

## Saving Private IRS

By Christopher Bergin



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Christopher Bergin is the president and publisher of Tax Analysts and a former editor of *Tax Notes*.

Bergin uses Mortimer Caplin's 97th birthday as an occasion to highlight the former IRS commissioner as an example of the hardworking and dedicated people who work at the nation's tax col-

lection agency, and he calls on congressional critics of the IRS to take a more reasonable approach to funding and supporting tax administration.

Summer in Washington doesn't agree with everyone, but it usually agrees with me. However, it's been a disagreeable summer for those who care about the IRS.

In May the IRS inflicted some fairly serious wounds on itself. But it has since had a lot of help sustaining even more damage. Now there are several investigations, including a criminal investigation, regarding the Service's handling of applications from mostly conservative groups seeking tax-exempt status under section 501(c)(4). Hearings held by the House Oversight and Government Reform Committee have run the gamut from partisan inquiry and stonewalling to political circus and irrelevant discourse.

Some Republicans are falling all over themselves to find a way to link the White House to the "scandal" at the IRS. Bill O'Reilly, apparently the poster boy for IRS haters, has had a ton of material to use to bash the agency. So many IRS employees have been thrown under buses, it's hard to keep track. Accusations of incredible wrongdoing continue to be flung, but with nothing yet sticking. And the Fifth Amendment has been turned into a guilty plea. Even the president got involved, interfering with the national tax collector and basically firing a high-level civil servant.

Careers have been smashed, and the country's tax apparatus has been damaged to the extent that our self-assessment income tax system is under severe threat. And to make matters worse, appro-

priators in the House have proposed drastically slashing the IRS budget, which would result in further bleeding for an already injured tax administration system.

There is nothing positive to be said about any of this. And for those experiencing *schadenfreude*, you need to get a life, or at least go rent a Three Stooges flick.

But something else happened this summer. Not something disagreeable, but something nice. Mortimer Caplin turned 97.

Mortimer Caplin was IRS commissioner in the 1960s under President Kennedy. I consider Mort a friend of mine. I also consider him a legend. He is a fascinating man who has seen a lot and is very wise. He is a shining example of the kind of person who works at the IRS. But he is not an exception. To illustrate my metaphor, I could have chosen any number of former IRS commissioners or employees who exemplify the best in civil service — none, however, who have yet reached 97.

Are there clunkers who have worked for the IRS? Of course. There are clunkers anywhere. I've met my share since kindergarten; that's how I know the difference. From the IRS people I know, clunkers are a small minority. That's why treating the IRS with disrespect and budget cuts is not the way to treat a mostly dedicated agency.

But back to Caplin. To help celebrate his 97th birthday, I reread his oral history interview, published by Tax Analysts in the summer of 1994. Here are just a few Mort morsels to remind us of his story.

Mort was born on July 11, 1916, in New York City — I like that because I was born in New York City. Yet he considers himself a Virginian — I like that, too, because I consider myself a Virginian.

Before becoming a professor or an IRS commissioner, Mort served in the U.S. Navy during World War II. He was a beachmaster on Omaha Beach during the D-Day invasion. Here is his description of what that was like: "I had been assigned half a mile of beach and found myself in the thick of things. When I landed it was like a wax museum, the dead bodies all over. My first job was to get that beach cleaned up, get those bodies removed, and clear the landing lanes so that the landing craft could reach the beach."

That's it. It's like someone describing a walk in the park, but it's about something that is as far from a walk in the park as you can get.

In the 1950s he taught law, including tax law, at the University of Virginia School of Law, from which he had graduated. He had at least two famous pupils: Robert and Ted Kennedy, hence the connection to the Kennedy White House.

Mort was a boxer in college. He is a renowned educator and tax lawyer. He co-founded Caplin & Drysdale. He's even been on the cover of *Time* magazine. All of that doesn't seem to add up to someone who would head a cruel, unfair, and evil agency. That's because the IRS is none of those things.

As a tax collector, Mort very much wanted the IRS to have a better relationship with the public, "making people feel this is a decent organization, a fair organization." Courtesy and fairness were two cornerstones for Mort. He understood clearly a great difficulty the IRS must deal with daily: "If people have gripes about the tax law in general, they blame it on the IRS and use it as a whipping boy; this leads to careless reporting and tax abuses." He greatly supports and appreciates the strength of our self-assessment income tax system and the fact that it involves a delicate balance. The whipping of the IRS, especially by elected officials, breeds disrespect and contempt of our tax laws, and that is dangerous indeed. This is a concept that many of our politicians don't seem able to grasp — or perhaps they grasp it all too well and see beating the IRS as a way to get rid of the income tax system.

All this is not to say that the IRS doesn't have serious difficulties. Sadly, what is happening at the agency this summer is a pretty good indication that the IRS is losing its way. Among its biggest problems is a leadership failure that needs to be addressed immediately.

Mort gets a lot of credit for beginning the modernization of tax collection in this country. He would tell you others deserve that credit as well. But although Mort brought computers to the IRS, he was clear that tax administration could not become dehumanized. He believes that IRS agents should be fair, impartial, and courteous. He believes they should "point out deductions you overlooked. But we expect you to pay what you are supposed to pay."

The night before the exempt organization issues came to light, National Taxpayer Advocate Nina Olson delivered the Laurence Neal Woodworth Memorial Lecture at the May meeting of the American Bar Association Section of Taxation. In it she gave a warning about what Mort has long dreaded: the IRS losing the human touch. That is partly the result of the IRS being asked to do more and more and not being given the resources to do it. Tax collection is becoming all about automation and

hitting the numbers, when it should be about compliance, enforcement, and *service*. You cut the agency's budget, and service is the first thing to go. In fact, there is a lot of evidence that taxpayer service is already heading out the door. That must be stopped.

We can talk about the silly *Star Trek* videos made for IRS training all we want. And clearly there have been some budgetary abuses when it comes to conferences sponsored for agency employees. But there is no evidence of mass corruption at the IRS. Given a choice between corruption and stupid decisions, I'll take stupid every time — it's a little easier to fix. The simple fact of the matter is that this agency, the country's major profit center, is underfunded. That will be tough enough to address given the fiscal situation our politicians have put us in. But if you want to get yourself out of a fiscal hole, rule 1 is stop digging. Rule 2 is don't make it more difficult to bring money in the door.

So where do we go from here? For starters, we need to stop attacking the IRS and begin fixing it. We need to go back and review the 1998 Internal Revenue Service Restructuring and Reform Act to see what worked and what didn't. There is a good argument to be made that many of the safeguards established by that law aren't working as well as they should.

Is the organizational structure of the agency appropriate, or has it become too centralized? Does it make sense to return to a structure based on local districts and four regions? Is the Taxpayer Advocate Service functioning properly, or does the current structure allow IRS executives to mostly ignore it? Does it make sense to have an IRS Oversight Board with little real power? And what about the Treasury Inspector General for Tax Administration? TIGTA is not going through its finest moment right now either.

However, the highest priority should be given to addressing the leadership issues at the IRS. President Obama needs to nominate a new, real commissioner to lead the IRS and turn the agency around. And he needs to do that now. Please don't tell me it's too hard. Need a prototype? How about Mortimer Caplin?

The secretary of the Treasury should summon all former IRS commissioners and other former IRS executives to a public forum to address the agency's problems and provide it the support it needs this summer.

We need some people of courage and principle to step up. We need people who are ready, willing, and able to hit the beach and save Private IRS. I know a former beachmaster who can help advise us.