

April 2, 2025

The Honorable Todd W. Blanche  
Deputy Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue  
Washington, D.C. 20530

**Re: Memorandum Soliciting Feedback for Agency Reorganization Plan and RIF**

Dear Deputy Attorney General Blanche,

We write in response to the memorandum issued by your office on March 25, 2025, soliciting feedback on the proposed reassignment of Department of Justice Tax Division attorneys to U.S. Attorneys' offices. We appreciate that the Department is seeking input on this proposal. Dismantling the Tax Division would do a grave disservice to tax administration by destroying consistent and competent application of our tax laws. Our tax system touches every citizen and resident of the United States. It is fundamental that the tax system be enforced consistently nationwide, so that no matter where a business is organized or an individual lives, they can expect that everyone is subject to the same rules. As experienced tax controversy attorneys, many of whom have served in leadership positions in the Tax Division or the IRS, we understand the indispensable role of the Tax Division in our nation's tax system. If the goal is to increase efficiency and our return on investment, eliminating the Tax Division would be an epic failure.

The Tax Division is an essential, litigating component of the Justice Department. Its mission includes defense and enforcement of the nation's tax laws fully, fairly, and consistently in trial and appellate courts throughout the country to promote voluntary compliance with the tax laws, to maintain public confidence in the integrity of the tax system, and to promote the sound development of the law. Centralized coordination of tax enforcement is necessary to avoid the risk that the varying priorities and experience base of each of the 94 U.S. Attorneys' Offices throughout the country will significantly impair the fair and consistent enforcement of our tax laws around the country. The importance of the Tax Division's unique mission and priorities to our country cannot be overstated.

When then-Attorney General Robert Jackson explained in 1941 that "some degree of centralized administration was found necessary" in federal law enforcement, he was building on his foundational experience as the head of the Tax Division, which he led from 1936 to 1937, and the IRS's predecessor, the Bureau of Internal Revenue, where he served as Assistant General Counsel from 1934 to 1936. *See* R. Jackson, *The Federal Prosecutor* (1941). In the absence of such centralization, Jackson explained, U.S. Attorneys pursued "different interpretations or applications of an act, ... different conceptions of policy," and, "to put it mildly, there were differences in the degree of diligence and zeal in different districts." The Tax Division is essential "[t]o promote uniformity of policy and action, to establish some standards of performance, and to make available specialized help." *See id.*

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More than 180 million income tax returns and five billion information returns are filed each year. Our system of self-reporting rests on the public's faith that the tax laws are being applied fairly and consistently. Support for reporting and paying the correct amount of tax comes from the belief that your neighbors are doing the same or will face appropriate consequences. The Tax Division, along with the IRS, works diligently to protect this fundamental faith in our tax system. In the process, the Tax Division protects the public fisc by filing suits and defending cases involving in excess of \$10 billion per year, but that represents only a fraction of its impact.

The Tax Division represents the United States in nearly all tax-related matters in federal district courts, the U.S. Court of Federal Claims, and the courts of appeals, and it is the face of federal tax enforcement. That includes everything from multi-billion-dollar disputes against some of the biggest businesses in the world regarding the most sophisticated of issues, to civil actions against fraudulent tax return preparers, to collection cases against taxpayers that span the income spectrum, to tax issues in bankruptcy, to criminal tax cases, including investigations and prosecutions of those engaged in pandemic fraud and stolen identity refund fraud. The Tax Division is successful in carrying out this difficult and diverse mission because of principles it is designed around and fosters: technical competence, centralized leadership, and collaboration.

Competence. Tax Division attorneys regularly litigate cases against the nation's best-trained and best-funded private sector tax lawyers. The Tax Division has developed over many decades a deep bench of talented attorneys capable of expertly handling whatever tax issues come their way. Tax Division attorneys are litigators with essential knowledge about the tax subject matter. Tax Division attorneys need to know tax-specific procedures and substantive tax law, as well as IRS forms, records, and investigative tools. One of the fundamental precepts of return-to-office initiatives is to ensure that mentoring occurs. The learning curve to litigate tax matters takes years and depends on experienced colleagues, sitting in the same offices, to teach the next generation. Even experienced Tax Division attorneys depend on colleagues with specialties in highly technical areas. Tax Division attorneys would not be nearly as effective or consistent in their application of the complex tax laws nationwide without the organization that trains and supports them. Most Assistant U.S. Attorneys, even with exceptional credentials, lack the experience and knowledge to litigate tax cases. Moreover, most Assistant U.S. Attorneys who handle significant tax cases are able to do because they began their careers in the Tax Division and learned tax law.

Leadership. The Tax Division leadership plays an important role in determining the government's litigating positions and promoting fairness throughout the country. There are two basic levels of leadership within the Tax Division. Civil and criminal attorneys are assigned to sections covering different geographic areas, and each section has career leaders who provide management and supervision and have limited authority to approve the resolution of cases. Above them are the Division's senior leaders – a mix of career attorneys and political appointees - who have increased approval authority and work closely with DOJ and IRS leadership to coordinate efforts and ensure political accountability.

There is a common misconception that the IRS dictates how the Tax Division litigates cases. In fact, the Tax Division does its own analysis and, while it works closely with the IRS, it

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sometimes overrules the IRS by moderating its stance in challenging taxpayers, particularly on novel issues and enforcement priorities. Thus, Tax Division leadership helps to ensure that the tax laws are applied reasonably and productively. Further, in supervising cases throughout the country, leadership ensures that taxpayers are treated equally.

Collaboration. Collaboration is another fundamental driver in why we ask people to work together in offices. Collaboration among Tax Division attorneys and between the Department of Justice and the IRS is pivotal in addressing the nation's biggest tax enforcement challenges and the growing national tax gap between what taxpayers are required by law to pay and what they actually pay, last estimated to be \$696 billion. Take, for example, the Swiss Bank Program to address offshore tax evasion facilitated by the Swiss banking industry. Working closely together, civil and criminal components of the Tax Division and the IRS pursued investigations of certain foreign banks, created a voluntary disclosure program that allowed qualifying banks to sign a non-prosecution agreement, and established a clearance process for banks that may not have committed tax or monetary offenses. Eighty Swiss banks signed non-prosecution agreements and paid more than \$1.36 billion in penalties. The Tax Division also obtained valuable information necessary to hold thousands of culpable accountholders accountable. Systemic failures in our tax system require coordinated and forceful responses, and the Tax Division has repeatedly proven to be up to the task.

The Tax Division was created in 1934, five years before the first version of the Internal Revenue Code, and today it stands as a pillar of our tax system and the Department of Justice.

The hundreds of dedicated and skilled tax attorneys who work in the Tax Division must be able to continue to fulfill its promise of consistent, fair, and effective tax enforcement in service to taxpayers and our nation. Dismantling the Tax Division would increase fraud and inconsistency, further erode public confidence in the IRS and the Department of Justice, and cost the U.S. Treasury far more than the modest, short term, savings that may result from this effort.

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<sup>1</sup> Affiliations reflected are only for identification purposes and do not reflect endorsements by the designated professional firm or organization.

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