Written Questions of Senator Tom Coburn, M.D.
Nomination of Kathryn Keneally to be Assistant Attorney General, Tax Division
Department of Justice
United States Senate Committee on the Judiciary
November 22, 2011

1. What will be your strategy regarding the Department of Justice's approach to offshore tax evasion?

   Answer: The Tax Division has stated that its top litigation priority is civil and criminal enforcement against non-compliance with U.S. tax laws by taxpayers who use secret offshore bank accounts. I fully support the Tax Division's Offshore Compliance Initiative. It is important to encourage taxpayers to remedy past non-compliance through voluntary disclosure, and to pursue criminal prosecution and civil penalties against those in non-compliance. The public efforts by the Tax Division to obtain the disclosure of U.S. account-holders by foreign banks, through negotiations and enforcement, have resulted in record numbers of voluntary disclosures and a significant number of convictions. These efforts should be continued. In addition, the Internal Revenue Service has recently begun several initiatives to improve its examinations of international corporate tax matters and global high wealth taxpayers. If confirmed, I will work to further a strong relationship with the IRS, and thereby enable the Tax Division to continue to engage in effective civil and criminal tax enforcement in offshore and international matters.

2. How will the Department structure its negotiations with countries that are havens for tax evasion in order to gain important information to initiate criminal prosecutions?

   Answer: I understand and respect that the role of the Tax Division is to enforce tax laws, and that negotiations with other countries are the purview of the Treasury and State Departments. If I am confirmed as the Assistant Attorney General for the Tax Division, I will support initiatives that will aid civil and criminal enforcement against offshore tax evasion. If called upon, I will support efforts to improve the disclosure of information to combat offshore tax evasion.

3. The Tax Division employs over 350 attorneys in 14 civil, criminal and appellate sections. What management experience in your background has prepared you to lead the Tax Division? Please provide specific examples.

   Answer: I currently serve as the Vice Chair for Committee Operations for the American Bar Association Section of Taxation. In this position, I am responsible for overseeing the operations of over thirty committees that address issues concerning all areas of substantive tax and tax procedure, as well as the Section's committees on diversity, low income taxpayers, and pro bono services. In addition to the management experience that I have gained in this position, I have participated in meetings with and submissions of comments to the Internal Revenue Service and the Treasury Department, as well as the Tax Division.

I previously served as chair of the ABA Section of Taxation's Committee on Standards of Tax Practice, which addresses ethical standards in tax practice, and as chair of the Section's Committee on Civil and Criminal Tax Penalties, which addresses issues relating to all aspects of criminal and civil tax controversy. During my tenure in as chair of each of these committees, membership participation increased by significant numbers.

I have also managed cases with large teams of lawyers. For example, I was the leader of a team of attorneys that represented over one hundred high-networth individuals in examinations before the Internal Revenue Service relating to listed transactions (tax shelters). The IRS examinations of these clients were conducted throughout the country over a period of several years. As part of this representation, I coordinated and led presentations to IRS personnel in connection with the drafting of a global settlement initiative, and led the legal team in representations before IRS Examinations and Appeals and in providing guidance to clients concerning settlement proposals. I would like to note that, although I have represented taxpayers before the IRS and in litigation concerning listed transactions or tax shelters, I have never structured, promoted, or advised a client to participate in these types of transactions, and I have instead advised strongly against participation in such transactions.

4. The Tax Division has an office under its civil section focused on the Court of Federal Claims, which "defends all tax suits filed in the United States Court of Federal Claims."

   a. Have you ever practiced before the Court of Federal Claims?

      Answer: I have not practiced before the Court of Federal Claims. I have represented taxpayers before the U.S. Tax Court and in U.S. district courts in matters involving tax issues that also fall within the jurisdiction of the Court of Federal Claims.

   b. If so, how many times have you appeared before the Court of Federal Claims?

      Answer: I have not practiced before the Court of Federal Claims.

   c. How many briefs or other documents have you filed with the Court of Federal Claims?

      Answer: I have not practiced before the Court of Federal Claims.