

# Group Still Pushing to Move CI to Treasury

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By William Hoffman

A federal law enforcement trade group remains committed to persuading Congress to move the IRS Criminal Investigation division out of the tax agency and into the Treasury Department.

The Federal Law Enforcement Officers Association (FLEOA) addressed the idea in [an April 6 letter](#) to leaders of the House Ways and Means Oversight Subcommittee, but it was unable to convince them to include its proposal among the bevy of IRS reforms [approved by the House](#) the week of April 16.

Nevertheless, Nathan R. Catura, FLEOA national president, told Tax Analysts, “We believe now that this is the most opportune time that we’ve had in a long time to push [CI realignment] forward, because of the interest in Congress to reform the IRS.” Catura said the association is working with members of Congress to reintroduce the CI Realignment Act ([H.R. 5296](#)) — initially introduced in the last Congress by Ways and Means member George Holding, R-N.C. — “with a few added tweaks.”

The idea of moving CI to Treasury came up [during](#) and [after](#) a May 2016 Ways and Means Oversight Subcommittee hearing. “I think that [moving CI to Treasury] would undermine the ability of the Criminal Investigation division to be engaged in all of the tax work they do. It would create another burden and a barrier, and I don’t know what you gain by that in terms of putting it someplace else,” then-IRS Commissioner John Koskinen said at the hearing, encapsulating many of the criticisms opponents had — and still have — of the idea.

Victor Song, a former CI chief who opposes the idea, nonetheless believes “there is traction for reform within the IRS, definitely.” He noted that CI “lost its voice in main Treasury” when its departmental advocates, including an undersecretary for enforcement, were rolled up into the new Department of Homeland Security in 2003.

“The Criminal Investigation division has no power per se over what they want to work on, what their priorities are,” Catura said. After a realignment, CI will “have more say and more accountability of how they want to go about their priorities, rather than have someone else set the priorities for them,” he said.

FLEOA noted in its April 6 letter that even though CI is the nation’s sixth largest federal law enforcement agency by headcount (3,000 employees, including 2,200 special agents), it’s the only one without a separately appropriated budget. CI realignment would increase transparency by requiring semiannual reporting on results, while relieving the IRS of the need to supervise a law enforcement agency, the association argued.

## Scandals Ahead?

As hopeful as FLEOA is, many tax professionals don't like the idea of moving CI out of the IRS.

Mark E. Matthews, a former IRS deputy commissioner for services and enforcement and head of CI from 1999 to 2002, said that relocating CI would "inevitably lead to sharp reductions" in the number of criminal tax cases. Treasury would be more interested in money laundering and other illegal income schemes than the traditional cases that provide a deterrent effect on taxpayers, he predicted, resulting in reduced tax compliance and an increase in the tax gap.

"It is important that the [taxpayer] identify with those singled out for prosecution," Matthews added. Most taxpayers don't identify with a tax charge brought against a drug dealer or people engaged in identity theft, he said, adding, "But airline pilots spread the word when other airline pilots are prosecuted. It's true in any industry."

Moving CI could also lead to more political interference, Matthews said. "Just as the IRS seems to be moving beyond nearly a decade of political bashing, turning over the criminal tax function to the political Treasury side will further degrade the public's confidence in the fair and nonpolitical administration of the tax code," said Matthews, now with Caplin & Drysdale Chtd. "You might as well schedule the hearings on the resulting scandals now."

A CI realignment would require revisiting the [section 6103](#) taxpayer information privacy protections, Matthews added, noting that those protections are among the few things partisans on both sides can agree to protect. "People are willing to share sensitive financial information with the IRS because they believe it will not be leaked," he said.

## Not Just a CI Story

Like most other IRS functions, CI needs additional resources to do its job, Song said, adding that "the IRS faces much bigger problems than just improving CI."

Audit rates are below 1 percent for most income categories. Meanwhile, the tax agency has so far [been granted](#) \$320 million to implement the Tax Cuts and Jobs Act, roughly \$77 million short of what Treasury [originally estimated](#) implementation would cost. And President Trump [wants to cut](#) thousands of agency jobs — though his plan would add about 1,500 under the general heading of "enforcement."

Josh O. Ungerman, a former IRS civil prosecutor now at Meadows, Collier, Reed, Cousins, Crouch & Ungerman LLP, said that without adequate IRS enforcement resources, "taxpayers will — and some already have — throw caution and good judgment to the wind in favor of fantastic tax positions because they do not think they will be caught. And if they are caught, they do not believe they will be subject to criminal enforcement."

"This just isn't a CI story only," Matthews said. Congress needs to reverse the IRS funding cuts of the last decade or so, and the agency must improve both customer service and enforcement efforts on both the civil and criminal sides, he said.

The chaos that [ensued on tax day](#) when processing systems failed should serve as a warning

about IRS funding as a whole, not just for CI, Matthews cautioned. "What if people can't get their refunds on time next year?" he said. "I wouldn't want to be answering the phones on the Hill."