses Cited in the Hearing Record.** The following are some of the current laws, regulations, and reporting requirements that address the alleged cited abuses cited in the Hearing Record:<sup>4</sup>

- **Form 990: Information for Identification of Abuse Must be Reported On Form 990; Penalties for Failure to File Form 990, Under-Reporting, or False Reporting:** 67 of the 94 cited abuses.
- **Private Inurement and/or Private Benefit, Subject to Intermediate Sanctions and Self-Dealing Penalty Taxes and/or Revocation of Exempt Status:** 53 of the 94 cited abuses.

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<sup>1</sup> TRUST (Tax Restraint Ultimately Serves Trust) provides research for several faith-based tax exempt organizations.

<sup>2</sup> While the Table attempts to list only once specific abuses referenced by more than one hearing participant or written contributor to the Hearing Record, it is possible that there is some duplication among the 94 alleged abuses cited given that the descriptions of many of the cited abuses were not comprehensive.

<sup>3</sup> Given the existence of over 1.8 million nonprofit organizations in the U.S., it is unclear that the 94 cited abuses represent any form of widespread or systematic pattern of abuses by exempt organizations. The examples of abuse cited certainly pale in comparison to the vast scope of legitimate and beneficial charitable activity undertaken by U.S. tax exempt organizations.

<sup>4</sup> This is not intended to be an exhaustive listing of all laws, regulations, and reporting requirements that may be applicable to the cited abuses, and primarily focuses on federal law requirements. An exhaustive listing would not be possible given that the descriptions of many of the cited abuses were not comprehensive.

- **State Law Compliance Issue:** 12 of the 94 cited abuses.
- **Tax Shelters: Abuse Subject to IRC Section 6111 Reporting Requirements and Section 6700 Penalties:** 11 of the 94 cited abuses.
- **Form 1023: Information for Identification of Abuse Must be Reported On Form 1023:** 10 of the 94 cited abuses.
- **Form 8283/8282: Valuation of Property Contributions:** 4 of the 94 cited abuses.
- **IRC Section 170 Requiring Completed Gift Under Full Discretion and Control by Charity for Tax Deductible Treatment:** 4 of the 94 cited abuses.
- **IRC Section 4945 Expenditure Responsibility Requirements:** 3 of the 94 cited abuses.
- **IRC Section 4944 Jeopardizing Investment Prohibitions:** 3 of the 94 cited abuses.
- **Patriot Act:** 3 of the 94 cited abuses.
- **Penalties for Failure to Withhold and Remit Employment/Payroll Taxes:** 3 of the 94 cited abuses.
- **Below-Market Loans: IRC Section 7872 Requirements:** 2 of the 94 cited abuses.
- **IRC Section 4942 Mandatory Distribution Requirements:** 1 of the 94 cited abuses.
- **Form 1120-POL Political Activity Filing Requirement:** 1 of the 94 cited abuses.
- **Alleged Problem Not Addressed in Current Law:** 2 of the 94 cited abuses.<sup>5</sup>

**3. Conclusion.** Our review of the June 22, 2004 Hearing Record indicates that the vast majority of concerns and alleged abuses related to tax exempt organizations that were presented to the Senate Finance Committee can be remedied under existing law. Thus, the testimonies and written submissions in the Hearing Record not point to a need for new laws regulating the tax exempt sector. Rather, the Hearing Record indicates that there may be a need for additional financial resources for increased efficiency and assertiveness in enforcing existing laws. Government should continue to encourage transparency, full disclosure and accountability, but should not overburden the growth of the charitable community with new requirements where it has not been fully demonstrated that they are necessary.

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<sup>5</sup> The two cited issues not addressed by current law are: (1) IRS employees are prohibited from sharing information with state charity regulators, leading to absurd communications re: anonymous charities; and (2) only 12% of the grant dollars given away by the 100 largest foundations (based on total giving) were for general/operating support. In the case of the latter, it is not altogether clear what is the perceived abuse.