

EXHIBIT

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U.S. Department of Justice

Tax Division

Washington, D.C. 20533

September 20, 2016

CDC:CMB:CBANERJE
FOIPA/TAX # 11018

Sent by E-Mail: james.valvo@causeofaction.org

Mr. James Valvo, III, Esq.
Clause of Action Institute
1875 Eye Street, NW, Ste 800
Washington, DC 20006

Dear Mr. Valvo, III:

This responds to your Freedom of Information Act request dated July 15, 2016 as you clarified on August 15, 2016 by phone call and two e-mails on the same day. The Tax Division's Freedom of Information Act (FOIA) and Privacy Act (PA) Unit received your request on July 15, 2016; it was perfected on July 15, 2016.

We understand from your request that you seek information about:

- yourself.
- a third party taxpayer (individual).
- a third party taxpayer (entity).
- the Division's policies or procedures.
- other.

The Tax Division has determined that two records are responsive to your clarified request:

- One record is released in full and enclosed with this letter
- One record on one page is withheld in full based upon:
 - Exemption 3 in conjunction with 26 U.S.C. § 6103 to withhold confidential taxpayer information associated with individuals or entities other than yourself.

James Valvo, III , Esq.
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- 5 U.S.C. § 552(b)(5) (Exemption 5) with the attorney-work product doctrine to withhold information created by attorneys, or on their behalf, in anticipation of litigation.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Thereafter, judicial review of the final determination will be available in the District Court of the United States located in the district in which you reside, where you have your principal place of business, in which the agency records are located, or in the District of Columbia.¹ Additionally, the Office of Government Information Services (OGIS) offers FOIA requesters mediation services as a non-exclusive alternative to litigation. Please see <https://ogis.archives.gov/about-ogis/requesting-assistance.htm> for more information.

Sincerely yours,

Carmen M. Banerjee
Senior Division Counsel
for FOIA and PA Matters

Enclosures (1)

¹For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

**Department of Justice, Tax Division
Current Practices for Attorney Assignments, Transfers, and Details
November 2011**

A. Assignments and Transfers within the Tax Division

1. Assignments as Counsel in the Office of the Assistant Attorney General

- Deputy Assistant Attorneys General (DAAG) with career positions at the Tax Division have typically selected their counsel from within the Division on temporary assignments that have generally lasted for approximately one year.
- Assistant Attorneys General (AAG) and non-career DAAGs have sometimes used the Schedule C appointment process to select counsel from outside the Division, and at other times have selected Division attorneys on temporary assignments.
- Before serving as DAAG counsel on a temporary assignment, Tax Division attorneys normally must have completed their four-year commitment.
- Temporary assignments as counsel are not advertised positions. The AAG or DAAG usually solicits recommendations from the Section Chiefs prior to selecting Tax Division attorneys for these assignments.

2. Cross-Section Assignments and Transfers

- Temporary assignments or permanent transfers of Tax Division attorneys to other sections within the Division, including the FLU, provide a useful means of balancing section workloads, maximizing attorney productivity, promoting professional development, and enhancing job satisfaction.
- Assignments and transfers may also be used to fill vacancies when outside hiring is not permitted.
- Assignments and transfers may be subject to conditions, such as requiring the transferring attorney to retain certain case assignments, or to extend his/her commitment to the Division.
- Cross-section assignments and transfers require the recommendation of both Section Chiefs and the approval of the appropriate DAAG(s).

B. Details outside the Tax Division

1. Details within the Department of Justice

a. SAUSA Details

- The Tax Division assigns each of its incoming Honors Program criminal prosecutors to a mandatory six-month detail as a Special Assistant United States Attorney with a local U.S. Attorney's Office (ED VA, MD, or DC). Lateral hires may also be assigned a SAUSA detail, depending on the nature of their prior litigation experience.

- The Division occasionally gives its civil litigators the opportunity to participate in a six-month SAUSA detail with a local U.S. Attorney's Office, on a case-by-case basis and depending on workload needs and budget constraints. Any civil attorney seeking permission for a SAUSA detail must obtain the written approval of his or her Section Chief, the appropriate DAAG, and the AAG. As SAUSA details are non-reimbursable, permission will not be routinely granted.

b. Other Department Details

- The Justice Department occasionally seeks attorneys or advertises details for specific time frames and specific purposes to assist in important Department initiatives.
 - For example, in 2010 the Department advertised for attorneys to serve one-year details assisting in the establishment of the rule of law in Iraq and Afghanistan.
- The Tax Division usually notifies all of its attorneys of these opportunities; other postings may be found on the Office of Attorney Recruitment and Management's (OARM's) website.
- The Division is generally supportive of its attorneys applying for Department details, if Division workload permits.
- However, selection for these details is solely within the discretion of the Department and/or the advertising component.
- Department details are generally reimbursable – that is, the Department or the advertising component pays the attorney's salary during the detail.
- Any Tax Division attorney seeking permission for a reimbursable Department detail must obtain the written approval of his or her Section Chief and the appropriate DAAG. If the detail is non-reimbursable, the AAG must also approve.

2. Details outside the Department of Justice

- Any Tax Division attorney seeking permission for a detail outside the Department of Justice must obtain the written approval of his or her Section Chief, the appropriate DAAG, and the AAG. The Division will evaluate all such details on a case-by-case basis.
- The Division must then obtain the approval for the detail from the Deputy Attorney General (except for details to Congress, which are discussed separately below).
- Non-reimbursable details are disfavored, for budget reasons. The Department requires that an employee who wishes to work on a non-DOJ, non-reimbursable detail be performing work during the detail that is related to the mission of the Department.

a. Details to Other Agencies

- Other agencies will occasionally advertise details in a government-wide posting or in some other manner. The Tax Division does not generally advertise or otherwise promote these details within the Division.

b. Details to the White House

- The White House, on occasion, offers detail opportunities to particular individuals; historically, these details have not been advertised.
- Tax Division attorneys have occasionally held White House details for a specific purpose (for example, to assist in vetting potential presidential nominees for executive branch or judicial positions).
- The White House is required by law to reimburse agencies for any period of a detail that exceeds 180 calendar days in a fiscal year

c. Details to Congress

- In addition to all required component-level approvals, the Department requires that its Office of Legislative Affairs approve all details to Congress.

Record 1. Non-responsive

Record 2. Non-responsive

Record 3. non-responsive

Record 4. non-responsive

Record 5. non-responsive

Record 5-continued. non-responsive

Record 6. non-responsive

Record 7. b3 with 6103, b5 with atty work prod

Record 8. Non- responsive

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Record 9. Non- responsive

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