A WHITE PAPER ON EXECUTIVE ACTION TO

RESTORE TRUST IN THE INTERNAL REVENUE SERVICE

BY REBUILDING FIELD OPERATIONS

(Subtitle: If you see something, say something; and make no mistake, restoring trust in the IRS is a national security need.)

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In memory of, and in tribute to, a mentor and dear friend, the late William E. Williams, who served with the greatest distinction as District Director in Boston, then as sole Deputy Commissioner and later as Acting Commissioner of Internal Revenue.

Executive Summary

PURPOSE

This White Paper examines fallout from Internal Revenue Service missteps and offers a proven proposal for organizational restructuring and reform by executive action. By now, most agree the Service needs to restore public *trust* and be turned around – not necessarily to be a beloved tax collector, but to be universally respected for its sense of fair play, independence and competence. For change-makers to make a difference, they will have to think differently. Rebuilding field operations is a place to start.

Hence, the story begins with a 2013 Cincinnati episode and continues with a call for bringing back lost *field* on-site oversight, accountability and geographic cohesion through new "Field Executive Offices" and a renewed National Office.

According to news reports, the trouble began with multiple instances of taxpayer creep into the political realm of *gaming the tax-exempt system*; which was invited by bad regulations and followed by a bumbling National Office response. On May 10, 2013, a National Office senior-executive, Lois Lerner, disclosed missteps made by the Service in Cincinnati at one of its Service Centers. Speaking at an American Bar Association - Section of Taxation meeting, while responding to an audience question, she astonishingly voiced what seemed at the time like an unsolicited admission that certain tax-exempt entity applications, by political organizations, had been mishandled. Predictably, those few remarks exploded, rightly or wrongly, into a national scandal. The thunderous call for *proactive rather than reactive change* was immediate; and it continues.

Just eight months later, the same ABA Section of Taxation, in its NewsQuarterly newsletter, Winter Issue 2014, published an Opinion Point abstract of this White Paper (from an earlier version) as its cover story. It offered a robust defense of Service workers, but not Lerner. It inferred that censuring the workforce would not only be pointless, but unreasonable, because there was no evidence in the public arena that they had strayed from an evenhanded stance. More to the point, even if their procedures needed improvement, that was not the workers' job.

Therefore, a more appropriate National Office response should have been to concede that the Cincinnati stovepipe workforce was by design remotely managed, conspicuously without essential senior-executive *on-site oversight*. Since 1998, when local District Directors were eliminated and the power of local Service Centers was diminished, a self-protective structure for early detection and correction in the field was lost! That loss created a vacuum, which left a gap in internal control and on-site accountability. Since human nature abhors a vacuum, that gap was filled by a gaffe and its companion, a damaged Service image.

Since we are all stakeholders, let's digress and stipulate why the image of our Internal Revenue Service is so important. "First, there are twice as many people who pay taxes as vote. Second, citizens' faith that their government can be fair and efficient is dependent on a well-functioning IRS." [i]

Even so, we must still stipulate that most folks out there probably don't feel a particularly close association with Internal Revenue Service inside workings. Their alma mater, yes. The company they work for, most likely. Their home town, absolutely. So, it should be no surprise if few people, besides some tax practitioners and Service employees, count it among the defining factors in their lives.

Indeed, these same words have been spoken by others about many agencies of government. Nevertheless, the scent of scandal breeds ill feeling; and ill feeling can be corrosive.

Even with that stipulation, it's now reasonable to ask where the Service is headed and what we should do about it. From lost public confidence, what emerges is an historic opportunity for focused systemic change. As President Woodrow Wilson said, "We are *not* put into this world to sit still and know; we are put into it to act.

Consequently, what's proposed here is action, like lost and found, to restore something important that has gone missing. We know what it is and why it got lost; so all we need do is decide to bring it back even better than before. It was the 1998 swept away, 46-year old, never failing, 1952 Truman-style *decentralized* "grass roots" (viz. less remote) successful field organization. Its centerpiece had been an *unequalled* and most helpful District Office structural model, which was swapped for a less helpful National Office experimental *stovepipe* (a/k/a *silo*) operating system.

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 top-to-bottom remote distances between management and staff as well as segregating isolation from other branches of the organization. [ii]

The Service has been run with a silo/stovepipe organizational structure since 1998, but notably never before. (*See* Section 10, Page 25, below.) Inside those top-to-bottom stovepipes, there are field workers at the bottom, like those in the now notorious Cincinnati Tax Exempt stovepipe, so recent quick-shooting naysayers unsurprisingly see them as part of an elaborate political conspiracy from Washington, DC to Cincinnati. But, they have no evidence; and for that reason alone, cynically criticizing workforce integrity and falsely blaming a White House so obviously uninvolved in day-to-day Internal Revenue Service matters, is just wrong.

With less blame and more facts, even critics might see that the entire Cincinnati episode just demonstrates how otherwise good field workers can trip-up inside overstretched and isolating stovepipes. In fact, since the highly praised 1952 first-ever Service reorganization by the Truman Administration, the unbending practice of Service field employees, managers and senior-executives has been to scrupulously prevent any misconduct, especially political targeting. Nevertheless, this aversion to anything biased seems to have recently backfired for one reason – a bad structure, not bad workers!

Elegantly moving beyond this valley of blame would certainly help lead to progress; but "progress is impossible without change." --- George Bernard Shaw. Therefore, it's always timely for good government to be introspective, reinvent itself and *visibly* deliver transformational change. After all, "taxes are the price we pay for a civilized society";[iii] and we are reminded that with a voluntary self-assessment tax system, lost *trust* at the "grass roots" correlates with taxpayer misbehavior. [iv]

Cincinnati may have been a bad event, but it has also been a good lesson. Still, too many people today are focused on the episode rather than its clear solutions, which rise like the morning sun. Those solutions include: (1) dealing reactively with apparent causes – the statute, bad regulations and poor procedures as well as individual judgment failures, and (2) fixing proactively another less-apparent, but diagnosable and unambiguous, cause, top-heavy-structural stovepipe weaknesses.

This paper directly addresses those weaknesses despite two caveats: (1) The Washington, DC attention span is limited when it comes to agency structure, and (2) It was that limited attention to relevant realities in 1998 that set the stage for today. Up to now, as if tax administration didn't matter, most praiseworthy Federal tax thought and energy has been devoted to issues of tax policy, fairness and complexity in the tax law. As if disrespect for the Service is acceptable and tolerable, efforts to generate more effective tax administration and it structural organization are too often ignored.

Nevertheless, we should be mindful that being saddled with stylish stovepipes (silos) today does not make them the best way to do business tomorrow, particularly since there is so much evidence to the contrary. But, before addressing that reversible error, there are two overarching questions to be answered:

- Is it in the national interest for our fellow citizens to believe their Internal Revenue Service is corrupt? 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!"

Then, there is a third question, the call to action: What do you do (1) when a top-heavy National Office (up on the mountain) has too many people and (2) when a field operation (down with the customers) has too few people? One plain-speaking answer, especially when budgets are tight, is to "SHRINK THE NATIONAL OFFICE AND ENLARGE THE FIELD!" As we herald in a refreshing new 2014 leadership team, why not take that new direction?

In the first full week of 2014, new Internal Revenue Service Commissioner John Koskinen, confirmed by the U.S. Senate on the previous December 20th, joined in the dialogue. He said that: "It took a little while to dig the hole; and it's going to take us a little while to get out of it;" and he also noted that "management changes" will be needed. Earlier, on October 7, 2013, former Commissioner Mortimer Caplin also spoke about the imminent confirmation process for Koskinen. Caplin said "That whole (1998) reorganization ought to be re-examined." [v] So, let's begin!

METHODOLOGY

Research for this work included a blend of publically available Service literature and a lifetime of experience working in and out of government, especially in the Service, in tax law practice, public accounting and academe, at high and low places. Not coming as a stranger to Internal Revenue Service field operations was absolutely necessary.

FINDINGS

Both Commissioner John Koskinen and former IRS Commissioner Mortimer Caplin's public statements called for a fresh look. This White Paper is one such fresh look. Another recent call for change is found in William Hoffman, *15 Years after RRA '98: Time to Re-structure the IRS?*, TAX NOTES, Aug. 12, 2013, at 647.

In the over 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 acclaimed Truman Plan in 1952, endorsed by President Eisenhower in 1953. It established senior-executive accountability with a well-crafted state-based, pointedly-described "grass roots," presence.


President Harry S. Truman

Then, just sixteen years ago in 1998, an arriving new Service management team, driven by another politically manufactured crisis, produced a stovepiping experiment in tax administration. It was part of only the second major Service reorganization, coming 46 years after Truman's Plan 1. Anecdotally, some staffers involved then, later called it a "mixed bag." Three big weaknesses, obvious to Service alums and veterans, were how it stunningly: (1) reversed a well-crafted District Director (DD) field presence, (2) eliminated DD on-site oversight and cross-functional accountability, and (3) abandoned "grass roots" geographically cohesive Districts.

Looking back at the small print, anyone can see that the unilateral decision to *eliminate* Districts was *neither* required by the '98 RRA *nor* connected to any District Office inadequacy. That may surprise some current insiders. Sure, the Service had its 1998 shortcomings to fix, but ironically, not one shortcoming had anything to do with the District Office as a structure.

Like Shakespeare's Cassius said to Brutus, "*The fault, dear Brutus, is not in our stars* (the District Offices here were the stars, actually bright stars) *but in ourselves* (the National Office, which at the time was the real culprit for allegedly lax uniform procedures, training and policies)…"

Nevertheless, with a great public display, an arriving new 1998 Commissioner rushed to fix evidently broken National Office taxpayer service and collection practices by blaming and District Offices, which today are still the best on-site accountability structures the Service has ever known. With the help of about 15-20 other outside business persons, he stuck to a contrived drastic rule to require "change at every level of the organization, from front-line employees to top managers." Without knowing enough about the business, his group had heedlessly decided to change the business. Stylish stovepipes were imagined to be a cure-all. They were not!

Thus, fixing National Office failures by destroying District Offices made as much sense as bombing the wrong country! Then came the Year 2000 document marketed as "*Modernizing America's Tax Agency"* [vi], which tragically promoted sweeping the good and the bad away with the same broom. So, District Offices were *eliminated* in 1998, *not* because a well-intentioned 1998 management team had to, but because it wanted to.[vii] Laudably, other *'98 RRA* measures were fine, like a new mission statement, goals for an improved taxpayer service culture, stressing employee integrity, innocent spouse relief and better information technology (IT) systems. IT, after all, was the only undisputed skill for which the new team had been enaged; so, for those successes, they deserve the thanks of a grateful nation.

However, a funny thing happened on the cakewalk, which swapped District Offices in an unequal exchange for stovepipes. The steps of the cakewalk were backward. Top-heavy stovepipes did nothing that Districts couldn't do, yet they displaced the Service's best-ever field structure and devalued the development of a *corps* of holistically trained and field-seasoned senior-executives, etc.

Even as the head coaches (District Directors) were taken off of the *field*, the arriving 1998 team, all the same, expected to win the game. That's unheard of in sports; and it should also be unheard of in government. Nevertheless, lost were "grass roots" (viz. less remote) District Offices providing on-site oversight and accountability. New was a flawed practice where command and control narrowly trickled down from a top-heavy and overextended National Office. Lost were well-managed District cohorts with every-day-dealing by cross-functional field employees, managers and senior-executives. New were overstretched vertical stovepipe layers and barriers. Lost was a *corps* of field-tested District Directors, with seasoned judgment, who were available to climb the ladder to ever increasing cross-functional responsibilities. **All of which proves that the true value of a good thing may not be fully appreciated until it's lost.**

RECOMMENDATIONS

The working proactive goal now should be to turn the Service around and rebuild field operations, albeit with 2014 limited budget resources. This White Paper certainly meets that objective. As its centerpiece, it details the case for rebuilding field operations along cost/benefit lines. Will such leading-edge structural changes make a difference? Yes; and they can be achieved adroitly with a retooled and retitled District Office model (to be called the Field Executive Office or FEO). *Blended* into each FEO would be retained, but rebilleted, stovepipe field-layers (called units in the *'98 RRA*). Those field-operating units would quite smoothly be welcomed into FEOs with their lessons learned from 16 years of the stovepiping model. *Blending,* akin to merging, thus captures the best of both before and after structures.

Make no mistake; rebuilding field operations is not a return to the past! It is more accurately a roadmap to a course-correcting future because all power to an overly centralized National Office is *not* the best practice. Any myth that stovepipes are an ideal model is just not true. As JFK wisely counseled, "The great enemy of the truth is ....the myth, persistent, persuasive and unrealistic."

In this instance, the myth we were told repeatedly since 1998 was that the imperative of *eliminating*, not *modify*ing, Districts was to fix uncertain, scattered and anecdotal "unequal treatment to taxpayers" across the states. If truth be told, *elimination* merely diverted attention away from National Office responsibility since the source of any perceived inconsistencies in taxpayer treatment lay *not* with Districts, but with a lax National Office. Sometimes, it's easier to take sides against something far away rather than against folks a few doors down the National Office hallway. At least, that's one view of why the 1998 team took down and under-populated 1998 field operations rather than just repairing what was seemingly broken.

One other view offered by the 1998 team was that Districts were just too "complex." That thinking, however well-intentioned, was 180 degrees away from reality.

Fast forwarding to a new imperative for 2014, our route can be sensibly straightforward. Newly titled Field Executive Offices (FEOs), similar to what were formerly called District Offices, would run all field taxpayer operations, like state-based domestic Embassies, working together and in balance with national Service Centers and others. The National Office, with its more proper role, would: (1) set uniform procedures, training and policies and (2) supervise newly titled "Field Directors," like domestic Ambassadors, formerly called "District Directors".

An action plan to implement this aspirational and streamlined on-site oversight structure would work well for at least five reasons. It would:

(1) Deliver uniform-national taxpayer treatment, less remotely-supervised, with a *corps* of field-based and technically field-seasoned "grass roots" senior-executives (embedded closer to the customers served);

(2) Minimize management and judgment failures with closer more-effective on-site accountability, consistent with a reinvigorated service-oriented mission;

(3) Remove structural and behavioral stovepipe barriers while getting rid of their top-heavy common-function duplicative costs;

(4) Assure improved, barrier free, internal and external communications; and

(5) Reinvent a management development program that embraces a growing *corps* of field senior-executives whose maturing experience and judgment has been enriched by inter-disciplinary training across functions and FEOs.

Still, some in the National Office may argue that training alone is the answer. Yet, training, the mainstay of any sound organization, cannot realistically be a substitute for geographically cohesive state-base on-site oversight and the development of a *corps* of field-seasoned cross-functional senior-executives.

It follows, therefore, that responding to this challenge means calling for shrinkage or scaling-back of overstretched, overpopulated and over-rated 1998 top-heavy stovepipes. This is done by a 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 new functions will have technologically advanced far beyond what was on the table in 1998. Then, as a helpful byproduct, these steps could also lead to a less singularly important and downsized National Office.

Shrinkage of the National Office would also provide a surprisingly not-so-novel way of reinvesting in the field workforce. From available data, it's clear that with a larger examination and collection field workforce, billions in revenue (an estimated five times its cost) could be raised. Thus, National Office people, who had once been drawn from the field, could now have a chance to return to the field. Other National Office stovepipe desk workers, who never had that mission-fulfilling experience, could also enjoy FEO prospects and field training for career enhancement.

What makes this not-so-novel is an old military service premise, which can suitably be applied also to another service, like the Internal Revenue Service. In the Army, it is presumed that almost all its people are Infantry first and support troops second. When there is a shortage of Infantry, support troops have been asked to go back into the field countless times to win victories. Steadfast emphasis on the field thus makes sense for both Armies and the Service. For both, *effective field operations are decisive*.

Let's be clear, *blending,* akin to merging*,* select layers of stovepipes into FEOs would *not* greatly affect the daily routine of existing field employees and group managers inside stovepipes. Their individual jobs would be secure and would *not* materially change. They would just be welcomed and rebilleted in a larger more inclusive local family, reporting directly for on-site oversight to a senior-executive Field Director instead of a remote National Office desk-general. Given that some Service people are, by now, accustomed to stovepiping, this proposal for them is simply a step forward with the understand 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 remotely manage day-to-day-distant, world-wide operations. That structure is just too top-heavy and hierarchical, and

- It's also *not* complicated to embrace the well known cure – decentralization, which flows so smoothly because leaders 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 new Deputy for Field Operations. *See* EXHIBIT D, page 34 - *Proposed Organization Chart with Field Executive Offices*.

Furthermore, it's *not* fitting for National Office senior-executives, under the current stovepiping system, to be so far away from the field at the same time they send so many thousands of examiners and collectors into the field.

All this aside, current Service insiders, who never actually knew District Office operations, will still ask why we need a course correction. Accepting such concerns, a sound first step might be to tastefully declare success for both of yesterday's 1952 and 1998 reorganizations. Then, step up and more productively move forward!

Restoring *Trust* with Living, Breathing and Pulsating Field Executive Offices enjoys two added virtues. They represent a kind of HST common sense; and they reinvent a proven best practice. Paraphrasing Truman's own words (*See* EXHIBITS A, page 30), change for today would substantially vest operating functions back with Field Executive Offices, each headed by a Field Director; and that person alone would become responsible to the Commissioner in Washington. Taxpayers thereafter would once again look to someone outside the National Office to be in complete charge of most daily Federal tax matters, except for much that can now be done on-line. FEOs would partner with national face-to-face Taxpayer Assistance Centers (TAC), telephone Call Centers and Service Centers to facilitate the process.

The budget result - a leaner National Office and better, not bigger, government! Thus, another well-accepted truth here is that better positioning chess pieces on a chess board need not require more pieces, but it can, nevertheless, result in a more successful strategy. And, it can be made substantially budget-neutral, especially with the infusion of retrained National Office workers into the field coupled with cost/benefit savings!

Still, for some small businesses and smaller government agencies, the recipe of stovepipes makes sense. On the other hand, the Service is neither a small business nor a small agency! As one former IRS Commissioner, Lawrence B. Gibbs (1986-1989) observed, it's a "true conglomerate." [viii] Others in 1989 even noted that stovepiping was no less than an ill-advised effort "to destroy the village to save the village."

As another great President, Teddy Roosevelt once counseled us: "In any moment of decision, the best thing you can do is the right thing; the next best thing is the wrong thing; and the worst thing you can do is nothing." Finding the will to fix mistakes in 2014 is the right thing! Seeing them and fessing-up is often harder. The following pages are intended to help.

Contents

(All photo images were taken from the internet).

PART I
The Path forward

Section 1. Swift Presidential Action and Beyond

A good first-step forward in restoring trust is to assure people that change is on the way. As first-responder-in-chief, the President, without hesitation, did just that when he expressed his displeasure over the Cincinnati episode, followed by swift CEO action through the appointment of a new Acting Commissioner, Daniel Werfel!

Then came the Werfel Report. On June 24, 2013, it set the standard as "accountability," not blame. Fittingly, it was called "*Charting a Path Forward at the IRS: Initial Assessment and Plan of Action*."[ix] The first shoe-to-fall had already come down; and it was a Treasury Inspector General for Tax Administration (TIGTA) report.[x] The second shoe-to-fall was the President's action and Werfel's involvement.

Calmly stepping into the jaws of an enraged Congressional committee, he addressed three "initial" concerns - greater accountability for significant management and judgment failures; fixing problems with the review of applications for tax-exemption; and establishment of an Enterprise Risk Program for reporting hazards.

Left - Acting IRS Commissioner Daniel Werfel
Right – TIGTA J. Russell George

Beyond these first steps, Treasury Secretary Lew asked Werfel to: "Take a forward-looking systemic view at the agency's organization." The journey had begun; and it would not be just about the poor judgment of a few employees.

Section 2. Exercising "Executive Power"

As with any Washington, DC path forward, there are usually options. One of them is what the Constitution calls "executive Power," [xi] often referred to as executive action and sometimes accomplished by Presidential Executive Orders (EOs) or Treasury Department (TD) regulatory revisions. In situations when using such authority is feasible, new Acts of Congress are unnecessary.[xii]

Since the proposals contained in this White Paper could be implemented under the open-ended mandate of the '98RRA to "*modify the existing organization*," [xiii] an EO or TD route should be feasible. After all, the 1998 law was silent about a timetable for structural reorganization and ambiguous about what would be done. So, it's *not* a big leap to construe the statutory authorization as continuing.

President Barack Obama
Applying his Signature to an Executive Order

Yet, even without that construction, executive action is still a reasonable choice to help manage the internal affairs of government. Indeed, many consequential administrative changes have been accomplished by executive action. Among them were the Emancipation Proclamation under Lincoln, integration of the armed forces under Harry

Truman and the desegregation of public schools under Dwight D. Eisenhower. For an Internal Revenue Service context, see also *Executive Order 12862* issued by President Bill Clinton on September 11, 1993, entitled "*Setting Customer Service Standards*," requiring each agency, including the Service, to publish a customer service plan and provide training for employees who directly serve customers.

Section 3. Leading with a new 2013 IRS Commissioner

President Obama, on August 1, 2013 nominated John Koskinen to be the next IRS Commissioner. He said in a statement that Koskinen is an "expert at *turning around* institutions in need of reform" and will do "whatever it takes to restore the public's trust in the agency."[xiv] On December 20, 2013, Koskinen was confirmed by the U.S. Senate. As one commentator recently wrote, he comes across as smart and willing to take personal responsibility.

IRS Commissioner John Koskinen
Associated Press

PART II

What's Past can be a Fine Prologue: Rebuilding Field Operations with a Benchmark-Balanced Organization Progressing from Districts to Robust Successor Field Executive Offices

Section 4. A Proven Idea Deserves a New Look (Re-enter President Truman)

It has been said that to get wherever we want to go, it is always helpful to know where we have been. History tells us that in the midst of the 20th century, President Harry S. Truman (HST) decided that his country much needed a 1952 first-ever major Service reorganization plan. It came in the wake of an increasing public perception, like the scattered warning signs now, that there was trouble in the ranks. That imperative was transformed into an extraordinarily well-crafted District Office system of field operations. What Truman had latched onto was something that worked fittingly for no less than nine Presidential administrations. What he gave us in formal terms was the

President's Reorganization Plan No. 1 of 1952, wherein the Service was organized into a 3-tier geographically cohesive structure with a 1st tier multi-functional National Office, 2nd tier half-way Regional Offices (which ultimately proved useless), and 3rd tier multi-functional District Offices (which ultimately proved to be the all-time benchmark for successful field operations.).

With the District Office functioning like a large symphony orchestra, the individual pieces all came together neatly as with pieces of a puzzle. In the 2nd tier, there were the 4 regions. Then, in the 3rd tier for field operations, there were 33 District Offices,[xv] 10 service centers, and 3 computing Service Centers. The District Offices and Centers were efficient, useful and functional, even though the half-way Regions, like a half of some things, became an essentially useless layer (which was the one 1998 restructuring conclusion widely supported among knowledgeable observers.)

As time passed, the story about the Regions was that they had become unproductive half-way houses for people close to retirement and others who had just chosen to retire on the job. They did little beyond watching, looking, listening and writing reports. Eventually, common sense dictated that they had to go.

On the other hand, the story of District Offices was that they were distinctively staffed by productive workers who never wasted a day. They never had to go! They were the engine that made the Service work well; and they were the pride of the agency. They represented the best of its "grass roots" in staffing and taxpayer community presence.

Moreover, Districts also replicated a field-tested military style organizational structure, which is more than just interesting because both institutions demonstrably work best with a cross-functional team system. A military formation for strategic and tactical military purposes, like a Service District Office, was a composite organization, which included a mixture of integrated and operationally attached sub-units that were "*field capable*." By comparison:

- A picture of Army formations included divisions, brigades, regiments, battalions, companies, platoons and squads, etc. and

- A picture of Truman National Office formations included regions and districts. Districts included: divisions, branches, groups and specialized units.

So, the Army and the Internal Revenue Service both used the same basic modeling to carry out their essential *field* missions.

All that, of course, ended in 1998 when that District Office geographic cohesion gave way to segregating stovepipes, which divided the one-team compliance function of the Service all the way from National Office to smallest city.

One analogy to the sudden appearance of stovepipes on the Service organization chart likens them to the demolition of a well-designed 4 story office building housing a single business, which is moved into 4 separate one-story office buildings, walled off so that no one group directly benefits much from the culture, management or common threads of the other.

Section 5. HST Letters to Congress Tell about How to Solve a Problem in the Field with a Solution in the Field

Failing a most fundamental test, 1998 stovepipes were built upon the false premise that solving a Service problem in the field required effectively leaving the field by removing senior-executives and geographic cohesion. By contrast, our nation's 1952 HST solved his problem in the field with a solution in the field … rather than dividing it by 4. That, you might say, is Truman style plain-speaking.

See EXHIBITS A, page 30, for the *President's Letters to Congress, dated January 2 and 14, 1952*; and *see also* EXHIBIT B, page 32, for *Excerpts from the 1952 Annual Report of the Commissioner of Internal Revenue*, which includes a "*Report to Taxpayers - What the Reorganization Accomplished.*" (In which the District Office approach and Truman were praised by John W. Snyder, Secretary of the Treasury, who first described Districts aptly as providing a fundamental "grass roots" presence.)

As Secretary Snyder explained, the tale of the '52 Reorganization was "a remarkable story of determined progress." Since its success, he said, depended on understanding what had been (done), it makes sense now in 2014 to wistfully look-back at the following operational description of classic District Offices and how a superb *corps* of District Directors (DDs) operated. Notably, their ranks included a long line of senior executives who did it all with the charm and grace of high-level torch carriers.

Section 6. Wistfully Looking-Back at Classic District Offices

By any calculation, knowing District Offices means dwarfing stovepipes. So, for those who never knew Districts, but want to, a friendly introduction is essential reading. Looking back to 1998, at the moment of their *elimination*, two big questions were *not* likely asked or ever fully understood - What did Districts do; and how did they do it? Let's, therefore try to see their large footprint and how their cross-functional operations *blended* at a time when they were so artfully woven together by:

- The National Office setting administrative policy, and

- Districts Offices executing that policy with "grass roots" senior-executives for on-site oversight.

1. **District Directors (DDs) represented the Service in every city or state.** Each District, until 1998, functioned like a large symphony orchestra, with all the players playing in unison under the multi-functional control of a field trained cross-functional senior-executive, a District Director (DD), who was frequently also the product of an Advanced Management Program (like at the Harvard Business School). Such a person usually came up through the ranks (like military field commanders) from either the examination or collection field functions, with years of taxpayer problem-solving face-to-face contact. In other words, they were all technically tax-law qualified, usually accountants, and sometimes lawyers, before development as managers and senior-executives.

   Accordingly, each DD was rigorously prepared to fully represent the Service in every town, city and/or state of assignment. Taxpayers or their taxpayer representatives might never expect to ever meet the IRS Commissioner in Washington, DC, but they might expect to meet their District Director, like an Ambassador, at a local charitable or professional event. The pre-1998 (and post-2014) intrinsic value of that proximity cannot be overstated.

   Education and outreach was part of the job, so it was expected that each DD would become a community leader, partnering with local chambers of commerce and other stakeholders, emphasizing community service and identifying with charitable activities. They earned their spurs by being respected in their posts of duty as fair-minded hands-on Service senior-executives.

   For most, becoming a District Director was proudly viewed as the top job in the Service, next to the Commissioner in Washington, DC; and like soccer, baseball, football, basketball and other sports team coaches and managers, they were a proud and competent corps of colleagues (similar to Generals or Flag Officers in the military.)

2. **A Map of the U.S. was a map of Internal Revenue Service Districts**: The Service map of the United States was by 1998 divided into a total of 33 Districts (consolidated from an earlier number, with each thoroughly covering a defined geographic area). Offices were located in all major cities; and each had posts of duty located in smaller cities.

The Welcome Door of
District Offices across America [xvi]

There were four major divisions and smaller units in each District; and they were essentially identical in all Districts. Each was headed by a chief who reported directly to the District Director (DD). They met throughout the week at set times, and other times as well, as a cross-functional (interdisciplinary) group of managers to: (1) maintain perspective and consistency with National Office policies and (2) as the DD's core management team. That meant division Chiefs and unit managers from taxpayer service, examination, public affairs, quality review, collection, criminal investigation, the Taxpayer Advocate and others all sat in the same room for briefings and staff meetings. Regular Inspection Service (now TIGTA - Treasury Inspector General for Tax Administration) and National Office reporting reviews and visitations kept them all sharp and singing from the same hymnbook.

As in any other well designed organization, the best of these managers, were immersed with indispensible cross-functional field experience and went on to the National Office / Executive Development (ExD) Program to become future DD's and higher.

Those four major District divisions were the:

1. <u>Examination Division</u> - This was also alternately called the Audit Division (before it was stovepiped out of existence). It had capable and proud collegial groups of IRS Field Agents (including Tax-Exempt Agents, Large Case Examiners, International Experts, Industry Specialists, etc.) and Office Auditors, all of whom enjoyed national training and examined tax returns. Indeed, it was a geographically cohesive function, indisputably appreciated for its levels of progressive expertise and National Office training ladders to advancement and specialization. These folks were people with whom taxpayers and their representatives met regularly at District Offices, businesses or elsewhere.

2. Collection Division – This was the home of the Revenue Officer (RO), a highly trained professional focused upon collecting taxes that were delinquent and securing tax returns that were overdue. Each conducted research, interviews, investigations, analyzed financial statements and contacted third parties for information. They also educated taxpayers on their tax filing rights and obligations; while they provided guidance and service on a wide range of financial problems to assist the taxpayer toward a positive course of action to resolve tax issues. As the Service's bill collectors, their work was not easy.

3. Criminal Investigation Division - This was the police force; and its investigators were called Special Agents. They worked in District Offices as well as in Service Centers in teams or on task forces. Very few customers had to deal with them. They worked on the slippery slope of apprehension, conviction and incarceration.

4. Taxpayer Service Division - This was the source of face-to-face personal tax help where no appointment was necessary. Services included short-form tax return preparation from January 2 – April 15, account inquiries, basic tax law assistance, solutions to tax issues and available tax forms. Offices were located in Federal Office Buildings and sub-offices across the state.

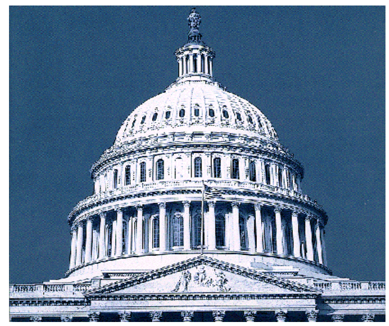
Also, in each District Office, there was a strategically placed on-site local Taxpayer Advocate Office (from the National Taxpayer Advocate - NTA). Before the NTA, these professionals were simply IRS troubleshooters (ombudsmen) called "Problem Resolution Officers." With an important dual reporting line to the NTA and District Directors, they routinely resolved issues outside normal channels, with authority to cut red tape and get things done quickly. They dealt with hardships and other taxpayer grievances. In recent years, NTA has commendably elevated that process.

Moreover, there were numerous other sub-groups (like a military Regiment) on the full District organizational chart (e.g. public affairs, quality review, etc.) Thus, each District was, and each FEO can be, a comprehensive "grass roots" (viz. less remote) field-based cohesive gem. And, it can fit nicely into an FEO/ National Office balanced system for guidance, command and control.[xvii] (We ignore, for these purposes, wisely-eliminated half-way Regions, which were at best, redundant, and at worst, useless.)

By comparison, one can imagine the same kind of organization chart at Fort Benning, GA or any military installation. Nobody in the armed forces would ever imagine a remote Pentagon involved in the day-to-day running of Fort Benning. In the Army, they always send a cross-functional field General to do that; and in the Service, it should send a cross-functional Field Director (FD) to run each state's field operations.

Section 7. Back to the Future - Along Came a 1996 Congressional Commission and the 1997 Senate Finance Committee Hearings

Formed in 1996 by the Congress, the purpose of the 1996 *Commission on Restructuring the Internal Revenue Service* was to "review the present practices of the Service and to make recommendations for modernizing and improving its efficiency and taxpayer services." [xviii] Its report was dated June 27, 1997.



Then, on September 11, 1997, the *Senate Finance Committee*, Chaired by former Senator Roth (R - Del) convened an unprecedented series of hearings to have its look at the Service. Staff had been interviewing witnesses for months.

Lasting until January 28, 1998, the Hearings featured a showboating of uncorroborated testimony by tax scofflaws, some with fairly legitimate complaints, and others with implausible grievances, which unfairly made the Service look like a house of horrors. Yet, Service top brass were apparently denied a seat at the hearings according to former Commissioner Donald Alexander (R-Nixon Administration), who spoke at a C-Span event. *See*, infra. He said, speaking of the Senate Finance Committee, they were the: "Worst hearings in 50 years." Other Service alums and veterans also concluded that the hearings had been riddled with flowering inaccuracies and non-facts about how the agency actually functioned and how taxpayers were actually treated.

Running on a somewhat overlapping timetable with the Roth hearings, the *Commission* spent a year on its project. One most revealing Commission hearings-byproduct came in Cincinnati, OH on March 21, 1997. This was an earlier Cincinnati event, not to be confused with the current Cincinnati episode. In its *Commission Report*, *Appendix J, "Feedback from field hearings*," the Commission noted that:

"The turnout at the field hearings was high. Although held during the workday, over 100 people of all ages… attended each hearing to listen or participate….The speakers included ordinary taxpayers, accountants, enrolled agents, current and former IRS employees, and tax return preparers.

"There was virtually unanimous agreement that the tax code is too complex and needs to be simplified. There was broad agreement that many of the things that the IRS is blamed for can be laid at the feet of Congress. *Not a great deal of thought is given to administration… The assumption is that … it can be made to work …*"

Well, there it is in a nutshell. Like today, no one seemed to think much or cared much about the "grass roots" of tax administration. And, that, it turns out, was the same consensus opinion of senior staffers who had worked behind the scenes and in support of the Commission from Main Treasury and the Congress.

These same staffers, 10 years later, offered their reflections. It was on July, 18, 2008, at a public event broadcast by C-Span. Tax Analysts, the publisher, had sponsored a panel discussion called, *"IRS Restructuring and Reform Act of 1998: Successes, Failures, and Consequences - The IRS - 10 Years after Reform: What's Working, What's Not, What's Next*." It was held in the Russell Senate Office Building.

Here's a snapshot of what was said in paraphrased-remarks (near the end of the telecast.) Reflecting on the Roth hearings prior to the '98TRA, without attributing any statement to any one present, these former senior staffers seemed to agree that:

> Again, "no one seemed to care about tax administration. The entire process was undertaken mostly by politicians and staff tax lawyers from Treasury and the Hill; and most were there as tax policy people."
>
> "Members of Congress and people from Treasury were reluctant to push back on any provisions. Amazingly, they seemed to choose provisions that were non-controversial so they could all just agree. Thus, the only tension in the deliberations came from whether pieces of IRS should be privatized. Two constant

discussions revolved around making IRS user friendly and customer service better. There was no one around to disagree…Summing up with a 10 year report card, it was a mixed bag."

Section 8. Foreshadowing Things to Come, Next Came a New IT Expert Commissioner Without any Formal Background in Law, Taxation or Accounting

For the Service coming into 1998, it was one of the lowest points in its history. The agency had been denied a voice at hearings about merely "isolated" examples of misconduct, as they were eventually characterized by former FBI Chief Webster in the same hearings. Yet, the Service's only major agency shortfall was that it had failed to keep up with modernizing information technology (IT).

As might be expected, the then Secretary of the Treasury, Robert Rubin, found a new IRS Commissioner who was an IT expert. What no one expected, however, was that he would have no background in tax matters. Then, on November 13, 1997, that businessman**,** Charles O. Rossotti, got the job. Foreshadowing things to come, he was the first person ever to be appointed so *conspicuously* with neither an accounting nor a law degree. What's worse, with no background in anything connected to taxation, he wasted no time in restructuring the agency with the help of other outsiders.

Using "a sledgehammer to crack a nut" metaphorically means to use disproportionate force to overcome a problem. Oddly, in this instance, that's descriptive. The Service's lag in keeping up with IT was a problem correctly identified as a nut that needed cracking; and the force to get it cracked was to be its new IT expert. Where it all got out of hand was his use of a sledgehammer to disproportionately crack a decentralized District Office structure, which he later testified was "too complex" for him.

His model would thus become a stovepiped and top-heavy overly-centralized National Office. He may have gotten clear sailing for his confirmation hearings throughout that process,[xix] but that did not mean clear sailing for the Service thereafter. The Congressional hearings had accomplished their political purpose, enraging the public against the Service and securing the appointment of a politically acceptable top-down businessman who arrived with his top-down plan to centralize vast operations as if the Service was a smaller business or a simpler government agency.

Regrettably, centralizing meant *eliminating* Districts; and that would be a haplessly flawed decision because it was based upon believing things

about District Offices that were plainly not true. Yet, all of this was gulped down anyway. What's more, as anyone who watched the hearings daily may have noticed, witnesses alleged scattered problems, none of which were resolved by eliminating Districts. With these Roth hearings as a televised backdrop for Rossotti and every one else, the arriving 1998 new management team had thus been empowered with non-facts to fix the business without learning the business. Why not! They were IT efficiency experts with considerable private sector successes.

Accordingly, it was much too easy for the incoming 1998 team to unknowingly blame District Offices for what undoubtedly had been National Office failures. Districts were far away, not represented at the hearings and not positioned to defend themselves. Furthermore, who, at this moment on the 1998 Washington, DC scene, knew or even cared much about how well District Offices actually performed. Apparently, no one!

Besides, if truth be told, what was alleged to be wrong with some alleged oppressive collection activity and inconsistent taxpayer service was more a National Office uniformity policy and training shortfall than a District management inadequacy. Even under the Truman model, Districts carried out National Office policies and delivered National Office standard training. Nevertheless, all "grass roots" Districts nationwide were about to be summarily erased from organization charts!

Section 9. Revealing Congressional Testimony about District Offices, Which Portrayed Them incredulously as if they had "Just Evolved"

He was a new 1998 Commissioner with neither an accounting nor a law degree and without any background or earlier knowledge of the Service or tax law. In Congress and in the press, he and his team were incessantly praised, especially by Senator William Roth (R - Del), Chairman of the Senate Finance Committee, where most of the *theater spectacle* in these Service Hearings took place. He embraced their dim vision; and they were eager to embrace whatever he proposed. For both sides, the Service was a mystical stranger, but something was wrong so something had to be fixed.

Later, in his own testimony before the House, Rossotti confidently introduced his idea of stovepiping. He said it would lead to … "fewer layers of management." The "old structural system was overly *complex*," he said; and "It just evolved that way." At least, that's how a stranger to taxation and tax administration saw Districts, but what was he right?

1. Well…no; and he was off by 180 degrees! District Offices did *not* just evolve! When they functioned like a large symphony orchestra that just did not happen! For him, understandably, it certainly was, as he said, "overly *complex"* because, without any background or earlier knowledge of the agency or tax law, his arriving team of outsiders just did not understand this different enterprise.

   Yet, ironically, what he said about it all "just evolving" was only half-wrong. Regions had drifted into uselessness over the years and should have been a separate issue, but, he seemingly thought Districts and Regions had to be treated as a package. That, we now discover, was the real blunder. See, infra, Section 6. Page 16.

2. But, the actual damage did not occur until substantial Regional resources were reallocated in the post-1998 period. People, operations and budgets inevitably were misdirected into the new framework of stovepipes in the National Office.

In other words, one Regional overstuffed office was replaced by another National overstuffed office; and a funding source for the field was lost. Apparently incomprehensible to some, in that 1998 moment, was the plain fact that most Regional people and funding resources could have been much better utilized by their shift to *modified* District Offices as opposed to a stovepiped National Office. Thus, what had been misplaced people-power at the Regions in the post-1998 era became equally misplaced people-power away from the field and into the National Office… all of which raises the specter of an old Service hallway exhortation from the heyday of District Offices. It bears repeating today.

> When a manager or executive didn't perform well, or spent too much time on so-called busy-work, the hallway talk was that:
>
> "They ought to send Johnny back to the "field!" The last thing you want to do is kick him upstairs where he can do even more harm."

Well, that narrative might be a first-rate rule for today as well. Shifting resources upstairs to the National Office was, in the final analysis, counterproductive.

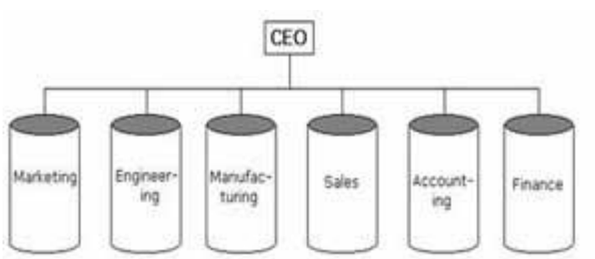
Section 10. Watching the Painful Birth of Over-Rated Stovepipes

After shutting down the Regions, next in implementation was the swap of Districts in an unequal exchange for four *contrived* separate, but equal, Service operating divisions, which were walled off as inherently segregating stovepipes, top-heavy and overstretched across the nation (referred to by some as a functional reorganization [xx]). Still in place, these over-rated fiefdoms are 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 over-rated stovepipes, astonishingly each headed by a titled Commissioner, which, by itself, was chronically symptomatic of isolation. Indeed, this multiplication of full Commissioners in one IRS headquarters building has always been perplexing.

Since private sector stovepipe graphics tell more, let's see what they looked like where they were also known as silos. What they did, even there, in time, also became problematic for management professionals.



An Image of Stovepipe Organization in the Private Sector

Stepping back to look carefully at stovepipes, an unsettling picture often comes into focus. As commonly described[xxi], they inherently:

- "Restrict the flow of information within the organization to up-down through vertical lines of control, (not full-functioning within the main stream),
- Inhibit, or prevent, cross-organizational communication, (isolating staff),
- Operate as very hierarchical with too sharply defined roles or areas of influence, (like a pyramid with little feedback or dissent), and
- Breed a culture of suspicion, (with senior-executives so far away, like from Cincinnati to Washington, DC).

As if to reinforce the above, the National Taxpayer Advocate (NTA), Nina Olson, reportedly testified at a House Committee on February 26, 2014 that the stovepiped Cincinnati episode was contributed to by a lack of guidance to front line employees.

Section 11. "Unstovepiping" or "Reverse Engineering," from the Toolbox of Management Professionals

When management professionals realize that working in characteristic stovepipe isolation is detrimental to a service organization, they reverse direction and move to holistic cross-functional integration.

In many ways, the Service, like a highly complex private sector company, enjoys a multinational presence and considerable overseas resources. In the private sector, for such an entity, the integrated flow of customer contact and senior-executive on-site oversight is vital. In fact, many companies fail because executives are not close enough; and many would not be in existence today if they had not reverse engineered their structures by decentralizing, cross-functionalizing and integrating. Wanting similar outcomes, the Service should travel a similar path.

Contemporary analogies sometimes help us focus so consider this one. Asking if National remote-oversight can replace District on-site oversight is like asking if singles' chat rooms can replace real dating. Our lesson, therefore, is that human face-to-face interaction is the most effective form of messaging and communication. It's simple – just being there also delivers motivation along with inspiration. For instance, management professionals say:

- **"Working in isolation is detrimental for service organizations:** Stovepipe (a/k/a silo) formation is undesirable because it creates barriers to communication between divisions.

  "In virtually every company where silo effects are present, various broad organizational objectives and goals are not optimally achieved because the collective brain power and work potential of the organization cannot be fully harnessed." *See,* Infra, Endnote xxii.

- **"Holistic cross-functioning is better than narrow stovepiping:** Today, most businesses are moving from a narrow functional (stovepipe) view of the organization to a cross-functional (holistic) view of the organization. Moreover, models with a functional focus still exist in many organizations and conflict with the current organizational focus of continuous improvement and being "world class." *See,* Infra, Endnote xxii.

- **"Unstovepiping" helps with efficient management:** Organizational silos and stovepipes are almost always discussed in disparaging terms, as hindrances to the efficient management of a company (or a school, or a health-care system, or a presidential administration)." [xxii]

Accordingly, there are good lessons to take and bad lessons to reject from the private sector. For instance, going all the way back to 1953, another CEO turned government official carried it just a little too far when he spoke at his now-infamous confirmation hearing. Reportedly, he said that "*What's good for General Motors is good for the country*".[xxiii] By contrast, that nugget did not take a 16 year hiatus to be spotlighted as fool's-gold. *See* also: "Overcoming the Stovepipe Organization." [xxiv]

Section 12. Lost and Found: a Treasure-Trove of Management Development Programs (MDPs) and an Executive Development Program (called Ex-D), both Strategically Field-Based in Districts (which can be FEOs)

It's been said that one general rule to follow for developing top people is to find those who know the whole organization, grew up in the organization and are bright enough to be open to new ideas. Certainly, this is what regularly happened in the field with District Offices; and it can be equally successful with FEOs.

Once again, Truman said it best in his Letters to Congress. In them, he counsels us:

1. **Re: High-caliber administrators for *all phases* of revenue administration:** "In addition to making possible greatly improved service to the taxpayer, the establishment of the District Offices (herein retitled as FEOs) will provide opportunity in the *field* service of the Bureau (under President Eisenhower, retitled as the IRS) for the development of high-caliber administrators with experience in *all phases* of revenue administration, and

2. **Re: District Offices (as) …a necessary step… from the field to the Commissioner:** "These offices will be the backbone of a modern, streamlined … organization with clear and direct channels of responsibility and supervision from the lowest field office to the Commissioner... The creation of this framework of District Offices is a necessary step in carrying out the overall reorganization of the (Service)." (S*ee* EXHIBITS A, page 30)

If we are to listen to Truman, which is usually a good practice, it's no-less-than lost treasure to have ditched field-based pre-1998 District development programs, which for years before had nurtured and cultivated generations of holistic cross-functioning managers, who ultimately became judgmentally-seasoned and very effective senior-executives. Where then does such an agile Service talent pool come from in this 21st century? Field based holistic training used to mean developing the most capable career people from lower-level supervisors, mid-level managers and senior-executives with District Office deep backgrounds. They were the best candidates for moving up the ladder; and their field experience, particularly from the examination and collection functions, provided the best technical foundation for success in the Service's MDP and Ex-D programs.

There should also be discussions about whether outsourcing to hire professional administrators is better than moving people up through the ranks. One answer there has two tracks. First, it's usually best to stay in-house. Second, there are times when departing from that rule makes sense. One time, in the interest of civilian control, is where recruitment of smart outsiders to join a National Office will help to assure effective administration. Obviously, such people can bring invaluable skill sets.

A problem under current practice has been when outsiders have been placed in senior-executive *field* positions running things they had never done before at high and low levels. The Lois Lerner case study (coming from the Election Commission) to allegedly ignite the Cincinnati episode is an obvious case in point. Certainly, any organization, like the Service, with around 90,000 employees should also be able to develop substantially all its talent from its own ranks. Sticking to the career ladder will help build a future, bolster morale, and stabilize field operations!

Then, in highly technical areas, there is always the other question of whether any top generalist executive can do any top technical job. When a patient is wheeled into a hospital operating room (OR), a surgeon with years of field training needs to be in charge. We all agree, but is that true only for the OR, or also for the entire surgical division? Yes, still true! Should it apply equally to the entire hospital-wide medical staff? Yes, again! In other words, technical supervision invariably works better when specialists, who are also trained as senior executives, are in charge of other specialists.

In the Army, outsourcing for field commanders is virtually unheard of since there is a command structure standard of "learning to do by doing." It is well understood that uniformed *field* leaders in the ranks start at the bottom and work their way up the ranks. Anyone who looks carefully notices that Pentagon desk-Colonels rarely get promoted to the rarified plateau of General Officer, where cross-functional leadership in the field is expected. Perhaps, this should be a lesson not lost on the Internal Revenue Service.

PART III

The Truman Plan: Redux and Redo

Section 13. A Time to Move Forward

Whereas, the American people, including patriotic Internal Revenue Service employees, certainly deserve better; *Whereas,* on-site oversight and accountability is generally a sensible management practice; *Whereas*, another proven practice is to prepare new leaders with cross-functional and holistic-field-training for senior-executive leadership positions, imbedded closer to the customers served; and *Whereas*, formidable leading-edge Field Executive Offices (FEOs) with Field Directors (FDs) can, once again, like their predecessor District Offices (Dos) and District Directors (DDs), can enhance geographic cohesion and reflect a "grass roots" presence; *Be it Resolved*, therefore, that the debate begin and the journey to rebuilding field operations get underway.

Yes, the 1952 and 1998 reorganizations were yesterday; and in the course of events, the time has come to reset the machinery and move forward.

Even though thoughts for rewriting the tax law and bad regulations are not part of this White Paper, brief mention is warranted. *See* EXHIBIT C, page 32. Then, for historical context, also see *The Restructuring and Reform Act of 1998* [xxv], somewhat explained in a Blue Book[xxvi], and loosely provided for by "*A Vision for a New IRS,*" [xxvii]

Section 14. A Closing Statement - Better Proactive Than Reactive

As for the Cincinnati episode, there is no evidence of intentional Administration or Service institutional wrongdoing, nor is it likely that an evil purpose could ever be established. Yet, we are still left with a lingering perception of a weakened tax collector. As a consequence, this is one of those few times when both clearing the air and *visible* change-making can work well together. Rebuilding field operations also, incidentally, provides a dynamic off-ramp from the scandal. If not rebuilding the field with on-site oversight, what else? If not now, when?

Accordingly, this White Paper closes as it opened, calling for change-makers to make a difference by sparking better proactive than reactive change in the midst of an unusual opportunity to bend the curve forward for the Internal Revenue Service story and better serve taxpayers – not necessarily to have a beloved tax collector, but to have it universally respected for its sense of fair play, independence and competence.

Attachments

EXHIBITS A --- Excerpts from HST's Two Letters to Congress in 1952

1. **1st Letter** - In his Letter to Congress on January 2, 1952, "The Buck Stops Here" Harry, (also called "Give-Em-Hell Harry") in part, said:

   "After extensive study … I have decided to institute a sweeping reorganization of the Bureau of Internal Revenue….The following major changes… will be made:

   - All operating functions of the Bureau (soon to be renamed IRS) will be placed in … district offices… each headed by a District (Director) … and (that person) alone will be responsible to the Commissioner in Washington….
   - Bureau headquarters at Washington will be reorganized and its operating functions further decentralized.
   - It is my intention to make the Bureau a blue ribbon civil service career organization. I intend to make it a service in which all of us can place genuine confidence and have justified pride.

   (Signed) *Harry S. Truman.*
   The White House, January 2, 1952"

2. **2nd Letter** - In Truman's subsequent January 14, 1952 "Message of the President to the Congress, he said. "I transmit herewith Reorganization Plan No. 1 of 1952, … He continued, in part, by noting:

- "District commissioners (ultimately, called District Directors) … will be responsible to the Commissioner … and will have full responsibility for administering all internal revenue activities within a designated area…and service to taxpayers improved.
- "(T)he establishment of district offices will provide opportunity in the *field* … for the development of high-caliber administrators with experience in all phases of revenue administration. These offices will be the backbone of a modern, streamlined pattern of organization… The creation of this framework of district offices is a necessary step….

(Signed) *Harry S. Truman.*
The White House, January 14, 1952

EXHIBIT B --- Excerpts from a Forward to the 1952 Annual Report of the Commissioner of Internal Revenue, including "*A REPORT TO TAXPAYERS - WHAT THE REORGANIZATION ACCOMPLISHED*" (Released Sept. 10, 1959)

"The story that is told in these pages is one that few citizens could know if it were not made available by those who possess the facts. The story to my mind is an important and unusual chapter in the history of one of our most vital agencies, the Bureau of Internal Revenue. It is a remarkable story of determined progress toward improvements. *Finally, this progress would not have been possible without the wholehearted and unflagging encouragement and backing of President Truman*."

(Signed) *JOHN W. SNYDER.*
Secretary of the Treasury, January 16, 1953

EXHIBIT C --- Tax-Exempt Issues

- Dealing with the two distinguishable tests - "exclusively" and "primarily": Rewriting the law and/or regulations with regard to political activities and *IRC*

§501(c)(4) would seemingly be a good thing . Whether it gets done is a political question. Even though that effort is not part of this White Paper, brief mention is warranted.

Internal Revenue Code §501(c)(4) generally provides income tax-exemption for organizations operated "*exclusively*" (the statutory standard) for the promotion of "social welfare", such as civics and civics issues, and with net earnings devoted "*exclusively*" to charitable, educational, or recreational purposes.

On the other hand, 1959 interpretive Regulations generally provide that an organization is operated "*exclusively*" for the promotion of social welfare if it is "*primarily*" engaged in promoting the common good and general welfare of the people of the current community ("*primarily*" is the imprecise lower standard that initially sparked the current controversy). See *Regulations §1.501(c)(4)-1(a)(2)(i).*

Rewriting those Regulations to conform to the plain language of the statute, "operated *exclusively*," would be a bright-line test, removing all political activities from the favored tax-exemption. That, incidentally, would facilitate administering the law, but it's not likely to happen in today's political climate.

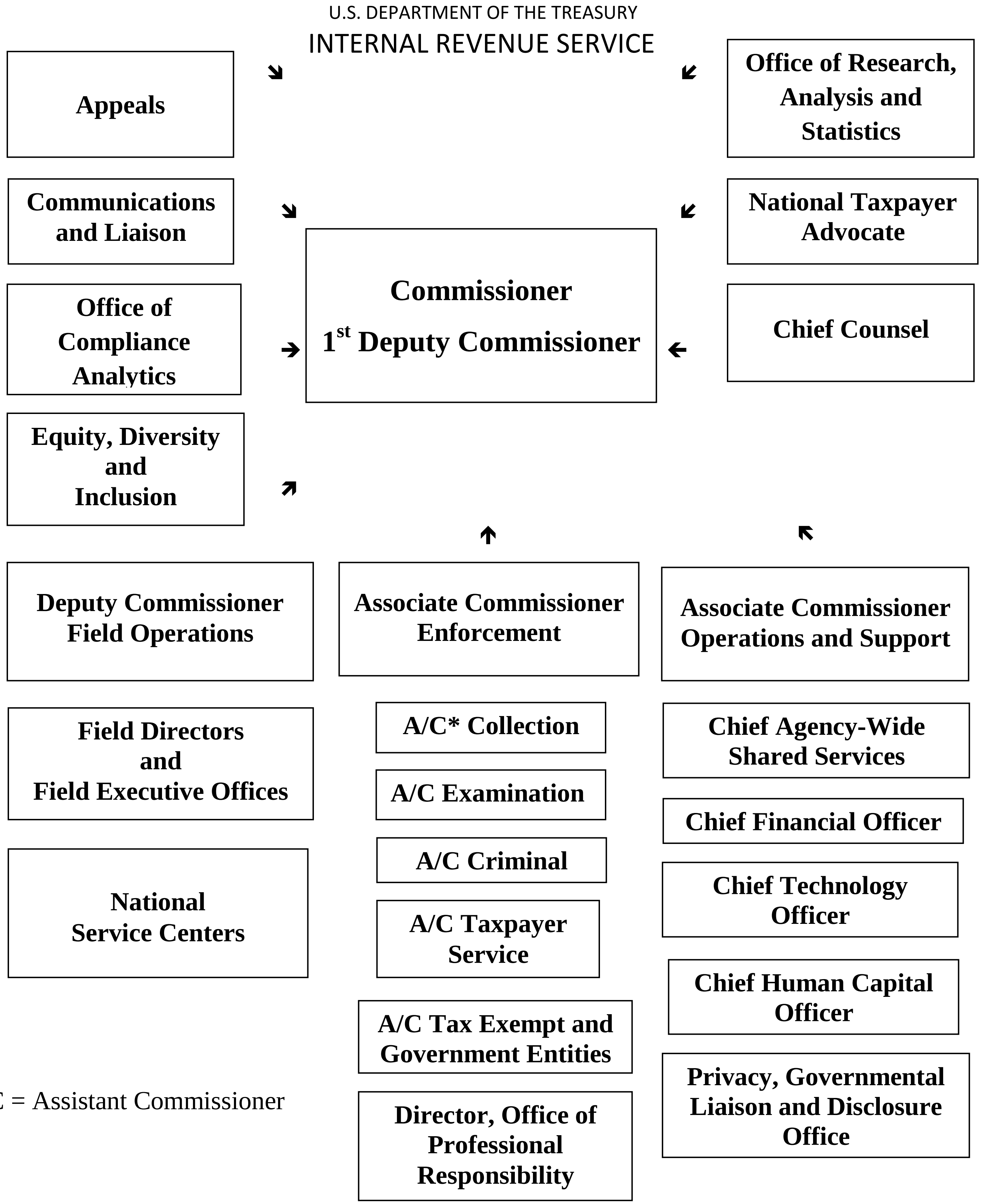
To the extent that there are a revised set of regulations, as Commissioner Koskinen recently testified, they should be "clear, fair and easy to administer." Well… yes, of course. Nevertheless, any new standard, which is still essentially a "fact and circumstances" model, might continue to be a magnet for controversy.

At any rate, seen through the lens of existing political polarization, without regard to the merits of any proposal, calm resolution is miles away.

- "Harassing" Taxpayers – a "Deadly Sin":

If it is unlikely found that Service employees acted improperly, existing law already provides a remedy. As a consequence, targeting political organizations may not only be inappropriate, but can also be a statutorily punishable offense. There are series of so-called employee "deadly sins" enumerating circumstances under which any Service worker can be fired. Harassing taxpayers is on that list. See *§1203 of the IRS Restructuring and Reform Act of 1998.* [xxviii]

EXHIBIT D --- Proposed Organization Chart with Field Executive Offices



* A/C = Assistant Commissioner

Endnotes

[i] Statement of Hon. Bob Kerrey, a U.S. Senator from the State of Nebraska before the House Committee on Ways and Means, Subcommittee on Oversight, July 15, 1997

[ii] *See Wikipedia. "***STOVEPIPES" DEFINED**: "A stovepipe pattern is most likely to develop in organizations that have some or all of the following characteristics:

- Very hierarchical with sharply defined roles or areas of influence …
- Long reporting lines (i.e. lots of intermediary layers of management) and narrow spans of control Multiple sites (or sub sites within a larger site) where staff have little chance to interact on a regular basis with staff from another site….

"A stovepipe pattern can be very harmful to a commercial organization as it can lead to duplication of effort in different parts of the organization and, in extreme cases, unhealthy competition between different branches of the organization."

[iii] "*Taxes are the price we pay for a civilized society:"* Reportedly said by Justice Oliver Wendell Holmes in a 1904 speech. Alternately, it has been phrased: "*Taxes are what we pay for civilized society...*", *Compania General De Tabacos De Filipinas v. Collector of Internal Revenue, 275 U.S. 87, 100, dissenting opinion (21 November 1927*). The first variation is engraved above the entrance to the Service's headquarters at 1111 Constitution Avenue, Wash., D.C.

[iv] *See* "*The Taxpayer Advocate Service, 2013 Annual Report to Congress, Executive Summary,* which reports on the significant role of *trust* in noncompliant behavior with our voluntary self-assessment system. It says: *"*In recent years, the Taxpayer Advocate Service (TAS) has explored the factors influencing taxpayer compliance decisions … For example, our surveys have shown that for the most noncompliant group of taxpayers (sole proprietors), *trust* in the government, *trust* in the IRS, and *trust* in the tax system highly correlates with (their) behavior."

[v] See *Accounting Today, WebCPA*. October 7, 2013

[vi] *IRS Organization Blueprint 2000,* Document 11052 (Rev.4-2000), Catalog Number 27877P

[vii] In order to see how smoothly this lightly deliberated outcome slid into place, see the *"JCT General Explanation of 1998 Tax Legislation (Blue Book), JCS-6-98, Congress (United States)."* It reports that "The Commissioner *ANNOUNCED* (his "outline … to reorganize," quoting the *Congressional Record*) … "under which the present regional structure would be replaced with a structure based on units that serve particular groups of taxpayers with similar needs….The Commissioner *BELIEVED* that this type of structure will solve many of the problems taxpayers encounter" … Thus "The Congress *SUPPORTED* the Commissioner" … And, for that reason alone, he was "*DIRECTED* to restructure the IRS by *eliminating or ...modifying* the… structure (the Truman Plan) …with…operating units..." (N.B. *modifying* remains even today as an option… with such units just as easily blended into FEOs without *eliminating* that benchmark model of District Office excellence.)

As the oft-repeated adage suggests, the 1998 legislative process for IRS restructuring was no less than one more amazing instance of how "Laws are like sausages, (so) it is better not to see them being made." *Otto Eduard Leopold, Prince of Bismarck, Duke of Lauenburg (1 April 1815 – 30 July 1898)*

[viii] *See* "*President Obama on August 1 announced his intention to nominate John Koskinen to be the next IRS commissioner*," August 1, 2013, Tax Analysts.

[ix] *See "IRS Outlines Steps to Fix Problems with Tax-Exempt App*lications," Accounting Today, Washington, D.C., June 24, 2013, By Michael Cohn.

[x] Report of TIGTA (Treasury Inspector General for Tax Administration, "*Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review,"* May 14, 2013 Reference: 2013-10-053.

[xi] The *U.S. Constitution, Article II, Section 1,* provides that "The executive Power shall be vested in a President of the United States of America," and *Section 3* further provides that "he shall take Care that the Laws be faithfully executed…" Thus, when the President signs an Executive Order or when the Treasury employs its regulatory authority to interpret laws, both are taking care that the laws are faithfully executed according to often-unclear Congressional intent.

[xii] *See Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 842-843 (1984),* which sets forth the legal test for deferring to a government agency interpretation of a statute. The Court provided a two-part analysis, called the "*Chevron* two-step test." (1) "If the intent of Congress is clear, that is the end of the matter...If …Congress has not directly addressed the precise question…, the court does not simply impose its own construction of the statute…Rather," (2) [I]f the statute is silent or ambiguous with respect to the specific question, the issue … is whether the agency's answer is based on a permissible construction of the statute." *Chevron* is probably the most frequently cited case in administrative law.

[xiii] See *Public Law 105-206, 105th Congress, The Internal Revenue Service Restructuring and Reform Act of 1998 ('98 RRA), Title I, Subtitle A, §1001(a)(2) Reorganization of the Internal Revenue Service.,* which provides that "The Commissioner of Internal Revenue shall develop and implement a plan to …*eliminate or substantially modify the existing organization* of the Internal Revenue Service which is based on a national, regional, and district structure (and) establish organizational units serving particular groups of taxpayers with similar needs." Notably, there are no time limits as to when the plan may be fully accomplished so, the time for change would thereby seem to be open-ended..

[xiv] *See* supra, Endnote viii

[xv] *See IRM 1.1.2.4 (02-26-1999) District Offices*, which initially authorized in 1952 to have up to 70 district offices, but the actual number opened was less. In 1995 the decision was made to consolidate the districts into 33 offices.

[xvi] One concern about Service buildings is that security can be expensive. As a result, some open-to-the-public offices are occasionally relocated to safer facilities.

[xvii] Notwithstanding comprehensive quality of the District Office and its potential successor FEO, there will always be some activity that requires National Office central control for obvious reasons. That has included such specialized matters as essential taxpayer service and professional Call Centers, identity theft, organized crime, selected industries and super large case management. In many Districts over the years, there were also the customary Organized Crime Task Forces, all subject to National Office policy oversight and joint Justice Department collaboration. Another similar situation arises from a world gone global, not just with large corporations but also with individuals. High net worth individuals have many complex structures that cross borders to manage their finances. High net worth individuals have always been examined by specialized groups, which would continue to enjoy continuous training from National Office experts. Even without stovepipes, uniform national training will continue as it always has. As for large business and international operations, they were certainly *not* a new idea that showed up in 1998. Long before stovepipes, they just had another name - "large case groups" manned by the best trained specialists, also working well under DD's. As was always the case, one set of executives in the National Office would decide what to do and how to do it; and another set of executives in the field would execute. That's a balanced approach – that's decentralization!

[xviii] *See* a Hearing of the Committee on Ways and Means Subcommittee on Oversight, July 15, 1997 - Background: "The National Commission on Restructuring the Internal Revenue Service was established by Public Law 104-52. Its purpose was to review the present practices of the IRS and to make recommendations for modernizing and improving its efficiency and taxpayer services… "

[xix] *See New York Times, Man in the News*, David Stout, November 4, 1997

[xx] Functional organization is defined in "*Different Types of Organizational Structure"***,** by Alexis Writing, Demand Media, Houston Chronicle, 2013, Hearst Communications. **"**Functional structure is set up so that each portion of the organization is grouped according to its purpose. In this type of organization, for example, there may be a marketing department, a sales department and a production department. The functional structure *works very well for small businesses* in which each department can rely on the talent and knowledge of its workers and support itself. However, one of the drawbacks to a functional structure is that the coordination and communication between departments can be restricted by the organizational boundaries of having the various departments working separately."

[xxi] *See* supra, Endnote ii

[xxii] *See "Of Silos and Stovepipes", Management and Accounting Web,* by Benjamin Zimmer, March 27, 2006; *See* also Dolk, D. R. and K. J. Euske, "*1994 Model integration: Overcoming the stovepipe organization*," *Advances in Management Accounting* (3): 197-212, Summary by Aarti Nirgudka, University of South Florida, 2002.

[xxiii] *Confirmation hearings of Charles E. Wilson for 1953 Secretary of Defense*: In some respects, the coming of this new 1997 IRS Commissioner may be reminiscent of the confirmation hearings of Wilson for Secretary of Defense. Wilson had been president of GM since 1941. Much of the hearing revolved around the difficulties of separating his role at GM from the new role of Secretary of

Defense. On January 15, 1953, Wilson had this infamous exchange with Senator Robert Hendrickson, a Republican from New Jersey. Since the actual hearings at the time were not open to the public, when reporters asked what had been said, they were told that Wilson had simply replied: "*What's good for General Motors is good for the country*." As the story goes, when the quotation came out; and he was rebuked, Wilson would try to offer some context, but after awhile he stopped bothering. It just stuck with him. Reflecting upon Charlie Wilson's infamous remarks, it's apparent that what this 1997 new IRS Commissioner tried to do was akin to what this other business man, Wilson, somewhat similarly advanced as his governing principal.

[xxiv] *See* Dolk, D. R. and K. J. Euske, "*1994 Model integration: Overcoming the stovepipe organization*," *Advances in Management Accounting* (3): 197-212, Summary by Aarti Nirgudka, University of South Florida, 2002.

[xxv] *The Internal Revenue Service Restructuring and Reform Act of 1998*, (Pub.L. 105–206, 112 Stat. 685, enacted July 22, 1998), resulted from hearings held by the United States Congress in 1996 and 1997. Besides non-specific authority given to the Commissioner of Internal Revenue to restructure the organization, the 1998 Act called for some essentially positive reforms, which included a new mission statement, developing a service-oriented culture, setting a five-year term for the Commissioner, establishing a new National Taxpayer Advocate, creating of an IRS Oversight Board, listing a host of new taxpayer rights, especially something referred to as the "10 deadly sins" for which Service employees may be fired, providing a limited privileged communication for taxpayers, limiting the use of certain financial status audit techniques by IRS employees, restraining certain collection activities, standardizing assessments and levies that must have the approval of IRS legal counsel, changing the due process rights afforded to taxpayers after the filing of a notice of Federal tax lien, changing certain procedures relating to taxpayers' offers in compromise of tax liabilities and installment agreements, and an increasing from $10,000 to $50,000 of the designated maximum amount that may be at issue in simplified "small tax case" actions filed in the United States Tax Court. The Act also changed certain rules regarding the burden of proof in court proceedings in connection with Federal taxes.

[xxvi] *See* supra, Endnote vii.

[xxvii] "*A Vision for a New IRS,"* Report of the June 25, 1997, National Commission on Restructuring the Internal Revenue Service, Bob Kerrey. Rob Portman.

[xxviii] Washington Post, *"IRS targeting of political groups might be one of agency's 'deadly sins'*," by Joe Davidson, May 10, 2013. See also *§1203 of the Internal Revenue Service Restructuring and Reform Act of 1998*, which provides that the IRS Commissioner "shall terminate the employment of any employee" for (1) violating the rights protected under the Constitution or the civil rights established under six specifically identified laws with respect to a taxpayer, taxpayer representative, or other employee of the IRS, and (2) Violating the Internal Revenue Code, Department of the Treasury regulations, or policies of the IRS (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing a taxpayer, taxpayer representative, or other employee of the IRS."