



OPPORTUNITY KNOCKS – RESOLVING TAX ISSUES IN THE CURRENT IRS ENVIRONMENT

TOM CULLINAN
Chamberlain Hrdlicka

tom.cullinan@chamberlainlaw.com

Former Counselor to the IRS Commissioner

JOHN HACKNEY
Chamberlain Hrdlicka

john.hackney@chamberlainlaw.com

CHUCK RETTIG
Chamberlain Hrdlicka

charles.rettig@chamberlainlaw.com

Former IRS Commissioner (2018-2022)

**OPPORTUNITY KNOCKS –
RESOLVING TAX ISSUES IN THE CURRENT IRS ENVIRONMENT
OCTOBER 27, 2025 12:15PM-1:05PM**

- **DOGE and the Trump Administration have made large cuts to IRS' budget and personnel.**
- **These can present opportunities for you and your client.**
- **This presentation will address the recent cuts, how those cuts are impacting IRS enforcements efforts, where we see the future of enforcements, and how you can use the current environment to help your clients resolve ongoing tax disputes.**

ROADMAP

- **Current IRS Operating Landscape**
 - Balancing Workforce and Technology Issues
- **Unique Opportunities for Early Dispute Resolution**
- **Appendix**
 - IRS High-Wealth / High-Income Efforts
 - Selected LB&I Issues, Campaigns & Priorities
 - IRS Enforcement Selected Efforts & Priorities
 - Estate and Gift Tax Considerations
 - Data Book
 - Tax Gap
 - Speaker Bios

Current IRS Operating Landscape

IRS OPERATING LANDSCAPE

- **What is the future of the IRS?**
 - The only certainty at present is an uncertain future for the IRS
 - Impact of fundamental infrastructure technology upgrades
 - Significantly enhanced internal and external systems
 - Enough to offset reductions in force?
- **Significant reductions in budget and workforce**
 - **Annual Budget** appropriation - \$2.5+ billion *reduction*
 - **IRA Supplemental Funding** - Enforcement funds have been mostly rescinded/repurposed
 - **Will IRS be sufficiently funded to deliver on its mission?**
 - **Impact on future hiring**
 - Given the environment and concerns with current employee terminations?
 - Concept of “job security” is at risk

IRS OPERATING LANDSCAPE

- **Impact on**
 - **Overall performance?**
 - **Taxpayer Services** – Online, Phone, In Person
 - **Guidance and Ruling requests**
 - **Anticipate significant processing and refund delays**
 - **Enforcement**
 - **Selection and processing of examinations**
 - **Dispute resolution programs**
 - **Modernization efforts**
 - **Appropriate balance between**
 - **Enhancements in technological / automation and reductions in workforce**
 - **How much can be automated** – can the IRS systems reliably evaluate responses to IRS queries where multiple variables (e.g., source, character, timing) are considered to determine compliance?
 - **IRS Appeals** – Can Appeals handle the flow of cases?
 - **Litigation** –
 - **Tax Court** – Can Chief Counsel handle the flow of cases?
 - **Federal Courts** – Can DOJ handle the flow of cases?

IRS OPERATING LANDSCAPE

- **New Treasury Secretary**, Scott Bessent
 - **Secretary Scott Bessent serving as Acting IRS Commissioner (CIR)**
 - **Six IRS Commissioners or Acting CIRs since January 2025**
- **Nomination of new Chief Counsel** – Don Korb
 - Ken Kies, Asst Secy Tax Policy serving as *Acting* Chief Counsel
- **New tax legislation - One Big Beautiful Bill Act (OBBBA)**, enacted 07/04/2025
 - **Significant IRS effort and resources required for implementation**
- **Intense congressional oversight**
 - W&M Letter (Jason Smith, Chair) to Acting CIR Doug O'Donnell, 2/13/25
 - “We will be watching closely”
 - “Aggressive oversight of the IRS continues to be a top priority for the Committee.”
- **HIRING FREEZE - Replace 1-for-every-4 who leave**
 - Missing generation of IRS employees - Hiring Freeze previously in place from 2011-2018

IRS OPERATING LANDSCAPE

- **FY26 Annual Budget – ↓\$2.5 billion from prior year funding**
 - **FY26 BUDGET REQUEST**
 - Taxpayer Services \$3.6 billion
 - Enforcement \$3.6 billion
 - Tech & Ops Support \$2.5 billion
 - **FY25 BUDGET ENACTED**
 - Taxpayer Services \$2.7 billion
 - Enforcement \$5.4 billion
 - Tech & Ops Support \$4.1 billion

INFLATION REDUCTION ACT, PUB. L. NO. 117-169

- Enacted August 16, 2022, providing **\$79.6 billion** in special 10-year IRS funding
- **\$45.6 billion** for **tax enforcement** activities including hiring new examination agents, providing legal support and investing in “investigative technology,” including to monitor and enforce taxes on digital assets such as cryptocurrency.
- **\$25.3 billion** for **operations support**, including improved telecommunications and information technology, security, rent, facilities, printing, and postage
- **\$3.2 billion** for **taxpayer services** including filing support and account services, pre-filing assistance and education
- **\$4.8 billion** for **business systems modernization** to upgrade systems used to administer taxpayer services, operations and cybersecurity
- **RESCINDED** **\$58.298 billion**
- **NET SPEND @FY26** **\$21.122 billion**

IRS COMISSIONERS IN 2025

- **Danny Werfel** - Mar 13, 2023 - Jan 20, 2025
- **Douglas O'Donnell** (Acting) - Jan 21 - Feb 28, 2025
- **Melanie Krause** (Acting) - Feb 29 - Apr 16, 2025
- **Gary Shapley** (Acting) — Apr 16 - Apr 18, 2025
- **Michael Faulkender** (Acting) - Apr 19 - Jun 16, 2025
- **Billy Long** - Jun 17 - Aug 8, 2025
- **Scott Bessent** (Acting) - Aug 8, 2025 -Present

IRS LEADERSHIP - RESIGNED OR ON ADMINISTRATIVE LEAVE IN 2025

- **Billy Long**, Commissioner (CIR)
- **Danny Werfel**, Commissioner (CIR)
- **Doug O'Donnell**, Acting Commissioner (followed by Danny Werfel)
- **Melanie Krause**, Acting Commissioner (followed by Doug O'Connell)
- **Teresa Hunter**, Chief Financial Officer (CFO)
- **Brian Mussleman**, Acting CFO
- **Julia Caldwell**, Deputy Chief Operating Officer
- **Heather Maloy**, Chief Tax Compliance Officer
- **Rajiv Uppal**, Chief Information Officer (CIO)
- **Mike Wetklow**, Chief Risk Officer (CRO)
- **Traci DiMartini**, Chief Human Capital Officer (admin leave)
- **Emily Korngay**, Chief of Staff to the CIR
- **Jodie Reynolds**, Chief Comms & Liaison
- **Kathleen Walter**, Chief Privacy Officer (CPO)
- **David Padrino**, Chief Transformation Officer (CTO)
- **Jonathan Walsh**, Chief Implementation Officer (CIO)
- **Sharyn Fisk**, Director, Office of Professional Responsibility (OPR), Director, IRA Tax Provision Implementation Office (IRA TPIO)
- **Elizabeth Kastenbergh**, Acting Director, OPR
- **Marjorie Rollinson**, Chief Counsel
- **Bill Paul**, Acting Chief Counsel (demoted to Deputy Chief Counsel)
- **Elizabeth Askey**, Chief, Office of Appeals
- **Holly Paz**, Commissioner, LB&I
- **Jeffrey Erickson**, Associate Chief Counsel for Passthroughs, Trusts and Estates
- **Cliff Warren**, Senior Counsel to the Associate Chief Counsel of Passthroughs, Trusts and Estates

IRS OPERATING LANDSCAPE

Reduction in Workforce, January 25 to June 4, 2025

- **Total Workforce** 102,113
- Projected staffing after separations 75,702 (25.86% reduction)
- **Taxpayer Advocate** 1,970
- Projected staffing after separations 1,480 (24.87% reduction)
- **Taxpayer Services** 43,134
- Projected staffing after separations 33,053 (21.55% reduction)
- **Taxpayer Experience Office** 106
- Projected staffing after separations 55 (48.11% reduction)

IRS OPERATING LANDSCAPE

Reduction in Workforce, January 25 to June 4, 2025

- **Chief Counsel** 2,740
- Projected staffing after separations 2,387 (12.88% reduction)
- **Criminal Investigation** 3,589
- Projected staffing after separations 3,221 (10.25% reduction)
- **Appeals** 1,775
- Projected staffing after separations 1,275 (28.17% reduction)

IRS OPERATING LANDSCAPE

Reduction in Workforce, January 25 to June 4, 2025

- **LB&I** 6,763
- Projected staffing after separations 5,402 (20.12% reduction)
- **SBSE** 24,120
- Projected staffing after separations 15,566 (35.46% reduction)
- **TEGE** 2,286
- Projected staffing after separations 1,670 (26.95% reduction)
- **Whistleblower Office** 94
- Projected staffing after separations 69 (26.60% reduction)

Identifying Unique Opportunities for Early Dispute Resolution

IDENTIFYING UNIQUE OPPORTUNITIES FOR EARLY DISPUTE RESOLUTION

- **Limited IRS resources** will now, in part, determine
 - Case selection, and
 - Resolution of tax disputes
- **IRS will increasingly focus on**
 - Initiatives (campaigns) and specific items
 - Rather than a comprehensive examination
- **Taxpayers should re-evaluate each IRS interaction** due to reductions in force and budget cuts
 - Seek to determine possibility of a more-prompt resolution
 - Submission of reasonable resolution earlier in the administrative process
 - Commitment of resources towards resolution
 - Coordinated efforts with similarly situated taxpayers?
 - Congressional interactions?

IDENTIFYING UNIQUE OPPORTUNITIES FOR EARLY DISPUTE RESOLUTION

A lack of important staffing and funding *will* impact the volume of examinations the IRS can conduct,

But those selected for an examination,

May understand that a traditional tax examination by a modernized agency, even if under-staffed,

May not represent a significant challenge
in a *target-rich environment*

ADDENDUM

IRS High-Wealth / High-Income Efforts

Selected LB&I Issues, Campaigns & Priorities

IRS Enforcement Selected Efforts & Priorities

Estate and Gift Tax Considerations

IRS Data Book

Tax Gap

Speaker Bios



IRS High-Wealth / High-Income Enforcement Efforts

HIGH-WEALTH / HIGH-INCOME ENFORCEMENT EFFORTS OF THE IRS

- **Global High Wealth** – LB&I program since 2009 – Enterprise approach looks at the complete financial picture of high wealth individuals and the enterprises they control – based on income or assets, wealthiest taxpayers
- **GHW was a hiring priority with IRA funding and had many probationary employees in 2025**
 - **GHW Capacity** – Started 2025 with ~353 employees, but now about 220 employees, a 38% reduction
 - Pass-Through Entities Practice Group down 27%
- **High Income Non-filer Collections initiative** – step up efforts to address high-income non-filers through enhanced notices (QR codes)
- **High Income Filers Initiative** – Both LB&I and SB/SE maintain compliance efforts in the area of high-income taxpayers

HIGH-INCOME ENFORCEMENT EFFORTS OF THE IRS

- **Increasing coordination between IRS Divisions** - LB&I, SB/SE, TE/GE
 - Collaboration involves not only traditional individual Exam functions as well as the related tax-exempt entities and estate & gift returns
- **Improved specialized training and audit processes** to ensure IRS employees have comprehensive training and approach these exams in the most appropriate (i.e., enterprise vs. single issue) manner
- **Increasing focus on the non-compliant**
 - Reduce interactions with compliant taxpayers
- **Increased use of data analytics**

PRINCIPAL TYPES OF HIGH-WEALTH AUDITS

- **Issue-driven**

- Triggered by an item on a return like a large loss, a significant deduction (charitable or otherwise), or some other attention-grabbing anomaly

- **Comprehensive and intrusive**

- **Designed to effectively examine the taxpayer's entire financial life**
- **Looking for unreported flow thru income** (will examine financial and security accounts, as well as spending, to see if financial situation is consistent with reported income)
- **Digital asset transactions**
- **Use of assets claimed to be for business** – airplanes, stadium suites, chauffeur, company car
- **Improper deductions**

GLOBAL HIGH WEALTH (GHW) PROGRAM

- Business and financial enterprises controlled by individuals with assets or earnings in the tens of millions of dollars
- Unified, holistic look at the entire web of business entities controlled by a high wealth individual to better understand the entire economic picture and to assess the tax compliance of that overall enterprise
- Enterprise analysis of related partnerships, trusts, private foundations, flow thru entities, real estate investments, privately held corporations, etc.
- Exam teams comprised of flow-through specialists, international examiners, economists to identify economic trends, appraisal experts to advise on valuation issues, and technical advisors to provide industry or specialized tax expertise
- Inter-Operating Division cooperation (i.e. LB&I / TEGE / CI / SBSE)

HOW THE IRS IDENTIFIES A GHW CASE

- Data Analysis
- Referrals
- Related taxpayers and audits
- Campaigns and Issue Programs
- Whistleblower Claims

RISK ASSESSMENT CONDUCTED BEFORE CASES SENT TO THE FIELD FOR AUDIT

- **yK1 Readiness** is a link visualization and data analysis tool developed by the IRS RAAS
- **Graphically displays relationships and connections** between flow-through entities such as partnerships (form 1065), subchapter S corporations (form 1120S), trusts (form 1041), and other taxable owners (e.g., individuals filing 1040, corporations filing 1120, etc.)
- **Collects information from various IRS databases** and tax forms filed by tax entities
- Helps examiners and researchers visually understand and analyze the complete structure of an entity
- **Traces ownership structure through tiers** to the ultimate partners

RISK ASSESSMENT CONDUCTED BEFORE CASES SENT TO THE FIELD FOR AUDIT

- Identify **Related Taxpayers**
- Identify **Questionable Items**
- **Factors to consider** include
 - Absolute and comparative **size** of the item
 - Inherent **character** of the item
 - Possible evidence of an **intent to mislead**
 - Beneficial effect of **manner in which the item was reported**
 - **Relationship** to other items
 - Possible **whipsaw effect** on other taxpayers
 - Unreported or otherwise **missing items**

SELECTED GHW ENFORCEMENT CAMPAIGNS

- **Business Aircraft Campaign** – IDRs for flight/maintenance logs, passenger manifests, identification of owners/officers, relationships with other passengers, aircraft purchase/sale documents, lease/charter agreements, management contracts, company policy on use, calc of qualified business use, fringe benefit computations, reimbursement for personal flights, minutes re business purpose of the aircraft
- **Sports Industry Losses Campaign**
- **Art Donation Campaign**
- **Digital Assets Campaign**

COMMON ISSUES IN HIGH-WEALTH AUDITS

- **Determining U.S. residency or non-residency for foreign nationals**
 - **Objective rules** (substantial presence test)
 - **Subjective exception** (closer connection test)
 - A foreign national may be treated as a nonresident of the United States for U.S. tax purposes if that person:
 - Was present in the United States less than 183 days during the year;
 - Had a closer connection during the year to one foreign country in which the person had a tax home;
 - Maintained a tax home in that foreign country during the entire year; and
 - Has not taken steps toward, and does not have an application pending for, a green card.

COMMON ISSUES IN HIGH-WEALTH AUDITS

- **Determining U.S. domicile for estate and gift tax purposes**

- A person is considered domiciled in the US for estate and gift tax purposes if he or she lives in the US and has **no present intention of leaving**.
- One may be U.S. domiciled for estate tax purposes and not be a resident for income tax purposes, or vice versa.
- Domicile depends on a **facts and circumstances** test include:
 - Has the taxpayer made a statement of intent (in visa applications, tax returns, will, etc.);
 - Length of US residence;
 - Access to residential real estate (owned or leased);
 - Location of spouse and minor children;
 - Immigration status;
 - Ties to another country;
 - Country of citizenship;
 - Location of business interests;
 - Locations of club and church affiliations, voting registration, and driver licenses are maintained.

COMMON ISSUES IN HIGH-WEALTH AUDITS

- **Specific issues often examined in High Wealth audits**
 - Digital Assets / Cryptocurrency transactions
 - Tax shelter participation
 - Personally owned aircraft
 - Use of Business Aircraft / Corporate Aircraft
 - Treatment of automobiles and transportation services
 - Security services
 - Foreign accounts – which ones must be reported
 - Forms 3520 and 3520-A
 - FBAR compliance
 - Charitable donations and valuations
 - DAFs
 - Artwork
 - Complex trust structures and determining which ones are grantor trusts

COMMON ISSUES IN HIGH-WEALTH AUDITS

- **Challenges of gathering information/working with family office**
 - Privilege concerns
 - Competing considerations
- **General lack of records**
- **Techniques used by IRS to gather information**
 - IDR(s) seeking all materials, with a focus on correspondence
 - Taxpayer interviews
 - Third-party contacts (informal)
 - 45-day advance notice requirement
 - Exceptions to notice requirement
 - Summonses (formal)

COMMON ISSUES IN HIGH-WEALTH AUDITS

- **Application of judicial doctrines, such as:**
 - Economic Substance
 - Substance-Over-Form
 - Step Transaction
 - *Bona Fide* Partnership
 - Assignment of income
 - Tax ownership
- **IRS focus on foot-faults, such as:**
 - Failure to properly / fully complete forms
 - Failure to include certain forms with returns
 - Election imperfections

IRS GHW "WEALTH SQUAD"

INFORMATION DOCUMENT REQUESTS (IDR)

- **The IRS has somewhat standardized its requests for information** in these matters by seeking everything imaginable with respect to the taxpayer under examination and all related entities, including
 - Org charts, financial statements, tax workpapers, asset transfers by sale or charitable contribution, organizational documents for all related entities, offshore or cross-border financial transactions, estate planning documents, etc.
- **Detailed responses to detailed requests for information often generate additional detailed requests for information**

PRACTICE TIPS FOR REPRESENTING TAXPAYERS IN HIGH-WEALTH AUDITS

- **Advise the taxpayer about the potential risks**, ongoing status of the examination, and actions that can be taken to reduce the risks
- **Conduct a “Shadow Audit”** of the taxpayer
- **Facilitate communication with the IRS to avoid misunderstandings and mistakes**, keep the audit focused in order to avoid unnecessarily expanding the scope of the audit, and obtain the quickest resolution possible
- **Protect privileges**, avoid waiving privilege or inadvertently providing privileged information

HIGH-WEALTH NON-FILER INITIATIVE

- IRS launched a new initiative in 2024 focused on high income taxpayers who have failed to file tax returns
- Over 100,000 letters issued to taxpayers with income between \$400,000 and \$1 million and 25,000 letters issued to taxpayers with more than \$1 million in income
- Non-filer initiative is part of the larger effort within the IRS to ensure large corporate, large partnership, and high-income individuals pay the correct amount of tax that they owe

GENERAL ADVICE WHEN REPRESENTING THE HIGH-WEALTH NON-FILER

- **Consider the IRS voluntary disclosure practice** to bring the client into compliance for the prior six years in order to possibly avoid criminal liability
- **Use Kovel arrangements** to protect preparation of tax returns
- **Determine whether there is reasonable cause** for failure to file the tax return and for abatement of penalties
- **Explore First Time Abatement** for the earliest tax year
- **Arrange for immediate payment of any past-due liabilities** or enter into installment payment plan

Selected LB&I Issues, Campaigns and Priorities

LB&I ISSUES, CAMPAIGNS AND PRIORITIES

SOLAR AND WIND POWER

- By EXECUTIVE ORDER, Treasury and the IRS have been directed to focus on restrictions to **SOLAR** and **WIND** production and investment tax credits as mandated by the **One Big Beautiful Bill Act (OBBBA)**
 - What will the IRS do?
 - What resources does it have to conduct enforcement?
 - What issues is it likely to raise for those taxpayers who are audited?
 - Will the scope of these audits expand beyond the solar and wind credit issues?
 - How can taxpayers effectively prepare?
 - Is there an opportunity for a pro-active resolution?

LB&I ISSUES, CAMPAIGNS AND PRIORITIES

GUIDANCE TO SPEED UP EXAM PROCESS

- **Interim Guidance Memo** (IR-2025-77, July 25, 2025)
- **Phasing out Acknowledgement of Facts (AOF) IDR process in examinations by 2026**
 - Due to concerns over limited value and extended timelines
 - Taxpayers may choose whether to use AOF until Dec. 31, 2025
- **Expanding Use of Accelerated Issue Resolution (AIR) to Large Corporate Cases**
 - Clarifies that AIR applies to Large Corporate Cases (formerly under the Coordinated Examination Program)
 - AIR closing agreements allow resolved issues to apply across all filed return years in the current audit cycle
- **Stronger review of Fast Track Settlement (FTS) denials**
 - To support broader FTS use of the FTS process, the IRS now requires additional internal reviews and approvals before denying a taxpayer's request

LB&I ISSUES, CAMPAIGNS AND PRIORITIES

- **Research Issues** - research credit and research and experimental expenditures issues, of which IRC §§ 41 and 174 are some of the most prevalent
- **SECA Tax** – Unless an individual partner qualifies as a “limited partner” for self-employment tax purposes, the partner’s distributive share is subject to self-employment tax under the Self-Employment Contributions Act (SECA)
- **Partnership losses in excess of partner's basis** - Partners that report flow-through losses from partnerships must have adequate outside basis as determined pursuant to IRC § 705 to deduct the losses or else the losses are suspended per § 704(d) to the extent they exceed the partner’s basis in the partnership interest

LB&I ISSUES, CAMPAIGNS AND PRIORITIES

- **Partnership “Basis Shifting” transactions (IR-2024-166, June 17, 2024)–**
 - **NO LONGER A TRANSACTION OF INTEREST BUT THE UNDERLYING REVENUE RULING REMAINS, SO FAR**
 - **Transfer of partnership interest to related party** - partner with a low share of the partnership’s “inside” tax basis and a high “outside” tax basis transfers the interest in a tax-free transaction to a related person or to a person who is related to other partners in the partnership generating a tax-free basis increase to the transferee partner’s share of “inside” basis.
 - **Distribution of property to a related party** - partnership with related partners distributes a high-basis asset to one of the related partners that has a low outside basis. After this, the distributee partner reduces the basis of the distributed asset and the partnership increases the basis of its remaining assets. The related partners arrange the transaction so that the reduced tax basis of the distributed asset will not adversely impact the related partners, while the basis increase to the partnership’s retained assets can produce tax savings for the related parties
 - **Liquidation of related partnership or partner** - partnership with related partners liquidates and distributes (1) a low-basis asset that is subject to accelerated cost recovery or for which the parties intend to sell to a partner with a high outside basis and (2) a high-basis property that is subject to longer cost recovery (or no cost recovery at all) or for which the parties intend to hold to a partner with a low outside basis. Under the partnership liquidation rules, the first related partner increases the basis of the property with a shorter life or which is held for sale while the second related partner decreases the basis of the long-lived or non-depreciable property, with the result that the related parties generate or accelerate tax benefits

IRS Enforcement Selected Efforts & Priorities

IRS ENFORCEMENT

- **Audit plans are increasingly focused on**
 - **Specific issues** or through IRS **Compliance Campaigns**
 - **Fewer comprehensive examinations**
- **Changes to case selection and use of data analytics**
 - Better able to identify issues and indicators of noncompliance
- **Modernized, enhanced technology** and methods of engagement
 - **Accelerate case selection and examination processing**
- **Increased opportunities for legal certainty**
 - **Access to issue resolution programs**

IRS ENFORCEMENT

- **Efforts to address more sophisticated forms of tax avoidance**
 - Through a combination of technology, improved data analytic approaches, AI, and a more specialized workforce dedicated to complex enforcement activities
- **Significant reduction in specialized enforcement staff**
 - **Concerns about the ability of the IRS compliance functions to fulfill their Mission**
- **Improved information reporting**
 - Including form changes

IRS ENFORCEMENT

- **Enforcement focus will continue, on a significantly reduced scale, on**
 - Large corporations
 - Complex partnerships, Pass-through and closely held entities
 - Offshore noncompliance
 - High-Wealth/High-Income Individuals
 - High-Income Non-Filers (High priority beginning in 2016)
 - Virtual currency / digital asset transactions
 - Dirty Dozen Tax Avoidance Strategies
 - Syndicated Conservation Easements
 - Micro-Captive Insurance Arrangements
 - Employee Retention Credit (ERC) Claims
 - IRS-CI has initiated 450+ investigations involving more than \$7 billion of potentially fraudulent ERCs in tax years 2020-2023
 - Monetized Installment Sales

IRS ENFORCEMENT

- **Enforcement focus will continue, on a significantly reduced scale, on**
 - **Virtual Currency Fraud** - In March 2022, the IRS's Office of Fraud Enforcement (OFE) and CI partnered to launch the IRS **Chain-Analysis Learning Academy** providing IRS employees extensive on-demand virtual currency training and certification on topics ranging from tracing digital assets to basis computation and tax treatment of virtual currency, non-fungible tokens and other digital assets
 - **Maltese Pension Plans** - Taxpayer claims no income from gains and distributions based on a reading of the U.S.-Malta treaty
 - **Certain Charitable Remainder Annuity Trusts (CRATs)** - IRS concerned with an "improper" step-up in basis that allows taxpayers to improperly eliminate gain on the sale of property

IRS ENFORCEMENT

- **Enforcement focus will continue, on a significantly reduced scale, on**
 - **Business Aircraft campaign** - Emphasis on **qualified business use, personal use, and fringe benefit inclusion** usage by large corporations, large partnerships, and high-income taxpayers.
 - **Puerto Rico Act 60 (PR Acts 20 and 22), “Code of Incentives” (01/16/2024) campaign** - Focused on taxpayers who claimed benefits through Puerto Rico Act 22, “Act to Promote the Relocation of Individual Investors to Puerto Rico,” without meeting the requirements of IRC Section 937 (Residence and Source Rules Involving Possessions) and may be **excluding income subject to US tax** on a filed US income tax return or failing to file and report income subject to US tax.
 - Also focused on individuals who are compliant with IRC Section 937 but may be **erroneously reporting US source income as Puerto Rico source** income in order to avoid US taxation.

IRS ENFORCEMENT

- **Enhanced coordination with the Whistleblower Office** - Since 2007, IRS has paid out more than 2,500 awards totaling more than \$1.05 billion
- **International Tax Compliance** –
 - **Joint Chiefs of Global Tax Enforcement (J5)** organization to combat transnational tax crime through increased information gathering, intelligence sharing, joint investigative activity, and capacity building with partner countries' tax agencies.
 - **Transfer Pricing** - Centralized efforts of LB&I's Transfer Pricing Risk Assessment (**TPRA**) team continue to guide case selection to the appropriate treatment stream
- **National Coordinated Investigations Unit (NCIU)** – In FY22, IRS-CI used data analytics to identify multiple new unique data sets that identified more than 10,000 taxpayers that potentially committed a criminal or civil violation of the tax code

IRS ENFORCEMENT

- **Exam Case Selection -**
 - During FY22, the **IRS began using a predictive model to automate the identification of issues** for the Discriminant Index Function inventory and grading cases for the Tax Compliance Officer inventories
 - The IRS SB/SE division **incorporated FinCEN data into the Compliance Data Warehouse (CDW)** allowing in-depth data analytics for both the Bank Secrecy Act (BSA) program and the Foreign Bank and Financial Accounts (FBAR) program
 - In collaboration with Research, Applied Analytics and Statistics (**RAAS**), SB/SE analyzes the data to enhance current case selection and identification methods
- **Improvements in Data-Driven Decision-Making -**
 - In FY22, the IRS deployed the Enterprise Data Platform (EDP), a scalable **platform to support data analytics for numerous business and information technology operations services, connecting data providers with data consumers**
 - EDP is a component-based open architecture delivering **universal data access for authorized users and systems at the enterprise level**. Comprised of three components - **Universal Data Hub, Data Access Services, and Analytical Tools and Services**

IRS ENFORCEMENT

- **CI Advanced Analytics & Innovation (AAI) -**
 - The trusted “go to” source within IRS-CI for case generation, data analytics expertise, and challenge resolution through innovation and data management and governance
 - **AAI is designed to provide high-quality support in managing and engaging data analytics, making data-driven decisions, measuring and monitoring IRS-CI’s impact on compliance, implementation of ideas, and investigative support.**
- **Cyber Crimes -**
 - The IRS-CI Cyber Crimes unit collaborates with other federal law enforcement agencies to identify the movement of criminally derived profits utilizing virtual currency and the Dark Web
- **Advanced Collaboration Data Center (ACDC) -**
 - Expand sophisticated collaboration techniques from high profile cyber investigations - a national government-wide collaboration - **bringing together data, technology, and specialized personnel from across Treasury and government**
- **Data Management Working Group (DMWG) -**
 - Formed in FY22, the DMWG is a **collaborative working group consisting of IRS-CI’s Cyber division along with AAI and Field and International Operations**
 - DMWG drives recommendations to support a comprehensive management strategy to facilitate IRS-CI’s data management (acquisition, validation, cleaning, updates, etc.) and governance

IRS-CI CYBER CRIMES UNIT ACCOMPLISHMENTS

- **Recent criminal investigations** involving **sophisticated cyber tools have had a significant impact** – *IRS is using the same tools for Digital Asset tax enforcement efforts*
 - **Historical Takedown of child exploitation site operating in the Dark Net**
 - 337 arrests in 38 countries
 - Rescue of 23 actively exploited minors residing in the US, Spain and the UK
 - **Historical Takedown of terrorism financing sites**
 - **Global disruption** of three cyber-enabled terrorist financing campaigns involving the
 - al-Qassam Brigades (**Hamas**' military wing)
 - **al-Qaeda**
 - Islamic State of Iraq and the Levant (**ISIS**)
 - **Kleptocapture Task Force** – Inter agency law enforcement sanctions task force - ongoing investigations involving Russian oligarchs, etc.

IRS-CI CYBER CRIMES UNIT ACCOMPLISHMENTS

- **Largest cryptocurrency seizure ever recorded for the federal government**
 - **Seizure of a wallet from the Cloud** valued at more than **\$3.6 billion** re an alleged conspiracy to launder cryptocurrency stolen during an August 2016 hack of 119,756 bitcoin (FMV in 2016 was \$72 million) the Bitfinex virtual currency exchange.
- **Lead investigators in the largest international fentanyl/opioid seizure in US history**
 - Infiltrated international drug cartels
 - **Dismantled large, international fentanyl trafficking networks of the Sinaloa cartel**

Estate and Gift Tax Considerations

ESTATE AND GIFT TAX REMINDERS

- **Estate, Gift, Generation-Skipping Transfer Tax Exemption**
 - \$13,990,000 in 2025
 - Increased to **\$15 million in 2026**, with an inflation adjustment starting in 2027, was to “sunset” 01/01/2026 – revert to pre-TCJA levels estimated to be \$7 million (\$5 million, adjusted for inflation)
- **Annual Exclusion** for certain present interest transfers
 - \$15,000 in 2018-2021, \$16,000 in 2022, \$17,000 in 2023, \$18,000 in 2024 and \$19,000 in 2025
 - For gifts to a nonresident, non-U.S. citizen spouse \$175,000 in 2023, \$185,000 in 2024 and \$190,000 in 2025
- **Portability Election - Deceased Spousal Unused Exclusion (DSUE)**, estate tax return must be timely filed, as extended, to elect to transfer any DSUE to a surviving spouse, regardless of the size of the gross estate or amount of adjusted taxable gifts, must be used before the donor's own exclusion is applied.

ESTATE TAX EXAMINATIONS

- **IRS Exam and Appeals** each have *internal* valuation specialists
- **Common issues**
 - Valuation issues and discounts
 - Formula transfers
 - Sales to Intentionally defective Grantor Trusts
 - Split Dollar Life Insurance
 - Penalties
- **Broad Information Document Requests (IDRs)**
- **Preservation of important privileges**
 - Attorney-client
 - Work product – prepared in anticipation of litigation

BASIC TIPS FOR 706/709 RETURN ASSEMBLY (FROM A SUPERVISORY IRS ESTATE TAX ATTORNEY)

- **Return Exhibits should be indexed**
 - Placed at the back of the tax return - not behind each individual schedule
- **Copies of tax returns filed with Form 706 must be identified as exhibits**
- **Include copies** of all wills, trusts, disclaimers, agreements, appraisals, and other explanatory documents, referred to in the return or in the supporting documents
- **Not necessary to use spiral binding**, hole punch/document fasteners and/or covers on the return which are likely to be removed and destroyed at the Service Center

CONSIDERATIONS RE VALUATIONS OF CLOSELY HELD BUSINESSES

- **Pierce v. Commissioner**, T.C. Memo. 2025-29, filed April 7, 2025 – **Gift tax dispute in context of transfer of interests in a closely held business**
- **Expert Analysis:** Must independently corroborate data and assumptions
- **Justification of Assumptions:** All assumptions, including projected cash flows, discount rates (especially company-specific risk premiums), growth rates, and working capital needs, must be clearly supported by relevant data and sound reasoning
- **Consideration of All Relevant Facts:** Valuation should consider all known and knowable facts as of the valuation date, including industry trends, company-specific risks (both internal and external), and the impact of management decisions
- **Appropriate Valuation Methodology:** Selecting and correctly applying the most appropriate valuation method is crucial. Each component of the chosen method must be carefully considered and justified

CONSIDERATIONS RE VALUATIONS OF CLOSELY HELD BUSINESSES

- **Tax Affecting Analysis:** When valuing S corporations using data derived from C corporations, a tax affecting analysis may be considered. However, practitioners must ensure a sound methodology is applied and that the analysis accounts for both the benefits and burdens of S corporation status
- **Support for Discounts:** Discounts for lack of control and marketability must be supported by relevant studies and an analysis of the specific characteristics of the subject company and the transferred interests. The methodology for determining the discount rates should be clearly explained

CONSIDERATIONS RE DISCOUNTED CASH FLOW (DCF) VALUATION METHOD RE CLOSELY HELD BUSINESSES

- **DCF determines value by adding the present value of projected cash flows for a discrete period, the present value of the terminal value, and the value of nonoperating asset:**
 - **Projected Future Cash Flows:** Consider the expected revenue and expenses of the company. While an S corporation is not liable for entity-level tax, tax affecting might be necessary when valuation data is based on C corporations
 - **Discount Rate:** Company-specific risk adjustments must not include factors already accounted for in other components of the discount rate
 - **Terminal Value:** Estimates the value of an indefinite income stream after the discrete projection period. Typically calculated by capitalizing a "normalized" cash flow figure with a growth rate and the discount rate

CONSIDERATIONS RE DISCOUNTED CASH FLOW (DCF) VALUATION METHOD RE CLOSELY HELD BUSINESSES

- **Determines value by adding the present value of projected cash flows for a discrete period, the present value of the terminal value, and the value of nonoperating asset:**
 - **Nonoperating Assets:** Nonoperating assets, such as excess cash, are added to the value derived from the discounted future cash flows and terminal value. Excess cash is defined as the amount by which cash and short-term investments exceed a business's working capital needs
 - **Discounts for lack of control and lack of marketability:** Often applied to the value of minority interests in closely held businesses. The control discount reflects the minority shareholder's inability to control the company's management and liquidation. The marketability discount accounts for the absence of a ready market for closely held shares. Look to non-exhaustive list of factors considered in determining the marketability discount, as outlined in *Mandelbaum v. Commissioner*, T.C. Memo. 1995-255

REQUESTING AN ESTATE TAX CLOSING LETTER (ETCL)

- **Estate Tax Closing Letter User Fee Regulations (October 28, 2021)**
 - Requests are made through Pay.gov; **the fee is \$67**
- **FAQs on the Estate Tax Closing Letter is available on www.irs.gov** providing detailed instructions for requesting an estate tax closing letter on Pay.gov. Go to: www.irs.gov/etcl
- Request ETCL status update via email at sbse.eef.closing.letter.user.fee@irs.gov, by including the Pay.gov transaction date and the Pay.gov Tracking ID number.
- **Not available for Form 709 (gift tax) or Form 1041 (estate income tax)**
- **The ETCL will be prepared and issued** to the executor at the address of record and copied to other authorized representatives
- **Alternative** is to request an account transcript (see Notice 2017-12)

TRANSCRIPT DELIVERY SERVICE

- **Transcript Delivery Service** is available for Form 706 Estate Tax return accounts in lieu of the ETCL
 - **Notice 2017-12** confirms transcripts can substitute for an estate tax closing letter. See www.irs.gov/businesses/small-businesses-self-employed/transcripts-in-lieu-of-estate-tax-closing-letters for more information
- **The ETCL request is typically researched within 3-weeks.** Research initially notes whether the Transaction Code 421 (TC 421)—which signifies that the return was accepted as filed, or, if the return was examined, the examination has concluded—is present on the estate's transcript.



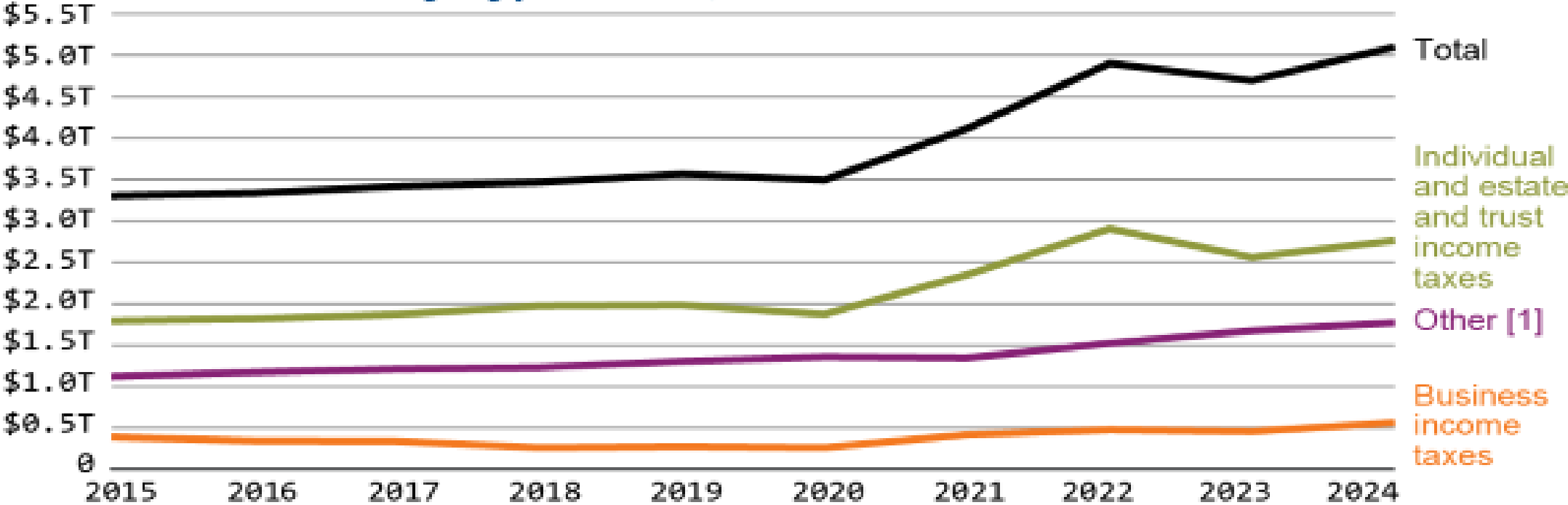
IRS Data Book

IRS DATA BOOK

- **Gross collections** - \$4.9 trillion FY22 (FY21 was \$4.1 trillion; FY24 was \$5.1 trillion)
 - **Individual Income Tax, Employment Taxes, and Estate and Trust Income Tax**
- **Form 1040 Processed** – 160.6 million FY22; 161 million FY24
- **Form 1040 Refunds** – 237.8 million totaling \$511.9 billion FY22; 117.6 million totaling \$552 billion in FY24
 - Includes overpayment refunds, refunds resulting from examinations, refundable tax credits, etc.
 - **E-Filed** – 93.8% (150.6 million) in FY22; 93.3% (152 million) in FY24
 - **Paid Preparers** – 85.9 million in FY22; 85.4 million in FY24
 - **Paper Filed** – 9.9 million in FY22; 9 million in FY24
 - **Direct File** – 140,803 in FY24
- **Corporate Returns Processed** – 2.2 million in FY22; 2.5 million in FY24
 - **S Corp** – 5.5 million in FY22; 6.8 million in FY24
- **Partnership Returns Processed** – 4.5 million in FY22; 5.1 million in FY24
- **Estate Tax Returns Processed** – 27,088 in FY22; 31,516 in FY24

IRS OPERATIONS – DATA BOOK

Gross Collections by Type of Tax, Fiscal Years 2015–2024



[1] Includes employment, estate and gift, and excise tax forms.
SOURCE: IRS Data Book [Table 1](#)

IRS DATA BOOK, COMPLIANCE PRESENCE

- **EXAMINATION COVERAGE (FY2024 Data Book)**
 - In FY 2024, the IRS closed **505,514 tax return audits**
 - **EXAM COVERAGE RATE** for TY 2020 (the most recent year outside the statute of limitations period as of FY2024) of individual taxpayers reporting **Total Positive Income (TPI)** of:
 - **No TPI (ERTC) - 1.0%** (3.3% for TY 2019 in FY 2023)
 - **TPI Under \$500,000 - 0.3%** (~0.2% for TY 2019 in FY 2023)
 - **TPI \$500k-\$1 million - 0.6%** (0.7% for TY 2019 in FY 2023)
 - **TPI \$1-5 million - 1.0%** (1.6% for TY 2019 in FY 2023)
 - **TPI \$5-10 million - 2.3%** (3.1% for TY 2019 in FY 2023)
 - **TPI \$10 million+ - 8.8%** (11.0% for TY 2019 in FY 2023)
- **TYPES OF EXAMINATIONS**
 - **Field Exams – 22.1%**
 - **Correspondence – 77.9%**

Tax Gap Estimates

TAX GAP ESTIMATES

- **Gross Tax Gap**
- **The projected \$696 billion gross tax gap** is the difference between projected 'true' tax liability for a given period and the amount of tax that is paid on time. The gross tax gap covers three key areas – non-filing of taxes, underreporting of taxes and underpayment of taxes
- **Non-filing**, which means tax not paid on time by those who do not file on time:
 - \$63 billion in tax year 2022, representing **9%** of the gross tax gap
- **Underreporting**, which reflects tax understated on timely filed returns 539 billion in tax year 2022, representing **77%** of the gross tax gap
- **Underpayment**, or tax that was reported on time, but not paid on time.
 - \$94 billion in tax year 2022, representing **14%** of the gross tax gap
- **Voluntary compliance rate** - about **85%** of taxes are paid voluntarily and on time. The projections are based largely upon the compliance behavior estimated from the most recent set of completed audits (from tax years 2014-2016)

REDUCING THE ANNUAL TAX GAP

- **IRS Can Not Audit It's Way Out Of The Tax Gap**
- **The Tax Gap Does Not Fully Account for all types of evasion**
- **The Tax Gap estimate DOES NOT FULLY REFLECT** noncompliance related to virtual currencies (market cap ~\$2 trillion, 8600 virtual currencies in the marketplace, \$14+ trillion in transactions), certain foreign transactions and activities, illegal source income (which is taxable and is pursued by the IRS often in coordination with other federal and state agencies) and other types of concealed taxable income.
- **Tax Gap Does Not Distinguish between**
 - Under-reporting, Non-filing or Underpayment of tax
 - Based on a good faith misunderstanding of the tax law,
 - Intentional evasion of filing or reporting obligations,
 - Domestic or foreign source income,
 - Legal or illegal source income, etc.
 - Based on identified non-compliance
- **Multi-Faceted Approach Required to Reduce the Tax Gap**
 - Enhanced modernization processes (AI and other technologies)
 - Enhance TP services and guidance (expansion into other languages)
 - Enhanced enforcement

INFORMATION REPORTING & WITHHOLDING

- Substantial IR & WH – **99%** (2011-2013)
- Substantial IR, No WH – **93%** (2011-2013)
- No Substantial IR / No WH – **45%** (2011-2013)

TOM CULLINAN, Shareholder

Former Counselor to the IRS Commissioner

Former Acting IRS Chief of Staff

Tom Cullinan is a Shareholder in the Chamberlain's Atlanta office. Tom joined the Firm from the IRS, where he served as the Counselor to the IRS Commissioner and then as the acting IRS Chief of Staff.

While at the IRS, Tom was a member of the Commissioner's core leadership team, and he advised the IRS Commissioner on the most critical issues facing the agency, including the IRS strategic plan and budget, staffing, internal operations, enforcement of tax laws and service to taxpayers. He was particularly involved in high-level enforcement issues. Among other things, Tom either conceived or helped launch the Office of Fraud Enforcement, the Office of Promoter Investigations, and the Joint Strategic Emerging Issues Team, all of which should be key IRS enforcement tools in the coming years. Tom also helped implement various policies pertaining to cryptocurrencies and served as an invited IRS representative to several Financial Stability Oversight Council meetings regarding cryptocurrencies.

Before joining the IRS, Tom spent twenty years as a tax attorney representing taxpayers in tax controversy matters. He has represented hundreds of taxpayers, including low-income individuals in pro bono matters, high net-worth individuals, partnerships, trusts and estates, and corporations in IRS audits, administrative appeals, and litigation, on a wide variety of tax issues often with significant amounts at issue. Tom pursues every possible opportunity to resolve tax disputes and is adept at negotiating acceptable resolutions. Yet, litigation is sometimes inevitable and he has a notable track record in that regard.

Tom works in the Firm's tax controversy practice where he draws on both his extensive background representing taxpayers and his deep knowledge of the IRS organization, operations, and procedures.



Tel. (404) 658-5450

Fax (404) 659-1852

tom.cullinan@chamberlainlaw.com

JOHN HACKNEY, Shareholder



Tel. (404) 658-5436

Fax (404) 659-5536

john.hackney@chamberlainlaw.com

John Hackney specializes in Federal and state tax controversy matters and tax litigation, including tax-related examinations and administrative appeals involving individuals, business enterprises, partnerships, limited liability companies, corporations and others. John has extensive expertise on a broad variety of both substantive and procedural tax issues often involving sophisticated and complex legal issues including significant Family Office matters, tax penalty abatements, Section 469 passive activity losses, tax issues associated with private aircraft ownership, estate and gift tax valuation issues, captive insurance, syndicated conservation easements, and related activities, Employee Retention Credits (ERC), research and development credits, accounting method issues, Section 1031 “like-kind exchanges”, and Section 183 hobby losses.

John often serves as a trusted advisor for high-wealth individuals and has extensive experience in the tax arena that precedes his law practice. He has a master’s degree in accounting with a tax concentration, and prior to attending law school, he worked as a CPA for PricewaterhouseCoopers in its tax department focusing on compliance work for large private equity clients and wealthy families. John also previously served as an attorney-advisor for Judge Thomas B. Wells of the U.S. Tax Court.

CHARLES RETTIG, Shareholder



Former Commissioner, Internal Revenue Service

Chuck Rettig, served as the Commissioner of the IRS from 2018 – 2022 and is now at Chamberlain Hrdlicka in their Tax Controversy & Litigation, Tax and Trust & Estate practices, based in Los Angeles. Chuck specializes in resolving often complex tax matters for business and corporate entities, high-wealth families and their closely held business entities throughout the country. He serves on various boards, providing strategic, financial, and operational guidance to innovative early-stage and other companies.

As Commissioner, he presided over the nation's tax system, managing an agency of more than 83,000 employees and an annual budget of more than \$14.1 billion generating annual gross revenue of approximately \$4.9 trillion (representing more than 95% of the gross revenue of the United States). He led the agency during the COVID crisis and distribution of three rounds of EIPs and refunds, more than 475 million payments totaling \$830+ billion, while transforming from a mostly paper-based organization to a mostly virtual organization. Commissioner Rettig represented the United States in foreign travels to Europe and South America. Among numerous professional honors and lifetime achievement awards received during his career, Commissioner Rettig received Treasury's highest honor - the Alexander Hamilton Award.

Before joining the IRS, Chuck was listed by Chambers USA as the *only Eminent Practitioner* in the Chambers Category "Tax: Fraud – Nationwide," was selected by his peers as the 2016, 2017 and 2018 Tax "Lawyer of the Year" (Litigation and Controversy, Los Angeles) for Best Lawyers and was included nationwide in both "Litigation and Controversy – Tax" and "Tax Law" by Best Lawyers in America. Chuck has held leadership roles in several professional organizations, including President of the American College of Tax Counsel; Chair of the National Institutes of Criminal Tax Fraud and Tax Controversy; Chair of the UCLA Annual Tax Controversy Institute for almost 20 years; and Chair of the Taxation Section of the State Bar of California. He served as Chair IRS Advisory Council (IRSAC) and served on the advisory boards of both the CA Franchise Tax Board and the CA Board of Equalization. He is a Certified Specialist both in Taxation Law and in Estate Planning, Trust & Probate Law (The State Bar of California, Board of Legal Specialization) admitted to practice law in California, Hawai'i and Arizona (inactive).



Tel. (404) 658-5446
Fax (404) 659-1852
charles.rettig@chamberlainlaw.com



THANK YOU!

