

OPINION POINT

Restoring Trust in the Internal Revenue Service

By Frank Wolpe*

Internal Revenue Service Aversion to Bias Backfires in Cincinnati

Since the highly praised 1952 first-ever Internal Revenue Service Reorganization, by the Truman Administration, the unbending practice of Service employees, managers, and senior-executives has been to scrupulously prevent any political targeting of organizations or individuals. Even so, this conscientious aversion to anything biased seems to have recently backfired.

According to news reports, it all began with multiple instances of taxpayer creep into the political realm of “gaming the tax-exempt system,” which was invited by bad regulations and was followed by a bumbling National Office response. To further complicate developing public and political outrage from what may be called the “Cincinnati episode,” the whole event contributed to a lessening of public trust, attributable in large part to an overly remote and centralized, even hierarchical, “stovepipe” organizational structure.

Management authorities define a stovepipe organizational structure as one, like its namesake heating pipe, which tends to restrict the flow of information, like heat within a plumber’s pipe, to up-down movement through its long narrow shell, which inhibits or prevents cross-organizational communication. Many large organizations (especially governmental) are, or risk, falling into, a stovepipe pattern. Even a modified stovepipe pattern can be harmful if it tolerates “end-to-end” remote distances between management and staff as well as segregating isolation from other branches of the organization. The Service has been run with a stovepipe organizational structure since 1998, but notably never before.

Cincinnati may have been a bad event, but it has also been a good lesson because Service stovepipe problems became obvious. Still, too many people today are focused on the event rather than its comprehensive solution, which rises like the morning sun. Its clarity includes: (1) carefully dealing with apparent causes—the statutes or regulations as well as individual management failures, and (2) fixing another less-apparent, but diagnosable and unambiguous cause—Service structural and accountability weakness.

This Opinion Point deals mostly with that weakness. As a vivid case in point, the Cincinnati episode illustrates just how otherwise good people actually do stumble inside overstretched and too isolating management stovepipes. This is especially true when a few single-function, narrowly-focused, National Office senior executives are at the helm, not all of whom are adequately prepared for far away field executive responsibilities. Then, as if to purposefully magnify the unfortunate damage to public confidence, the

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* Professor Emeritus, Bentley University, Waltham, MA; former Member, IRS Commissioner’s Advisory Group (CAG); former Special Consultant on IRS Matters, President’s Grace Commission; Past-President, Federal Bar Association, Boston. This Opinion Point is abstracted from a White Paper, *Lost and Found: Telling the IRS Story about a Recent Cincinnati Episode with a Call to Bring Back Geographic Cohesion, Accountability and Balance through New “Field Executive Offices” and a Renewed National Office.*

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FROM THE CHAIR

Doing Good for Others and Yourself: Tax Section Pro Bono Efforts

By Michael Hirschfeld*

While many people would not think of pro bono and tax in the same breath, the need for tax advice for the tax-exempt and low-income sectors can be immense. The tax law is replete with benefits afforded low-income persons; however, the complexity built into those provisions can be daunting for many tax professionals and totally baffling to individuals who do not make this their livelihood. The tax-exempt sector relies on our advice to get formed and approved as a tax-exempt organization. However, that is just the start of the numerous issues a tax-exempt entity may need to navigate. The Tax Section has been marshalling the talents of its members in numerous ways to address those concerns, and we hope to enlist more individuals in our efforts, so let me tell you what we are doing.

We have a Pro Bono and Tax Clinics Committee headed by George Willis (gwillis@chapman.edu), and they are always looking for more members. Our efforts do not stop there and if anything discussed below intrigues you, we have a full time Pro Bono Staff Counsel, Laura Newland (laura.newland@americanbar.org), who can help get you in the right direction.

We encourage our members to volunteer as tax preparers for Volunteer Income Tax Assistance ("VITA") sites across the nation. Anyone can volunteer no matter where they live. We have created an Adopt-A-Base program that works with the Armed Forces and the IRS to provide training for military VITA volunteers who work on military bases across the world. We are always looking for a few more law firms or groups of individuals to adopt a base in their geographic locale to teach the volunteers what to do and answer their substantive

questions. Budgetary cuts have made this a prime need for the military. Regardless of your type of practice or experience, there is a place for you.

Approximately 70% of Tax Court petitioners across the nation are *pro se*. The Tax Section assists the Tax Court, the IRS, low-income taxpayers, and local bar associations in running calendar call programs. This task is not a D.C.-centric job, but rather spans more than 70 different locations across the country. Our members work on specific cases, and also assist in efforts to make the process easier for taxpayers and their advocates to act. Apart from doing good, this is great hands-on learning for those who want to litigate.

We work with Low Income Taxpayer Clinics ("LITCs") across the nation and help to connect attorneys desiring to help with their local LITCs. We have created five annual scholarships for non-academic LTC clinicians to attend Tax Section meetings, which also cover travel and a per diem allowance. We publish a comprehensive handbook entitled *Effectively Representing Your Client Before the IRS* (our "LITC manual")—a complimentary copy of which is provided to every LTC in the country. Every May, we host a substantive Low Income Taxpayer Representation workshop at our D.C. meeting, and every December, in connection with the IRS's annual LTC Conference, we organize a separate workshop for the clinicians who come in for that conference (with thanks to Bingham McCutchen LLP, which sponsored this for us the past two years). I encourage you to read "Taxation with Representation: the Creation and Development of Low-Income Taxpayer Clinics" by Keith Fogg, which appears in the Fall 2013 issue of *The Tax Lawyer*.

This article traces the 40-year history of the LITCs, including the supportive role that the Section has played since their beginning.

Christine Brunswick was our beloved Executive Director for more than two decades and left us way too early last year. To forever preserve Christine's vision and legacy, we have renamed the Section's Public Service Fellowship in her honor. The fellowship funds two fellows each year for a two-year term to work full time at a host organization of their choosing. We have fellows working with the National Women's Law Center (Washington, D.C.), SeniorLAW Center (Philadelphia), Center for Economic Progress (Chicago), and the University of Washington Law School, Federal Tax Clinic (Seattle). Their projects have included direct legal representation of low-income taxpayers, real property tax foreclosure assistance, probate assistance, outreach to underserved communities, and collaboration with other nonprofits and policy initiatives.

Janet Spragens was another hero of the pro bono sector whose memory is immortalized by the Section's Janet R. Spragens Pro Bono Award, which recognizes an individual or law firm for ongoing commitment to pro bono activities. I am pleased to announce that the recipient of the 2014 award is Peter J. Panuthos, Chief Special Trial Judge of the Tax Court. He is being recognized for his efforts to assist *pro se* taxpayers. The Section will present the award to Judge Panuthos in January at its 2014 Midyear Meeting in Phoenix.

I hope you will contact Laura Newland on the staff, any one of our officers, or me to find out more about how you can get involved. ■

* Dechert LLP, New York, NY.

INTERVIEW

Roy Blough

By Jasper L. Cummings, Jr. and
Alan J.J. Swirski*

Roy Blough, an economist who served in the Roosevelt and Truman administrations, died in 2000 at age 98. From 1938 to 1946, Mr. Blough was Director of Tax Research at the Treasury Department and Assistant to the Treasury Secretary. From 1950 to 1952, he was a member of the president's Council of Economic Advisers. He wrote two books, one of which is titled *The Federal Taxing Process* (1952). Back in those days tax experts still thought they could encompass the entire federal tax in one volume; for example, Randolph Paul tried it in *Taxation for Prosperity* (1947). But Blough's book is in a class of its own: 480 small-print pages, none of which details specific code sections; it's all about the process and the policies. The following imagined interview is drawn from that book.

Q What is the basic problem of tax policy formation?

A The resolving of "widespread, ... persistent, fundamental disagreements" about federal tax policy among tax policy makers (*i.e.*, congresspersons, Treasury) is the basic problem of tax policy formation, and hence of writing tax laws.

Q What do you mean by federal tax policy?

A Tax policy in practice means a combination of two things: first, identifying desired objectives or purposes and second, determining what tax law provision will reach that objective.

Q So are tax changes usually proposed with these two elements in mind?

A No. "Tax proposals thus commonly do not reflect the ultimate goals of the taxpayers who make them."

Q What types of people make tax proposals?

A The most common sources of proposals are people who expect some advantage to themselves. On the other hand "[t]he student of taxation, after years of specialized study, can scarcely be restrained from formulating policy recommendations, even when he has a realistic view of their probable futility. The fanatics, a numerous breed, to each of whom has been revealed the unique formula for economic salvation, have a self-imposed duty to proclaim their various cure-alls on every occasion to all who will listen."

Q Don't most business groups proposing tax changes say they will be good for the general public?

A They generally say that, but the "groups representing business interests ... to a greater or lesser degree also reflect the interests of the higher-income groups.... [T]heir programs are put forward as being necessary for business prosperity and the promotion of larger incomes for everyone. There is, of course, a great deal of common interest between large income and business groupings, if for no other reason than that the larger incomes are often received by persons engaged in business."

Q How about professional organizations?

A "Since recommendations of bar associations in general support the interests of their clients, actual and prospective, their testimony is on the side of the larger-income groups, leaving something to be desired in professional objectivity."

Q Do you find that business interests tend to support each other in tax lobbying?

A Yes. An example is oil and gas preferences by general business groups. "Does this support mean that businessmen believe that such a subsidy promotes the larger good and that their immediate tax losses will be offset thereby? Or do businessmen in general believe that they pay no higher taxes as a consequence because of the subsidies to oil and gas industries? Or does their view reflect the hope that eventually these subsidies can be used as an entering wedge to secure comparably favorable treatment for other forms of business? Or is it merely an example of the class consciousness that exists among businessmen with respect to taxes?"

Q Do you see a common theme in tax lobbying (in 1952)?

A Yes. "Views that are almost universally presented by taxpayers to policy makers are, (1) taxes should be lower than they are, (2) government expenditures should be lower than they are in total, and (3) the budget should be balanced. With few exceptions, the taxpayers who appear before congressional tax committees express no doubts that a general decline in government demand for goods and labor would be followed by at least an equivalent expansion of private demand. To be sure, the same taxpaying groups are not infrequently lobbying before other committees for an expansion of government expenditures that would directly affect their markets."

Q Do you find the best tax lobbyists to be those most knowledgeable about taxation?

A No. "The persons who successfully practice this art become experts in knowing what causes a policy maker to decide a tax issue in a certain way, and use that knowledge to achieve their ends."

* Jasper L. Cummings, Jr., Alston & Bird LLP, Raleigh, NC, and Washington, DC, and Alan J.J. Swirski, Skadden Arps Slate Meagher & Flom LLP, Washington, DC.

Q Don't tax lobbying organizations bring to the attention of Congress important information that might otherwise be overlooked or not properly emphasized?

A "However public spirited the arguments of the taxpayer may appear to be, we must face the fact that they are likely to be rationalizations constructed for the purpose of influencing action. That they may also contribute to the process of seeking out and establishing the truth is largely incidental. No suggestion is intended that the witnesses do not believe their arguments; self persuasion is not a difficult task."

Q Do you believe that correct tax policy can strongly influence the national economic life?

A Yes and no. "The importance of tax policy can be exaggerated. No amount of tax reform would usher in an economic millennium."

Q Well how about a national sales tax or a VAT? Wouldn't it tend to increase productivity to the extent it relieved business from income taxation?

A That is certainly the standard argument that was heavily promoted during and after World War II. However, labor unions pointed out that "the sales tax would cut down production because it would decrease consumer demand that is the basic requirement for production."

Q Well, doesn't an increase in personal savings increase business investment and thereby increase production?

A Sometimes that statement is correct, but "every argument contains elements of both truth and error."

"The argument that a tax change should be adopted because it would increase savings would support the proposal to make the tax change if (1) insufficient investment were limiting the level of production, and (2) lack of savings were limiting the level of investment. But if either factor were

missing, the argument would not be relevant to the proposal—or at least it would not support the proposal.... If ... consumer demand were expected to be the factor limiting production, a tax shift designed to increase the level of savings—thereby reducing consumer demand—might result in lowering, not raising, production."

Q What is the proper role of tax experts in tax policy making?

A "In a democracy the choices that must be made among competing tax objectives and conflicting interests can be made, in the last analysis, only by the general public. Most persons, perhaps, feel that their own value judgments are the proper ones for everyone, and tax experts are not exceptions. If experts were to make the basic policy for any considerable period of time, it would undoubtedly become too far removed from the desires of the public to be acceptable."

Q How do you feel about tax study commissions?

A "To put a committee of experts on a problem that involves major issues of tax burden distribution ... will not produce a solution in the scientific sense, because it is not a problem on which all competent persons can be expected to agree...."

"There is a way in which tax study committees can be genuinely useful in dealing with major tax issues. They can face the problem squarely, recognizing the mixed kind of situation with which they are dealing. They can dig out and describe the issues, search for underlying harmonies, distinguish between long-run and short-run interests, determine what considerations are involved ... and leave for political action those matters on which there can be no genuine agreement." Alternately, a study commission of legislators can be like a "little legislature."

Q In light of your cautions about experts and commissions, how should tax policy choices be made?

A Frequently tax proposals have conflicting consequences on national prosperity and fairness of the tax distribution. "But in the end if the proposed tax change involves both a desirable effect and an undesirable effect, we must decide which is more important under the circumstances...."

"Those words 'under the circumstances' are important. It is meaningless to try to decide whether *in general* tax fairness is more important than prosperity, and vice versa."

Q Turning to tax administration, what improvements would you recommend in interpretation of the tax laws by the Treasury and IRS?

A Criticisms of tax law interpretation are legion. For example, in 1945 the Tax Section of the ABA issued this attack on the Bureau: "(The prevailing Treasury policy is) to write ill-considered regulations or to delay the enunciation of rules while litigating on both sides of a question; to drop the appeal of a contest lost at a lower level, at the same time refusing to follow the precedent so established; to continue uncertainty by seeking a conflict despite agreement among two or more circuits; and to ignore adverse decisions of the Supreme Court itself except by trying, time and again, to persuade the Court to reconsider the question."

Blough said, "A better alternative to judicial legislation would seem to be a more complete and courageous use by the Bureau of its rule-making power, supported by the courts and by Congress. The Bureau is closer to the problems and has more technical expertness than either Congress or the courts can expect or be expected to have.... [T]he improvement of the tax policy making process would be furthered if the Bureau wrote more definitive regulations, and if the courts upheld the Bureau's regulations more completely." ■

entire Cincinnati episode continues to be relentlessly politicized by a few critics who pay little attention to the full record of facts and law.

Nevertheless, it has been called a scandal by well-meaning people. So, there is now a lingering perception of a weakened tax collector, which provides us with an historic opportunity for focused systemic change. In other words, an unfortunate and unwelcome episode has morphed into a welcome and potentially historic opportunity. But, first, consider two overarching questions:

- Is it in the national interest for our fellow citizens to believe their Internal Revenue Service has been corrupted? The answer is, “NO, BECAUSE IT’S A BRAZEN FALSEHOOD.”
- Can we still make some good come from a recklessly fueled firestorm? The answer (to borrow a political phrase) is, “YES, WE CAN!”

“Progress Is Impossible Without Change.”

—G. B. Shaw

This Opinion Point not only examines fallout from the recent Cincinnati episode, but it makes far-reaching proposals to revisit and reform the 1998 organizational restructuring.

In a never adequately explained and never plausibly justified brush-aside, those in charge at the time traded away reliably helpful state-based District Offices and their District Directors. It was done in an uneven exchange for sprouting four National Office, less-helpful, management stovepipes. What makes this so important is that, without such an uneven exchange, which never needed to happen, the Service today would be a much more effective agency and the Cincinnati episode, incidentally, might never have happened.

The Painful Birth of Internal Revenue Service Stovepipes

Since history is always consequential, we look back to seeds planted in 1998 and those needlessly contrived separate, but equal, elongated stovepipes or silos, when each was built to overstretch from their remote National Office base to across the nation and world. Referred to as Operating Divisions, each by design became an inherently segregating fiefdom. They are currently called: (1) Wage and Investment; (2) Large Business and International; (3) Small Business/Self-Employed; and (4) Tax-Exempt and Government Entities.

Notably, what this break-up did, without meaningful utility, was to engineer a multi-year unnecessarily painful division of a geographically cohesive and nationwide District Office examination function, well known for its progressive levels of expertise and ladders to advancement and specialization. What the Service got instead were four stovepipes, astonishingly each headed by a titled “Commissioner,” which, by itself, was chronically symptomatic of isolation. Indeed, this multiplication of full Commissioners in one headquarters building has always been perplexing.

What’s more, to some Service insiders at the time, the idea of National Office command and control “stovepipes” was simply an effort to run a big business like a small business (run out of one big building in Washington, D.C.). Yet, the Service is no small business! Notably, others, back in 1998, also thought stovepipe restructuring seemed like no less than an ill-advised effort to “destroy the village to save the village.”

That Whole (1998) Reorganization Ought to Be Re-examined

On October 7, 2013, former Commissioner Mortimer Caplin reflected on the imminent confirmation process of

another new Commissioner. In that context, he said, “That whole (1998) reorganization ought to be re-examined,” a stance which is consistent with the premise of this Opinion Point. See *Accounting Today*, *WebCPA*, www.accountingtoday.com/news. An even more comprehensive call for reform is found in William Hoffman, *15 Years After RRA ‘98: Time to Re-structure the IRS?*, *Tax Notes*, Aug. 12, 2013, at 647.

Recent events once again place the Service at a crossroads in its history. In the 100 years of our system of federal income taxation since 1913, there have only been two major Internal Revenue Service reorganizations. The first was the Truman Plan in 1952. It established senior-executive accountability with state-based, then called “grass roots,” presence. The second reorganization came 46 years later in 1998. It fundamentally reversed and diminished that well-crafted Truman accountability and presence. Now, troublesome events, spanning the period from 1998 to the present, strongly suggest a need for still one more round of highly focused reorganization, this time to rebuild Service senior-executive presence in the field, where the Service can more cross-functionally serve customers and taxpayers.

1998 Management Team Eliminated the Best of the Service’s Structures

In the wake of the ‘98 RRA, a new Service management team exercised its option, remarkably *not* required by law, to eliminate these Truman-style District Offices as a way to fix an essentially unbroken management structure. With the help of about 15–20 outside business persons, it adopted an avoidable guiding principle that required “change at every level of the organization, from front-line employees to top managers.” That tragically meant sweeping the good and the bad away with the same broom.

Lost were field-based, collegial senior-executive District Offices providing oversight, competence, and accountability. New was a practice where too much command and control narrowly flowed to an oversized and overextended National Office. Lost were well-managed District cohorts for every-day-dealing cross-functional employees, managers, and senior-executives. New were stylish and overly remote vertical stovepipe layers and walls. Plainly speaking, the 1998 team had disposed of the best of the Service's structures and a benchmark of excellence—Districts with District Directors. To this day, that remains as an unexplained and never-justified loss.

The recent Cincinnati episode is just illustrative.

Rebuilding Senior Executive Presence in the Field with Modernized and Streamlined Field Executive Offices

As a palliative prescription, therefore, proposing the restoration of modernized and streamlined field operations is the centerpiece of this Opinion Point. Will the return of such a leading-edge structure make a difference? Absolutely, yes; and it can be achieved adroitly.

This is not a return to the past! It is a roadmap to a future and course correction because all power to the National Office is *not* the best practice.

If the purported imperative of the 1998 reorganization was to assure the doubtfully accomplished goal of fixing doubtfully proven widespread “unequal treatment to taxpayers” across the states, then the imperative of a new reorganization is clear. Having left a better place, we should return to that place.

This can be done by reestablishing “lost and found” state-based, newly titled Field Executive Offices (FEOs) similar to what were formerly called District Offices. Easy to understand FEOs would

run field taxpayer operations, like cohesive domestic Embassies, working together and in balance with the National Office, which would appropriately set uniform administrative policy and supervise newly titled Field Directors, like domestic Ambassadors (formerly called District Directors).

This aspirational and streamlined forward-looking structure would work well for at least four reasons. It would: (1) deliver uniform, national taxpayer treatment, less remotely supervised, with senior-executive on-site oversight at the grass roots (embedded in the field closer to the customers served); (2) minimize management and judgment failures with closer, more-effective accountability, consistent with a reinvigorated service-oriented mission; (3) assure improved, barrier-free, internal and external communications; and (4) reinvent a management development program that embraces maturing field experience and judgment with interdisciplinary training across departments and functions.

As one knowledgeable Service insider recently conceded, before 1998 there were too many layers. Now, there are not enough layers; and stovepipe leadership has too little field experience based too far away.

New Field Executive Offices and a Renewed National Office

It follows, therefore, that responding to this challenge means calling for shrinkage or scaling-back of overstretched 1998 stovepipes in exchange for reestablished and *blended* leading-edge Field Executive Offices with Field Directors. This is accomplished by an established process called reverse engineering.

Each FEO would have an appropriate geographic area and span of control. Moreover, retitling (not calling them District Offices) would avoid unwise confusion with the past, especially as their functions will have advanced far beyond what was on the table in 1998.

As a helpful budgetary byproduct, these steps could also lead to a less singularly important and downsized National Office.

Let's be clear; blending, akin to merging, select layers of stovepipes into FEOs would *not* greatly affect the layers of employees and group managers inside stovepipes. Their individual jobs would be secure and would *not* materially change. They would just be welcomed into a more inclusive local family, reporting directly to a senior-executive Field Director instead of a remote National Office desk-general. Given that some Service folks are, by now, accustomed to stovepiping, this proposal for them is simply a small step forward to an even better place. For the nation, it's a bigger deal.

What follows now is the need for a dialogue among people, who always knew better and said so privately, but quietly never approved of a lot that happened in 1998. Optimistically, this means interested parties will spark change by recognizing and accepting that:

- It's not the best practice for the National Office of a global Internal Revenue Service organization to centrally set administrative policy from the same place and with the same people who too remotely manage day-to-day distant, world-wide operations. That structure is just too hierarchical, and
- It's actually not complicated to embrace the well-known cure—decentralization, which flows so smoothly because bosses in the National Office decide what's to be done under their plan; and then, field senior executives, not lower field manager/supervisors, execute on that plan. Naturally, such field executives operating as Field Directors, like Ambassadors, would report directly to the Commissioner through a Deputy for Field Operations. [Note: The full-length version of this White Paper includes a Proposed Internal Revenue Service Organization Chart.]

Restoring Trust with “Living, Breathing, and Pulsating” Field Executive Offices

Once again, restoring trust in the Service is essential. Truman’s bipartisan grass roots District model—“Plan 1,” is the place to start with obviously updated information technology and other lessons learned over the years. And, it would actually work.

Paraphrasing Truman’s own words, change for today would substantially vest operating functions back with Field Executive Offices, each headed by a Field Director; and that person would become responsible to the Commissioner in Washington. Taxpayers would once again look to someone outside of the National Office to be in complete charge of most daily federal tax matters. FEOs, partnering with National Service Centers, would also bring back decentralized

command and control, which was consistently at the heart of the heralded 46-year-long (never failing) Truman Plan.

The result—a leaner National Office and a “better,” not “bigger,” government! And, it can be made substantially budget-neutral, with new attention to pooled field activity savings (from shrunken stovepipe barriers).

Since Districts were lost in 1998, we will discover once again that “Lost and Found,” is still a great practice. ■

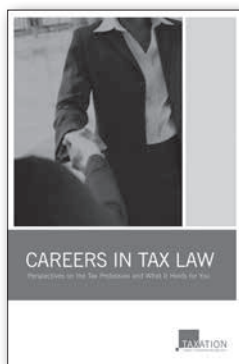
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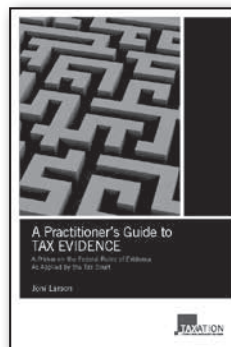
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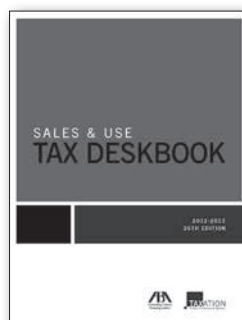
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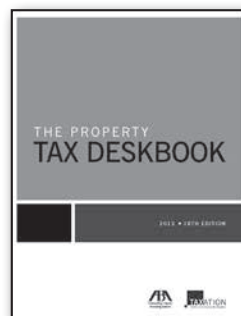
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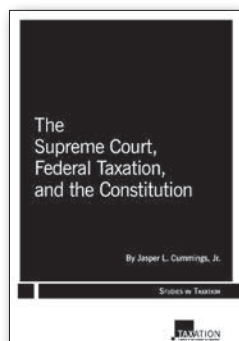
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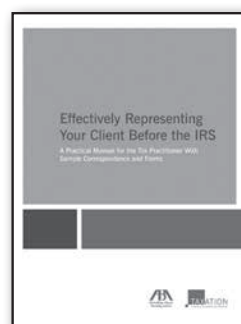
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POINT TO REMEMBER

Irrevocable Life Insurance Trusts: An Effective Estate Tax Reduction Technique (Part 2)

By Adam Abrahams*

This two-part article addresses irrevocable life insurance trusts as a method for reducing the estate tax. Part 1, which appeared in the Summer 2013 issue, covered estate and income tax issues. Part 2 covers gift and generation skipping transfer tax issues.

Gift Tax Issues

An advantage of gifting a life insurance policy to an ILIT is leverage. The value of the policy at the date of the gift and subsequent premium gifts are often within the annual gift tax exclusion. At the insured's death, the value is much larger due to built-in appreciation. The built-in appreciation at death is shielded from estate tax.

Valuing the Gift

Life insurance policy gifts are generally valued at the replacement value of the policy on the date of the gift. The type of policy affects the replacement value. The replacement value of a new cash value policy is the initial premium payment. The replacement value of an existing single premium or paid up policy is the amount an insurer would charge for the same policy on the life of a person of the age of the insured as of the date of the gift.

If the cash value is substantially higher than the replacement premium, the cash value is used as the value of the gift. For existing cash value policies, the replacement value is derived from a formula incorporating an interpolated terminal reserve as of the date of the gift plus a proportionate part of the gross premium paid before the date of the gift that covers the period extending beyond that date. The replacement value of an existing term policy includes the portion of

the last premium that covers the period beyond the date of the gift. The replacement value for group term insurance includes the unused premium paid for the period. See Treas. Reg. § 25.2512-6(a) and Examples 1, 3, and 4.

The Present Interest Requirement

To qualify for the annual gift tax exclusion, the transfer must be of a present interest. Transfers to ILITs typically include the initial transfer of the life insurance policy itself (or other liquid assets used to buy a new policy), the annual transfer of cash to fund required premium payments, and indirect gifts from the insured in the form of group term life insurance premiums paid by the grantor-insured's employer (after the grantor-insured irrevocably assigns a policy to the trust).

Because the policy benefits are not realized until the insured dies, the transfer might not qualify as transfer of a present interest. Fortunately, there is an exception to the rule. An ILIT may provide what is known as *Crummey* withdrawal rights. *Crummey v. Commissioner*, T.C. Memo. 1966-144, *aff'd in part and rev'd in part*, 397 F. 2d 82 (9th Cir. 1968). *Crummey* withdrawal rights give trust beneficiaries the right to withdraw, for a limited period of time, any amounts transferred to the trust. This invasion right is triggered only if the insured makes a contribution to the ILIT in a particular year, and the grantor-insured can specify at the time of the gift that the individual beneficiaries receive the power of withdrawal and the amount. The withdrawal power can qualify the transfers as transfers of a present interest.

Although not required by case law, it is recommended that the trustee provide prompt written notice to the trust

beneficiaries of such withdrawal rights. See PLR 8008040 ("actual knowledge" is sufficient without written notification). It is typical to provide the beneficiaries with a 30–60 day window in which to exercise their right of withdrawal. It is recommended that beneficiaries receive a minimum of 30 days in which to exercise the withdrawal right. However, the Tax Court held for a taxpayer who provided a 15-day notice period of the exercise of the right of withdrawal in *Estate of Cristofani v. Commissioner*, 97 T.C. 74 (1991). In that case, the court allowed the exclusion for rights of withdrawal held by the taxpayer's children, who were current beneficiaries, and for rights of withdrawal held by her grandchildren, whose interests did not vest unless their parents either predeceased the grantor or failed to survive her by at least 120 days.

The Tax Court stated that one determines the existence of a present interest in the context of gift tax by determining the beneficiary's ability to exercise the right to a withdrawal from the trust corpus and the trustee's ability to legally resist the beneficiary's demand for payment. The court noted that, even though the decedent's children were in good health when the decedent executed the trust, this did not "remove the possibility that the decedent's children could have predeceased" her. In addition, the grandchildren possessed the power to withdraw up to an amount equal to the amount allowable for the gift tax annual exclusion.

The "5 and 5" Exception and "Hanging Powers"

The "5 and 5 exception" exempts lapses from any gift or estate tax consequences to the donee-beneficiary if the lapse is limited to the greater of \$5,000 or 5% of the fair market value of the trust's assets. If the

* The Abrahams Law Firm, Silver Spring, MD.

non-exercise of the withdrawal right is not exempted by the “5 and 5” amounts, the non-exercise is considered a release of a general power of appointment and thus a gift that potentially triggers adverse estate tax consequences. See PLR 9541029 (lapse of *Crummey* power in ILIT not a taxable gift under section 2514(e) because the amount was within the “5 and 5” exception).

The \$5,000 component of the “5 and 5” power is a cumulative annual limit for each beneficiary who lets the *Crummey* withdrawal power lapse. Rev. Rul. 85-88, 1985-2 C.B. 201. Thus, if a person is a beneficiary for separate trusts, the lapses for that beneficiary with respect to all trusts need to be coordinated. This is best done by setting a separate date for each lapse in a trust and saying that the lapse occurs to the extent that the lapse would not constitute a taxable gift under section 2514.

A grantor might consider providing a “hanging power”—a tool used to avoid gift tax on trust beneficiaries who do not exercise their withdrawal rights. Hanging powers are an option where the ILIT has multiple *Crummey* beneficiaries and the value of the ILIT exceeds the greater of \$5,000 or 5% of the trust value. A gift of the entire amount subject to withdrawal, even if greater than this limitation, is still considered a gift of a present interest. At some point, such as upon collection of the death benefit, the value of the ILIT will be large enough to wipe out any beneficiary hanging powers.

The amount of only the “5 and 5” ceiling lapses each year. The excess amount carries over into future years. Any carryover powers lapse in subsequent years to the extent the gifts in such years are less than the “5 and 5” ceiling. If the power holder dies before the ILIT terminates, the hanging powers in existence at his death are included in his gross estate.

Internal Revenue Service Perspective

The Service generally will not contest annual exclusions for *Crummey* powers if the trust has documentation of the notices. The grantor might consider filing annual gift tax returns reporting these gifts

and claiming the annual exclusion (attaching the trust instrument and stating that the withdrawal rights qualify the gifts for the annual exclusion). If the grantor-insured accurately reports and adequately discloses the gifts on the return, the three-year statute of limitations runs. After that, the Service can no longer challenge the valuation or whether the gift is a present interest that qualifies for the annual exclusion. Treas. Reg. § 20.2001-1(b); Treas. Reg. § 25.2504-2(b). The Service will contest such powers if it suspects that there is a pre-arranged understanding that the beneficiaries will not exercise their withdrawal rights. AOD 1996-10 (*Cristofani*).

Generation Skipping Transfer Tax Issues

The generation skipping transfer (GST) tax applies to any transfers to donees (other than spouses) more than two generations below the grantor or to anyone more than 37.5 years younger than the grantor. Such beneficiaries are generally referred to as “skip persons.” I.R.C. § 2613(a). If all of a trust’s beneficiaries (for future distributions or termination of the ILIT) fit into these definitions, it would also be a skip person. A transfer to such a trust is referred to as a “direct skip.” I.R.C. § 2612(c)(1). Transfers to trusts having both non-skip and skip persons are not considered direct skips.

Generation skipping transfers occur if one or more of his children predecease the grantor and the ILIT provides that a deceased child’s descendants receive the child’s share. I.R.C. § 2632(d)(1). (There may be retroactive allocation under such circumstances). Generation skipping transfers also occur if the ILIT provides that a child’s interest does not vest until the child reaches a certain age and the child dies before one or more gifts are made to the trust. An exception applies if a gift or bequest is made to or for the benefit of a grandchild whose parent has died before such transfer. In that case, the grandchild steps into the child’s shoes with respect to that transfer.

Calculating the GST Tax Rate

One calculates the effective GST tax rate by multiplying the section 2641(a) inclusion ratio by the maximum federal estate tax rate. I.R.C. § 2641. The inclusion ratio is the percentage of property to which the GST exemption has not been allocated. A zero inclusion ratio means that there is no GST tax. The inclusion ratio should be either zero or one (either wholly exempt or wholly taxable). One achieves a zero inclusion ratio by allocating the remaining exemption amount equal to the value of the transferred property or by making only transfers to which the GST annual exclusion applies.

Allocating the GST Tax Exemption

Each individual is entitled to a GST exemption. For 2014, that exemption is \$5,340,000 (\$5,000,000 indexed for post-2011 inflation). I.R.C. §§ 2631 & 2010(c); Rev.Proc. 2013-35, 2013-47 I.R.B. 537.

The GST exemption is allocated automatically to direct skips and lifetime indirect skips to GST trusts unless the transferor or executor elects otherwise. I.R.C. § 2632(b) & (c). Relatively confusing rules determine whether a trust qualifies as a “GST trust,” gifts to which constitute indirect skips that automatically attract GST exemption.

The allocation amounts depend upon the timing of valuation of the assets. For the first gift, or for any later gift when the inclusion ratio is zero, the trust obtains an inclusion ratio of zero if the donor allocates GST exemption to the trust equal to the transfer’s value on a timely filed gift tax return. Although a transferor or the transferor’s executor may allocate the GST exemption at any time from the date of the transfer through the date of filing the estate tax return, the deemed effective date of the transfer determines the allocation amount. Treas. Reg. § 26.2632-1(a). Automatic allocations to lifetime direct skips or GST trusts are effective as

of the date of transfer. Treas. Reg. § 26.2632-1(b)(1)(ii) & (2)(ii).

Annual Exclusion Amount

The annual exclusion amount for 2014 is \$14,000.00. The GST exclusion applies only to direct skips that are outright transfers directly to skip persons and to transfers to certain trusts that have as the sole beneficiary only one skip person. I.R.C. § 2642(c). That beneficiary must have a testamentary general power of appointment.

If direct skips to an individual are protected by the gift tax annual exclusion (on a first-in, first-out basis), no GST exemption allocation or election is necessary. The same rule applies for medical or tuition payments that are paid directly to medical providers and qualified educational organizations.

Certain Transfers Excluded

Certain transfers do not qualify for the annual exclusion. The GST annual exclusion does not apply to direct skip transfers in trust for beneficiaries unless the ILIT provides: Distributions cannot be made to any person other than a single skip

person beneficiary during that skip person's life; and, if the skip person dies prior to the termination of the ILIT, the ILIT assets must be included in the skip person's estate. I.R.C. § 2642(c). Otherwise, one must allocate the GST tax exemption to shield the transfer from the GST tax. GST annual exclusion amounts are also inapplicable to most *Crummey* trusts. If a child dies before the transferor, the ILIT might terminate in favor of a grandchild, thus exposing the ILIT to GST tax if the child did not have a general power of appointment, even if the transferor has unused GST exemption.

Elections Regarding the "Deemed Allocation" Rule

In making an election, one should elect to treat a trust as a GST trust or not as a GST trust to provide clarity. In most cases, the election should state that it applies to transfers during the current year and to all future transfers until the donor elects otherwise. This helps one attain the desired results even if future years' returns are late or not filed at all.

There are several reasons to elect out of the deemed allocation rule: One may be able to allocate GST exemption to future

transfers—usually to future transfers of property that is likely to appreciate. One may allocate the exemption to a trust that accumulates income and contains appreciated assets. The indirect skip deemed allocation rule does not necessarily identify any trusts where the allocation is most beneficial to the transferor or transferor's executor. If the trust property decreases in value post-transfer without likelihood of recovery, a later allocation will use up less GST exemption.

Statute of Limitations

The statute of limitations period on the ILIT's GST exempt status begins to run when the distribution is made. Treas. Reg. § 26.2642-5.

Conclusion

Although ILITs are an excellent estate planning tool, one must be aware of the potential income, gift, and generation skipping tax traps. One should also make applicable elections in connection with filed tax returns in the year one creates and executes the ILIT. ■

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PRO BONO MATTERS

A Calendar Call Staffing Success Story

By T. Keith Fogg*

As Chair of the Pro Bono and Tax Clinics Committee (2012-13), one of my goals was to work with low income taxpayer clinics (LITCs) and with bar groups to obtain full coverage of all places where the Tax Court sits through stuffer agreements at the outset of cases and calendar call programs as the cases went to trial. In that effort, I ran into a dead end with respect to certain cities which just did not have the infrastructure to support one or both of these programs. With stuffer notices, I was able to convince some fellow academic clinicians to agree to be on stuffer notices for remote cities and to convince the Tax Court to allow modification of the stuffer notice to explain to the taxpayers why services were being offered in remote locations. Assisting taxpayers even within the same state of a clinic often involves long distances and a minimal amount of face-to-face contact. It is possible to provide effective assistance long distance, and we set up a program to cover the cities where no local LTC existed.

Calendar call programs require a separate challenge. It is not yet possible to handle a calendar call remotely. To participate in a calendar call, someone knowledgeable about the Tax Court and basic tax issues needs to actually appear in the Tax Court at the time of the calendar call. Getting to the cities without a calendar call program required not only expertise and a willingness to commit the time but also the ability to fund the travel.

To get past what looked like an impossible situation, certain white

knights appeared. The biggest white knight of all was Andy Roberson with McDermott Will & Emery LLP (McDermott). Judge Panuthos knew what I was trying to do and suggested that I speak with Andy. I contacted Andy and told him what I was trying to accomplish. Andy and Latonia Haney Keith, Firm-Wide Pro Bono Counsel at McDermott, discussed the challenges facing *pro se* taxpayers without access to legal representation and committed to accepting responsibility to provide attorneys at the calendar call for the cities in which I could not find an LTC or local bar group to accept responsibility for the calendar call program. We entered into this arrangement with the hope that it might be a short term thing in some of the cities and that through continued outreach and training efforts we might fill the gaps in those cities.

Surprisingly, one of the cities that needed both a stuffer notice and calendar call program was Honolulu. An LTC exists in Honolulu in the local legal services organization. Previously, this LTC had agreed to the stuffer notice and had covered calendar calls. The attorney who directed the LTC had recently left the office and the LTC in Honolulu did not want to take on the responsibility of representing Tax Court petitioners at the outset or at calendar call. The University of Washington Law School agreed to have its name placed in the stuffer notice but did not have the funding to travel to calendar call. Andy and McDermott agreed to take Honolulu as one of the cities where they would cover calendar call. We all hoped that by working with the University of Washington and with Andy, the new

director of the LTC in Honolulu would become comfortable with taking on these cases himself.

On June 10, 2013, the Tax Court held a calendar call in Honolulu. Andy and an associate at McDermott traveled to Honolulu to cover the calendar call. I will end my introductory remarks here so that Andy can tell the story of that visit. Before doing so, I want to personally thank him and McDermott for taking on this project and allowing taxpayers in the most difficult cities to cover to receive great representation when they arrived at calendar call unrepresented.

The Calendar Call

By Andrew R. Roberson**

When I first joined McDermott in the summer of 2012, I approached Latonia at McDermott about my prior involvement in the Tax Court calendar call program and representing low-income individuals in Tax Court through referrals from the Center for Economic Progress, and inquired whether this was something that McDermott would support. Not only did Latonia agree, she asked me to look for other ways to expand pro bono tax efforts to other geographic locations where taxpayers did not have access to legal representation. Keith, Latonia, and I talked and McDermott initially planned to send a tax partner and/or an associate to each of the five identified locations without coverage to provide pro bono assistance, with the idea that we were a temporary stopgap until local assistance could be put in place. However, several individuals and organizations assumed responsibility for most of the locations, leaving only the Honolulu calendar call without representation.

Mentioning Hawaii generally brings to mind images of sun, beaches, and paradise. However, the number of

* Professor of Law and Director of Federal Tax Clinic, Villanova Law School, Villanova, PA.

** McDermott Will & Emery LLP, Chicago, IL.

people in Hawaii living in poverty has soared in recent years to one of the highest in the country, and Honolulu struggles with a large homeless population. A substantial number of families participate in federal aid programs and survive paycheck to paycheck. Given that the Tax Court usually travels to Honolulu only once a year, we anticipated being able to assist several people. This turned out to be the case.

Prior to traveling to the calendar call, I reached out to Judge Panuthos to ensure that we abided by the requirements for the Tax Court's calendar call program. The Center for Economic Progress agreed to sponsor McDermott attorneys at the calendar call and filed a letter with the Court explaining the situation. We were now off and running.

About three weeks before the calendar call, I contacted Scott Schumacher at the University of Washington, and he referred a case on the calendar to us for a taxpayer that had suffered a traumatic brain injury and had not filed a tax return for the year at issue. With the assistance of Kristina Gordon, a tax associate at McDermott, I was able to work with the Service and establish that our client was not liable for the asserted deficiency and penalty and, based on his situation, was in fact entitled to a refund. Our work was paying off already and we had not booked our flights yet.

On the morning of the calendar call, Kristina and I met with Nathan Gooding, the attorney at the Legal Aid Society of Hawaii who had recently been tasked with handling tax matters. Nathan and I had previously talked on the phone about what we were doing, and I had provided him with some materials on the calendar call program and representing taxpayers before the Tax Court. After going through additional materials, the three of us set off for the Tax Court session. My impression was that if all went smoothly, *pro se* taxpayers would be in good hands with Nathan for future calendar calls and that he and his organization could take the reins.

Once in the courtroom, we met with Judge Gale and Peter Hochman, Associate Area Counsel—Hawaii, to discuss our role at the call. At the commencement of the calendar call, Judge Gale announced our presence in the courtroom and indicated that we were available at the break to meet with any *pro se* taxpayers wishing assistance. At around 10:30 a.m., the court took a recess and we encountered three individuals who were interested in our assistance. The first admitted she owed the deficiency, but she did not have the means to pay the full amount. We discussed the available collection alternatives with her and, once back in Chicago, we followed up by sending her various materials explaining these alternatives. The second individual exceeded the guidelines for *pro bono* assistance; however, we were able to explain to her the procedural process of conducting a case in Tax Court and what types of documents and testimony she might want to present to prove her position. The last individual had several issues related to the substantiation of items. After talking with him and Service counsel, it was clear that a settlement could not be reached and a trial would be necessary. After confirming that the taxpayer was below the required guidelines for *pro bono* representation and that there were no conflicts of interest, we decided to enter an appearance and try the case. Given that the trial had been scheduled for 2:00 that afternoon, we had to move fast.

Over lunch in the courthouse cafeteria, Kristina, Nathan, and I reviewed the stipulation of facts and attached exhibits that had previously been filed, as well as additional documents that our new client brought with him. It became clear that the case turned on three issues: (1) substantiation of claimed employee business expenses and proof that the taxpayer was not entitled to reimbursement from his employer; (2) substantiation of claimed charitable contributions; and (3) penalties. We also discovered a possible education credit

for the taxpayer's daughter that had not previously been raised. We worked fast to assemble the documents and determine the missing gaps in the lines of proof, including items for which we would need our client's testimony. Also, our client had asked his pastor to testify as a witness with regard to the charitable contributions issue. Unfortunately, the pastor had not yet shown up, and we were unaware of what he might say and whether he would be credible.

At 2:00 p.m., we entered our appearance, and I made an opening statement about the case before proceeding to examine our client. Because the stipulation of facts was mostly a document stipulation regarding the business expenses items, we had to walk through several agreements, invoices, checks, and other materials in an attempt to establish that he was not entitled to reimbursement from his employer for the claimed expenses, that such expenses were ordinary and necessary business expenses, and that we had sufficient substantiation for general items and those requiring heightened substantiation under section 274(d). In addition, testimony was elicited regarding the charitable contributions and payments made for his daughter's education.

At the conclusion of the taxpayer's testimony, the court gave us short break so that we could meet, for the first time, our client's pastor. Pastor Bob (as we came to know him) has been helping the poor in Hawaii for many years and was definitely an advocate for this cause and for our client's situation. Kristina, in her first courtroom experience, took charge of questioning Pastor Bob and eliciting testimony regarding charitable contributions made by our client. The trial concluded around 4:30 p.m., meaning that it took nearly as much time to conduct as we had to prepare.

Briefs have since been filed in the case, and we are awaiting Judge Gale's decision. Ultimately, I believe we met the goal of providing *pro bono* services to taxpayers that could not otherwise

afford legal representation. It was also a great training experience for a young associate, providing Kristina with real-life courtroom experience. Based on Nathan and the Legal Aid Society's involvement, we are hopeful that *pro se*

taxpayers in Hawaii now have local resources to help in future Tax Court calendar calls. Special thanks to Keith and the many others who have dedicated so much time and effort to providing tax assistance to *pro se*

taxpayers. I would also like to thank and acknowledge the Service attorneys and staff we met in Honolulu—they were professional, reasonable, and enjoyable to work with. ■

SECTION OF TAXATION CLE CALENDAR

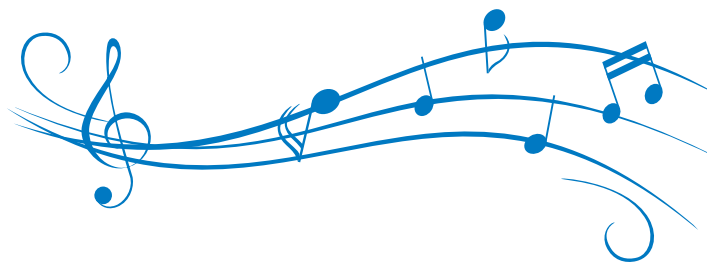
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TAX *Bites* Sing-along

By Robert S. Steinberg*



The Value Trap

(To the tune of “(Love Is) the Tender Trap” by Jimmy Van Heusen and Sammy Cahn)

You hold an asset that you prize,
When suddenly you realize,
As values escalate,
The tax on your estate, will cap.
You’re told, be bold,
You’re sold
On the value trap.

You move into an LLP,
And like a Hitchcock mystery,
Some value disappears,
And, through the years, you tap
A big discount amount
With the value trap.

Some ASA, citing public offers,
Puffs, while the way, stuffing dollars
in his coffers.

And all at once a big disgrace,
They’re throwing *Daubert* in his face.
He’s off the witness stand,
His value canned, as scrap.

There’s scientifically no proof
With illiquidity gone poof.
It’s all for naught, you’re caught
In the value trap.

Chances Are

(To the tune of “Chances Are” by Robert Allen and Al Stillman (1957), popularized by Johnny Mathis)

Chances are
Those two knocking at your door
From CID will not impress.
They’ll ask you: “Is this your return?”
You’ll answer, “yes.”

Chances are
You won’t see the web they’ve spun
Nor understand a war’s begun.
They’ll ask you how much cash
you hoard.
You’ll answer: “none.”

When they ask: “may we come in?”
You’ll oblige, feeling stout.
Chances are you’ll keep talking
While defenses they ruled out.

Guess you feel you’re smug and smart
Feel you didn’t tell them much
Two hours you’d misunderstood.
Well chances you will serve some time
Are looking good.

Apple’s Eating the Whole Apple Pie**

(To the tune of “I’m in Love with a Wonderful Guy,” by Rogers and Hammerstein, from the Broadway Musical “South Pacific”)

Hold your scorn, it is perfectly legal,
Lowering taxes to keep profits high.
Isn’t it part, of our system and smart?
Apple’s eating the whole apple pie.

Who has headquarters in Cupertino?
Yet Reno’s its tax home and I’ll tell
you why.
Nevada’s a state, with a zero tax rate.
Apple’s eating the whole apple pie.

Why pay taxes like Wal-Mart or
Saks is?
Grand stores housing products to sell,
With a royalty, customers loyally buy,
And from where who can tell?

Dodging tax with a Dutch Irish
Sandwich,
That is a plan which is cleverly sly.
Some say it’s wrong, not the greedy
and strong,
Apple’s eating the whole apple.
Eating the whole apple,
Eating the whole apple pie.

A Home Is Just a House

(To the tune of “A House Is Not a Home,” by Burt Bacharach and Hal David)

A home is just a house,
Even with the children and a spouse,
If your husband owes some tax.
Lady here’s the facts,
They may pull the rug out from
your feet,
The IRS may show you the street.

A lien is just a lien
When your homestead is a debtor’s
screen.
But a tax lien is a lien
State law won’t come between.
And the truth is harsh, not common
sense,
With IRS, a homestead’s no defense.

If you are, a tenant by
The entirety, what cash you’ll share
From its sale, cannot replace
What was a home; how is that fair?

A court might have a heart,
Equity at least should play a part.
But the burden’s yours to prove
Some hardship from the move.
Standing by itself, won’t guarantee
You’ll keep your home,
When they want the key.

* Law Offices of Robert S. Steinberg, Palmetto, FL.

**This parody song lyric comments on certain aspects of our corporate tax system that have been the subject of much legitimate debate. It should not be construed as reflecting the writer’s views on Apple or as an indictment of Apple’s tax strategies. Apple is an outstanding American company that pays a large amount of taxes and employs legal means to lower effective tax rates on its profits. The question is not whether Apple has done anything wrong, it has not, but whether our tax system should permit these complex corporate tax deferral strategies.

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Government Submissions Boxscore 2013

The Section coordinated the following government submissions in 2013, which can be viewed and downloaded free of charge from the Section's website at <http://www.americanbar.org/groups/taxation/policy.html>.

SUBMISSIONS AND COMMENTS ON GOVERNMENT REGULATIONS, ADMINISTRATIVE RULINGS, BLANKET AUTHORITY and ABA POLICY*

TO	DATE	CODE SECTION	TITLE	COMMITTEE	CONTACT
House Committee on Ways & Means, Senate Committee on Finance	12/30/2013	various	Comments on the Camp Proposal to Reform the Taxation of Financial Products	Financial Transactions	Matthew Stevens
House Committee on Ways & Means, Senate Committee on Finance	12/3/2013	various	Options for Tax Reform in the Inbound International Tax Provisions	U.S. Activities of Foreigners and Tax Treaties	David G. Shapiro
Internal Revenue Service	10/1/2013	n/a	Comments Concerning User Fees for Processing Installment Agreements and Offers in Compromise	Pro Bono and Tax Clinics	Paul Harrison, Andrew VanSingel
Internal Revenue Service	9/3/2013	401(a), 403(b)	Comments Concerning Revenue Procedure 2013-12	Employee Benefits	Lisa A. Tavares, Mark A. Bodron
Internal Revenue Service	8/14/2013	n/a	Comments Concerning Proposed Regulations for Reliance Standards for Making Good Faith Determinations	Exempt Organizations	Morey Ward
Internal Revenue Service	7/22/2013	n/a	Comments Concerning Accountable Care Organizations	Section of Taxation and Health Law Section	Frederick J. Gerhart
Internal Revenue Service	7/9/2013	6708	Comments Concerning Proposed Treasury Regulations Under Section 6708	Civil and Criminal Tax Penalties	Larry Campagna, Megan L. Brackney, John M. Colvin, Miriam Fisher, Scott D. Michel
Department of the Treasury, Internal Revenue Service	7/8/2013	various	Recommendations for 2013-2014 Guidance Priority List	Affiliated and Related Corporations, Civil and Criminal Tax Penalties, Corporate Tax, Exempt Organizations, Fiduciary Income Tax, Financial Transactions, Partnerships and LLCs, Pro Bono and Tax Clinics, Real Estate, Sales, Exchanges and Basis, Tax Accounting, Tax Exempt Financing	Matthew E. Gareau, Josh Ungerman, Martin Huck, Robert Wexler, Lewis J. Saret, Matthew Stevens, Adam Cohen, George Willis, Jon Finkelstein, Mark E. Wilensky, Jan Skelton, Nancy Lashnits
Internal Revenue Service	6/24/2013	6050	Comments on Guidance Concerning Information Reporting for Discharges of Indebtedness	Bankruptcy and Workouts	Lee G. Zimet
Internal Revenue Service	6/4/2013	4980H	Comments on Proposed Regulations Issued Under Section 4980H	Employee Benefits	Linda R. Mendel, Mark A. Bodron
Internal Revenue Service	4/30/2013	n/a	Comments on Proposed Series LLCs Regulations	State and Local Taxes, Partnerships and LLCs	James E. Long, Jr.
House Committee on Ways & Means, Senate Committee on Finance	4/10/2013	various	Options for Tax Reform in Subchapter S of the Internal Revenue Code	S Corporations	William D. Klein
Financial Crimes Enforcement Network	4/5/2013	n/a	Comments on the Report of Foreign Bank and Financial Accounts	Foreign Activities of U.S. Taxpayers	Paul Crispino
Internal Revenue Service	4/5/2013	1411	Comments Concerning Proposed Treasury Regulations Under Section 1411	S Corporations, Partnerships and LLCs, Real Estate, Fiduciary Income Tax, Individual and Family Taxation, Employee Benefits, Foreign Activities of U.S. Taxpayers	C. Wells Hall III, Thomas J. Nichols, Laura D. Howell-Smith, Jeanne Sullivan, William D. Klein
Internal Revenue Service	4/2/2013	n/a	Comments on the Changes to the ITIN Procedure	Administrative Practice, Pro Bono and Tax Clinics	Jennifer Breen
House Committee on Ways & Means, Senate Committee on Finance	3/11/2013	various	Options for Tax Reform in Real Estate	Real Estate	Andrea M. Whiteway, Eliot Kaplan

* The technical comments and blanket authority submissions listed in this index represent the views of the ABA Section of Taxation. They have not been approved by the ABA Board of Governors or the ABA House of Delegates and should not be construed as representing the policy of the ABA.

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