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THE INTERNAL REVENUE SERVICE'S "HART WRIGHT METHOD"

*Mortimer Caplin**

In January 1961, when I reported for duty as Commissioner of Internal Revenue, I found myself at the head of an agency of some 54,000 employees responsible for collecting for our government about \$100 billion a year. Almost half of these individuals were professionals, and it was essential that they receive continuous tax training to keep abreast of both frequent changes in the law and new business practices. The Internal Revenue Service (IRS) was then offering a vast array of technical training courses, and I felt almost as much university president as tax administrator. I soon learned that there was a law professor closely connected with this program, L. Hart Wright, whom it was important for me to meet. This I did; and it led to a warm friendship, not only during my four years as Commissioner, but for twenty years afterward.¹

Hart Wright's talent and perspective ran through the IRS training program for almost thirty years, right up to the time of his death. In 1954, when Commissioner T. Coleman Andrews started the IRS Advanced Training Center at the University of Michigan, Hart was chosen as the one law professor to teach tax law to the newly recruited IRS revenue agents. The Center had originally been conceived as a blue-ribbon accounting and auditing school to teach selected groups of new hires how to examine books and records of taxpayers. Its faculty was dominated by University of Michigan ac-

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1. Changes in tax administration over the past 20 years are illustrated by a few IRS statistics:

	<u>1962</u>	<u>1982</u>
Internal Revenue collections:	\$99.4 billion	\$632.2 billion
Total number of returns filed:	96.4 million	170.4 million
Individual returns filed:	61.6 million	95.5 million
Number of returns examined:	3.5 million	1.7 million
Recommended additional tax:	\$1.9 billion	\$11.7 billion
Total number of personnel:	56,481	83,835

See 1962 COMM. INTERNAL REV. ANN. REP. 32, 34, 75, 134, & 160; 1982 COMM. & CHIEF COUNSEL INTERNAL REV. ANN. REP. 7, 11.

counting professors, and it almost was an afterthought that a law professor was added. And what a happy thought this proved to be.

Hart soon became the Center's most respected and best liked instructor, introducing a fresh approach to the training of IRS revenue agents. For the first time, this very special student body — college graduates with majors in accounting — encountered someone who prodded them and stimulated them, who breathed life into opaque pages of tax law. Hornbook answers to be found in encyclopedias and Internal Revenue manuals were not the goal. Hart wanted them to analyze and think; to search out the facts; to determine the issues; to learn how to research the law; to keep on sharpening their analysis; and to reevaluate and refine their views continuously throughout the entire research process.

Hart made them focus, too, on the stark statutory environment in which they operate. While he underscored the indispensability of dissecting and applying specific relevant words of the Internal Revenue Code, he repeatedly cautioned his classes about the uncertainties and difficulties of statutory interpretation. As Circuit Judge Williams recently wrote:

The income tax laws, as every citizen knows, are far from a model of clarity. Written to accommodate a multitude of competing policies and differing situations, the Internal Revenue Code is a sprawling tapestry of almost infinite complexity. Its details and intricate provisions have fostered a wealth of interpretations. To thread one's way through this maze, the business or wealthy taxpayer needs the mind of a Talmudist and the patience of Job.²

Judge Williams went on to note:

The Code, after all, is a finite system of rules designed to apply flexibility to an infinite variety of situations. There are many "gray areas" in the tax world, twilight zones in which one may only dimly perceive how properly to treat a given accretion to wealth or given expenditure of funds.³

And it was the very existence of the gray areas, the twilight zones, which Hart wanted these young revenue agents to comprehend and appreciate. His goal was to inculcate in them a sense of intellectual humility when they undertook to test these complex statutory provisions against the varying fact patterns reflected in millions of tax returns.

In 1956, the IRS gave thought to moving the Training Center from the University of Michigan and assuming its own control of the

2. *United States v. El Paso Co.*, 682 F.2d 530, 534 (5th Cir. 1982), *petition for cert. filed*, 51 U.S.L.W. 3342 (U.S. Oct. 22, 1982) (No. 82-716).

3. 682 F.2d at 534.

entire operation. A new Commissioner was on board, Russell C. Harrington, and he was experiencing budgetary pressures from Congress. To establish the framework for the new program — the basic program operating today — the Commissioner appointed a special committee comprised of Hart Wright, Thomas Flynn (a partner in Arthur Young & Company) and C.I. Fox, then the District Director of Utah and later Deputy Commissioner of Internal Revenue. Its report, made in September 1956, contained three key recommendations which were all adopted:

- (1) Establish a full curriculum within the IRS for audit personnel.
- (2) Choose an instructor cadre from among the IRS technicians and provide them with special training techniques.
- (3) Conduct annually short review institutes nationwide at each of the District offices.

Only one person came to mind to assure implementation of this program — Professor L. Hart Wright. He was immediately asked to develop the basic training materials. Going far beyond the need for mere accounting and auditing skills, he set as his goal the teaching of “How To Be a Revenue Agent.” What did a revenue agent need to know to fulfill his function? More was expected than his merely being reactive to the specific problems presented to him. Rather, Hart believed that IRS agents should have a broader outlook and should approach and think about the tax law in the same manner as a tax planner does. To be more effective in auditing the returns of taxpayers, the agent must put himself in the shoes of a tax lawyer and tax accountant, analyze problems as they do, and thereby equip himself to identify and unravel the tax issues as expeditiously as possible.

In this setting, Hart developed a comprehensive tax law course which he wrote and kept up to date over many years. He produced an extensive text and study guide which covered a broad range of tax areas, and included excerpts from congressional committee hearings and reports, the Code, IRS regulations and rulings, and court cases. The collection could properly be labeled “Hart Wright’s IRS Casebook.” Most of the users of the material had no previous legal background and, for the first time, they were being exposed to source documents and to professional lawyers’ training, under the tutelage of one of the nation’s leading tax law professors.

Hart also taught the first few instructor training classes. His vivacity, enthusiasm, and emphasis on the Socratic method were all passed along to this core teaching group. His personal technique and teaching approach were regarded as so different and unique that they became known throughout the IRS as the “Hart Wright

Method.” Thousands of revenue agents have benefited from this method in the many training centers that the IRS now operates in different parts of the country, and Hart’s name is remembered and honored with affection and gratitude.

From early 1961 until my resignation from the Service in late 1964, I had many contacts with Hart. I reviewed the materials he had produced and, as an ex-professor at the University of Virginia Law School, I was impressed with what I saw. I asked him to develop the sophisticated IRS Advanced Training Course in Corporation Tax Affairs, and this material proved as successful as his previous works. From June 1961 to December 1962, he served as a member of the Commissioner’s Advisory Group, where I was able to call upon his special knowledge and judgment on a broad range of tax administration issues.

Hart Wright was devoted to his students wherever they might be, at the University of Michigan or the Internal Revenue Service. An incident comes to mind which illustrates this poignantly for me. Hart had learned that on November 14, 1962 I would be making a speech at Cobo Hall in Detroit; he called and asked if I would meet with his tax students in Ann Arbor. With the commitments I had back in Washington, it just did not seem possible. But Hart persisted: he presented me with a schedule showing how it could be done — and we did it. He picked me up at 11:00 a.m. at Cobo Hall, drove me in his automobile for about an hour and a half, gave me a box luncheon to eat along the way, delivered me to his crowded classroom for two hours of lively give-and-take, and then drove me back to the airport in an hour, just in time to beat the closing of the gate. Hart had given me a list of eight questions which he said might be put to me by his students. I don’t know whether we covered them all, but I am appending to this piece the memorandum he sent me.⁴ With his extraordinary knowledge and insight about the workings of the IRS, he had touched upon all the major issues concerning us back at the IRS National Office.

Much more can be said about Hart Wright’s contribution to better administration of our tax laws. For example, my immediate predecessor, Commissioner Dana Latham, had asked him to recommend steps for streamlining the IRS rulings and regulations process. His proposals were not accepted at that time, but some were finally put into effect this past year.⁵ Again, he had a longstanding concern

4. See Appendix *infra*.

5. See Del. Order 190, 1982-1 C.B. 350 (transfer to Chief Counsel of jurisdiction over the

over the fairness of the IRS' administrative settlement system — particularly as it applied to “the little old lady with tennis shoes.” He made a lengthy study of this problem, later publishing his views in a book entitled *Needed Changes in Internal Revenue Service Conflict Resolution Procedures*.⁶ Many of his suggestions are now reflected in today's IRS settlement procedures.⁷

In summary, it is fair to say that Hart Wright was the driving force in creating the modern professional training programs in the IRS. While his efforts were aimed primarily at revenue agents operating in the field, his basic approach and format became the model used for the IRS' other major activities—collection, criminal investigations, and appeals. Hart's presence improved the operations of a key agency of government to a significant degree; it also left a valuable and lasting legacy to the American public.

Appeals Office and the functions formerly delegated to the Assistant Commissioner (Technical), including issuance of private letter rulings and technical advice memoranda).

6. L. WRIGHT, *NEEDED CHANGES IN INTERNAL REVENUE SERVICE CONFLICT RESOLUTION PROCEDURES* (1970). For conflict resolution procedures utilized by the tax systems of six different countries, see *COMPARATIVE CONFLICT RESOLUTION PROCEDURES IN TAXATION* (L. Wright ed. 1968); Troyer & White, Book Review, 68 MICH. L. REV. 1628 (1970).

7. See Rev. Proc. 78-9, 1978-1 C.B. 563, *modified and superseded*, Rev. Proc. 79-59, 1979-2 C.B. 573, *superseded*, Rev. Proc. 82-42, 1982-2 C.B. 761 (rules governing division of settlement authority in cases docketed in Tax Court modified to ensure that every appropriate case is subject to consideration by Appeals Office at least once). The IRS' *Statement of Procedural Rules* appears at 26 C.F.R. pt. 601 (1983).

APPENDIX

QUESTIONS TO BE ADDRESSED TO COMMISSIONER CAPLIN
(11/14/62)

Mr. Commissioner, the typical law student does not often get a very accurate impression of the prime worries borne by the man who must somehow administer our very complex tax system. I think it would be healthy if these young people could get some notion of your prime concerns as they relate to the very heavy responsibility which you shoulder. To that end, I would like to ask you a series of questions which may serve to focus their attention on the large administrative questions which concern you.

(1) We might start the discussion by looking at the audit activity. At the time you became Commissioner, what bothered you most about the direction of our Audit activity, and what, if anything, have you done about it? This will give you a chance to explain the reason for, and the thrust of, the so-called "new direction."

(2) Continuing with the audit activity, what is, and what do you hope to achieve by, the so-called A.D.P. Program?

(3) Carrying on with the audit activity, some day many of the young people in this room will be representing taxpayers. What concerns you most about the practices of practitioners in the field of taxation? And assuming those concerns are legitimate, what if anything can be done about the problem? (This is intended to give you a chance to explore the ethics problem.)

(4) Could we shift the focus now to the work of your intelligence division and to the matter of fraud? Not many people have an opportunity to make an over-all assessment of the American people with respect to the degree of honesty reflected by them in filing tax returns. What is your impression with respect to that matter and what problem concerns you most in this general area?

(5) Turn now to the problem you have in attempting to provide some certainty to taxpayers with respect to the way the many interpretative problems arising under our Code will be resolved. In the years ahead, many of the young people in this room will be asking the National Office to rule on a prospective transaction contemplated by a client. Like most procrastinating lawyers, these young people will want the Service to be in a hurry in responding to their question. Indeed, they will hope for an answer by return mail. What can they expect and why must it be that way?

(6) From time to time we read in newspapers, etc., about the degree to which the policy of our Government is really made by Civil Ser-

vants. Let us look at this problem as it relates to your private letter rulings program. Assume in a given year that the Service issues about 25,000 letter rulings. While many of these are so-called insurance policies, that is, deal with answers which are not debatable, many of them also deal with interpretative or borderline questions. As a practical matter, how frequently can the Commissioner himself come to grips with these questions in the sense of fixing the policy position of the Service in the setting of a private ruling directed to one taxpayer?

(7) Let us shift our attention now to the problem of achieving greater uniformity in the application of our tax law. Certainly the published revenue rulings program is inspired in substantial part by a desire to achieve greater uniformity. As a practical matter, what bothers you most in attempting to administer such a program?

(8) Turn now to the personnel of the Service. You have a unique background, for you have been a practitioner, a professor, and the Commissioner. Civil Servants are sometimes characterized as bureaucrats, the implication sometimes being that they are less able than are their counterparts who are engaged in private practice, etc. At this stage of the game, what is your impression of the quality of your top Civil Servants in terms of the extent to which they compare favorably or unfavorably with their outside counterparts?