

INTERVIEW WITH IRS COMMISSIONER MARK EVERSON

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MARK EVERSON

INTRODUCTION: Commissioner Mark W. Everson, who was confirmed as the 46th Commissioner of Internal Revenue on May 1, 2003, brings to the position both a long record of public service as well as significant management experience in the private sector. Commissioner Everson began his career as a CPA with Arthur Andersen after graduating from Yale, where he majored in history, and NYU Business School, where he received a Master's degree in accounting. Immediately before his appointment he was serving as Deputy Director for Management at the Office of Management and Budget and had previously served as controller of the Office of Federal Financial Management. Under the Reagan administration, Commissioner Everson held several positions at the U.S. Information Agency and the Department of Justice, including Deputy Commissioner of the Immigration and Naturalization Service. His private sector experience includes serving as group vice-president, finance, of S.C. International Services, a privately owned Dallas-based food service company, and as an executive of the Pechiney group, a French industrial group, in the U.S. as well as in France and Turkey.

Q Good morning, Commissioner. Thank you very much for meeting with us today.

A Thank you.

Q Are there any remarks you would like to make at this time?

A I just would say this is an important time for the IRS. In the mid-to late 90s, there was a lot of concern about the services that the IRS was providing or failing to provide to taxpayers and to practitioners. There were also concerns, some of them unfounded, about intrusion of taxpayer rights by Service enforcement personnel. The combination of these two factors—the assertion of charges, some of which were unfounded, and a real lack of service that was in the system—gave rise to extensive Congressional hearings and a new law, the IRS Restructuring and Reform Act of 1998. In the last six years, the IRS has worked hard to improve services to taxpayers, and

while it has done that, it has been reorganized. It is now organized around taxpayer segments. In bringing up those service levels, regrettably this single-minded focus resulted in a real decrease in enforcement. This is an important time now because we are re-centering the agency to have a balanced approach that recognizes the

importance of service but also is augmenting enforcement so that we're doing both. We say that service plus enforcement equals compliance. Getting this balance right, making sure we're adequate in our attention to both missions while still respecting taxpayer rights, is something that's very important for us.

IRS Enforcement Revenue



Enforcement revenue provides a greater than 4-to-1 return from a \$10.2 billion IRS budget.

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Q Thank you. Could you describe your senior level staff and the functions they perform?

A After I came to the IRS, I created a second deputy position. So there are two Deputy Commissioners. We have one Deputy Commissioner for Services and Enforcement who supervises the four business units organized around the taxpaying segments like Large and Mid-Sized Businesses, as an example, plus Criminal Investigations, plus our Office of Professional Responsibility. The current deputy is Mark Matthews, who has a strong law enforcement and managerial background.

The other job is a structure that's not, to my knowledge, in use anywhere else in government right now, but I think it's working very well. We have a Deputy Commissioner for Operations Support where all of the staff functions are integrated under one person at the deputy level. That's the CIO; the Human Resource job; Mission Assurance, which is our security; the Chief Financial Officer; and something we call Agency-Wide Shared Services, which are things like procurement and facilities management. The person that we put in charge of that, John Dalrymple, was running one of our big business units before he came over to do this in June of 2003. This has integrated the efforts of the staff functions and made them much more supportive of the true interest of the business units, so you can drive efficiencies and performance much more. This is starting to work, and it supports our three strategic objectives: 1) improving service, 2) enhancing enforcement, and 3) modernizing the IRS. This change makes the modernization efforts, both in terms of our workforce and our IT Systems, much more manageable.

I have several operations of the agency that report directly to me because I think that that's appropriate because of the nature of their work. That includes the Chief Counsel, the Taxpayer Advocate, Appeals, EEO and also Research, as well as our

Communications and Liaison Shop, the people who work with outreach to stakeholder groups and also with the Hill and the media.

Q The President has stated that he intends to pursue fundamental tax reform. What role in this process will you and the IRS play, and what reforms do you foresee?

A I think it is too early to tell what reforms will actually grow out of this process. I am heartened that the President has identified tax reform as a major second term objective. I think one element of this is clearly simplification. We believe that when we say we want to provide better services to taxpayers that service means helping people understand their obligation and facilitating participation in the system. Clearly, an important component of that is simplification and having a system where people know what their obligation is and how they have to comply with the law. So we are all for reform. Our role would be not to drive a particular policy option. It will be to help the Treasury Secretary and the people who look at this assess the different policy options from a point of view of administrability by the IRS and also from a perspective of whether changes will help increase compliance.

Q Do you have any concern that the LMSB program to obtain currency of audits will result in agents missing important issues?

A I think currency is an important initiative. Compliant taxpayers have every right to expect that their returns can be closed out in a shorter period than 5, 6, 7, or 8 years, which is the case right now. On the other hand, it's too late to address problem compliance areas if they have already been in existence for 4 or 5 or 6 years. So we need to get faster. We need to have more of a real-time audit process. This will require a lot of change. We are going to be very careful to make sure that we don't compromise the integrity of the audits.

Our professional people, I believe, can do this work without missing what is a material problem in a return. It may, however, involve some adjustment to understand that nailing down every last nickel is not necessarily as important as doing the work, identifying the big issues promptly, handling the material items and then touching another taxpayer. Right now, if you look at corporations in the segment of \$10 to \$250 million dollars of assets, the audit coverage rate is once every 20 years. That's not an adequate level. We need to do more. So one way to do that is to improve the currency of our work, and, in fact, if you look at our enforcement results for fiscal year 2004, we were able to drive down the time devoted to the average elements being audited but at the same time drive up the tax assessed. That's what we need to do.

Q You have been an outspoken critic of tax shelter promoters and professionals who advise them. Do you think that the criticism that the IRS took from Congress prior to the 1998 restructuring had anything to do with decreased enforcement that permitted some of the shelters to proliferate?

A I think there was a combination of factors that led to the proliferation of these abusive shelters. I think clearly over a period of decades there's been a change—what I call an erosion—in the standards and professional ethics of some, not all, but way too many, attorneys and accountants who work in this area. When I started my career in the mid-70s in New York with Arthur Andersen, which at the time had an impeccable reputation, the standards were clear. Your number one obligation as a professional was to help your client adhere to professional standards and make sure that they followed the law. And then, if you could, you attempted to differentiate your firm, whether it was Arthur Andersen or PriceWaterhouse or Ernst & Ernst or Arthur Young or Deloitte Haskins themselves or any of the big New York law firms, whatever

it was, it was all the same deal. Everybody understood what their role was and that was different from the role of an investment banker or someone else who was taking financial risk in a transaction and interest in a value creation.

Now what has happened is that over a period of time that model has changed to where the discussion has been about risk management and value creation. I believe that that shift has damaged those two important professions, accounting and the law, and it has resulted in a series of incremental changes. And no one stood up and said, "Hey, this is getting to a bad mix where people are tempted to do more than they should in some of these areas." The other thing that happened here was the penalties for failing to comply with things like IRS registration and list maintenance requirements weren't adequate until just recently, when the new Jobs Act was enacted. So all this came together at a time when there was what some call a culture of greed in terms of what was going on in the country, and a lot of bad products were created. A great example is Son of Boss, which is clearly way over the line; everybody agrees on that, nobody defends Son of Boss.

The overhang from the congressional hearings clearly contributed to a reticence on the part of the IRS to do its job. We had to improve services, we worked on that, but, at the same time, it wasn't lost on some of our front-line personnel that there was a risk associated with enforcing the law, at least in some corners. I think that is different now. I think that in the last couple of years that corner has been turned, and there's a bi-partisan recognition on the Hill now that the IRS has to enforce the law, but it has to provide services to taxpayers. That's why our working equation is service plus enforcement equals compliance—not service or enforcement. It's got to be centered right down the middle, and our activities have to respect taxpayer rights, which are very important.

Q You are the second Commissioner who did not come from a tax background. What is your opinion of the movement away from that model towards selecting Commissioners?

A I think that one of the important contributions of RRA '98 was to establish a five-year term for the Commissioner. That bridges, obviously, presidential terms, potentially parties, and sends a strong signal to the bureaucracy that the Commissioner is going to be around and that when he or she articulates an agenda he'll be there, or she'll be there, with enough time to get it done. And if you look at what the IRS has been doing over the course of the year 2004, we've been building our program and starting to execute it. Around town, in some instances, that's been pretty tough because people were waiting to see what would happen with the election. So I think that's a good reform. The other piece of it is a recognition that it's a large organization, it's multifaceted, it has over 100,000 people, over a \$10 billion dollar budget. It's a large management leadership challenge. I think that you need to have someone who's comfortable taking on those challenges in the job. That doesn't mean a tax practitioner couldn't have that set of skills, but it might mean that someone who is primarily interested in the interpretation of the Code or the development of policy per se wouldn't be as inclined to address some of the fundamental management issues that are so important to delivering good service and delivering adequate enforcement.

Q As the IRS increases its emphasis on enforcement will it decrease its pursuit of improved customer service?

A We're going to strike a balance between providing both service and enforcement, but the trick here is—in a resource constrained environment—we're not going to be able to invest more money into services, so we need to make productivity

improvements, restructure our workforce, and get more out of our technologies. It's going to be tough to do this, the President asked for more money for the 2005 budget; Congress failed to provide much of that request. I think that was shortsighted.

Q What kind of impact has the budget situation and long-term decline in staffing had on agency operations?

A The front-line enforcement staff—that is to say revenue agents who do audits, revenue officers who collect monies due and criminal investigators who prepare cases for possible prosecution by the Justice Department—they all decreased by over 25% in the several years following 1996. We're starting to bring those back up for the very first time at the end of the latest fiscal year; we had more enforcement personnel on board than the year before. We are augmenting the enforcement activities through better prioritization of our work, through the same kind of business and process reengineering that we did on the services side, and we're seeing results. Our enforcement revenues, those are the monies that come back into the government, they increased significantly, over 15% in the year 2004. They increased to over \$43 billion dollars. That's greater than a 4 to 1 ratio compared to our whole appropriation, which includes our outreach and educational activities, not just our enforcement work. So there's a very big return here, but it's not recognized in the political process because of the budget scoring—that's to say the future budget deposit projections don't recognize the extra revenues we will get from investing in that personnel. It only recognizes the fact that we're going to spend an extra \$400 million on enforcement. That's nuts because this is the top line of the government, and in a time of budget deficits you clearly want to make sure you're adequately invested to bring in those monies that are due. We're not talking about getting money that is not due to the government. These are

monies that are due in accordance with existing law.

Q Should the Hill treat the IRS differently because it takes in more than it spends?

A Because we're so large, people say, "Well you must have the money"—that's another reason why it's so important to modernize it. I have to convince the Congress, and I have to convince the White House, OMB and Josh Bolton that I'm running the agency effectively. Because otherwise they're going to say to me, "Mark—you guys are just wasting money everywhere. Why should we give you more until you demonstrate that you're running it efficiently." So there are two challenges. You have to run the agency correctly, and you need to run the agency correctly to demonstrate you're spending the taxpayer monies wisely before you can actually ask for more funding. That's why these two strategic goals we have of improving services and enhancing enforcement are supported by modernization, which gets to the efficiency question both in terms of the Constitution, your work force and the architecture and the effectiveness of your systems.

Q What impact do you think the changes to Circular 230 will have on taxpayers?

A We have four strategic priorities within the overall enforcement role, and the second one is to assure that attorneys, accountants and other tax practitioners adhere to professional standards and follow the law. The broadening of our authority in the new Jobs Act will certainly contribute to better oversight in the practitioner community. So I think the changes in Circular 230 will be helpful, and I frequently get feedback from people who are happy about this because they feel that they've been placed at a competitive disadvantage in recent years by those who have been more aggressive—and in some cases, improperly so—at promising the elimination of tax, which just wasn't proper. So I think these are good changes; I'm really pleased that the Congress did that and also that it put in the penalties that it did in the registration and list maintenance requirements. I think this will both increase our ability to do our job and, at this point, the penalties will cause people to think twice. If you go back to the Levin hearings in the fall of 2003, that clearly demonstrated that in some circles there was a feeling that even if this is wrong, even if it's illegal, it doesn't

matter because the IRS isn't going to come after us and even if it does, the penalties are de minimis. There are actually written documents that said this. So that's a pretty shocking thing for professionals to say that, let alone write it down. What it says is that we got to a point in our system where it's like driving by a state trooper. You see that state trooper under the bridge, and you don't slow down; you say, "It doesn't matter, I can just outrace that guy." Now that is pretty blatant. So I think that the changes in Circular 230 and the changes in the penalties are, sadly, clearly documented as being necessary.

Q Any concluding thoughts?

A I would say that I appreciate the role of the ABA Tax Section. It plays an important role in the process. It provides regular feedback on a series of issues. I meet with the leadership every several months, and I think we have a good, healthy dialogue. We don't always agree on everything, but I feel that we do have a good dialogue, which helps me understand what the profession thinks is important in terms of how we're administering the tax code. Thank you. ■

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