

On Tax—Robert Wellen formerly of the Internal Revenue Service

Len Teti: Welcome to On Tax—A Cravath Podcast. I'm Len Teti, a partner in the Tax Department of Cravath, Swaine & Moore, a premier U.S. law firm based in New York City.

On each episode of On Tax, I talk to professionals in the Cravath network about their life and work in the world of tax. We focus on the human side of tax law, highlighting the people, connections and stories that make the space such a fascinating and dynamic area of practice. I hope you enjoy this episode.

Today, we're joined by Bob Wellen. Bob just retired in March of 2023 as the Associate Chief Counsel (Corporate) at the Internal Revenue Service. Bob, welcome to the podcast and thanks for joining us.

Bob Wellen: Thank you, Len. It's a pleasure.

Len: It's a thrill to be able to talk to you for this episode, and anyone who practices tax law the way I do recognizes you as a prominent practitioner—and not just by virtue of your recent position at the IRS. I look forward to talking to you about that government service aspect of your career. We, of course, start every episode by just trying to understand how our guests found their way to the law and to the tax law generally. So, as you think about your career, where do we have to go to find the beginnings of your steps on that path?

Bob: Well, I suppose the beginning is my dad. My dad was a CPA, also a lawyer in New York for well over 60 years, actually. And while he didn't pass on the accounting gene, he did pass on the tax gene. I used to hear about this stuff growing up over dinner and I spent a couple of summers working with him. But I wasn't really conscious that this was something that might become a life's work. I was an English major in college; I was tempted by the idea of an academic career in that field. I decided on law school, but I didn't take a tax course until my third year.

Len: Wow.

Bob: And there were only three tax courses offered. I took them all and something just clicked. I realized that my mind kinda works that way. I never thought of myself as a numbers person, and I'm not, but there is a way that your mind works that's congenial. And maybe it's because it's a code and maybe that's where the English literature thing comes in. Maybe that's the corresponding thing, is close reading of text.

Len: I never really thought about it quite that way before, but I do think that something about the Internal Revenue Code, at least it demands some rigor in the way that somebody reads and interprets words. Whether that comes from, you know, the liberal arts or something else. And it also requires some creativity in understanding what the rule is designed to cover versus what it actually covers based on the way it's written. So, that makes sense to me.

It also resonates with me that you say you're not really a numbers person. I didn't have any formal, even college economics or anything like that, or finance when I went to law school. And I sort of came to the tax law from the conceptual direction also. I think you've really touched on something interesting that we haven't covered on the podcast, which is an accounting background or a numbers background. It doesn't hurt, and some exposure to the vocabulary—like what is basis or what is depreciation—is fine and useful. But if you don't know that stuff, you can learn it on the job and still be a very effective tax person.

Bob: Well, there is that, Len, but I will say that as of last year, for the first time, accounting qua accounting has become really important both for the government and for folks practicing law in the private sector. We have this alternative minimum tax now that's based virtually entirely on book accounting principles. All of a sudden, being a tax lawyer, at least on the corporate side, and being an accountant are a lot more similar than they were for all of my career until last year.

Len: That's a really good point. So, let's go back. In law school, you took three classes, you're a third year, and then as you were starting to look at jobs for after law school, how did tax play into your job search?

Bob: That's an interesting way to put the question, Len, because this was 1971. And we had a war on in 1971.

Len: Right.

Bob: It was maybe at that point not even quite beginning to wind down. I had a Navy commitment, so I really wasn't thinking in terms of a tax career or any private sector legal career in the immediate, that was not gonna be my immediate future. But once that got settled, I ended up, fortunately for me, being stationed here in Washington at various duty stations. And so I was able to pursue my interest in tax by taking an LLM degree at Georgetown. I would do my job and then went to the LLM classes in the evening. I met a lot of folks there who were working for the government.

Len: So, how did you look for a career in the space? Do you remember how that went?

Bob: Every job I've had—which is really, other than the Navy, only three—I've fallen into based on a personal relationship. My first job when I finished the Navy was with the firm that was then called Fulbright & Jaworski. The firm is now Norton Rose Fulbright. And one of the professors in the program at Georgetown was a counsel to that firm, and he was looking for backup.

Len: And so, as I understand it, your career at Fulbright was traditional, which is to say you started at the firm as an associate, you became a partner, and over time got more and more responsibilities. Can you tell me about how you remember coming up in the tax field, particularly in the '70s and the early '80s as the push for tax reform occurred and then, of course, 1986, the whole thing was kind of redone. When you think back, what are your recollections about your experiences?

Bob: I started with Fulbright in 1975. So, by that time, the war was about to end, rather catastrophically, but it was about to end.

The firm was a Houston-based firm. They asked me to come to Houston for a period of months with my family to be oriented. I was not thrilled about moving halfway across the country, but it turned out to be a very valuable experience. I still have friends from that period of time and I learned quite a bit about Texas, which is very different for a kid from New Jersey. But still, I learned a lot about what lawyers do, how lawyers do things. I had great mentors. They were very supportive.

I think, really, the most important part of the six months in Houston was just watching. I learned a lot just from watching how lawyers do things: how they relate to clients, when they talk and when they listen, what they say and they don't say, how they write things, how documents are produced. Just things that we all have to know and we all do a little differently, but there are ways that we do things that are very much in common.

Len: I wanna talk a little bit more about your point about watching, watching and listening, because one of the things I've identified in very junior associates, summer associates even, is the difference between being a spectator on the one hand and a sort of active participant who's mostly listening. There's differences between those two things, and I'm curious how you might suggest to a young lawyer starting out, how to understand the difference between merely spectating for entertainment's sake and watching in a way that's gonna advance your own career and your own skills.

Bob: Boy, that's a really good question. There certainly is a difference between passive and active watching and listening. How you tell the difference in yourself while you're doing it is maybe not so easy, but I'll relate another little episode.

Len: Sure.

Bob: I think in my first week, my mentor asked me to work with another partner. These were guys who were brand new partners on a project. I sat in this man's office for about half an hour while he explained the assignment to me, and I'll confess, Len, that I understood each word that he said but I didn't understand any two of them.

Len: Certainly not together the way he put them.

Bob: Well, I was scared to death. I thought, my career is over. I'm out of my depth. I can't do this. I'm really at loose ends here. So, I walked out of this fellow's office with my tail between my legs and as I was walking back, my mentor was looking out his door and he motioned for me to come in and he looked at me and he said, "Bob, did you get all that?"

Len: He knew.

Bob: And I felt much better. Once you've been practicing for a long time, if you speak in tongues, you know what you're talking about. And it's easy to lose sight of the fact that someone who really is inexperienced hasn't heard these words before, or at least not these concepts before. And some folks my age, and even yours Len, maybe aren't so patient with young people. So, from our side of the desk, it's important for us to dial back a little and we need to listen actively, too, for the young person to see if they're getting it.

Len: I think that's right.

Bob: For the young person, obviously they have to read the situation, but there's no substitute for asking questions.

Len: That's right.

Bob: And if you really don't understand something, it's really important to raise your hand. Because having to work on something that you don't know what it is you're supposed to do does nobody any good.

Len: I think for the young folks, that's absolutely right. Almost everybody who starts in a profession like ours is ignorant of the rules and they're ignorant of the exceptions. As a conference call is going or a meeting is developing, I like to recommend people that they jot not just the notes of the meeting, but also on the side or something like: I need to follow up on this, or something just happened that everybody understood and I didn't get, or somebody mentioned Section 358, I need to go look at that, so that there's a kind of a running separate to-do list or follow-up list. I think for the supervisor it's a really useful point. Not just that sometimes we're impatient, but also, the junior lawyers emulate us. They take the things that seem resonant for them and their personalities and they try them.

One of the things I expressly remember was watching somebody like Mike Schler, who's been a guest on our podcast, stop a call cold and say, "I don't understand this." And I know you know Mike as well as I do, probably better, but if Mike doesn't understand it, the chances that he's the only one on this whole call that doesn't understand it, or that it just doesn't make sense—it's really the latter. And so it gave me a ton of confidence as a young lawyer to watch these really brilliant practitioners feel totally comfortable telling a large group of people who seem to get it: "Can we just go back? Because I didn't really follow that point." And if they can do it, then it gives you a lot more confidence the next time to ask your question. That's a great thing for young people to see.

Bob: That's a great point. As I said, just hearing my mentor teasing me a little bit about not understanding a word I just heard or not understanding any two of them together was that kind of experience.

Len: So, there comes a point in an associate's career when they have to decide, do I wanna do this forever, or do I wanna do this for the foreseeable future? And for a firm it becomes a question about, do we want this person working with us? Do we wanna get married, basically, professionally? Do I wanna stay here at this firm and become a partner? I'm curious about what you remember about that process in the middle of your career.

Bob: In my experience, that process starts really early. Really early. Like within weeks.

Len: Really?

Bob: I'm not gonna say that I decided that this is what I wanted to do for the rest of my life six weeks after I started doing it; of course not. But in talking with summer associates, interviewing at law schools when I used to do that, talking to new associates, this is the way I encapsulate it for them. I say: "Look, a month from now, six weeks from now, it's gonna be a Wednesday. You're gonna wake up Wednesday morning and one of two things is gonna happen. Either you'll open your eyes and you're gonna say, 'Mm, yeah, I really wanna get to work. I've gotta work on this project. It's really interesting, it's really exciting. I really wanna do it.' Or you're gonna think to yourself, 'Oh my gosh, it's only Wednesday.'" And that happens pretty quickly.

Len: Yup.

Bob: A lot of that is not something you can really control. This is the way your brain works, the way your brain is wired, and if you wake up and you think, "Oh my God, it's only Wednesday," you're probably in the wrong place.

Len: I think that's kind of a neat way to think about it. And it doesn't take very long for you to dread or get energized by what you're working on. For me, the check is kind of a Sunday night check, right? How am I feeling this week about going back to work on a Monday morning? And do I have more Sunday nights than not where I'm feeling energized and excited and eager to get back to the things that I'm working on, and the people I'm working with? And I think, over time, you get a really good sense about that.

Bob: Yeah, I think that putting the two together—my Wednesday morning thing and your Sunday night thing—are two stages in the same sort of ultimate self-realization about whether this is what you wanna do.

Now, you know, you added another layer in your question, which is, do I wanna do it here? Or do I wanna do it somewhere else, or do I wanna do something like it but not quite this? That's a much finer cut and that takes longer. Now, obviously, if you really don't like the people you're working with, or you sense that they really don't like you, there probably isn't much that can be done about that, but it's relatively unusual. In any organization, you'll feel more comfortable with some people than other people, and they'll probably feel more comfortable with you.

You probably wouldn't wanna spend your life with a firm or an organization where the people's values were really at odds with your own. You probably wouldn't feel comfortable even if you thought the work was great. So there is that, and there certainly are differences among organizations that look from the outside to be very similar, like law firms.

Len: I see that all the time with recruiting and I talk to law students about the fact that when they're interviewing, all of the law firms really look the same. I mean, everybody wears blue or grey suits and everybody talks about the work they do and how interesting and exciting it is. And it's not really until you're at a firm for some number of months, at least, before you get to get a sense about whether the values and the individuals are really aligned with what your preferences are. And, of course, your preferences may change. I always tell people it's totally the wrong question, like, "Could I see myself as a partner at this firm?" when you're interviewing as a law student.

The better question is: "Can I see myself as an associate at this firm? Can I see myself actually doing the tasks that these supervisors are asking their young lawyers to do?" And then, after three or four years of doing that, you're gonna be in a much better position to ask yourself and answer the question, "Do I wanna be a partner at this firm?" And I think that's a better way to think about things. I assume that for you, the experience was somewhat similar to the way it was for me, which is you came up and you made it. People decided that they wanted you to continue doing the work you were doing. So I wanna skip past that and ask you a slightly different question, which is, how do you remember your experience developing as a partner relative to what you expected at the time you made partner? Because in my experience, it's kind of a different job than you expect.

Bob: It is a different job. I remember a discussion when I'd been a partner for several years, discussing a young associate. And it was a personnel discussion; should he be promoted, or what should be done with him? And I remember somebody at the table saying, "This guy is a terrible associate, but he'll make a great partner." And, I mean, that's a bit extreme. But I'm just picking up on your point, Len, that as you progress in your career, at some point there are qualitative changes in what's expected of you and what you need to be doing. Making judgment calls, supervising other work and developing a sixth sense about whether recommendations that are being made, conclusions from the work, even though you haven't done all the work yourself.

Len: Whether they're the right judgment.

Bob: Whether they're the right judgments. And it's scary. And people are reliant on your judgment. So, I tend to dig a little deeper into the actual substance of the work that's being done. I'm a little scared to be relying on other people's judgments unless I know those people very, very well.

Len: Right.

Bob: You have to sort of develop a sense of how deep you personally need to delve before you give advice. How deeply do you individually need to delve into the background for that advice and that conclusion. 'Cause you can't do it all.

Len: Right. Well, I want to talk now about your pivot to the government, and we're skipping over one of your law firms too. But I suppose that one of the possibilities for you in the middle of your career was that you would have been a successful, prominent practitioner in the tax space who mentored many associates and did lots of deals and worked on lots of interesting matters, and that was it.

But at a certain point, you decided to take a very prominent role at the IRS as the Associate Chief Counsel for Corporate. And for those who don't practice the way I do every day, I'll just simply say it's the manager of all corporate tax issues in the IRS and prominently supervising the private letter ruling process for taxpayers. So you're really seeing what taxpayers are doing. Before you describe the role itself, I'm very curious to know how you thought about transitioning to government service—what pointed you in that direction, and then how the job came about for you?

Bob: Well, I've always kind of had my eye on this job because most of my work really is in the corporate space: Subchapter C and consolidated returns and related subjects. And this goes back to my law school days. I had the amazing good fortune to be a research assistant for Boris Bittker. So, I learned at the feet of the, still in my view, the absolute master of this stuff. So, the practice that I had at Fulbright and then at Ivins also, private rulings were a significant part of that practice. I'm not going to say it was most of the practice, but it was always kind of around. Generally, I would have one or two PLRs in the process at any given time. That's not accounting firm type stuff, but for a law firm that's a pretty good traffic.

Len: Sure.

Bob: And I got to know a lot of those people. I have a lot of respect for almost all of them over the years. And thought, I have some ideas maybe about how things could be done a little differently, both in terms of the substance of the interpretations and the way things are run. And it would be kind of fun to take the wheel in that process. And there was a point in my career many years ago when that job became open and I spoke with folks about it, and ultimately I decided it wasn't the right time. I had a lot going on at the firm and I felt responsible for this and that. And so, I passed at that time. And I always kind of felt, well, never quite scratched that itch, you know?

And then the job became available in early '15. And, you know, I really thought, at that point I was 68 years old. At that point, I said, "You know, if this is ever going to happen, it better be now because I don't think I'm going to get another chance at this one." I decided to go and do this thing. I will say that in the last few years, there have been several folks roughly my age, maybe a little bit younger, but not much, who decided to do the same thing in other positions at IRS and at Treasury. I'm sure you know some of them. And I think they're all having a ball.

Len: Why do you think that is, that people at that part of their career are going into government?

Bob: Some of these people actually had been in government before, at an earlier stage and wanted to come back. Others more like me, they've worked with government folks over the years and they felt, well, I can contribute something. I've got some ideas here. I can maybe make things a little bit better.

Len: That's interesting. And then, I'm curious to hear what your description of the job is, because I gave you my take on it. But can you tell me how you would describe this job to a non-tax person?

Bob: So, the IRS has two positions that are nominated by the President and confirmed by the Senate. The Commissioner, we all know of, but the other one is the Chief Counsel. And then, within that organization, within the Chief Counsel's organization, within IRS, the Chief Counsel reports both to the Commissioner and to the General Counsel in the Treasury Department, just to give you context.

Len: Got it.

Bob: So, it's kind of a dual role. And the organization consists of about 2,000 lawyers around the country and really, around the world, mostly of course around the country. One of the things we do is work closely with our colleagues at the Treasury Department to issue regulations and revenue rulings and the like. We call that published guidance. Another thing we do is private rulings and similar guidance aimed at specific taxpayers, as opposed to the world in general.

And then the other thing, which in a sense is the core of the job, is advising the examiners and other field personnel in the IRS about the tax law. And working with the Justice Department when they are involved, so we're involved in developing legal positions, advising the examiners whether an issue that they've come up with should be pursued or not. Working with the appeals function in IRS to let them know what the Service's position is on matters that are in controversy there. And of course, our lawyers also are responsible for all litigation at Tax Court. So, that's kind of the organization.

Now, my job was Associate Chief Counsel (Corporate). The Chief Counsel has two deputies: one is a Deputy Chief Counsel (Technical) and the other is the Deputy Chief Counsel (Operations). I worked for the Deputy Chief Counsel (Technical). That person is responsible for what we call the national office, which is a series of half a dozen or so organizations that specialize in particular technical areas. Mine is corporate. So that's kind of where if it is in the chain of being. My job is to be responsible for the IRS's position on all issues pertaining to corporate tax, including consolidated returns and a few miscellaneous related areas. In our organization, everybody does everything. In other words, it's more like a law firm.

Len: Right. Generalists.

Bob: Yeah. Law firms don't have 382H people and 355 people. There certainly are people who have maybe more experience than others in some of those areas, but everybody pretty much does everything. And the theory is, at least in the corporate area, that everything is related to everything and you can't be really good at any of these things unless you're pretty good at all of them. Or at least that you understand all of them. So, I kind of supervise all of that. And there are times when decisions have to be made. Are we going to rule on this transaction that has this issue or are we not? That's my job to make that decision.

Len: And I take it that on the one hand that's a substantive decision. Like, do I think this is the right answer? But there's also the question about even if I think this is the right answer, is this something that I want to be on the record on with respect to this particular legal issue?

Now, I should just explain for our listeners, a private letter ruling is something that is private in the sense that the taxpayer itself is not identified. But the private letter rulings that are issued, are issued with those names redacted. So the practitioners get a sense about how the IRS thinks about given legal issues, and that's a useful area of practice. As a formal legal matter, and you and I know this chapter and verse, taxpayers cannot rely on other taxpayers' private letter rulings. They are not binding on the government. But once you've got a given legal position or a legal conclusion out there, it does sort of inform the discussion in other transactions about what might be possible.

Bob: Well, yeah, I think actually you've maybe understated it a little bit. You're absolutely correct that one taxpayer can't rely on a private letter ruling issued to another taxpayer, in the sense that the government is not legally bound. The government is bound, sort of, when it issues a private letter ruling. There are even exceptions to that.

But from a programmatic perspective, you stated it correctly. Private letter rulings are a very important database for research. People absolutely do rely on those conclusions. And from the perspective of the organization, at least the way I looked at it when I was there—focusing on a particular issue, if we ruled favorably over a period of time on a certain matter, we felt that it was not appropriate for us to challenge somebody taking that position and in fact that we would rule again favorably on that position even if we had doubts about it.

Len: Very interesting.

Bob: Unless and until we said something publicly that our position had changed. We felt it was very important for people not to spend the time and effort structuring transactions only to have the rug pulled out from under them after we'd taken a position on a consistent basis. Now, what that meant to me was if we ruled favorably on an issue once, as far as I was concerned, that had no significance the next time. Three or four times, yes, it did matter. And particularly if it was recent.

So, we had a few situations during my time where the Chief Counsel would issue what we called a statement. The purpose of the statement is to inform the public, yeah, we've maybe ruled on this in the past, but we're not going to do it anymore. Or, all bets are off, we're going to be thinking about this again. If you've got this issue and you want to get the assurance of a private ruling, you'd better brief it thoroughly. We think that's important for people to know where our heads are at on this thing.

Len: Well, and from a practitioner's perspective, too, in advising clients about those kinds of legal issues or closely related legal issues to ones that you've ruled on before, you want to be able to, number one, give them some confidence about how their particular transaction would come out. But also, you want—well, Len wants, and I think Bob wants too—those taxpayers to feel comfortable coming to the IRS and asking for the same thing, or something that's maybe very similar, but there's this one little difference that we think means we need more protection, we need our own private letter ruling.

And I think one of the things that I credit you with is the idea that the IRS is open for business, open to talking to taxpayers about what transactions they're undertaking, understanding the taxpayers are seeking certainty. And the IRS, I think, doesn't really want to stand in the way of transactions that "work." And the IRS also wants visibility into the marketplace. And so, you know, my sense was that you are welcoming taxpayers to the ruling process and the philosophy you're describing about being willing to rule again and again on issues that you've ruled on consistently in the past is, I think, consistent with that idea.

Bob: We felt that continuity was important and that people should be able to have reasonable reliance on expectations. But the fact that we had issued one PLR on an issue, in my mind, did not create a reasonable expectation. Too many things can go wrong with one PLR.

So, we tried to develop an idea of when we would say, well, we've developed a practice of ruling favorably in a certain area or on a certain issue. And we wouldn't change that practice without saying something publicly. I think we followed that approach and I think most of our folks felt comfortable with it, and I think once people in the practitioner community understood what we were doing, I think people felt that that was probably about the right place for us to draw the line.

Len: More broadly, it seems like kind of a fascinating time to have been doing that job. I mean, in addition to the initiatives you took to develop the private letter ruling process, particularly, for example, in the area of spinoffs, there was the 2017 Tax Cuts and Jobs Act. There was last year's Inflation Reduction Act. These are, to varying degrees, kind of earth-shattering pieces of tax legislation that require a lot of real professional brainpower to unpack and advise on, and I know that you've been doing that on formal and informal bases, but that must have just been like drinking from a fire hose when those things came.

Bob: Well, yes. The TCJA in 2017 burst on the scene, from our point of view, with no legislative history, no real background. It just kind of hatched from an egg. We, and I say "we," I don't mean just our little group, but the entire technical staff at IRS and Treasury had to do something to implement all this stuff. It's still ongoing, but it absorbed tremendous resources. We only have so many people. And honestly, Len, there are a lot more of you than there are of us.

And, of course, we get a lot of help from the New York State Bar, from the ABA, from other bar associations, AICPA and other professional organizations. But you guys have your own viewpoint, and that's as it should be. And we have to sift through those ideas and develop ideas of our own to figure all this out. A major educational aspect of my joining government in '15, much less when the tsunami hit in '17, was realizing how much work it is to produce even a relatively narrow piece of guidance. How much thought has to go into it, how difficult it is to draft something that is clear to the relevant audience, not to mention right.

And also, I have to say, how many people are involved in that process. So, when you see a regulation being published, there's a lot of blood, sweat, and tears in that—and all of those things, really. Literally, blood, sweat and tears embedded in that document, even if it's five pages in the Federal Register.

Len: You might be uniquely positioned among all of our guests to answer this question because you've seen tax lawyers function in so many different contexts, but one of the questions I've asked many of our guests is, what do you think the best or most effective tax lawyers do well? And I wonder how you would think about that?

Bob: There was a very illustrious lawyer in the 19th century in New York by the name of Elihu Root. And you may be familiar with him.

Len: I've read enough Theodore Roosevelt biographies to have come across this name many times.

Bob: Yes, there's a famous description of what good lawyers do by Elihu Root, and he said a good lawyer's main job is to keep his client from being a damn fool. And I think that applies on the button for tax lawyers. There are an awful lot of opportunities to be a damn fool in the tax business, and a lot at stake. And, you know, sometimes it's in your interest, even, to be a damn fool.

Len: Yep.

Bob: In the tax shelter field, the government's tools are limited. And people get away with these things. But there does come a point when people stop getting away with them, almost always. Not in every instance. There have been a couple of instances even in my relatively short time in the government where I felt that the courts allowed some shelters to work that absolutely should not have worked. But most of the time, that's not what happens, and maybe you get lucky. You know, you can be a damn fool and still be lucky.

Len: That's right. Oftentimes I've had to tell a client that, you know, this is one of the situations where you don't need to outrun the bear, you just need to outrun the other guy. The question is, do you want to take the especially aggressive position or do you want to take the kind of regular aggressive position?

Bob: Yes. That brings up the huge difference between, in my mind, the biggest difference between practicing representing every client except the government, versus the government. Your job is zealous representation of your client's interest, period. You don't care about the next guy. Now, your client may have other irons in the fire, of course, so issues are not viewed in isolation. But the government has nothing but other irons in the fire. And a government lawyer's responsibility is to get to what they think is the right answer under the law. Not necessarily the one that produces the most revenue or punishes a bad actor, or whatever it may be.

Len: Right.

Bob: And I'm here to tell you, bearing witness from my experience, eight years' experience, at least in IRS and Treasury, people take that very, very seriously. They are acculturated that way, they are trained that way, they operate that way. This is not just a platitude. This is the guiding principle for them, every day. I guess I sort of knew this going in, but I didn't realize the extent of it.

Len: That's really interesting. A lot of times my clients will say to me, "Well, aren't they just going to nail us because they want the revenue?" Or, "Isn't this auditor just going to look for the richest issue in the transaction?" And I've sort of learned to say, like, "Maybe, but it's far more likely that they're going to be trying to understand the real legal basis for the position and evaluate why it's right or why they think they should challenge it." And so, generally, my advice in that kind of situation is to play it straight and maybe it's not a hundred percent clear, but you've got confidence in a position, so let's defend it and let's just defend it straight. So, it's interesting to hear that, on the basis of your personal experience of the Service that you've seen that firsthand.

In the few minutes we have left, Bob, I wonder if we can just change the topic. We like to end every one of our interviews with a little bit more personal, to just hear what you do in your spare time outside of tax. And now having left the IRS, presumably you are "retiring," but I'm curious how you fill up your time, you know, when you're not doing tax.

Bob: Well, I've only been retired now for about two weeks, three weeks. So, I've been sleeping more. I've gone to the movies during the day, during the week once or twice, which is kind of a novelty. Not just in the last couple of weeks, but I love reading 19th century English novels, particularly my good friend Charles Dickens. And my other good friend, Jane Austen, and my other good friend, Anthony Trollope. I expect to be spending more time with those folks and others. George Eliot, another good friend. I'll be doing that. I'm not a musician, sorry to say, but I love listening to music of all kinds. I do a little cooking. I, like many of us, like walking in the woods. Just kind of city gentleman stuff.

Len: That's great, Bob. Well, it's been a pleasure to get to talk to you for this episode. We've been joined today by Bob Wellen, recently retired from the IRS where he was the Associate Chief Counsel of Corporate, and retired more generally from a very long and interesting career in the world of tax. Bob, thanks so much for joining us.

Bob: And thank you, Len. It's really been fun.

Len: That's all for this episode of On Tax—A Cravath Podcast. You can find us online at cravath.com/podcast, and don't forget to subscribe on Apple Podcasts, Google Podcasts or Spotify.

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I'm your host, Len Teti—thanks for listening.