### IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS FORT WORTH DIVISION

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TEXAS, KANSAS, LOUISIANA, INDIANA, and NEBRASKA,

Plaintiffs,

v.

UNITED STATES OF AMERICA, UNITED STATES INTERNAL REVENUE SERVICE, and CHARLES P. RETTIG, in his official capacity as COMMISSIONER OF INTERNAL REVENUE,

Defendants.

Civil Action No. 4:18-cv-00779-O

#### JOINT STATUS REPORT

Plaintiffs and Defendants (collectively, the "Parties"), by and through their respective counsel, and pursuant to the Court's October 15, 2019 Order, ECF No. 34, provide the following status report:

- 1. On December 6, 2018, this Court issued an order staying the case pending final resolution of a related matter pending before the Court, *Texas*, et al. v. *United States*, et al., No. 7:15-CV-00151-O (N.D. Tex.) ("*Texas I*"). See ECF No. 26.
- 2. The parties subsequently asked the Court to maintain the stay while they proceeded with appeals in *Texas I*, see ECF Nos. 27, 31, and the Court entered an order maintaining the stay and ordering the parties to submit a status report within 15 days following issuance of the Fifth Circuit's decision in *Texas I*, see ECF No. 34.
- 3. The Fifth Circuit issued its decision in *Texas I* on July 31, 2020. *See Texas v. Rettig*, No. 18-10545, 2020 WL 4376829, F.3d (5th Cir. July 31, 2020). The Fifth Circuit affirmed in part, reversed in part, dismissed in part, and vacated in

part, rendering judgment for the United States. *Id.* at \*10.

4. Plaintiffs are assessing their options for further appellate review in light of the Fifth Circuit's decision.

WHEREFORE, the Parties respectfully request that the Court maintain the stay in this case until the period to seek rehearing or Supreme Court review lapses and allow the parties to provide a status report 30 days after such period ends.

Respectfully submitted this 17th day of August 2020.

For the Plaintiffs:

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## CERTIFICATE OF CONFERENCE

I hereby certify that Plaintiffs' counsel jointly prepared this status report with Defendants' counsel.

<u>/s/ David J. Hacker</u> DAVID J. HACKER

## CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2020, I electronically filed the foregoing document through the Court's ECF system, which automatically serves notification of the filing on counsel for all parties.

/s/ David J. Hacker DAVID J. HACKER