

Mark Matthews Quoted in Tax Notes, For DOJ Tax Division, Consistency And Deterrence Are Key

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Tax Notes
Excerpt taken from the article.

Title 26 of the U.S. code, which affects every U.S. person, must be applied consistently, and the Tax Division has the last word on whether to authorize tax charges against a defendant. The Tax Division is responsible for all civil and criminal tax trials outside the Tax Court, as well as appellate litigation involving the Internal Revenue Code. How that is accomplished, and how the Tax Division executes the priorities it and the IRS have designated, can be baffling to practitioners.

Unlike other violations of the U.S. code, those under Title 26 can affect any U.S. person in any given year. Tax crimes are "potential felonies that confront every American each year," said Mark E. Matthews, a former deputy assistant attorney general for the DOJ Tax Division and a former IRS deputy commissioner.

As a result, uniformity and consistency in enforcing those laws are critical, said Matthews, now in private practice with Caplin & Drysdale. Both federal law and the U.S. attorney's manual mandate that indictments in tax cases be authorized by the Tax Division, no matter which office is bringing the case.

However, the process of seeking Justice approval to indict someone for a tax crime has historically caused tension between the U.S. attorneys and the Tax Division, Matthews said. "For good or for bad, we've decided that the same filters should exist nationally," he said, adding that the Tax Division brings both that neutral filter and the resources to help a prosecution.

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