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Getting Back to the "Grassroots" of Tax Administration: Because "We the People" Long For a Gathering of American Eagles to Restore Trust in the Internal Revenue Service with A Rebuild IRS Initiative

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GETTING BACK TO THE "GRASSROOTS" OF TAX ADMINISTRATION: BECAUSE "WE THE PEOPLE" LONG FOR A GATHERING OF AMERICAN EAGLES TO RESTORE TRUST IN THE INTERNAL REVENUE SERVICE WITH A *REBUILD IRS INITIATIVE*

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Contributing Editors: Allen Littman, Esq. (Washington, D.C. and Cleveland); Steven J. Mopsick, Esq. (California); and Tom Norris, Esq. (Tennessee). Beyond that, considerable inspiration came from the memory of, and was written in tribute to, a mentor and dear friend, the late William E. Williams, who served with greatest distinction as District Director in Boston, then as sole Deputy Commissioner and later as Acting Commissioner of Internal Revenue. This Article was first circulated and published in 2013-2014; revised in April 2015; and significantly updated in April 2016 for this Law Review Release.

1. METHODOLOGY: Research for this work included a blend of publically available Service literature and the author's 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 the Internal Revenue Service's past and present field operations was absolutely indispensable.

Throughout this Article, the Internal Revenue Service (or IRS) will be alternately referred to as the Service.

I. INTRODUCTION

Three IRS truths are certain: (1) No IRS problem can be solved if it's not talked about; (2) it's not too late for the IRS to reestablish a better way to do its business in the field with a principled return to business-like, senior-executive, state-based "*on-site oversight*"[2]; and (3) the IRS's capacity to avoid blunders will rise markedly with a "phased-in" rebalancing and *decentralizing* field architecture—preceded by a "pilot," spotlighting realigned and rehoused *RRA '98*[3] stovepiped field "units."[4]

2. The term "*on-site oversight*" was coined and first used by Frank Wolpe in an earlier publication. *See* Wolpe, *infra* note 47, at 7.

Awkwardly lost by a 1998 ill-conceived organizational restructuring, hopelessly flawed by foreseeable dysfunction and followed with calls for reform by this author, a TIGTA March 28, 2016 report, a National Taxpayer Advocate 2014 Report and other public pleas for corrective actions to restore trust in the Internal Revenue Service. *See* Press release, Treasury Inspector General for Tax Administration, An Ongoing Challenge: Implementation of the Internal Revenue Service Restructuring and Reform Act of 1998 (April 15, 2016), https://www.treasury.gov/tigta/press/press_tigta-2016-09.htm. The press release revealed that the TIGTA report found, among other things, that many "goals of the law [RRA '98] have remained substantially unrealized." The author of this Article sees that insightful conclusion as closely associated in principle with the Restorative and Reform Recommendations of this Article. The recommendations of both writings are, therefore, compatible with the mutual objective of achieving more effective tax administration.

In its page 2 Synopsis, the report noted that the RRA '98 required changes to transform the IRS into a modern financial institution. *See* TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, OFFICE OF INSPECTIONS AND EVALUATIONS, 2010-IE-R002 THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998 WAS SUBSTANTIALLY IMPLEMENTED BUT CHALLENGES REMAIN (2010), *available at* https://www.treasury.gov/Tigta/iereports/2010reports/2010IER002fr.html [hereinafter TREASURY INSPECTOR GENERAL, CHALLENGES REMAIN]. These changes included maintaining a taxpayer-focused organizational structure. *See id.* In the IRS official Response, it noted: "The blueprint for our customer based organizational structure, with four main operating divisions, remains the foundation for IRS today." *See IRS Still Lags on 1998 Reform*, IRSLOGICS, http://www.irslogics.com/news/irs-lags-1998-reforms/. Yet, that hopelessly flawed foundation is in large part what needs fixing today; so, as with other construction work, it would be best to fix the foundation first before proceeding with other changes! On a more hopeful note, the IRS response also conceded that the Service was open to bringing about "business-like transformational change"; and that, of course, is exactly what this Article seeks to achieve. *See id.*

If truth be told, those four perennially disputed stovepipes were always more of a problem than their marketing as a transformational solution in 1998, despite effusively defensive protestations to the contrary; so they too should be early candidates for a more business-like transformational change.

3. *See generally* Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685 (1998).

4. STOVEPIPE DEFINED: Notably, what the "compliance break-up" did, without any meaningful utility, was to engineer a multi-year, painful and contrived division of a "sui generis," single-compliance function at the National Office, while eliminating the benchmark cohesive Classic District Office. *See* TREASURY INSPECTOR GENERAL, CHALLENGES REMAIN, *supra* note 2. (detailing organizational changes and describing stovepipe as: "In a stovepipe operation, functional units such as taxpayer services, exam, collection, appeals, and counsel implement their own priorities and objectives, which often are disconnected from the other functions and organization as a whole."). Ignoring a generally accepted model, the IRS in 1998 charged backward nevertheless. Even though it never achieved a justified betterment for the agency, it was arranged to be done *by law* on the specious assumption that vastly dissimilar standards, services and "tax laws" applied to each taxpayer "unit" of: (1) wage and investment earners; (2) small business/self-employed earners; (3) large business and international earners; and (4) tax-exempt and government earners. Of course, they are uniquely all the same, except for progressive size and complexity; and that progressively led to one

This Article thus offers an achievable, breakthrough opportunity and turn-around framework for, at long last, restoring public and employee support as well as renewed public *trust* in the Internal Revenue Service. It identifies an ill-conceived, massively centralizing, 1998 structural reorganization and a "compliance break-up/division," which moved the Service backward to an "*unnaturally*" isolating, four-way segregation of field operations. In a few words, a both centralizing and dividing, mammoth misstep greased the way for the IRS's ongoing "downward slide." As a knowledgeable observer might descriptively conclude: "The bigger the blunder, the harder it falls!"[5]

Politically neutral in this matter, this Article paves a bipartisan pathway to addressing a wrong-headed, 1998 solution to a non-existent, structural problem by introducing a post-2016 proposal for overdue restoration and reform accompanied by a returning and decentralizing IRS local presence across the nation.

In a nutshell, this Article proposes an IRS National Office consolidation (helpfully slimming it down), coupled with a return to decentralization (helpful for bulking up field operations). That means bringing back proven field "*on-site oversight*" by ending, at long last, the counterproductive 1998 ban against the field deployment of field-trained and experienced senior executives. In 2017, that would mean a joyous homecoming for a greatly updated successor structure to the 1952-1998 style Classic District Office, which was the best architecture the IRS ever enjoyed. In the 1998 climate of the time, they had been naively and arbitrarily simply eliminated, viz. bumped-off.

of the best career ladders for upward mobility into more responsible and interdisciplinary, professional jobs. Alas, with stovepipes, that wonderful career ladder was blindsided; and it evaporated! This Article seeks to have its integrity restored. For *"Watching the Painful Birth of four (4) Divisive, Overrated Stovepipes,"* see, *infra*, note 80, which explains how each became a contrived operating division that was walled off by other segregating fiefdoms.

STOVEPIPE "CUSTOMER" APPROACH CRITICIZED: Disagreeing with a division of customers into stovepipes, former Commissioner Sheldon Cohen was critical of the plan because of its failure to acknowledge that, compared to private industry, the IRS worked differently. *See* Eric A. Lustig, *Book Review: Many Unhappy Returns: One Man's Quest to Turn Around the Most Unpopular Organization in America, by Charles O. Rissotti*, 40 NEW ENG. L. REV. 563, 568 (2006). Likewise, Professor Calvin Johnson viewed the customer-centered approach as a failure to comprehend the adversarial nature of the system. *See id.* at 566. *See also*, Leonard & Rubin, *infra* note 43. In the past, when local problems surfaced, every District Director, the Commissioner's representative, met with Mayors and/or Governors. Who does that now? No one locally!

"ON-SITE OVERSIGHT" DEFINED: Since the phrase is used extensively in this document, we begin with a reference to oversight by President Woodrow Wilson, who wrote, "Quite as important as legislation is vigilant oversight of administration . . . ." *See* WOODROW WILSON, CONGRESSIONAL GOVERNMENT 297 (Boston, Houghton Mifflin 1885).

5. Restructuring and Reform Act of 1998, 112 Stat. 685 (1998).

Adoption of this proposal, therefore, could lead to a splendid boon to both the agency and the wider population with refreshingly modern and modestly sized, new 2017 *Hybrid Field Executive Offices* (*Hybrid FEOs*) for renewed, local presence, accountability and executive "*on-site oversight*."[6]

The 1998 second-rate, highly centralized restructuring was, at best, a bad idea masterfully executed. At worst, it was a bad idea oversold, overrated, underperforming and hierarchically making the IRS an overly staffed Washington headquarters with an inexcusably understaffed field structure. More to the point, its architects had scrapped a perfectly good field structure by eliminating locally accountable "Classic District Offices" and replaced them with a headquarters-heavy (and field-light) bureaucracy of disruptive, divisive and impractical stovepipes.

All in all, the 1998 ill-conceived restructuring can be seen for what it always was: reversible error and a treatable self-inflicted wound. It happened just as prophesized long ago by the Brookings Institution, countless "independent-minded" Service insiders and a host of IRS veterans. Consequently, post-1998 operations actually did get worse; the downslide was mostly *invisible* to the taxpaying public; and all that's unacceptable![7] Why? Because *visible* and constructive change is what the people want; and they should have their say too!

Lest we forget, restoring *trust in the Internal Revenue Service* is not necessarily to make it a beloved tax collector but for it to be universally respected and acknowledged as an institutionally distinguished public

6. DEFINING AND ADVOCATING THE "HYBRID FIELD EXECUTIVE OFFICE (FEO)": The purpose of the future *Hybrid FEO* is to restore an accountable, *grassroots* geographic footprint and local presence. It's a merger of stovepipe field-layers and pre-1998 Classic District Office architecture. It's also a *blended* Hybrid because the FEO adroitly rehouses and embeds, but does not alter, stovepipe field-layers (called "units" in the RRA '98). Akin to merging, *blending* into an FEO captures the best of before and after structures. As such, it could never be referred to as "one size fits all." The result is a solid system of rebalanced field operations with field "units" still tied into National Office *program authority*, but also subject to Field Director *line authority* for senior-executive "*on-site oversight*." Perceptively, the National Taxpayer Advocate also speaks favorably about restoring local presence and "modifying" the current structure. The countless beneficiaries would be the families of wage earners, big and small businesses and all other taxpayers as well as IRS field workers and the agency itself, the Internal Revenue Service.

"TAXPAYER SERVICE: The IRS Has Developed a Comprehensive "Future State" Plan That Aims to Transform the Way It Interacts with Taxpayers, But Its Plan May Leave Critical Taxpayer Needs and Preferences Unmet"; and "For the IRS to do its job well, it must start from the perspective of what government is about—namely, it is of the people, by the people, and for the people. The government is funded by taxes paid by the people. Therefore, the future state vision of the IRS needs to be designed around the needs of the people." NATIONAL TAXPAYER ADVOCATE, 2015 ANN. REP. TO CONGRESS, v. 1, 3, xvi.

7. *See* Donald Kettl, *The Battle Over Fixing the IRS*, BROOKINGS INSTITUTION (1998), http://www.brookings.edu/research/articles/1998/12/winter-governance-kettl.

servant with a sense of fair play, independence and competence. For high-level, *presumptive* change-makers to advance this objective and make a difference, they will now have to think differently and act resolutely.

To help them in the process, what's proposed in this Article for 2017 is enriched by it being so different from 1998 because it's non-disruptive and helpful. Moreover, this time around, positive change can be *visibly* pro-active but still delivered as absolutely helpful, friendly and easily assimilated.

Let's be clear; much of what is now being done with stovepipes is marginally acceptable, even though far too many seasoned insiders angrily protest that it's miles from good enough!

Let's also be clear that another thing to be overcome is the complicating fact that mere incremental change is now rigidly positioned as central to the IRS's daily menu. Unfortunately it's also, for all intents and purposes, sadly *invisible* to the national taxpaying public at large. For any makeover to work for everyone and thusly become meaningful, change must also be perceived as *visible*. And, we all know that public perception is often just as important as reality. So, as skilled as incremental change may be, the current variety is only understood by a few inside players and knowledgeable outside professionals; and that's not good enough to restore trust!

On the other hand, what's proposed here is a meaningful public outreach *designed to be inspirational* and so engineered to be a widely welcomed, albeit gradually implemented, careful plan, prudently preceded by a pilot program.

This way, each new step, year after year thereafter, can be equally celebrated as forward motion. That's a form of direction that will not only do away with our current downward slide, but will inspire an uphill climb. And that, without skipping a heartbeat, gradually restores public trust.

In Part II, this Article sets out a detailed introduction to what became a self-destructive, 1998, structural reorganization. Part III provides a historical overview of senselessly abandoned Classic IRS District Offices, as well as insight into how decentralized Classic Districts had provided a much more taxpayer-responsive, and management-responsible, structure for customer-centric services and bottom-up, senior-executive accountability. Part IV addresses how, during the 1996 Congressional Commission deliberations and the 1997 Senate Finance Committee hearings, a demonstrably naïve, new, IRS management team of tax outsiders and consultants disregarded longstanding operating realities and wrecked the IRS's best-ever organizational structure with their outsider's self-proclaimed *vision* of a stovepipe-pipedream. Part V considers the perils of sticking with the current "*status quo*" in the post-2016 period. Part V also provides findings about how 1998 restructuring quickly transported the Service, without field operational "*on-site oversight*," into the unforgiving world of undetected and unmonitored, field-level failures. Part VI with restorative and reform recommendations describes this Article's proposal to fix the ongoing, post-1998 mess. Part VII focuses on hopefully getting to bipartisan (Democrats and Republicans or Republicans and Democrats) working together on at least this one issue. Finally, Part VIII deals with avoiding a *new normal* with a long-sick IRS. It also sums up the multiple virtues of reuniting an Internal Revenue Service "House Divided Against Itself."

II. TRUTH IS REALLY STRANGER THAN FICTION: HOW THE IRS WAS SIDETRACKED BY NAIVELY, UNAWARE OUTSIDE CONSULTANTS AND A SIMILARLY SITUATED NEW COMMISSIONER, WHO SWAPPED A PROVEN 1952-1998 IRS *CLASSIC FIELD STRUCTURE* IN EXCHANGE FOR AN EXPERIMENTAL, NEVER-JUSTIFIED, *SELDOM ATTEMPTED AND RARELY SUCCEEDING*[8] 1998 STOVEPIPING-PIPEDREAM.

Fixing what was heedlessly broken long ago in 1998 has regrettably become today's makeover imperative simply because no one, circa 1998, asked for or secured the pro-bono opinion of those who knew better—independent, prophetic and knowledgeable, inside/outside experienced, IRS players.

One particularly harmful misstep was the fabrication of overly centralized power in a headquarters National Office, stunningly without the nationwide local presence of field-based, senior-executive "*on-site oversight*."

Its architects had scrapped a perfectly good structure by eliminating bottom-up, locally accountable "Classic District Offices" and replacing them with a headquarters-heavy (and field-light) "*functional structure*" of four never-justified and counterproductive, divisive stovepipes.[9] Since

8. "Seldom attempted and Rarely Succeeding" is a slightly modified quotation from a Booz Allen Hamilton IRS marketing brochure. Their exact words were: "Seldom attempted and rarely succeeds." *See Tax Collection for a New Era*, *infra* note 20.

9. FUNCTIONAL STRUCTURE DEFINED: A functional structure is one that consists of commonly *recognized* private sector functions within an organization. They include production, marketing, human resources, and accounting. *See Functional organization*, CAMBRIDGE ONLINE DICTIONARY, http://dictionary.cambridge.org/us/dictionary/english/functional-organization (last visited June 17, 2016). Within the pre-1998 IRS, there was a single compliance function, both nationally and naturally and within each District Office, effectively structured for local *line authority* over groups for office audit, field examination for big and small taxpayers, investigating suspected criminal activity, collecting from late payers and customer service, etc. Notably, all such activities

it's easier to break things than build them, second-class stovepipes had in quick-order destructively and disruptively replaced a cohesive, longstanding, never-tarnished, fine, first-class structure. Compounding the blunder, the stovepipe replacement was deceptively marketed as a superior, geographically remote, National-Office-dominating structure. With heedless disregard, a posse of outsiders imposed unheard of, remote-absentee command and control over day-to-day IRS field operations—the most important part of daily tax administration. Their move stretched like an easily broken rubber band from a remote National Office to geographically scattered sites to limited-purpose, small, often unattractive field offices run by stand-alone, non-executive, front-line, group managers (often stretching by hundreds or thousands of miles from any IRS senior executives).

While IRS agents, revenue (collection) officers, and other field workers still reported to their same line bosses, such group managers now reported to other, higher managers at posts of duty far removed from taxpayer/customers. Moving still further away, mid-level field managers now reported, without reference to geography, to a muscle-bound, out of touch National Office headquarters. Very quickly, headquarters became so big and redundant, it functioned only at two speeds: slow and slower.

Ironically, many of these new National Office team players had never worked in classic field operations, so they understandably never anticipated the entirely predictable reaction. What happened was seething employee and retiree outrage, which was quite naturally spawned by the closure of such strongly performing Classic District Offices. Reinforcing those feelings was the distressing reality that stovepipes were by comparison so feebly performing, hierarchical and remote National Office fiefdoms.

were *already separately organized within each Classic District Office. See* TREASURY DEPARTMENT, ANN. REP. OF THE COMM'N OF INTERNAL REVENUE FOR THE FISCAL YEAR ENDED JUNE 30, 1952 58-78 (1953). Yet, the 1998 outside efficiency experts "salami-sliced" these local compliance functions into their brand of four nation-wide, top-heavy stovepipes, eliminating any local cohesive structure. Of course, all they did was to reshuffle the deck of cards so that it became a senseless new practice for a National Office to assert command and control over each day-to-day, nation-wide, IRS activity. *See* IRM § 1, 1.2.40. (1999), https://www.irs.gov/irm/part1/irm_01-002-040.html.

It follows, therefore, that it served no useful purpose to unnaturally stovepipe-slice the taxpayer base into big vs. small, for profit vs. not-for-profit, civil vs. criminal, and national vs. international. Furthermore, what made this even more unnatural was that most jobs in each stovepipe require the same basic and advanced, professional skills, which progressively provided a career ladder to increasing opportunities. In short, everyone was already specialized; and all that separated them was just increasing levels of responsibility and specialization, complexity and training. That was until the big restructuring of 1998 messed a lot of this up.

Finally, needless functional restructuring encouraged over-emphasis on Stovepipe Divisional goals.

Rather quickly, as should have been anticipated, a host of stovepiping missteps and design flaws burst onto the horizon. From 1998 onward, the ultimately isolated, field workforce lost its one-team, agency-wide esprit de corps because of the stovepipe-narrowing flow of Service-wide information and training.

Isolated like heat within a plumber's pipe, each stovepipe (despite small incremental fixes) is even today fundamentally open only to up-down movement of people and information through its long narrow stovepipe shell, which inhibits or prevents full, cross-functional activity.

Accordingly, this Article examines fallout from such missteps, which ultimately led, like a straight arrow, to a huge IRS scandal: the 2013 Cincinnati Tax-Exempt fiasco.[10] Alas, in the wake of that mess, what we have now is no less than an exceptional, one-time opportunity for a forward-looking fix, which would pave a level off-ramp away from that still-pulsating Cincinnati episode. Cincinnati was, after all, very much attributable to an unexplained and unworkable, post-1998 *absence of a senior-executive field presence* and eliminated "*on-site oversight*." The best, clear-cut solution—a refreshingly new, District Office successor, "Field Executive Office (FEO)" run by a "Field Director."

The task for now, therefore, is to gradually move away from a stovepipe bad-fit for IRS field operations to an already statutorily approved (i.e., *RRA '98*), structural *modification*[11] of the existing structure. Thus, National Office consolidation and field decentralization, if adopted, would combine to rebalance the essential compliance function. National Office senior-executive *program authority* would be separated from *line authority*, which latter item would be entrusted to FEO Field Directors for "*on-site oversight*."

With that long awaited fix, taxpayer/customer-friendly Hybrid FEOs

10. *See, e.g.*, William Hoffman, *15 Years After RRA '98: Time to Re-restructure the IRS?*, TAXANALYSTS (Aug. 15, 2013), http://www.taxanalysts.com/www/features.nsf/Articles/41E9B94207ACE35385257BC80045C346?OpenDocument.

11. *See* Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685 (1998):

> (a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement a plan to reorganize the Internal Revenue Service. The plan shall—
>
> > (1) Supersede any organization or reorganization of the Internal Revenue Service based on any statute or reorganization plan applicable on the effective date of this section;
> >
> > (2) *Eliminate or substantially modify* the existing organization of the Internal Revenue Service which is based on a national, regional, and *district structure*;
>
> . . .

(emphasis added).

See also Jasper L. Cummings & Alana J.J. Swirski, *Interview: Charles O. Rossotti*, ABA SECTION OF TAXATION NEWSQUARTERLY 5-9 (2013).

with Field Directors would become the field-tested, front-line Knights around King Arthur's (here the Commissioner's) Roundtable!

Since checks and balances are so fundamental to our form of government, why argue against rediscovering lost, but timeless, pre-1998 strengths for each of the two IRS, distinctively separate elements: (1) slimming down its now top-heavy National Office headquarters; and (2) expanding its vastly larger, yet now bottom-light, field operations. Since 1998 all compliance functions have been incompatibly repackaged to allow the National Office to enjoy misplaced, day-to-day power over remote and barely observable field operations. Fixing that is the challenge; and repairing1998 damage is the opportunity.

As a healthy outcome of adopting this proposal, post-2016 Field Directors in FEOs, based in most states, would be empowered with *line authority* (meaning "*on-site oversight*") over all interdisciplinary (meaning cross-functional) local work and workers. Even so, most work would continue uninterrupted for field-friendly, Hybrid FEO-embedded, former-stovepipe, field "units," which would not miss a heartbeat in their dealings directly with customers/taxpayers.

The Field Director "*cross-functionally*" would, therefore, be cloaked with a "local presence" and substantially better positioning for face-to-face "*on-site oversight*" over all former stovepipe field "units." The great upside would be a return to local, senior-executive, daily management (base upon National Office policies) for examinations, collection case management, employee plans, exempt organizations (EP/EO), coordinating criminal investigations, locally delivered National Office training, facilities management, Human Resources, procurement, information systems, public affairs, inspection, among other functions.[12]

Accordingly, the Service gets a "*fix and mix*" for post-2016, which includes: (1) a consolidating National Office "*fix*," with delegated *line authority* for Field Directors; and (2) a decentralizing "*mix*," with field-friendly Hybrid FEO merged stovepipe "units" for examination, collection, taxpayer service, EP/EO and possibly criminal investigation, etc.

Furthermore, much like pre-1998 Regions, post-1998 stovepipes can then be seen for what they have always been: ill-fated "reversible error"

12. N.B. Incidentally, since such changes are now also favored in principle by the National Taxpayer Advocate (NTA), this Article also associates itself with the concurring remarks of the National Taxpayer Advocate, Nina Olson, who recently wrote regarding "IRS local presence," saying: "The lack of a cross-functional geographic footprint impedes the IRS's ability to improve voluntary compliance and effectively address noncompliance." NATIONAL TAXPAYER ADVOCATE, 2014 ANN. REP. TO CONGRESS, v. 1 at 31 [hereinafter 2014 ANN. REP. TO CONGRESS].

and/or "treatable self-inflicted wounds." So, why not reverse the stovepipe burden gradually, this time without self-inflicted wounds and disruption?

Putting all this into order to dispose of any further doubt, here are a few more reasons for a down to business "fix and mix." Although the pre-1998 Classic District Office system was never broken in practice, breaking it by law was not very hard, as we shall see. Yet, every dog has its day, so it's finally time for stovepipes to be reintroduced for their use as a messenger of IRS destruction; so, they are finally being outed as:

1. Promoting an "us versus them" mentality between an all-powerful, titanic National Office and its distant, rank-and-file, vast workforce;
2. Discouraging initiative and independent thinking by that same workforce;
3. Rendering anonymous and invisible essentially all IRS National Office decision makers while the taxpayer/customer is likely dealing with one of the most significant financial events of a lifetime;
4. Removing a cross-functionally skilled, public face and leader, the District Director (DD) who was the direct and always available personal representative of the Commissioner. DD's, of course, were also strategically part of the local scene of civic leaders, charitable boards, and state/local tax officials;
5. Tolerating a culpable lack of "*on-site oversight*" without an effective, day-to-day, local, senior executive, who would be responsive and always there for the workforce, local practitioners and taxpayers; and
6. Imposing essentially top-to-bottom, remote distances between senior management and field staff, resulting in isolation from, and ignorance of, other branches, co-workers and the public at large.

With all that painful, but treatable, background, we are at long last ready for a breakaway from overpowering and underperforming centralization.

The way forward is a post-2016, natural, National Office consolidation and field operations decentralization![13] Notably, in this

13. New would be contemporary Hybrid FEO and Hybrid Campus (Service Center) job postings and more enriching, field-friendly workdays spent securely positioned on a rebuilt and exciting career ladder.

Pre-1998, there were thirty-three District Offices, ten service centers, and three computing Service Centers. The District Offices and Centers (called Campuses by some) were productive, efficient and cross-functional. Moving up to the next tier, there were the four essentially useless and appropriately context, it's also the most direct path to *visibly* restoring trust across the board. Besides that, on the upside it would also be a principled journey! Then, getting any such proposal to bipartisan support would be a bonus for a worthy challenge.

III. A PRIMER ON CLASSIC DISTRICT OFFICES

This Part provides a historical overview of the abandoned IRS "Classic District Offices" as well as insight into how such decentralized Districts had provided a much more taxpayer-responsive, and management-responsible, structure.

In Subsection A, we examine President Truman's restructuring plan

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eliminated Regions. *See, e.g.*, DEPARTMENT OF THE TREASURY, IRS ORGANIZATION BLUEPRINT, 11052 (Rev.4-2000) Catalog Number 27877P (2000), at 1-10.

Post-1998 stovepipes share one unsurprising similarity with the four pre-1998, useless Regions. It is their cost/benefit downside. When Regions were eliminated in 1998, it was a common-sense move, widely accepted by knowledgeable observers. Yet, the 1998 restructuring architects amazingly recreated the worst qualities of Regions with the top-end of four stovepipes. Likewise, stovepipes also seem to be out of touch and as redundant and wasteful as the Regions had been. The much needed prescription for our IRS future, therefore, is an overdue modification and realignment.

On a pathway forward, a select group of upgraded field jobs would qualify as open, while many National Office jobs would be frozen or disappear. Hence, with enriching, new field jobs and career opportunities, a transition could be accomplished with preferences granted to existing field and National Office staff.

Any thoughtful look at human resources reveals excellent candidates for Hybrid FEO senior-executive and other appointments, thereby elevating employees from current field "units" isolated in stale stovepipes. The list includes:

> 1. Wage & Investment Division (W/I)—All field compliance employees, managers and "units" would be reassigned to Hybrid FEOs; National Office senior people would be recruited for senior FEO jobs;
>
> 2. Small Business/Self-Employed (SB/SE) Division—All field compliance employees, managers and "units" would be reassigned to Hybrid FEOs; all Area Directors, Territory Managers and Group Managers, with support staff, would comfortably fit into new Hybrid FEOs as senior executives, Division Chiefs and/or Branch Chiefs. Campus managers and staff would all remain in their "units" under the new *line authority* of Hybrid Campus Field Directors;
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> 3. Large Business & International (LB&I) Division—All field compliance employees, managers and "units" would also be reassigned to Hybrid FEOs; National Office staff for technical guidance would remain in place; and field Group Managers, with support staff, would comfortably fit into new Hybrid FEOs as senior executives, Division Chiefs and Branch Chiefs;
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> 4. Tax Exempt & Government Entities Division—All field compliance employees, managers and "units" would be reassigned to either Hybrid FEOs or Hybrid Campuses with technical guidance accessible from Hybrid FEOs examination "units" and ultimately, Chief Counsel.

What emerges is a twenty-first century, more effective, tax administration system. Looking back to 1998 and then forward, anyone who knew the District Office system and surveyed the structure of the "just evolved" four stovepipe divisions might be reminded of the old phrase: "Oh, what a tangled web we weave . . . ." Sir Walter Scott, CANTO VI : THE BATTLE, *in* MARMION, XVII (1808).

of 1952, which was the first major, and only universally acclaimed, restructuring plan in the history of the IRS. Subsection B shares Truman's Letters to Congress, which wisely counsel us about how to solve a problem in the field with a solution in the field. Subsection C highlights the stability enjoyed and progress made from 1952-1998, as well as the widespread praise IRS Classic District Offices still receive. Subsection D describes a door to the future for Classic District Offices (upgradeable to FEOs) across America (with a nostalgic look-backward and a prescribed move-forward to help meet tomorrow's needs today).

A. A Proven Idea Deserves a Post-2016, Principled, New Look (Re-enter President Harry S. 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 twentieth century, President Harry S. Truman decided that his country much needed a 1952, first-ever, major Bureau of Internal Revenue (soon re-titled as the Internal Revenue Service) reorganization plan. It came in the wake of an increasing, 1951-1952 public perception of warning signs and lost trust, like the IRS downslide now also experienced.

As is too often the case today, some observers will blame whatever the problem may be on budget shortfalls and inadequate training; but that's only part of the story! Others will say that the IRS no longer needs a presence in our communities across the nation because an "all-digital IRS" precludes the need for face-to-face contact. But, they're both wrong!

The visible need back in 1952, much like the visible need today, continues to be the imperative to transform the agency into an extraordinarily well-crafted, District Office (or FEO) system of field operations. With IT as a fine tool, obviously, a twenty-first century Field Executive Office need not be as large as in the past. Yet, what Truman had brilliantly latched onto was something that worked fittingly for no fewer than nine Presidential administrations.

What he gave us in formal terms was the President's Reorganization Plan No. 1 of 1952, whereby the Service was organized into a three-tier, geographically cohesive structure with a first tier, multi-functional National Office; second tier, half-way Regional Offices (which ultimately proved useless); and third tier, multi-functional District Offices (which ultimately proved to be the all-time benchmark for successful field operations).[14]

14. BUREAU OF INTERNAL REVENUE, REORGANIZATION PLAN NO. 1 OF 1952, 17 F.R. 2243, 66 Stat. 823 (1952). *See also* IRS ORGANIZATION BLUEPRINT, *supra* note 13, at 1-11-1-12.

In the third-tier, each District Office functioned like a large, well-crafted, symphony orchestra, so the individual pieces all came together neatly as with pieces of a puzzle. There were thirty-three District Offices,[15] ten service centers and three computing Service Centers. The District Offices and Centers were efficient, useful and cross-functional.

Moving up into the second-tier, there were the four Regions. Each uselessly occupied space between two more important places—the National Office and a subset of Classic District Offices across the nation. The 1998 story about the Regions was that they had actually become unproductive half-way houses for too many people close to retirement and others who had just chosen to tread water or wait for retirement on the job. They did little beyond looking, listening and writing reports. Eventually, common sense, even without the 1998 restructuring, would have dictated that Regions, much like their successor stovepipes, had to go.

On the other hand, the story of Classic District Offices was that they were remarkably well staffed by productive workers who never wasted a day. *Eliminating them was tantamount to crippling the Agency; and that still remains as a fundamental truth!* They were the engine that made the Service work well; and they were the pride of the agency. They represented the best of IRS *grassroots* in local taxpayer outreach, education and community presence—all the same things we need renewed today!

Moreover, Districts also replicated a field-tested, military-style, organizational structure, which was more than just a coincidence because both institutions worked best with a cross-functional, team system. Notably in this context, a military formation for strategic and tactical military purposes, like a good IRS District Office, is a composite organization, which includes a mixture of integrated and operationally attached sub-"units" that are "field capable." By comparison:

> 1. The picture of Army formations traditionally includes divisions, brigades, regiments, battalions, companies, platoons, teams and squads, among others, and
> 2. The picture of pre-1998 IRS formations included a National Office, Regions and Districts. Districts included divisions, branches, groups and specialized team "units".

15. *See* IRM § 1.1.2.4. District Offices were initially authorized in 1952 to have up to 70 district offices, but the actual number opened was fewer. In 1995 the decision was made to consolidate the Districts into 33 offices.

So, the Army and the Internal Revenue Service had both successfully used the same basic modeling to carry out their essential *field* missions. Yet, all that ended in 1998 when Classic District Office nation-wide, geographic cohesion gave way to segregating stovepipes, which sliced a "sui generis," Classic District Office compliance function into four pointlessly isolating stovepipes, overstretched, from the National Office to the smallest city. As the old adage warns, "United we stand; divided we fall."[16]

B. President Truman's Letters to Congress Wisely Counsel (for Then and Now) 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 from the field and abandoning geographic cohesion.

By contrast, our nation's 1952 acclaimed Truman Reorganization solved a problem in the field with a solution in the field. It did so by upgrading pre-1952, local, political Collector of Internal Revenue offices into more meaningful, civil service, 1952-1998 Classic District Offices. That was done smoothly without slicing a "sui generis" compliance team into a pipedream of four overstretched stovepipes. That, you also might say, was Truman-style plain-thinking and plain-dealing.

On the other hand, 1998 restructuring was based upon: (1) next to no understanding of the IRS as an agency (easily dissed by circa 1974 decision makers); (2) even less insight into any and all forms of federal tax administration; and (3) a mindset that what's stylish for certain corners of the private sector would be an acceptable *risk* for the national

16. *See* Aesop, *infra* note 44.

government. It was not![17,18]

As Secretary of the Treasury Snyder explained, the tale of the 1952 Reorganization was "a remarkable story of determined progress." Since its success, he said, depended on understanding what had been accomplished, it nowadays makes sense to wistfully look back at the following operational description of Classic District Offices and how a superb corps of District Directors (DDs) operated with a cohesive team. Notably, their ranks included senior executives who did it all exclusively in the field with the charm and grace of high-level torch carriers.

Little could any of them imagine that 46 years later, the IRS, as so many of us knew and respected it, would be eviscerated by the never-

17. Excerpts from Truman's Statements and Letters to Congress in 1952:

In his statements 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 Commissioner . . . 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. "

Statements of the President to Congress About the Reorganization of the Internal Revenue Bureau, Harry S Truman Library & Museum (Jan. 2, 1952), http://www.trumanlibrary.org/publicpapers/index.php?pid=322&st=&st1=.

In Truman's subsequent message to the Congress on January 14, 1952, he said. "I transmit herewith Reorganization Plan No. 1 of 1952 . . . ." He continued, in part, by noting:

"District commissioner[s] [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 . . . .

Special Message to the Congress Transmitting Reorganization Plan 1 of 1952: BUREAU OF INTERNAL REVENUE, Harry S. Truman Library and Museum (Jan. 14, 1952), http://www.trumanlibrary.org/publicpapers/index.php?pid=613&st=&st1= (emphasis added).

18. TREASURY DEPARTMENT, Foreword to ANNUAL REPORT OF THE COMMISSIONER OF INTERNAL REVENUE FOR THE FISCAL YEAR ENDED JUNE 30 1952 (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. There 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*.

Id. (emphasis added).

justified elimination of the Classic District Office.

C. Wistfully Looking Back at Classic Districts: Highlighting Rock-Solid Stability and Progress with the Artfully Woven Together and Unfailing Classic District Offices from 1952 Through 1998 to the Present

By any calculation, knowing District~~s~~ Offices means vastly outclassing stovepipes. 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? Nevertheless, let's try to envisage their large local footprint and how their cross-functional operations *blended* at a time when they were so respectfully and artfully woven together by:

1. A National Office setting pre-1998 administrative policy (with *program authority*), and
2. District Offices executing that same policy with pre-1998, *grassroots*, senior executives for "*on-site oversight*" (with *line authority*).

District Directors, who were identically organized in each location across the nation, represented the Service in every city and/or state. Among other personal virtues, carefully selected DDs were frequently the product of an Advanced Management Program (like at the Harvard Business School). Such persons quite naturally came up through the ranks (like military field commanders), usually from either the examination or the collection field functions, with years of face-to-face taxpayer problem-solving. In other words, they were all technically tax-law qualified, usually accountants, and sometimes lawyers, holistically trained as managers and experienced at problem solving in face-to-face meetings with taxpayers and their representatives. Quite indispensably, along the way, standard cross-functional, executive development was a way of life for all such field-experienced managers and budding senior executives.

Accordingly, each DD was rigorously prepared to fully represent the Service in every town, city and/or state of assignment. Even though taxpayers or their taxpayer representatives might never expect to meet the IRS Commissioner in Washington, D.C., each one might reasonably expect to meet the District Director, like an Ambassador, at local charitable or professional events. The pre-1998 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. DDs 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, D.C.; 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).

A map of the United States was a map of Internal Revenue Service Districts. Offices were located in all major cities; and each District had posts of duty (PODs) located in smaller cities.

D. In Spite of the Stultifying Stovepipe Missteps of 1998, Reinvented Classic District Offices are Still the Best Door to the Future Since They are Ideally Upgradable to FEOs for Meeting Tomorrow's Needs Today

As aptly described above, Classic District Offices performed much like a symphony orchestra. On the other hand, stovepipes can also be aptly described in musical terms as much like an ineptly unfinished symphony. With the former Districts, there was always great satisfaction that they could handle whatever came their way. On the other hand, with the latter stovepipes, there lingers the same old unanswered question: How do we finish such an awkwardly isolating structure to better adhere to fundamental management principles like teamwork, agency-wide esprit de corps, full institutional communication, interdisciplinary trailing, span of control, "*on-site oversight*", etc.? To get the best answer, we must first learn more about how Districts did their jobs so well.

In each District, there were four major divisions with smaller "units"; and they were essentially identical in all Districts. Each Division 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, assembling as a cross-functional (interdisciplinary) group of chiefs and their senior managers to (1) maintain perspective and consistency with National Office policies (*program authority*) and (2) work as the DD's core management team (*line authority*).

That meant division Chiefs and unit managers from taxpayer service, examination, public affairs, quality review, collection, criminal investigation, the Taxpayer Advocate and others sat in the same room for staff meetings. Regular visitations and reviews by Regional Analysts (now better done by TIGTA—Treasury Inspector General for Tax Administration) and the National Office kept them sharp, cross-functionally communicating and singing from the same hymn book.

As in any other well-designed organization, the best of these managers were immersed in essential, interdisciplinary field experience and were often selected for the prestigious National Office/Executive Development (ExD) Program to become future DDs and higher. The four District divisions from which they came were the:

1. *Examination Division*: 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 nationally trained Tax-Exempt Agents, Large Case Examiners, International Experts, Industry Specialists, among other groups) and Office Auditors, all of whom 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 local taxpayers and their representatives met regularly at District Offices, businesses and elsewhere;
2. *Collection Division*: This was the home of the Revenue Officer (RO), a highly trained professional focused upon collecting delinquent taxes and securing overdue tax returns. Each did research, interviews, investigations, analyzed financial statements and contacted third parties for information. They educated taxpayers on their tax filing rights and obligations, and they also provided guidance on a wide range of financial problems to assist the taxpayer and 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; and
4. *Taxpayer Service Division*: This was the one source of face-to-face personal tax help where no appointment was necessary (unlike today where too much funding is diverted to a bloated National Office). Services included short-form tax return preparation from January 2 through April 15, account inquiries, basic tax law

assistance, solutions to tax issues and available tax forms. (Obviously, much of this today can be handled online but not enough to justify taxpayer service shortfalls). Offices were located in Federal Office Buildings and sub-offices across each state.

Also, in each Classic District Office, there was a strategically placed on-site local Taxpayer Advocate Office (with dual reporting to the DD and National Taxpayer Advocate—NTA). Before the NTA, these professionals were simply IRS troubleshooters (ombudsmen) called "Problem Resolution Officers." 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, the NTA, Nina Olsen, has commendably and credibly 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 also be, a comprehensive *grassroots* (viz. less remote), field-based, cohesive gem, almost like a miniature National Office. And, each such Classic District Office structure can be merged and modernized nicely with an upgraded and updated FEO/National Office rebalanced system for command and control.[19]

Again, with a U.S. Army analogy, one can imagine the same kind of organizational chart at Fort Benning, Georgia or any other military installation. And, for all the same reasons as should be with the IRS, nobody in the armed forces would even contemplate or tolerate a remote,

19. We ignore, for these purposes, wisely-eliminated, half-way Regions, which were at best redundant and at worst useless.

Notwithstanding comprehensive quality of the District Office and its potential successor Hybrid 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, the need for uniform national training will continue ever increasingly 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. They were called "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 balanced; and that's decentralization!

centralized Pentagon involved in day-to-day control of Fort Benning. Likewise, many of us cannot reasonably contemplate or rationally tolerate our National Office as an interloper involved in the hierarchical, power-centric, stovepipe-top, day-to-day control of remote, local offices.

Notice also that, in the Army, they always send their best cross-functional and fully-vetted field generals into the field; so, why can't the IRS do the same? If this proposal is adopted, one great reform would be the sending of a cross-functionally vetted Field Director to run each state's field operations (as the Commissioner's *grassroots* representative within Hybrid FEOs).

IV. A STOVEPIPE-BLUNDERING PIPEDREAM LEADS IRS TO ELIMINATE THE HEART AND SOUL OF ITS "BUSINESS-LIKE" FIELD OPERATIONS AND LOSE ITS GEOGRAPHIC FOOTPRINT

This Part addresses how, after the 1996 Congressional Commission deliberations and the 1997 Senate Finance Committee hearing~~s~~s, an unduly trusting and complacent Congress and demonstrably-naïve new IRS management team of tax outsiders disregarded realities and largely wrecked our tax compliance system. They were empowered, albeit with non-facts (so, who cared?), to *fix the business without learning the business*.

Vaunting their outsider team's glaring incapacities, the stage was set to *eliminate* what was not broken (Classis District Offices) and adopt what was pre-broken (stovepipes), which from their inception were just a pipedream.

Eliminated Classic District Offices meant no less than crushing the *heart and soul of IRS "business-like" field operations.* As the consulting firm of Booz Allen Hamilton said: "He selected [us] in 1998 to validate his *vision* for the agency."[20]

Since the new Commissioner was imprudently engaged to make change, with virtually no tax or IRS foreknowledge, the evidence now suggests that he had to somehow concoct change. In testimony, he even admitted that the Classic District Office was too complex for him. Without knowing the business, he nevertheless set out to change the business even though the inner workings of the Service were clearly unknowable with his comprehensive IRS inexperience.

In spite of everything, he still decided to fix what was not broken; and, in the process, his team of outsiders planted the seeds of the mess we

20. See about the Commissioner's vision at *Tax Collection for a New Era*, BOOZALLEN, http://www.boozallen.com/content/dam/boozallen/media/file/100563.pdf.

are still harvesting! Next, in the wake of their 1998 restructuring blunder, they all publically celebrated and relentlessly self-proclaimed their private brand of success.

What's worse, it seemingly made little difference that their handiwork had led to unprecedented, post-1998 disruption and confusion. Eventually, the quest of many thoughtful IRS veterans and others, even sparked a movement for cleaning up the wreckage.

Yet, none of this would have ever happened if it were not for an uninformed, rubber-stamping Congress that just naively assumed the new Commissioner was on the right track. Well, he was not even close!

In Subsection A, we go back to the future to see the downside of 1998 wrong-headed, stovepiping policy and the upside of a post-2016, military-style re-establishment of Truman's brand of decentralization. Subsection B focuses on the circa-1998 failure to secure a qualified new Commissioner with *indispensable* experience in tax law, accounting, finance, and IT. Subsection C reveals how the Commission and Senate Committee unwittingly never understood that: (1) Classic District Offices were the heart and soul of IRS "business-like" field operations; and (2) They were of such importance that they were recognized as the public trademark of the IRS. Subsection D reports how four Regional, overstaffed offices (wastefully heavy) were replaced by four National Office overstaffed (top-heavy) stovepipes; and underfunding of vital field operations (bottom-light) became inexcusingly customary.

As a consequence, the nation is still awaiting a *Gathering of American Eagles to Restore Trust in the Internal Revenue Service with a Rebuild IRS Initiative* so let's begin to at least seriously consider:

A. Going Back to the Future: Where We See the Downside of 1998 Wrong-Headed Stovepiping Policy and the Upside of a Post-2016 Military-Style Re-establishment of Truman's Brand of Decentralization

Formed in 1996 by Congress, the purpose of the ill-fated 1996 Commission on Restructuring the IRS was to "review the present practices and make recommendations for modernizing and improving efficiency and taxpayer services."[21]

21. There was a hearing of the Committee on Ways and Means Subcommittee on Oversight, July 15, 1997—as 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." COMM. ON WAYS AND MEANS, REPORT OF THE NATIONAL COMM'N ON RESTRUCTURING THE INTERNAL REVENUE SERVICE (1997).

Running on a somewhat overlapping timetable with the Senate hearings, the Commission spent a year on its project. One of the most revealing Commission byproducts came from Cincinnati, Ohio on March 21, 1997. This one was not the sixteen-years-later 2013 Cincinnati episode, but an earlier Cincinnati event. In Appendix J of its Commission Report, *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 . . . . Speakers included ordinary taxpayers, accountants, enrolled agents, current or former IRS employees, and 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 . . . .*[22]

Well, there it is in a nutshell. Like today, no one seemed to think much or care much about the *grassroots* of tax administration. And that, it turns out, was the same dangerously held consensus opinion of Main Treasury and Congressional senior staffers who had worked behind the scenes in support of the Commission and the *IRS Restructuring and Reform Act of 1998*. [23]

22. NAT'L COMM'N ON RESTRUCTURING THE IRS, APPENDIX J: FEEDBACK FROM FIELD HEARINGS (1997) http://www.house.gov/natcommirs/appj.htm (emphasis added).

23. These same staffers, ten 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 Senate hearings prior to the *'98 RRA*, without attributing any statement to any one present, these former senior staffers seemed to agree that:

> 1. 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;
>
> 2. 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.

See generally Transcript: 2008 Tax Analysts Conference, *The IRS Restructuring and Reform Act of 1998, 10 Years After Reform: What's Working, What's Not, What's Next* (Fri., July 18, 2008), http://www.taxanalysts.org/outreach/sponsored-events/irs-10-years-after-reform-whats-working-whats-not-whats-next/58651.

B. The Struggle to Find an At-least Minimally Prepared New Commissioner

So, along came Secretary of the Treasury Robert Rubin's IT expert from the private sector to be somehow miraculously transformed into our newest full-functioning IRS Commissioner, notably without any formal background in law, taxation or accounting.[24]

At about the same time, the agency had been steadfastly denied a voice at the 1997-1998 hearings. As a result, the IRS could not even respond to merely "isolated" examples of alleged agency misconduct (as judiciously recharacterized by former FBI Chief Webster in the same hearings).[25]

Nonetheless, the IRS National Office actually did suffer two widely known, major areas of underperformance. It had (1) failed to keep up with modernizing costly information technology (IT) and (2) failed miserably to design and deliver necessary National Office, Service-wide training. As a handy-dandy distraction away from such real facts, the otherwise unsullied Classic District Office, was set-up to take the blame for all shamelessly masked National Office inadequacies. That appallingly paved the way for later introducing "flavor of the month" stovepipes.

Alas, for 1998, our nation had hired an IRS Commissioner who simply didn't know what he didn't know! Some unnamed commentators have even suggested that hiring him was no less than inviting the fox into the chicken-coop. Sure, he was at the top of his game as a bright IT executive; but here he would preside over the IRS and a kind of work he had neither seen nor heard of before. Without any doubt, one thing he fully understood was how he built his own IT business into a family fortune with a tax system he *expressly* didn't like.[26] All these shortcomings were okay, of course, but certainly not for this job—not at all for this job!

In spite of all that, with no tax background, he wasted no time in *envisioning* a radical tear-down of the agency. Using "a sledgehammer to crack a nut" metaphorically means to use disproportionate force to overcome a problem. Oddly, in this instance, that's severely and regrettably descriptive!

24. *See New man at helm of IRS brings business perspective*, ACCT. TODAY 3, 1997 WLNR 7030943 (1997).

25. Albert B. Crenshaw, *Few Abuses Found at IRS Unit*, WASHINGTON POST (Apr. 14, 1999), https://www.washingtonpost.com/archive/politics/1999/04/14/few-abuses-found-at-irs-unit/f32a18b6-a61d-424d-9c9c-03eb888cb371/.

26. Cummings & Swirski, supra note 11.

As events unfolded, the new Commissioner's early stewardship got way out of hand when he and his outside consultants used that same proverbial sledgehammer, without any sense of open-minded due diligence, to outright *eliminate* a perfectly superior Classic District Office structure, which he later testified was "too complex" for him. Ugh![27]

So, despite all the flashing lights and warning signs along the way, the new Commissioner enjoyed clear sailing through his confirmation hearings.[28] His *vision*, as he and his other outsiders often called it, would ultimately lead him to his pipedream of stovepiping "his," by then, very own brand of a hierarchical IRS National Office.

Yet, despite his absolute mismatch for the job in chief, there were other IRS crises for which the Commissioner's skill set was perfectly acceptable! They were: (1) the Service's lag in keeping up with IT, which was a problem correctly identified as a nut that needed cracking. The force to get it cracked was supposed to be the IRS's new IT expert; and (2) the need to reinvent and/or revitalize National Office training for its professional employees.

C. Revealing Witless Congressional Testimony, Which Bizarrely Portrayed Classic District Offices as Unworthy of Existence

Looking back again to September 11, 1997, the Senate Finance Committee had convened its own unprecedented and ultimately controversial series of hearings to have its look at the Service. Lasting until January 28, 1998, the Senate hearings featured a strangely bipartisan showboating of uncorroborated testimony by tax scofflaws, some with fairly legitimate complaints and too many others with obviously implausible grievances, which unfairly made the Service seem like a house of horrors.[29] Yet, knowledgeable 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.[30] He said, about the Senate Finance Committee hearings, that they were the

27. Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685 (1998); Statement of Charles O. Rossotti, Comm'r of Internal Revenue, Before the Senate Finance Comm. (Jan. 28, 1998), https://www.irs.gov/pub/irs-news/ir-98-3.pdf.

28. *See* David Stout, *Man in the News*, N.Y. TIMES (Nov. 4, 1997), http://www.nytimes.com/1997/11/04/us/man-in-the-news-charles-ossola-rossotti-hope-for-irs-in-2000.html.

29. For how uncorroborated testimony by tax scofflaws sometimes fool otherwise smart people, see, e.g., Thomas H. Moore, *IRS Nightmares Get Senate Hearing*, CNN (Sept. 24, 1997), http://www.cnn.com/ALLPOLITICS/1997/09/24/irs.hearing/.

30. Commissioner Alexander appeared before the C-Span event discussed. Transcript: 2008 Tax Analysts Conference, *supra* note 23.

"the most irresponsible exercise in the legislative process that I can think of; and I remember back at least 150 years."[31]

Former Commissioner Margaret Richardson (D-Clinton Administration) criticized the hearings and '98 Act as "a result of the blind leading the deaf."[32] Richardson was also incidentally critical of the time and money spent on new Commissioner Rossotti's (R-Clinton Administration) reorganization plan.[33] Other highly experienced and knowledgeable Service alumni and veterans as well 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.[34]

Nonetheless, even with all this deserved criticism, the Congressional hearings had actually accomplished their hostile political purpose, enraging the public against the Service (so, who would complain?) and setting the stage for the appointment of an ill-prepared, but politically acceptable, top-down businessman (so, who would disagree?). As one might expect, with these Senate hearings as a televised backdrop, the arriving 1998 new team was empowered, albeit with non-facts (so, who cared?) with misbegotten authority to *fix the business without learning the business* (so, why not? Ugh!).

Then, in the wake of all that someway peculiarly scripted drama, it was much too easy for the incoming 1998 team to blame Classic District Offices for what clearly had been National Office training failures. Of course, no District Director was invited to participate in the hearings; and Classic District Offices were far away, conveniently not represented and conveniently not positioned to defend themselves. So, Classic District Offices were unjustifiably erased from the IRS's organizational charts; and this was the single most unforgiving result of the hearings and the *RRA '98.*

Adding more fuel to the fire, there were apparently no opinion leaders on the 1998 Washington, D.C. scene who knew, or even cared much, about how well Classic District Offices actually performed. Tax

31. *Income Tax Reform*, C-SPAN (July 18, 2008), http://www.c-span.org/video/?206479-1%2Fincome-tax-reform.

32. *See* Lustig, *supra* note 4, at 568.

33. *See id.* at n. 40.

34. *See, e.g.*, *Senate Panel Hears Testimony of Alleged IRS Abuses*, CNN (April 28, 1998), http://www.cnn.com/ALLPOLITICS/1998/04/28/irs.hearings/; David Cay Johnston, *Behind I.R.S. Hearings, a G.O.P. Plan to End Tax Code*, N.Y. TIMES (May 4, 1998), http://www.nytimes.com/1998/05/04/us/behind-irs-hearings-a-gop-plan-to-end-tax-code.html; INTERNAL REVENUE SERVICE, NEXT STEPS FOR THE IRS AFTER THE SENATE FINANCE COMM. HEARINGS (Sept. 1997), https://www.irs.gov/pub/irs-news/fs-97-25.pdf.

administration to them was like a dime-novel mystery not worth solving.

So, without anyone mounting a defense for one of Washington's finest agencies, the die was cast. Stovepipe organizational segregation won the day; and organizationally integrated Classic District Offices were set up to fall, leaving a substantially impaired IRS. For the next four years, anecdotally, the agency was alternately frozen, floundering or losing ground.

D. How Overstaffed Regional Offices Were Responsibly Eliminated, but Irresponsibly Replaced, by Four Equally Overstaffed (Top-Heavy) National Office Stovepipes, Causing Inevitable Underfunding for More Essential Field Operations (Bottom-Light)

In Congress, for those insiders who watched the hearings on television, it was an essentially fact-free love-fest for the new 1998 Commissioner without any tax background. He effusively embraced every Congressional member who harbored a vociferously dark image of the Service; and, in turn, they were eager to effusively embrace whatever dark measures he proposed.[35]

For both the Senators and the new Commissioner, the Service was like a mystical and strange institution, which none of them ever really understood. As the Commissioner justified his new *vision*, he seemed to say that something big must have been wrong (even though he clearly knew not what), so something big had to be fixed. Result—all the Senators, sorry to say, relied upon the new guy and his visiting team. Later, in his testimony before the House, the Commissioner also confidently showboated his essentially empty talking points about a *vision* of a universal cure-all, called stovepiping (N.B. stylishly used at the time in IT companies).[36]

Tragically, with no tax background or understanding, he believed too much that was simply not true. For example, he testified that stovepipes would lead to "fewer layers of management" when, in reality, the numbers of National Office bureaucrats increased because they worked on four "top-heavy" and segregating stovepipes requiring considerable administrative redundancy.[37] Then, there was his other claim that the "old structural system was overly *complex*," (which was certainly true, at least for him personally, as he inadvertently made clear); and it just evolved

35. *See, e.g.*, *IRS Commissioner Questioned by Senate Panel*, CNN (May 1, 1998), http://www.cnn.com/ALLPOLITICS/1998/05/01/irs.hearings/.

36. *See* Statement of Charles O. Rossotti, *supra* note 27.

37. *Id*.

that way according to his IRS marketing publications.[38] Alas, that's how a complete stranger to taxation, the Service and tax administration saw Districts; but was he right?

No! And he was off by 180 degrees! Classic District Offices did *not* just evolve! Oh yes, for him, understandably, it certainly was, as he said, "overly complex" because his visiting team of outsiders just did not understand this kind of public enterprise.

Yet, ironically, what he said about it all having "just evolved" was perchance only half-wrong when it came to Regions. They had drifted into uselessness with excessive staffing over the years; so they needed to be eliminated and should have been a separate issue. However, he seemingly thought Districts and Regions had to be treated as a package. And that nugget of misinformation, which was a fundamentally massive mistake, cost the IRS, its workforce and its customers dearly! He could not have been more mind-bogglingly wrong!

But, the worst damage did not begin to occur until substantial Regional resources were reallocated into the post-1998 National Office. People, operations and budgets were inevitably reallocated away from the half-way-house Regions into a new framework of top-heavy (and bottom-light) stovepipes, which in too many ways replicated the dysfunctional role of discarded Regions.

Most 1998 Regional personnel and funding resources could have been much better utilized by their shift to "modified" Classic District Offices. After all, "modification" was explicitly what the *RRA '98* allowed as a fitting option.[39] "Elimination" was sheer nonsense, especially since he knew not what harm he was doing and was reticent about his ignorance of IRS operations!

Could it be that there really is "a sucker born every minute," as the phrase commonly goes? And, maybe we are those suckers! Should the new Commissioner have been given a blank check when he knew so little? Obviously not since it's hard to challenge a new boss, especially a steadfastly wrong one! Subsequently, as this truly laborious tale unfolded, piece by painful piece, the eviscerating of a fine, robust agency was torturous to unrepresented present and past IRS field-operations players

38. *See* IRS ORGANIZATION BLUEPRINT, *supra* note 13, 1-10 (emphasis added) ("The previous IRS structure did not adequately support taxpayer demands. The organization structure is the vehicle through which decisions are made and actions carried out. The IRS structure as of September 1, 1998, is shown on the next page in Figure 1-2. It was built around districts and service centers, the basic organizational units established many years ago and evolved over decades.").

39. *See* Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685 (1998); Cummings & Swirski, *supra*, note 11.

and insiders. Yet, they never organized a public outcry because they thought it would be pointless. Well, this is a new day; and raising hell is okay for a good cause!

V. REVISITING AND RESTARTING A 1998 LOST "BATTLE OVER FIXING THE IRS"[40]

Alas, general barriers then and now to dealings with Washington tax elites still remain. For instance: (1) their limited attention span for IRS administrative matters; (2) the distressing lesson of the 1998 Senate Finance Committee hearings, which yielded grossly unreliable testimony; and (3) the post-2016 silent peril of IRS agency intransigence about moving away from the "status quo," i.e., the devil they already know! However, on the brighter side, with post-2016 election changes coming, lingering issues like this might perchance resurface with new vigor.

Turning back to the battle itself, in Subsection A, we learn about one way to do away with the downside of stale-stovepipes by shrinking/modifying them and rehousing their field "units." Subsection B is about the "Cincinnati Episode"—a huge tale of an IRS National Office scandal involving senior-executive Lois Lerner. Subsection C illustrates that even in 1998, the Brookings Institution offered serious doubt that the *RRA '98* would solve the problem—and a good chance it would make things "worse." Subsection D advances the notion for post-2016 that sticking with the "*status quo*" will also make things worse.

A. Resolving the Downside of Stale-Stovepipes: by Shrinking/Modifying Them and Rehousing Their Field "Units"

Generally, one way forward inside the Congress and bureaucracy of Washington, D.C. is to "first inform and then reform." That means educating the players and the public at large about what's happened, how corrective steps can be taken, why such steps are needed and feasible, where a path is to be found and which stout-hearted politicians or high-level appointees can help get it turned around.

An IRS turn-around would generally require first learning from a look-back to an earlier, trouble-free time with a smaller National Office and a larger IRS field organization, all of which suggests that it's helpful to know where we have been and then restart and rebuild from there.

In this regard, history tells us that in the midst of the twentieth century, President Harry S. Truman decided that his country much needed

40. *See* Transcript: 2008 Tax Analysts Conference, *supra* note 23.

a 1952, first-ever, major, IRS reorganization plan.[41] It came in the wake of a public perception, like today, that there was trouble in the workforce and taxpayer service.[42]

What was gained then is much like what is needed now: a business-like structure that "reunites" the IRS compliance workforce now stovepiped, scattered and demoralized.[43] As the adages go, "United we stand; divided we fall;" or, in this context, let's reunite our IRS "house divided against itself"![44]

Clearly, reuniting the four 1998 "salami-sliced" stovepipes would be a welcome development. By thus re-securing workforce, agency-wide esprit-de-corps (in a new family of field-friendly Hybrid FEOs), a restored local presence would provide a huge step forward to garnering greater support from local taxpayer/customers, countless local communities and Washington officialdom.

While not underestimating the twin virtues and burdens of good change, President Dwight D. Eisenhower (IKE), seasoned by other battles, counseled that: "*Leadership* involves persuasion and conciliation and education and patience. It's long, slow, tough work."[45] On all those leadership virtues, IKE still rules the day.

B. The "Cincinnati Episode"—The Tale of an IRS National Office Scandal Involving Senior-Executive Lois Lerner

Consider this 2013 case-in-point: While IRS National Office officials slept inside a distant, 400 miles away, 1998 created, tax-exempt stovepipe, its weaknesses were unmasked in Cincinnati. That stovepipe, like the other three, was radically overrated; and its failure became a kind

41. *See* BUREAU OF INTERNAL REVENUE, REORGANIZATION PLAN NO. 1 OF 1952, 17 F.R. 2243, 66 Stat. 823 (1952); *see also*, *supra* note 17 and accompanying text.

42. *See* Part III, *supra*.

43. *See generally* David Leonard & Richard Rubin, *An Emotional Audit: IRS Workers Are Miserable and Overwhelmed*, BLOOMBERG BUSINESSWEEK (Apr. 8, 2015), http://www.bloomberg.com/news/features/2015-04-08/an-emotional-audit-irs-workers-are-miserable-and-overwhelmed.

44. "United we stand; divided we fall" is a phrase used in mottos of nations and states as well as songs. The basic concept is that unless people are together, they will be defeated. It is often used in the abbreviated form "United we stand." The phrase has been attributed to the ancient Greek storyteller Aesop. *See* Aesop, *The Four Oxen and the Lion*, http://www.bartleby.com/17/1/52.html. A similar phrase also appears in the biblical New Testament in Mark 3:25 as "And if a house be divided against itself, that house cannot stand." *Mark* 3:25, BIBLEGATEWAY, https://www.biblegateway.com/passage/?search=Mark+3%3A25.

45. EMMET JOHN HUGHES, THE ORDEAL OF POWER: A POLITICAL MEMOIR OF THE EISENHOWER YEARS 124, (1st ed., 1974) (quoting Dwight D. Eisehower, 1890-1969, 34th President of the United States (Republican, KS) Supreme Allied Commander, WWII Europe) (emphasis added).

of shot heard around the tax world. What followed was intense public scrutiny of major missteps traceable to tax-exempt, absentee senior executives (viz. leaderless without "*on-site oversight*") in the elongated and remote field stovepipe "units" of the Cincinnati Service Center.

According to news reports, that trouble started with multiple instances of political taxpayers from both parties potentially "gaming" our tax-exempt system, which was (1) invited by bad regulations, (2) worsened by a remote, stovepipe structure, and (3) followed by a bumbling IRS National Office response. Thusly, the "Cincinnati episode" was about to explode into an incessantly pulsating IRS scandal with a thunderous and continuous call for change. Indeed, this Article is part of that effort.

On May 10, 2013, an IRS National Office senior executive, Lois Lerner, had spoken at an American Bar Association Section of Taxation meeting. While responding to an audience question, she voiced what seemed like an unsolicited admission that certain tax-exempt applications by political groups had been mishandled.[46] Predictably, those remarks exploded, rightly or wrongly, into the mess in which we are still involved. The public call for change was immediate; and it continues.

Just eight months later, the same ABA Section of Taxation, in its *NewsQuarterly Magazine*, *Winter Issue 2014*, published an Opinion Point abstract of this Article (from its earlier 2013 version) as its cover story.[47] It offered a robust defense of Service workers but not Lerner. It also inferred that censuring the workforce would not only be pointless but unreasonable because there was no evidence that any workers had strayed.

With IKE's brand of patience and persuasion, the way forward also means that Washington officialdom should appropriately concede that a central cause of the Cincinnati episode was stovepipe weakness at the Cincinnati Service Center. It stemmed in large part from its IRS Director not having appropriate *line authority* (viz. "*on-site oversight*") over field-based stovepipe workers. That, of course, was crippling; and it never would have happened if field *line authority* had not been eliminated in 1998.

Looking at 1998 still another way, the Cincinnati episode was a fixable, command and control, "structural disconnect" between a remote, centralized National Office and all-important field operations. In a sense,

46. *See* Transcript: Lois Lerner's Remarks at Tax Meeting Sparking IRS Controversy (Mar 11, 2013), https://electionlawblog.org/?p=50160.

47. Frank Wolpe, *Restoring Trust in the Internal Revenue Service: Internal Revenue Service Aversion to Bias Backfires in Cincinnati*, ABA SECTION OF TAXATION NEWSQUARTERLY 1, 6-8 (2014).

therefore, it was like the legal doctrine of "res ipsa loquitur," which is Latin for "the thing speaks for itself." In other words, it was a patently palpable, structural defect caused by the inexcusable absence of senior-executive "*on-site oversight*" running field operations in Cincinnati. That then became a "recipe for scandal."

And, that recipe first went into the oven as far back as 1998, when local Classic District Offices and similarly organized Service Centers were heedlessly eliminated. Consequently, a matchless structure for early detection and correction of problems in the field went missing! That created a vacuum, which left a gap in the Cincinnati Campus internal control. Since nature abhors a vacuum, without Campus Director *line authority*, the public image of a trusted and well-managed Cincinnati was inexcusably lost. One practical way of playing "*lost and found*" is the purpose of this Article. Remembering that we are all IRS stakeholders, let's face up to three reasons why the IRS image is so important:

1. "There are twice as many people who pay taxes as vote;
2. "Citizens' *faith* that their government can be fair and efficient is dependent on a well-functioning IRS;"[48] and
3. Making matters worse, the scent of scandal breeds ill feeling; and ill feeling continues to be corrosive to our voluntary self-assessment tradition.

From this widespread loss of public confidence, what we see emerging is an historic opportunity for systemic change. In that sense, let's reconsider President Wilson's admonition: "We are not put into this world to sit still and know; we are put into it to act."[49]

Yes, there are good reasons why both sides of the aisle, working together, can "act," as Wilson suggested, to reshape and renew government. Hardly anyone denies something went wrong at the IRS; and after months of scandal about differing perceptions of the Service, more of us should finally accept the twin realities that (1) things got worse, as the Brookings Institution had predicted; and (2) restoring trust is firmly tied to substantially reestablishing a large part of what was always

48. Statement of The Honorable J. Robert Kerrey, U.S.S., Nebraska, Testimony Before Subcomm. on Oversight of the House Comm. on Ways and Means, Hearing on the Report of the National Commission on Restructuring the Internal Revenue Service (July 24, 1997), http://waysandmeans.house.gov/Legacy/oversite/105cong/7-24-97/7-24kerr.htm (emphasis added).

49. *See* Woodrow Wilson, Inaugural Address as President of Princeton University (Oct. 25, 1902), http://infoshare1.princeton.edu/libraries/firestone/rbsc/mudd/online_ex/wilsonline/4dn8nsvc.html.

successful and never credibly eliminated.

C. The Brookings Prognosis in 1998

Reflecting upon the *Internal Revenue Service Restructuring and Reform Act of 1998*, the Brookings Institution issued a Research Report in 1998. Its author, Donald F. Kettl, called it "The Battle over Fixing the IRS."[50] Deferentially, since that battle is still not close to being finished, we are reminded of his wise words and foresight.

In his opening, Kettl prophetically saw the future when he said that:

> In a dozen B-movies from the 1950s cowboys formed a posse, saddled up, and rode around shooting into the air. There was always a lot of noise and bad dialogue, but little real action. The battle over reforming the Internal Revenue Service has much the same character. There is no doubt that the IRS is a troubled agency that badly needs fixing, but there is *serious doubt* that the reform bill Congress is considering will do much to solve the problem—and *a good chance it will make things worse*.[51]

Alas, he was quite right to have "serious doubt," especially since the IRS walked directly into the quicksand twice by far exceeding both *Blue Book* and *RRA '98* restructuring mandates as follows:

1. Read carefully, the Congressional *Blue Book* merely mandated "*end-to-end responsibility*," for "units."[52] That can best mean, in this context, tasking the National Office with *program authority* (to set Service-wide policy), and tasking Field Directors with *line authority* (to enforce those policies); and
2. What's more, the *RRA '98* statutory mandate was to either "*eliminate or substantially modify* the existing organization"[53]

50. *See* Kettl, *supra* note 7 (Tells about 1998 when the seeds for stovepipe troubles were planted with the mandating authority of the RRA '98). Brookings expressed serious concern that the 1998 reform bill could believably do much to solve apparent problems of the time—"and a good chance it would make things worse." It did! Stovepipes promises proved to be illusive.

51. *See id*. (emphasis added).

52. JOINT COMM. ON TAX'N, GENERAL EXPLANATION OF TAX LEGISLATION ENACTED IN 1998 17 (Comm. Print 1998).

53. *See* Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685 (1998):

> (a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement a plan to reorganize the Internal Revenue Service. The plan shall—
>
> . . .
>
> (2) *eliminate or substantially modify* the existing organization of the Internal Revenue Service which is based on a national, regional, and *district structure*;
>
> (3) establish organizational units serving particular groups of taxpayers with similar needs.

(recommending *modification* of Classic District Offices as an option, the smart choice, but never requiring *elimination*).

So, did the Service go too far by bulldozing Districts in 1998? Yes, of course it did! Would a 2013 Cincinnati field-friendly Hybrid FEO and/or field-friendly Hybrid Service Center Campus have better delivered senior-executive "*on-site oversight*"? Yes, that's what they do—local accountability. Isn't it, therefore, likely that the entire Cincinnati episode (viz. the IRS Scandal) might never have happened if it weren't for wrong-headed 1998 abandonment of Classic District Office and Service Center Campus "*on-site oversight*"? Yes—absolutely!

Now, faced with the mess we are still in, we are sorely reminded that retaining Classic Districts was the better path for a host of good reasons. Every *RRA '98* change could have been less disruptively, and more effectively, implemented by "*substantially modified*" Districts. In short, required "units" designed to serve particular categories of taxpayers could have been better imbedded in Classic Districts (as is proposed here with Hybrid FEOs), rather than in error-prone and now outclassed stovepipes. Not so incidentally, those "units" can still meet *RRA '98* tests by being imbedded with a soft landing in those Hybrid FEOs.[54]

(emphasis added).

See also JOINT COMM. ON TAX'N, *supra* note 52.

54. *See* Restructuring and Reform Act of 1998, 112 Stat 685. *See also* JOINT COMM. ON TAX'N, *supra* note 52:

> The Commissioner announced a broad outline of a plan to reorganize the structure of the IRS in order to help make the IRS more oriented toward assisting taxpayers and providing better taxpayer service. Under this plan, the present regional structure would be replaced with a structure based on *units that serve particular groups of taxpayers with similar needs.*

(emphasis added)

(Author Commentary: Rossotti concedes that the failed Regions will be replaced by stovepipes, but he doesn't say how they would be better; and as events unfolded, segregation and isolation together with an end to "*on-site oversight*" and a local presence were big steps backward.)

> The Commissioner preliminarily identified four different groups of taxpayers with similar needs: individual taxpayers, small businesses, large businesses, and the tax-exempt sector (including employee plans, exempt organizations and State and local governments). Under this structure, each unit would be charged with *end-to-end responsibility* for serving a particular group of taxpayers.

Id. (emphasis added)

(Author Commentary: Since each of the four has "similar needs," why segregate them into four stovepipes? He seems to be arguing against his own proposal!)

Now consider another quote from the *Blue Book*:

The Commissioner believed that this type of structure will solve many of the problems taxpayers encounter now with the IRS . . . . The Congress believed that the former IRS organizational structure was one of the factors contributing to the inability of IRS to properly serve taxpayers and the proposed structure would help enable the IRS to better serve taxpayers and provide the necessary level of

As prophesized by Brookings and countless "independent" minded Service insiders, things actually did get "worse"![55] In his closing remarks, Kettl also wrote other prophetic words. He concluded:

> On one level, of course, no change can ever truly "reform" the IRS. Since revolutionaries tossed English tea into Boston Harbor, Americans have never liked tax collectors. Trying to extract payments that taxpayers really don't want to make will never be easy or pleasant, no matter how strong the IRS's commitment to friendly, solid advice. But shooting guns into the air is not the answer. The troubled IRS needs *solid reforms* that solve . . . real problems.[56]

So, in 1998, Brookings was right; Congress had given the new Commissioner's team of outsiders a proverbial blank check to fix the non-existent problem of Classic District Offices. Since blank checks are frequently a big mistake, the folks running the IRS at the time heedlessly made things worse by giving us what became a really bad idea. Or, as household-stovepipe plumbers might concisely say: "Not up to code!"

D. Cincinnati: A Bad Event, But a Good Lesson; A 1998 Washington-Centralized IRS: Unwise Then and Worse Now

Recognizing the need for sensitivity and responsiveness to the IRS's post-2016 public plight and downward slide, the soaring question is whether we should any longer pay tribute to the organizational "*status quo*" by making only reactive internal adjustments (as has been done in recent years), essentially a defensive strategy; or do we lean forward with *visible* change the American people can see, understand and appreciate. Always looking for guidance, we are reminded of something President Ronald Reagan once told us. When asked if he wanted to keep the "*status quo*," he responded: "I don't think so. Status quo, you know, that is Latin for 'the mess we're in.'"[57]

Consistent, therefore, with his admonition, this Article should

services and accountability to taxpayers.

Id.

(Author Commentary: That quote is a sample of what any independent thinking IRS insider might have always called "Sheer Nonsense!" or some not so polite expletive.).

55. N.B. Not to be missed and not so incidentally, the 1998 stovepipe project team purposely included other not-so-independent insiders (viz. drafted IRS mid-management, senior-executive employees) who were accustomed to taking orders and not disputing any incumbent Commissioner.

56. *See* Kettl, *supra* note 7 (emphasis added).

57. Remarks by Ronald Regan at a Reception for Members of the Associated General Contractors of America, The American Presidency Project (March 16, 1981), http://www.presidency.ucsb.edu/ws/?pid=43543.

liberate us from those who stand for a "*status quo*" and stand against a makeover of field operations. Stovepipes were unwise in 1998 and are outclassed now. That is confirmed by a candid comparison of Classic District Offices[58] to stovepipes.[59] Since we should have known better, let's take a moment to finally understand how stovepipes were painfully born.[60] That should help us rediscover what Districts gracefully did; and how clumsily, but not irreparably, it all got lost.[61]

The Service has been run with a silo/stovepipe organizational structure since 1998, but notably never before. Inside those top-to-bottom stovepipes are field workers at the bottom, like those in the now notorious, Cincinnati Tax Exempt stovepipe. Even from far away, anyone can see how the entire Cincinnati episode just demonstrates that otherwise good field workers can trip-up inside overrated and outclassed stovepipes.

Nevertheless, a proud workforce aversion to anything biased seems to have backfired in Cincinnati for one principal reason: a bad structure breeding bad decisions, not bad American workers! Since the highly praised 1952, first-ever, Service reorganization, the unbending practice of field employees, managers and senior executives has been, without fanfare, to scrupulously prevent any misconduct, especially political targeting. Still, too many people today are focused on the episode rather than its long-term restructuring and reform solution, which rises up brightly like the morning sun.

As one might expect, up until now, as if tax administration didn't matter, most federal tax thought has been devoted to issues of tax policy, fairness and/or complexity in the law. As if disrespect for the IRS was tolerable, tax administration has often been ignored. People with power and no knowledge got listened to; and knowledgeable insiders, with no actual power, got ignored. The IRS can do much better.

Nevertheless, before addressing stovepipe reversible error, there are two overarching questions regarding the 2013 IRS Scandal:

> Q: Is it in the national interest for any of our fellow citizens to believe their Internal Revenue Service is corrupt?
>
> A: The answer is, "NO, BECAUSE IT'S A BRAZEN FALSEHOOD."
>
> Q: Can we still make some good come from a public firestorm?

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58. *See* BUREAU OF INTERNAL REVENUE, REORGANIZATION PLAN NO. 1 OF 1952; *see also* Part III, *supra*.

59. *See* Restructuring and Reform Act of 1998, Pub. L. 105-206, 112 Stat. 685.

60. *See* Part IV, *supra.*

61. For those who never knew Districts, a plain-speaking introduction is at Part III, *supra*.

> A: The answer (to borrow a political phrase) is, "YES, WE CAN!"

Then, in the wake of those obvious answers, there is a third question.

> Q: What do you do: (a) when a top-heavy National Office (up on a proverbial mountaintop) has too many workers; and (b) when a field operation (down in the proverbial valley with the customers/taxpayers) has too few field workers (so it's bottom-light)?
> A: A single, plain-speaking answer is to discretely slim down the National Office and enlarge the field, especially with budgets too tight for much new hiring.

One former Commissioner has also given relatively recent feedback. On October 7, 2013, Mortimer Caplin said, "That whole [1998] reorganization ought to be reexamined."[62] Adding to the dialogue, in early 2014, then new IRS Commissioner John Koskinen said: "It took a little while to dig the hole; and it's going to take us a little while to get out of it . . . ."[63]

V. RESEARCH FINDINGS ABOUT HOW 1998 RESTRUCTURING TRANSPORTED THE SERVICE INTO THE UNFORGIVING WORLD OF UNDETECTED FIELD-LEVEL FAILURES

The findings from research conducted in writing this Article indicate that the 1998 IRS poorly implemented a "stovepipe-pipedream." It was a swaggering idea that had its birth in a fact-free arena:

> 1. Without any reliable data about the depth and importance of a never-failing Classic District Office structure;
> 2. Without even a modicum of reliance upon predictably negative consequences; and
> 3. Without any trustworthy and informed opinion that Districts needed *elimination*.

At worst, the pipedream was oversold, overrated, underperforming and

62. *See* Michael Cohn, *Former IRS Commissioner Concerned About IRS Shutdown*, ACCOUNTINGTODAY (Oct. 7, 2013), http://www.accountingtoday.com/news/Former-IRS-Commissioner-Concerned-IRS-Shutdown-68261-1.html.

63. Kendall Breitman, *New IRS chief sees end to Tea Party investigation*, USATODAY (Jan. 6, 2014), http://www.usatoday.com/story/news/politics/2014/01/06/irs-commissioner-koskinen-tea-party/4344465/.

hierarchical as a Washington-centralized agency, which was reckless then and is still an indigestible choice. Hierarchical stovepipes never did anything Classic District Offices couldn't do better; and they failed to do what only Districts could do!

Looking at the IRS "Future State" 2016 draft of a plan, we discover that the Service has yet to awaken to the need for fixing its still-flawed organizational structure.[64] Like the *Rebuild IRS Initiative* and the *Future State Initiative*, there's still time to merge their proposals for the good of the Service as a common goal. Their main difference is that: (1) the *Future State Initiative* advances an IRS bureaucratic (don't rock the boat—stovepipe) perspective; and (2) the *Rebuild IRS Initiative* advances this Article's taxpayer-friendly, *grassroots* perspective.[65]

Nevertheless, we think that the scale tips heavily toward the *grassroots* messaging; so, it would still be wise for the Service to at long last adopt the proposals of this Article, which calls for field "units" to be detached from stovepipes and rehoused within field-friendly Hybrid FEOs. Tasked as a force for good, field-friendly Hybrid FEOs, are notably *not anti-digital*; so there is room for both new worlds to enrich the process. Most meaningfully, FEO's based nationwide, would undoubtedly overcome *grassroots*, lingering, taxpayer/customer mistrust and boost workforce morale.

Most prominently, with robust Hybrid FEOs, the IRS can uniquely have local Field Directors, who are the face-to-face equivalent of everyone's *grassroots* Commissioner. Each would preside as the top IRS person in every state (moving around all cities and towns). That surely trumps keeping so many otherwise diligent and bright workers atop remote, top-heavy, National Office stovepipes where their skills are less

64. *See generally* IRS, IRS FUTURE STATE: OVERVIEW—THE PATH TRAVELED AND THE ROAD AHEAD 11-14 (2016), https://www.irs.gov/uac/newsroom/future-state-initiative.

65. *See* Leslie Book, *National Taxpayer Advocate Forum on IRS Future State*, FORBES (Mar. 2, 2016), http://www.forbes.com/sites/procedurallytaxing/2016/03/02/national-taxpayer-advocate-forum-on-irs-future-state-highlights-challenges-in-building-a-tax-system/#2e849d6d2147. The impetus for the forums was the IRS's Future State initiative, an issue that Forbes contributor Ashlea Ebeling wrote about recently in her post discussing deteriorating IRS service. Ashlea Ebeling, *The IRS's Secret 'Future State' Plan to Never Talk to You Again*, TRUTHREVOL (Jan. 7, 2016), http://www.truthrevolt.org/news/irss-secret-future-state-plan-never-talk-you-again. *see also* Charlie S. Clark, *IRS Faulted for Future Plan to Streamline Customer Service* (Jan. 7, 2016), http://www.govexec.com/management/2016/01/irs-faulted-future-plan-streamline-customer-service/124928/; *IRS's "Future State" Plans for Tax Services is Top Concern in National Taxpayer Advocate's Annual Report to Congress*, STREETINSIDER (Jan. 6, 2016), http://www.streetinsider.com/Press+Releases/IRSs+%26quot%3BFuture+State%26quot%3B+Plans+for+Tax+Services+is+Top+Concern+in+National+Taxpayer+Advocates+Annual+Report+to+Congress/11197971.html.

tellingly employed.

Around early 2014, Commissioner John Koskinen and former Commissioner Mortimer Caplin were not alone in calling for a fresh look at 1998. So let's consider what Forbes published for a fresh look in which it described fixing the IRS as a "*National Imperative*" in its December 1, 2014, article.[66]

Next in time, one full year after the original 2014 article was published by the ABA (first circulated in late 2013) and one month after the Forbes article, Nina Olson, the National Taxpayer Advocate, published her *2014 Annual Report to Congress*.[67] Warmly welcoming was her Conclusion, which is agreeably similar to this Article (like a

66. Peter J. Reilly, *Restoring Trust in IRS Is A National Imperative*, FORBES (Dec. 1, 2014), http://www.forbes.com/sites/peterjreilly/2014/12/01/restoring-trust-in-irs-is-a-national-imperative/.

67. Each year, pursuant to IRC § 7803(c)(2)(B)(ii), the NTA, Nina Olson, among other things, is required to identify at least twenty of the most serious problems encountered by taxpayers and to make administrative and legislative recommendations to mitigate those problems. High on the most recent list was her like-minded (parallel to this Article) conclusion to be seen in her *NTA 2014 Annual Report* as the *Most Serious Problem #3—IRS Local Presence*. It provided that: "The *Lack of a Cross-Functional Geographic Footprint Impedes the IRS's Ability* to Improve Voluntary Compliance and Effectively Address Noncompliance. *See* 2014 ANN. REPORT TO CONGRESS, *supra* note 12, at 31-39 (emphasis added). This was supported by the following annotation of the Problem with Analysis.

> Problem: The Internal Revenue Restructuring and Reform Act of 1998 (a/k/a RRA '98) required the IRS to replace its geographic-based structure with organizational units serving groups of taxpayers with similar needs. Congress mandated that the IRS change its organizational structure but did not require the IRS to eliminate its physical local presence or centralize its employees in certain locations. While the new taxpayer based structure has produced some benefits, the elimination of a functional geographic presence . . . may harm taxpayers and erode compliance.
>
> Analysis: While the post-RRA 98 IRS is structured around categories of taxpayers, the IRS has made no real effort to tailor service or enforcement initiatives to meet the particular needs of the taxpayers based on the geographic region in which the taxpayer is located. Failure to maintain a local presence infringes upon the taxpayer's right to quality service whereby the taxpayer has the right to receive clear and easily understandable communications from the IRS. It also infringes upon the taxpayer's right to a fair and just tax system, because the taxpayer has the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely.
>
> National "one size fits all" service and enforcement policies for each category of taxpayer and the centralization of a substantial amount of IRS activity into remote "campuses" result in the IRS not addressing the particular attributes of local taxpayer populations. Furthermore, centralized compliance initiatives may result in missed opportunities to identify and implement strategies to target locally noncompliant segments of taxpayers. The IRS can retain its national policy-making structure without losing the ability to respond to local conditions and challenges. In RRA 98, Congress did not mandate that the IRS completely eliminate its local presence. It only directed the IRS to reorganize in a taxpayer-based model.

See Executive Summary to 2014 ANN. REPORT TO CONGRESS, *supra* note 12, at 4.

concurring opinion).[68] The Report concluded that:

> When implementing the [1998] congressional directive to reorganize, *the IRS should not have eliminated its local structure*; [and] . . . it should reconsider its structure and balance the need for centralization of certain activities and the need for local presence in others. The IRS can modify the current structure to meet taxpayer needs and compliance challenges specific to a certain locale.[69]

In the over one hundred years of our system of federal income taxation since 1913, there have been only two major IRS reorganizations. The first was the acclaimed Truman Plan in 1952, endorsed by President Eisenhower in 1953.[70] It established senior-executive local accountability with a well-crafted, state-based, *grassroots*, local presence.

Imposed by "edict," IRS hierarchical stovepipes never did anything

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68. *See* Michael Kranish, *IRS is America's feared and failing agency*, BOSTONGLOBE (Feb. 17, 2014), https://www.bostonglobe.com/news/nation/2014/02/17/internal-revenue-service-institution-crisis-but-congress-fails-fix-many-problems/DxEQr3H6nEQndmbpHUtl0O/story.html. Kranish stated: "Nina Olson, as a sort of in-house watchdog, is supposed to tell Congress what the Internal Revenue Service is doing wrong. One of her reports called the IRS an institution in crisis . . . . The story of the IRS today is one of a powerful entity at a tipping point—under attack, distrusted, and underfunded, yet crucial to the nation's survival and prosperity."
See also 2014 ANN. REPORT TO CONGRESS, *supra* note 12, which listed other concerns, such as: (1) this year, several points were made that reflect upon the Service's "downward slide" including "[t]he emerging shape of U.S. tax administration is not encouraging for . . . taxpayers' 'trust' in the fairness of tax administration"; (2) akin to language originating in a circulated draft of this Article in late 2013, it also observed that "the IRS will never be a beloved federal agency, . . . but it should be a 'respected' agency"; (3) asserting that "when there are accusations of bias or heavy-handed actions by the tax agency, these reinforce the already deep concerns the U.S. taxpayer bears toward taxes, such concerns going back to the nation's founding. But casting the entire agency and all its employees as an out-of-control agency in response to the actions of a few, no matter how deplorable those actions may be, is harmful to taxpayers and to tax compliance. We need to recognize that the IRS and its employees play a vital role in the economic welfare of this country. And we need to find a way to support the agency even as we hold it accountable for what is often a thankless task"; and (4) calling for congressional hearings, the NTA Report also suggested "focusing on current tax administration challenges . . . [in] hearings, which could address the following:

> (a) "What is the impact on taxpayer attitudes and voluntary compliance if the only time a taxpayer has direct contact with an IRS employee is when that employee is taking an enforcement action (i.e., conducting an audit or imposing a penalty, lien, or levy)?"
> (b) Now more than ever, Congressional involvement is needed to repair the damage and place tax administration in a better path forward; and
> (c) Congress, was urged "to take . . . steps . . . to conduct meaningful oversight hearings into the nuts and bolts of tax administration that haven't captured public attention in the same way as certain other issues but shape the experiences of millions of taxpayers in critical ways every day."

See Preface to 2014 ANN. REPORT TO CONGRESS, *supra* note 12, vii, xii, xiii, xiv.

69. *See* 2014 ANN. REPORT TO CONGRESS, *supra* note 12, at 31-39 (emphasis added).

70. *See generally* BUREAU OF INTERNAL REVENUE, REORGANIZATION PLAN NO. 1 OF 1952.

Classic District Offices couldn't do better; and they failed to do what only Districts could do. In 1998, a team of sweet-talking outsiders, self-styled as "radical strategists" and licensed by a manufactured political crisis, masterminded a self-described "risky" stovepiping transformation.

So smug about their mischief, they boastingly characterized their plan: "*Of a magnitude . . . seldom attempted and rarely succeeds*."[71] Coming to feed at the public trough, strangely with a pronounced swagger, in that one statement they eagerly blew their own horns and unimaginably also conceded how such a plan "*rarely succeeds*."

In the law, we often call that an admission against interest. Indeed, they were at least right about that one thing—it did not succeed—which only spotlighted their self-proclaimed risk-taking as they toyed with our government's only revenue collector. What was so truly amazing was their candor.

It was to be the second major IRS reorganization, coming 46 years after the highly-acclaimed Truman Plan 1. Upon reading the fine print of the *RRA '98*'s three most threatening fault-lines, IRS alums and veterans were stunned. It:

1. *Reversed* a District Director (DD) indispensable local presence;
2. *Eliminated* DD "*on-site oversight*"; and
3. *Abandoned* an enviable "field executive-development-program (ExD)."

Yet, researching back, it is now technically clear that the new Commissioner's edict to *eliminate* Districts was *neither* mandated by law *nor*, more importantly, connected to any Classic District Office inadequacy. That may surprise newer, present-day, senior-executive insiders, who understandably, as team players, have accepted this "edict from above" and/or never knew enough about either its controversial adoption or the superior Classic District Office way to do business.

Clearly, nobody would deny that the IRS had faults, but the 1998 team of outsiders oddly found no fault, even tangentially, traceable to Classic District Offices as a structure. In short, the 1998 posse did it because it wanted to; and that, in some circles, may be good enough. Yet, not here!

Still, for now, the real mystery remains: Why the swap of Classic Districts for hollow stovepipes (aside from the lucrative coup of a huge consulting job)? In 1998, *we didn't know why* a lot of smart people failed

71. *Tax Collection for a New Era*, *supra* note 20, at 34 (emphasis added).

to ask for a credible explanation of why outside efficiency experts eliminated Districts; and after reading all the pages of quite frivolous (but, self-congratulatory) justifications and testimony, *we still don't know why*!

Perhaps, it just slid under the radar because it was only about tax administration, and Washington power brokers just didn't care. That seems likely; but it still leaves us today with only the antidote—upgrading to field-friendly Hybrid FEOs.

A Shakespearean analogy might explain how this happened. For a moment, remember Cassius, who said to Brutus, "The fault, dear Brutus, is not in our stars"— (here, District Offices are the stars, actually very bright stars) —"but in ourselves"[72]— (here, blaming innocent District Offices for a blameworthy National Office). Weren't they the real culprit because they presided over weak Service-wide training, collection practices and examination standards? Obviously, yes!

Lest we forget, this all began with the new 1998 Commissioner, who had what he called a "*vision*," which might be more appropriately characterized as a stovepiping pipedream. Get this—he imagined an overly simplified, "one-size-fits-all" restructuring for top-down, hierarchical operations, even though the IRS already had a productive and refined Classic District Office structure. Moreover, feeding his "*vision*" was that cadre of 15-20 outside efficiency experts and hundreds of "commercial consultants" from a select consulting firm (engaged to drive, as they said, this "*radical transition*") as follows:

> 1. Their Job: "*Validate his vision*" with an extreme resolve to "*change at every level of the organization, from front-line employees to top managers*."[73]

72. WILLIAM SHAKESPEARE, JULIUS CAESAR, act 1, sc 2.

73. Multiple quotations come from a Booz Allen Hamilton marketing brochure. See the reference to the Commissioner's vision at *Tax Collection for a New Era*, *supra* note 20. Unhesitatingly, they said that this was "[m]ore than a simple restructuring . . . [as it] wiped away . . . layers of management—an average of five layers per operating unit." *Id.* at 34-35. They even daringly called it a "*radical transition*" as they took their safari to redesign an entire agency with a "*major strategy*" driven by "*commercial consultants*" to somehow make taxpayers less "uncomfortable." *Id.* (emphasis added). (N.B. no delivery here either). Yet, without reluctance, they even conceded that restructuring, like this is "*seldom attempted and rarely succeeds*." *Id.* at 35 (emphasis added). Under the circumstances, that should be received only as no less than a remarkable disclosure and admission no one apparently noticed at the time!

Buoyed by consultants, who had by then moved into the National Office, the Commissioner repeated over and over in Congressional testimony that "*I do not believe there is any quick fix, silver bullet or low risk plan for reforming the IRS*." (Another remarkable admission.) *Oversight on Restructuring and Reform of the IRS: Hearing Before the Comm. on Finance*, 106th Congress 1 (1999), *available at* http://www.finance.senate.gov/imo/media/doc/hrg106155.pdf.

2. Their Plan: Raze, reinvent and restructure (effectively to destroy and rebuild) IRS field operations, with fleetingly stylish stovepipes as a cure-all.

Alas, they did their work with folders full of convenient, one-sided information to pick from, but with little reliance upon just knowing and interpreting obvious realities and relevant facts. Sadly, as events unfolded, the evidence against their self-congratulating jewel of an idea is still painfully abundant![74] If one steps back, the whole plot might even look like one where someone started with the result wanted (a kind of *vision*) and then the team walked backwards to concoct a series of *imagined truths and half-truths* to complete the package. In other words: *The effort to fix National Office 1998 training and other failures by eliminating an imaginary villain, Classic District Offices, made as much sense as bombing the wrong country!*

Then, came the big marketing document, which was touted as being based on fact but instead relied upon grand generalities and half-truths pretentiously marketed as, "*Modernizing America's Tax Agency*."[75]

Alas, stovepipes had swept the good and the bad away with the same broom (sadly, without knowing the difference). Hence, Classic District Offices were eliminated in 1998, *not* because well-informed 1998 radical strategists had to, but because they wanted to.[76] A select few IRS senior

74. From the beginning, with the air filled by sweeping generalizations, these radical strategists contended that stovepipes could do what District Offices could not do. We now know that promise was never fulfilled and clearly not true. Instead, their announced objectives turned out to be mere "excuses," as they were occasionally characterized by Service employees. In exchange for eliminating districts, each principal promise remains today as something that never happened. Two of them were for: (1) better taxpayer service (which never happened); and (2) uniform, nation-wide taxpayer treatment (which could have been easily done in Districts by strengthening lax National Office training—the only unchallengeable reason for a lack of uniformity). Accordingly, these four new stovepipes were never born out of known field factors or mature field judgments. Rather, all they ever effectively did was to blow up the village to save the village!

75. See IRS ORGANIZATION BLUEPRINT, *supra* note 13, in which the Commissioner generalized that: "[*The District Office*] *structure no longer enabled the IRS to achieve its strategic goals.* The *cumbersome* structure [and IT] . . . represented the principal obstacles to modernizing IRS business practices and strategies and to delivering dramatic improvements in service and productivity." (emphasis added). He then put us all on notice that: "The IRS' modernized structure is similar to one widely used in the *private sector* organized around the needs of customers, in this case taxpayers." (emphasis added). Yet, a complete reading fails to demonstrate why Districts could not do all the same posited modernizing things guided by appropriate *program authority* and suitable uniform training driven by the National Office.

76. What's barely believable is that these dynamic novices about anything tax not only did whatever they wanted to do, but they successfully closed themselves off to any meaningful challenge by either side of the aisle or, more importantly, knowledgeable insiders, former Commissioners and a host of knowing former employees. In order to see just how effortlessly this ill-conceived and

executives were also carefully drafted to join the cohort of outside consultants and provide garnish to the setting while waving the flag of workforce unity. Needless to say, they were not actually independent since they knew very well the way the wind was blowing for them personally. Their unfortunate conflict of interest was job retention (including, the essential family meal ticket). Since they were all accustomed to taking orders from above, the result was preordained; and they are blameless! In other words, the only official supporters within the IRS were paid consultants and job-dependent career employees!

Changing direction for a moment, it's pleasing to note that other enacted, *RRA '98*, non-stovepipe measures were helpful, such as a new mission statement, goals for an improved workforce culture, stressing employee integrity, legislating innocent spouse relief and mandating better information technology.[77]

Nonetheless, a strange thing happened on this apparent IRS top-guy cakewalk. Sacked from their jobs were superbly qualified District Directors, done in by an unequal, sports-like trade for mere stovepipes. Thusly, a 1998 band of outsiders, skillfully pushed out a most honorable corps of superbly trained District Directors; and, it simultaneously devalued the development of a future corps of holistically trained and field-seasoned senior executives (like sports coaches).

As if this was actually a sport, even as these wonderful head coaches (District Directors) were taken off of the field, the visiting team expected to win the game. Naturally, that's unheard of in real sports without the coaches; and it should also be unheard of in government. End game—real victory—never resulted; yet, bragging never stopped!

Instead, what we now see is how truth and the true integrity of a good

unchallenged outcome glided into place see JOINT COMM. ON TAX'N, *supra* note 52. It reports: "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 . . . ." *Id.* at 17 (emphasis added). 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 . . . ." *Id.* (emphasis added). N.B. *modifying* remains, even today, as a viable option, with such "units" just as easily blended or merged into Hybrid FEOs without *eliminating* the benchmark model for District-like local presence and 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,* BRAINYQUOTE.COM, http://www.brainyquote.com/quotes/quotes/o/ottovonbis161318.html (last visited June 17, 2016).

77. *See generally* Pub. L. 105-206, 112 Stat. 685; TREASURY INSPECTOR GENERAL, CHALLENGES REMAIN, *supra* note 2.

thing (like Classic District Offices) may not be fully appreciated until they are lost. The leftovers look like this:

1. Lost was a corps of field-tested leaders, who were District Directors with seasoned judgment. They had always been available for climbing any ladder to increase cross-functional accomplishments, improve field training, exercise mature judgment and build upon their credentials so necessary in the past for recruitment to a higher level of National Office assignment;
2. Found were senior-executive candidates with much less credentialed, field qualifications, like Ms. Lois Lerner;
3. Lost was a *grassroots* District Director job, providing indispensable field accountability; and
4. Found was a flawed practice where command and control, slow and slower, trickled down from a muscle-bound National Office.

VI. RESTORATIVE AND REFORM RECOMMENDATIONS

Subsection A spotlights how the IRS should rebalance its structure with upgraded field operations. Subsection B illustrates this concept by applying a military analogy about how the same process of staffing field operations works well for both armies and the IRS. Subsection C is another military analogy about enjoying a more mission-fulfilling field experience with a more decentralized command and control structure. Subsection D discusses getting to "yes" with four agreeable "core ideas." Subsection E considers additional reasons for change.

A. The IRS Should Rebalance its Structure with Upgraded Field Operations

It should be indisputable, at this point, that all power to an overly centralized National Office is *not* the best practice. Accordingly, the time has come to stop the IRS's downward slide by rebalancing National Office operations with newly upgraded IRS field structures! In Wilsonian terms, we are here "*to act*"; and in Reaganesque terms, we are here to avoid the "*status quo*," which means, be proactive to get out of the mess we're in.

Yet, there will always be nay-saying voices from cozy stovepipe perches in the National Office. They will send signals like:

1. I like my stovepipe since I know nothing else in my limited orbit;
2. These are hard times so let's stay away from zealous change-

makers who would tip the apple cart; and

3. Training deficits and underfunding across the board are the Service's only crippling problems!

What they understandably fail to see is that in hard times even their pet-stovepipes must give way to the greater good. Indeed, that's precisely why the IRS must move on this initiative. Leaders with an acknowledged, fiduciary responsibility to the American people simply cannot afford to compound structural problems by rewriting or ignoring IRS history, denying dysfunction or delaying restoration and reform.

All that's why a principal purpose of the future Hybrid FEO is to restore an accountable, *grassroots*, geographic footprint and local presence. As such, unlike one rap against stovepipes, FEOs could never be referred to as "one size fits all." Perceptively, the National Taxpayer Advocate also speaks favorably[78] about restoring "local presence" and finally "turning back the clock" to "*modify*" (in the original RRA '98 terms) the current structure.

Quick-fix tourniquets and sundry incremental changes alone will not restore the trust of a vast, taxpaying, yet troubled, voting public; and that should be no surprise. Everyone says, "No more 1998 tsunami-like messes"; and that's the right messaging. Yet, phased-in, well-marketed, convincing and gradual reforms can certainly be implemented sensibly over a prudent period of time. Positive change should not slip through the cracks again and again because the IRS National Office is otherwise preoccupied and underfunded! After all, one way to get funding is to do something people like enough to invite more funding!

Looking back again, the new 1998 Commissioner had wrongly relied upon one particular wrong-headed excuse in his Congressional testimony. Districts, he said, were just "too complex."[79] That statement, even if it applied only to him personally (and his team of other outsiders), was, however well-intentioned and naive, 180 degrees away from reality.[80]

78. *See*, 2014 ANN. REPORT TO CONGRESS, *supra* note 12.

79. *See* Statement of Charles O. Rossotti, *supra* note 27.

80. N.B. Parenthetically, despite today's need for an inconvenient clean-up, it seems in order to reflect upon the otherwise good people on that 1998 team, including the new Commissioner. Each were undoubtedly well-meaning, dedicated, honest, albeit "high-risk-taking" business folks, who found themselves at the top of the IRS with their same private sector risk-taking habits, unsuitable for government revenue collection operations. Regrettably, they didn't know the business before they changed the business; so the IRS became a preventable "house divided against itself" with counterproductive stovepipes.

Watching the Painful Birth of four (4) Divisive, Overrated Stovepipes:

After shutting down the Regions, next in implementation was the swap of Classic Districts in an unequal exchange for four contrived, artificially separate, but marketed as equal, operating divisions, Here's an interesting question: What do Hybrid FEOs have in common with foreign embassies? As should be expected, such Hybrid

which were walled off as inherently segregating stovepipes, top-heavy and overstretched across the nation (referred to by some as a functional reorganization). Still in place, these overrated fiefdoms are called:

(1) Wage and Investment;

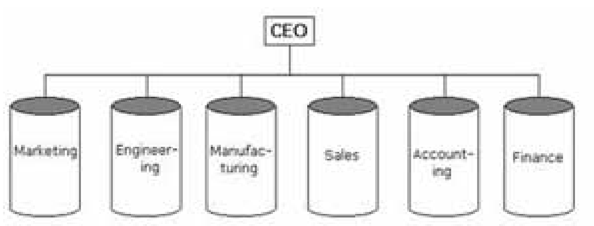
(2) Large Business and International;

(3) Small Business/Self-Employed; and

(4) Tax-Exempt and Government Entities.

See AT-A-GLANCE: IRS DIVISIONS AND PRINCIPAL OFFICES, IRS, https://www.irs.gov/uac/at-a-glance-irs-divisions-and-principal-offices.

With a trademark of isolation, what this break-up did most was to engineer a multi-year, unnecessarily painful division, which was destined to never meet its promises. What we also got were stovepipes, astonishingly each headed by four titled Commissioners, which, by itself, became proof of isolation. Since private-sector stovepipe/silo graphics tell more, let's take note of what they looked like.



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

(1) Restrict the flow of information within the organization to up-down through vertical lines of control, (not full-functioning within the main stream);

(2) Inhibit, or prevent, cross-organizational communication (isolating staff);

(3) Operate as very hierarchical with too sharply defined roles or areas of influence (like a pyramid with little feedback or dissent); and

(4) Breed a culture of suspicion (with senior executives far away, like from Cincinnati to Washington, D.C.).

See also, *supra* note 7 and *Stovepipe (organisation)*, WIKIPEDIA, https://en.wikipedia.org/wiki/Stovepipe_(organisation) (last visited June 17, 216), which provides: "A stovepipe pattern can be very harmful to a commercial organisation as it can lead to duplication of effort in different parts of the organisation and, in extreme cases, unhealthy competition between different branches of the organisation."

As if to reinforce and underscore the above, the National Taxpayer Advocate (NTA), Nina Olson, reportedly testified at a House Committee on February 26, 2014, that the Cincinnati episode was contributed to by a lack of guidance to front-line employees. Hearing On Internal Revenue Service Oversight Before the Subcomm. on Financial Services and General Government Comm. on Appropriations H.R. (Feb. 26, 2014), https://www.irs.gov/pub/tas/nta_testimony_houseppprops_oversight_022614.pdf, pages 11-14 (written Statement of Nina E. Olson).

FEOs would run all field operations, much like the home away from home of the Embassy. Likewise, the National Office, with its rediscovered, most fitting role, could continue to do what it does best: (1) set uniform standards, procedures, training and policies and (2) supervise and train newly titled "Field Directors," functioning like *grassroots* Ambassadors.

Furthermore, like 1998 Lost and post-2016 Found,[81] what's proposed here is to restore something vital that went missing. Answering dissenters handily, stovepipe shortcomings and field-friendly, Hybrid FEO virtues clearly speak for themselves—res ipsa loquitur,[82]—so they remind us of five towering reasons why no-nonsense, post-2016 Hybrid FEOs would altogether outclass 1998 stovepipes. On one side of the coin are stovepipe weaknesses and on the other side are the same weaknesses reversed to become "Hybrid FEO" strengths. As one might expect, those FEO strengths help:

1. Deliver better nationally designed training for uniform, national taxpayer treatment by field personnel who are more closely supervised day to day by a top *corps* of field-based and technically seasoned, *grassroots* senior executives (Field Directors embedded closer to the taxpayer/customers they serve);
2. Minimize management and judgment failures with closer, more effective "*on-site oversight*," local presence and accountability, consistent with a rewritten and reinvigorated service-oriented mission;
3. Remove structural and behavioral, stovepipe-isolating barriers to daily activity and progress, while gradually retiring four top-heavy stovepipes with redundant overhead, thereby shifting limited resources to more robust, Hybrid FEO, field-friendly operations;
4. Assure improved, barrier-free, internal and external communications for the benefit of a more integrated workforce and better-served taxpaying neighbors; and
5. Reinvent a management development program (MDP) traditionally called the IRS "ExD" program, which for decades shaped promising senior executives with maturing field experience,

81. Lost and Found: Truman's 1952 Plan 1, modernized for the future—We know what it is and why it got lost; so all we need do is decide to bring it back as found and even better than before. For President Harry S. Truman's Statements of the President to Congress, January 2, 1952, and Truman's January 14, 1952 Special Message to the Congress, see, *supra* note 17.

82. *See* Res ipsa loquitur, DICTIONARYLAW.COM, http://dictionary.law.com/ Default.aspx?typed=res%20ipsa%20loquitur&type=3 (last visited June 17, 2016) (stating (rayz ip-sah loh-quit-her) n. Latin for "the thing speaks for itself," a doctrine of law . . . .).

mounting field judgment, multiple FEO tours of duty and enriching inter-disciplinary training, all across the spectrum of functions and geography of Hybrid FEOs.

Thus, this *Rebuild IRS Initiative*, pivots upon: (1) discreetly slimming down the National Office and (2) decentralizing field-friendly Hybrid FEOs to be established with *line authority* over former field stovepipe *RRA '98* "units."

For such "units," these steps end a part of their life as they knew it—with no more remote executives, too isolated offices, overcentralized distances and overstretched stovepipes. In the swap, the IRS enjoys a restored "local presence" and "*on-site oversight*." Then, in due course, it all happens by a process called "reverse engineering," which ultimately leaves the National Office with the top-end of each current stovepipe (for future *program authority* to be enjoyed from top to bottom, Service-wide). These steps also entrust the new FEO Field Director with the bottom-end of current stovepipes (for *line authority*).

After that, each Hybrid FEO, doing what it should do, occupies an appropriate geographic area and span of control. In turn, that enables both the National Office and Hybrid FEO (i.e., like its predecessor, the Classic District Office) to revert to what each heretofore had done best.

In addition, discreet slimming-down and decentralizing of the National Office would also provide a predictably better way of allocating less productive, workforce resources using a much needed budget reallocation and reinvestment in the field workforce. It's clear that with the shift to a potentially larger examination and collection field workforce, billions in revenue (an estimated five to seven times of cost/benefit) could be collected.

B. Military Analogy #1: The Same Process of Staffing Field Operations Works Well for Both Armies and the IRS

Changing direction once again, there's a U.S. Army relevant analogy that works so well that it should be told. It's a tradition of military service and training, which aptly provides a proud likeness for our IRS workforce. In the Army, it's presumed that almost all of its people are trained as infantry first. Later, many become Headquarters support troops or other specialists. Consequently, when there is a shortage of infantry in the field, Headquarters support troops and others are sometimes asked to go back into the field to better ensure mission success.

As is easily seen, that steadfast emphasis on the field can work well for both armies and the IRS. With both groups, the highest priority of staffing must be singularly to achieve the most effective *field* operations as possible. After all, they are the only ones who meet and deal with their customers day-to-day in war and peace. That across-the-board priority in many ways leads to the best, agency-wide outcomes and their attendant agency-wide esprit-de-corps in the ranks.

C. Military Analogy #2: Enjoying a More Mission-Fulfilling Field Experience with a More Decentralized Command and Control Structure.

Similarly, one other military analogy applies to the Department of Defense (DOD), where its senior leaders labored hard for years before they tore down traditionally impenetrable silo/stovepipe walls between the Army, Air Force, Navy and Marines. As a result, there is now a better blended and trained fighting force with inter-service "*on-site oversight*" enjoyed by field-based, decentralized and joint commands (lead by the best field generals and admirals akin to the IRS's prospective Hybrid FEO field-based, top senior executives).

What the DOD learned long ago, often through trial and error (which the IRS can now experience vicariously), was that it's impossible to run any army (or any other entity the size of an army) from a Washington, D.C. desktop. We not only need our best generals and admirals on the field of battle, but we also need them on the IRS face-to-face field of taxpayer/customer service and workforce cooperation.

Like the DOD, which has already done very well at blending and decentralization, the IRS can be blended and decentralized—closer to its customers/taxpayers, with its own kind of soldier-employees working, as a team, within an array of "Classic," cross-functional, organizational structures (viz. Hybrid FEOs).

National Office people who had, over the years, been drawn from the field, could enjoy a new opportunity for return to the field with a reestablished, field-experienced career ladder. Other National Office stovepipe desk-workers, who never had that mission-fulfilling field experience, could also enjoy Hybrid FEO prospects and field training for career enhancement.[83]

83. *See* Figure 1: Proposed Organization Chart with Field Director FEOs, *infra*.

D. Getting to "Yes" with Four Agreeable Core Ideas

Deferentially bringing all parties to the table means successfully finding a common thread of agreement with everyone else's belief system. Here are some ideas:

> 1. Being against too much IRS centralization of governmental power in Washington is a good thing;
> 2. Further erosion of our universally admired voluntary self-assessment tax tradition is a bad thing;[84]
> 3. Being grateful for a dedicated, competent IRS workforce; is a good thing, and
> 4. Seeing the IRS fail in its mission to effectively and fairly administer the country's tax laws is a bad thing.

Beyond these Core Ideas, there are additional reasons for change.[85] Let's begin with the first of those.

First—The talented and caring workforce: Anyone in the Service, or in the vast taxpaying population, should be grateful to have such a fundamentally talented and patriotic workforce. They get up in the morning and go to work every single day; they have a sense of mission about them; and they simply do not understand or accept why an unrelated, admittedly bad performance in Cincinnati, about tax exempt corporations, should lead to public contempt and defunding for their entire agency. They are our nation's competent and caring IRS workforce. So, they are just waiting for a signal about how *trust* in their workplace can be restored.

Second—Far away field perceptions: How National Office stovepipe senior executives are seen by many IRS field-workers and customers/taxpayers. Anecdotally, that's not so complicated either

84. See the Executive Summary to THE TAXPAYER ADVOCATE SERVICE, 2013 ANNUAL REPORT TO CONGRESS, http://www.taxpayeradvocate.irs.gov/2013-annual-report/downloads/2013-Annual-Report-to-Congress-Executive-Summary.pdf, 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 correlate[s] with [their bad] behavior." *Id.* (emphasis added).

85. Most of these additional reasons come from a series of private emails and LinkedIn messages received by the Author. More details as to the substance of these comments can be found in Frank Wolpe, *The Rebuild IRS Initiative: With a Bipartisan Approach to Rebalancing Management Stovepipes and Fixing 'Grassroots' Field Operations*, Exhibit E, Bently University Graduate School (Apr. 19, 2015).

because their message from the field is much like that of an army foot-soldier, who reviles certain far-away desk-generals who send soldiers into battle but have never been in the trenches themselves.

Third—Messages from loyalists outside of the IRS: What happened to this author, without any solicitation, was an interesting flow of supportive messages from LinkedIn members, Forbes readers, colleagues and others in the form of personal/professional e-mails. From reading them all, it quickly became clear that there was one thing they had in common: their unanimous judgment that *elimination* of District Offices in 1998 was incomprehensible, careless and senseless. They *scornfully* looked upon reasons advanced as incredibly unrelated excuses. The IRS that they knew well had been callously broken in 1998, and nobody in power since then seemed to know why or even care.

One loyalist and former employee, a prominent Washington tax attorney, even reported how he attended a Washington, D.C. forum in 1998 where all the top IRS players from the Executive Branch and Congress spoke about the sudden arrival of IRS stovepipes. As he reported, the meeting was cast as if stovepipes were being handed down from a biblical mountain on a big blank tablet. (A blank tablet in this context meant nothing was spoken about how stovepipes could do anything Classic District Offices couldn't do.) He came away without learning much, but distressed, nevertheless, by his feeling that "the fix was in" (an odd assertion) and, more importantly, his concern that no official at the forum provided any logical justification for such a drastic change.

Fourth—Messages from loyalists still inside of the IRS: Then came the luncheon talks, where past and current IRS employees rose to agree with most everything in this Article. There were countless anecdotes about what disturbingly happened in the tsunami-like implementation, which dragged on for some years after 1998. If more people heard their passion and believed only one half of what they said, after so many credible tales of dysfunction, calls for change would certainly multiply overnight. Change might even be more widely perceived as a national imperative.

From notes, which captured their words, the following is a summary of their reflections:

1. The career ladder is gone;
2. Managers are often incompetent, and the bosses' bosses are too far away and too unfamiliar with field operations to know or understand;

3. Isolation from the rest of the IRS is crushing; I deeply miss co-workers from other groups;
4. Quality training programs enjoyed in District Offices no longer exist; and
5. The National Office has no idea of what happens in the field because they treat the field as if the bosses lived in a castle and we, in the field, were a lesser-class doing lesser-work. That is reinforced when National Office big-shots never visit.

Fifth—Returning the National Office to what it had always done best: with a reunified National Office staff without stovepipes. That list includes:

1. Selecting/evaluating/retaining/supervising Hybrid FEO Field Directors and Hybrid Service Center Directors;
2. Restoring prior *program authority* over all Service-wide enforcement activities (while Hybrid FEOs have restored *line authority*) involving collections, examinations, tax-exempt organizations, employee plans, and possibly criminal investigations, among other activities;
3. Combining *program authority* and *line authority* over the NTA, Chief Counsel, Appeals, On-line and Walk-in Customer Services and possibly Criminal Investigation, all to continue as is with appropriately centralized operations;
4. Combining *program authority* and *line authority* over design/delivery of all national training, including the Executive Development Program (ExD);
5. Enhancing the roles of TAS (the Taxpayer Advocate Service), VITA (Volunteer Income Tax Assistance) and the official IRS.gov website;[86] and

86. Two new and expansive ideas for enhancing "effective taxpayer assistance" are: (1) employing FEO-based VITA volunteer operations (already successful, but which can be first-time-ever delivered "on-site and year-round"), and (2) employing FEO-based TAS services (also already successful, but to be delivered "on-site and year-round"). One other approach is to make the IRS website the most popular one offered by the U.S. government. Much to his credit, Commissioner John Koskinen has already done that. Yet, as important as such a service may be, it's not enough for all the IRS's constituencies. *See* Nick Gass, *IRS.gov Tops List of Most Popular U.S. Government Websites*, POLITICO (Mar. 19, 2015), http://www.politico.com/story/2015/03/most-popular-us-government-sites-116223.html.

Next, reflecting also on "the lack of effective administrative and congressional oversight . . . ," the National Taxpayer Advocate submitted her 2014 Annual Report to Congress, pursuant to Section 7803(c)(2)(B)(ii) of the Internal Revenue Code. In her opening Message, she also echoed many

6. Providing agency-wide support services.

VII. GETTING TO BIPARTISAN WITH DEMOCRATS AND REPUBLICANS, OR REPUBLICANS AND DEMOCRATS, WORKING TOGETHER

That being said, with a leading edge product like a robust Hybrid FEO coming to the marketplace for better servicing customers/taxpayers locally, the next step is to reach out for bipartisan appeal. That means a lot of folks working together on at least this one issue, fixing the Internal Revenue Service. For Republicans, the appeal might be a shift of resources to shrink national government and expand local services in home districts. For Democrats, the appeal might ironically be the same, with a somewhat more pronounced emphasis in one place or another.

Either way, in diplomacy, it's often said that we should spend more time talking with our adversaries than our friends. That may be true here as well. Let's start, therefore, by changing the subject from kicking a flat tire to getting help to patch-up what we already have . . . if we can. That process includes:

1. Political Awareness—being collaborative with big and small business, right and left wings, small and big taxpayers, congressional opponents and proponents and, very significantly, our dedicated IRS employees; and
2. Persuasion—winning people over with the prospect that a fix for the IRS is not only good for the country, but also for their own self-

concerns expressed in all the versions of this Article, when she described the magnitude of the challenge. She said:

> We have to face up to the fact that we have an incredibly complex tax system that, by virtue of its complexity, creates burden, confusion, and unfairness. It is a challenge for any tax agency to *properly administer* a system such as the one we have.
>
> . . .
>
> (C)asting the entire agency and all its employees as an out-of-control agency in response to the actions of a few, no matter how deplorable those actions may be, is harmful to taxpayers and to tax compliance. We need to recognize that the IRS and its employees play a vital role in the economic welfare of this country.
>
> . . .
>
> The IRS will never be a beloved federal agency, because it is the face of the government's power to tax and collect. But it should be a *respected* government agency . . . . And we need to find a way to support the agency even as we *hold it accountable* for what is often a thankless task.
>
> . . .
>
> Now more than ever, Congressional involvement is needed to repair the damage and place tax administration on a better path forward.

See 2014 ANN. REPORT TO CONGRESS, *supra* note 12, at xiii, xii, xiv.

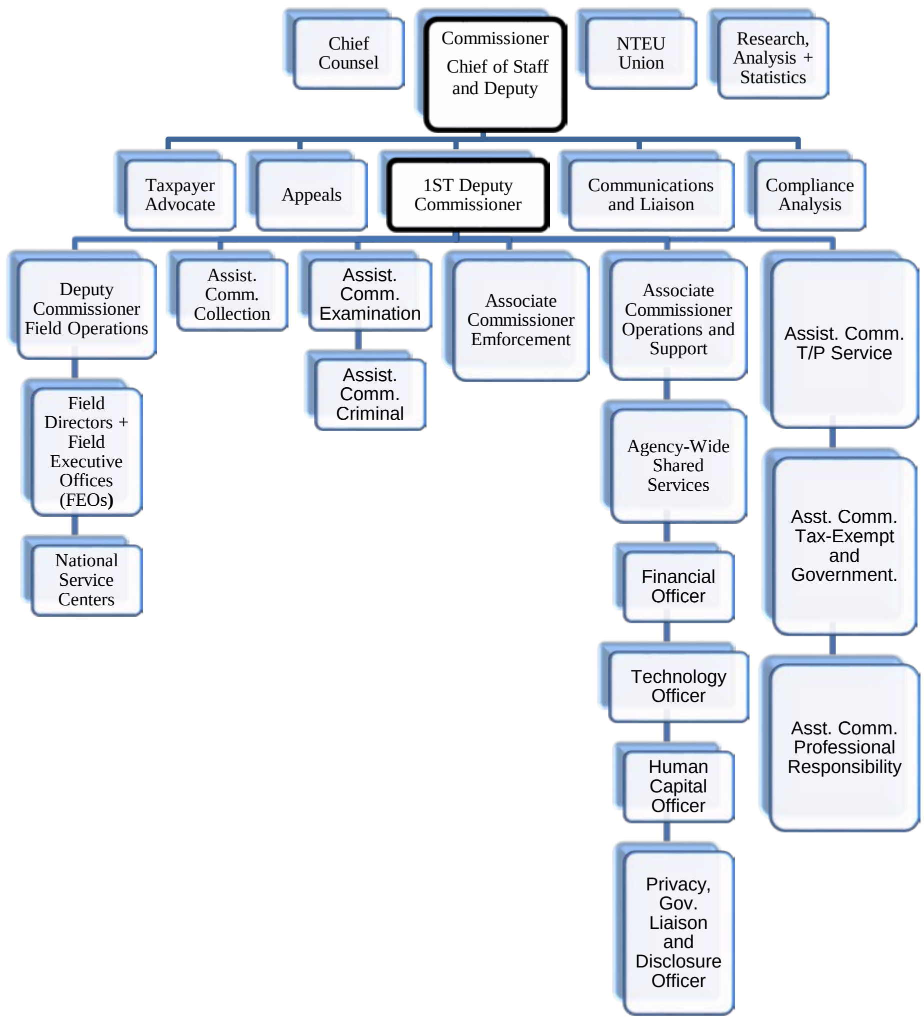
interest and constituencies.

While we are at it, let's also offer political adversaries the gift of an idea—this idea! If both sides of the aisle ultimately agree, at least on this one reform, why not grant every one of them the Hybrid FEO as a successful accomplishment they can legitimately call his or her own?

I conclude this Part with a message from a left-leaning lawyer who wisely wrote: "I see a theme of a smaller Washington government where tax administration has a decentralized local face as a way to appeal to those on the right side of the political spectrum. It is a made-to-order issue. What screwed up the IRS has been the age old concept of an all-powerful Washington."[87]

87. Private Email from former IRS Official to Author (on file with author)

Figure 1: Proposed Organization Chart with Field Director FEOs



VIII. A GATHERING OF AMERICAN EAGLES TO STOP THE IRS DOWNWARD SLIDE BEFORE DISTRUST OF A SICK IRS BECOMES THE NEW NORMAL

In Subsection A, we underscore the purpose of stopping the downward slide of trust in the IRS. Subsection B reiterates the need for a decentralized structure. Subsection C urges a move away from the "*status quo*," which is not working well for the IRS and it customers. Subsection D advances the benefits to the IRS from implementing the recommendations herein. Finally, Subsection E is a call for change to the structure of the IRS in order to ultimately help the entire nation, including its sometimes out-of-touch Washington capitol.

A. Action—Stop the Service-wide Downward Slide and Restore Trust before Distrust of a Sick IRS Becomes a New Normal

In the aftermath of a truly stovepipe-induced Cincinnati episode, we are left with diminished national *trust* in the Service, which, without stemming the tide, will become a troublesome new *normal*. With no positive, publically *visible* and understood changes, the "downward slide" will continue; and that cannot be good for taxpayers, voters, political parties, businesses (big or small) and the IRS itself! A well-functioning bureaucracy actually does matter, and trust in the revenue collector is indispensable to our form of government.

We debate lots of things without letting up; and then we come together on others. Well, this should be one of togetherness where *a gathering of American eagles* (i.e., bipartisan patriots) can help with an inconvenient, but necessary, clean-up! Why not plug the dike? If not this, what else? If not now, when?

Has anyone ever thought about what our nation would be like without a working, voluntary, self-assessment system?

B. Action—At Long Last, the IRS Should End the "Salami-Sliced" Operation of IRS National Office Stove-Piped Enforcement Activities

In the process, the IRS should, indeed it must, rebalance the relationship between a bloated Washington, D.C. headquarters and its understaffed field operations; it must close the door on long term, ill-fitting centralization; and it must move toward the virtues of a consolidated headquarters and decentralized, field-first, tax-collecting and service agency. It's been said, "Big business has by now already replaced autocratic rule from the top with decentralization; and government must do the same thing."[88]

C. Action—"Dis" the "Status Quo" to Get Out of the Mess We Are In

This is also one of those times when both changing the subject and bipartisan *publically visible* change-making can work well together. Thus, consolidating the National Office (by slimming it down) and rehabilitating field operations (by fully restoring them) with feasible, field-friendly Hybrid FEOs provides a dynamic off-ramp from the so-called ongoing IRS scandal—all in the public interest.

Even so, one might fully expect proponents of the "*status quo*" to circle their wagons. First in line might well be a powerful cadre of job-protecting, National Office senior executives who would likely portray the currently second-rate stovepipe set-up as perfect (just like their predecessors did in 1998). So, they might say, if we would only tweak this or that small flaw, all would be okay!

Naysayers might also argue that underfunded training and budget cuts are the sole cause of all things broken (a misleading half-truth, at best), leaving the vast American public with a new normal presumption that the IRS is not to be trusted. So, act accordingly!

In rebuttal, we need to be truly convincing as we point out that even though training and full-funding, across the board, are the mainstay of any sound organization, they alone cannot realistically be a substitute for geographically cohesive, state-based accountability and the development of a field-seasoned and cross-functional corps of field-based senior executives.

Quite naturally, there are many false choices, but neither Hybrid FEOs streamlining the Service nor better training is among them! In fact, the Service actually needs them all, but these two can most assuredly be delivered as doable, low-budget items: (1) Streamlining—Hybrid FEOs, phased-in together with a discretely slimmed down National Office (while realigning the budget), should not be a high-budget item; and (2) training with inventive new delivery modes can make it also a modest-budget item.

Thus, *visibly* turning around what's good that went bad is always a good choice. One might ask, why harp on *visibly*? Well, that's easy. Generally, half of public problems are misunderstood public perceptions, so fixing the perception should be at the top of any list.

88. *See* Ronald Reagan, *The Creative Society speech by Ronald Reagan*, FREEREPUBLIC (Apr. 19, 1966), http://www.freerepublic.com/focus/news/742041/posts (speaking at the University of Southern California when running for Governor of California).

Decentralizing, to gain a local presence (geographically closer to Main Street, Anycity), would certainly provide a more "populist" appeal and a more uplifting perception of progress than endlessly retooling unfixable stovepipes run by far-away puppet-masters in Washington, D.C.

Now, what about the cost of restructuring and reform? Some observers contend that the IRS could do a better job with the resources that it has. Adding some credibility to that contention, the U.S. Government Accountability Office (GAO) believes that "[a] long-term strategy that includes a fundamental reexamination of IRS's operations, program, and *organizational structure* could help it operate more effectively and efficiently in an environment of budget uncertainty."[89] Others also persuasively contend that the agency is perilously underfunded no matter how it reallocates its resources. The message of this Article is neutral on the matter because, either way, the Service can still do its best at stemming its downward slide by rehabilitating and rebalancing field operations.

D. Action—Reshape the Destiny of an Essential Agency

Change-makers may not be able to control the budget; but they sure can control how the money is spent to improve what we already have. For the good of the Internal Revenue Service, it needs an urgent call to action for nationally *visible* proposals such as this *Rebuild IRS Initiative*.

Like America, the IRS is a work in progress. For best results, it's better to avoid thinking too much about what the IRS is. Instead, let's think more about what it ought to be! Since this Article is just one initiative about what the IRS ought to be, we might briefly consider a few other fine initiatives already in place. Other initiatives include efforts to:

1. Develop the idea of taxpayers having an "account" at the IRS where they, or their preparers, can log in securely, get all their information and interact with the IRS as needed;

89. Jonathan B. Foreman & Roberta F. Mann, *Making the Internal Revenue Service Work*, 17 FLA. TAX REV. 725 (2015) (emphasis added) (presented at the 107th Annual Conference on Taxation of the National Tax Association in Santa Fe, New Mexico, November 15, 2014). *See also id.* at n. 471 (citing US GOV'T ACCOUNTABILITY OFFICE, GAO 14-605, IRS 2015 BUDGET: LONG-TERM STRATEGY AND RETURN ON INV. DATA NEEDED TO BETTER MANAGE BUDGET UNCERTAINTY AND SET PRIORITIES, http://www.gao.gov/assets/670/664083.pdf); *id.* at n. 250, (citing William Hoffman, *Koskinen Denies IRS Service Cuts Are a Protest Over Its Budget*, 146 TAX NOTES 339 (2015)).

2. Build a culture within the IRS that focuses on risk management and encourages the flow of information up from the front lines through the organization;

3. Respond to concerns about the "brain drain" confronting the federal workforce as large numbers of workers and members of leadership head toward retirement; and

4. Modernize and replace outdated IT infrastructure and technology.[90]

Testing the potential "populist" impact of each will be up to others. However, venturing to speak on behalf of the Hybrid FEO, getting it done would likely unleash populist approval, which might even help game-changing appeal with budgets and Congress.

IX. CONCLUSION: BENDING THE CURVE FORWARD BECAUSE THE GOOD OF THE SERVICE AND NATION MATTERS

Thus, this Article ends as it opened, calling for leaders and change-makers to stand up assertively and make a difference. Rebuilding even part of the IRS is rebuilding a part of America; and that's always good for the U.S.A.[91]

By taking little notice of Internal Revenue Service makeover needs today, we place at risk no less than the survival of our voluntary self-assessment approach to raising this nation's revenue.

Make no mistake; we are at peril if we underestimate the effect of too many angry taxpayers on voluntary compliance! From their perch, they see little being done to repair the damage that is rightly or wrongly portrayed to them in the press and on television. Sure, most people are honest, but the number of others is growing! And that's directly traceable to not taking *visible* steps that make an encouraging impression on the vast taxpaying public at large.

Let this conclusion be food for a new beginning!

90. *See* Paul W. Raymond, *IRS Commissioner cites successes of "new IRS" and challenges facing cash-strapped agency*, ORANGE COUNTY TAX ATTORNEY (Apr. 7, 2015), http://octaxlawattorney.com/irs-commissioner-cites-successes-of-new-irs-and-challenges-facing-cash-strapped-agency/ (discussing the remarks of John A. Koskinen, IRS Commissioner, before the National Press Club, Washington, D.C. on March 31, 2015).

91. *See* Steven J. Mopsick, *Sixteen Years Later: Was the 1998 IRS Reorganization Good Government or Bad Government*, MOPSICKTAXLAWBLOG (Nov. 3, 2014), http://mopsicktaxlaw.blogspot.com/2014/11/sixteen-years-later-was-1998-irs_3.html (observation, by an IRS veteran and former senior executive, that "Professor Wolpe has laid down a gauntlet for IRS reform; and it remains to be seen whether Washington has the guts to take it on.").