

Tax Division
United States Department of Justice

FY 2022 Congressional Budget



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I. Overview for Tax Division

Introduction

The Tax Division's mission is to enforce the nation's tax laws fully, fairly, and consistently, through both criminal and civil litigation. The Tax Division represents the United States in virtually all litigation – civil and criminal, trial and appellate – arising under the internal revenue laws, in all state and federal courts, except the United States Tax Court. The Tax Division's FY 2022 budget request is for \$116,169,000 including 499 permanent positions (377 attorneys), and 451 full-time equivalent (FTE) work years.

The Tax Division's Primary Responsibilities

The United States Government engages with every American, and all those who benefit from our nation, through our tax system. Tax collections fund most Federal Government services, from national defense to national parks. The Government lacks the resources to directly assess and audit each individual taxpayer; therefore, we ask our citizens, residents, and those who earn income in this country to report their confidential financial information annually, and to self-assess and pay their tax liabilities. In the United States, citizens file more than 154 million tax returns each year and pay almost \$2.0 trillion, representing approximately 64 percent of all tax dollars properly owed.¹ Such a high voluntary compliance rate depends on the Internal Revenue Service (the Service or IRS) and Tax Division maintaining an active and effective criminal and civil enforcement program. Those programs must both deter individuals and businesses who would consider violating the tax laws and assure taxpayers who pay their fair share that those who violate the laws will promptly and fully be held to account.

Tax Division litigators are charged with effectively enforcing federal tax laws by evaluating and supporting the IRS's investigations and determinations in civil cases and prosecuting criminal violations of the revenue laws. On average, Tax Division civil litigators have nearly 6,000 civil cases in process annually, in which they seek to enforce the Service's requests for information in ongoing examinations, and to collect and defend tax assessments when the Service's examinations are complete. The Tax Division's civil appellate attorneys handle about 550 appeals annually, about half of which are from decisions of the Tax Court, where IRS attorneys represent the Commissioner. In criminal matters, Tax Division prosecutors authorize almost all grand jury investigations and prosecutions involving violations of the internal revenue laws, furthering uniformity in nationwide standards for such prosecutions. Between FY 2016 and FY 2020, the Division authorized over 1,300 criminal tax investigations annually. Tax Division prosecutors investigate and prosecute these crimes either alone or in conjunction with the United States Attorneys' Offices.

The Tax Division is not only a key component within the Department of Justice but plays a pivotal role in the functioning of our Government. The Tax Division contributes to tax law enforcement by:

- Protecting the public fisc;
- Encouraging voluntary compliance with tax laws through the direct and indirect effects of civil and criminal litigation; and
- Ensuring fair and uniform enforcement of tax laws.

¹ <https://www.irs.gov/uac/the-tax-gap>

Protecting the Public Fisc. The Tax Division is one of the principal guardians of public funds, and the resources committed to it pay substantial dividends. The Division's affirmative civil litigation typically brings in more each year than the Division's entire budget, averaging \$500.3 million from FY 2016 to FY 2020. The significant amounts obtained by the Division through affirmative litigation are nonetheless dwarfed by the public funds that the Division safeguards through its defensive civil litigation. The Division is currently defending refund suits that collectively involve over \$11.0 billion. While these figures represent amounts directly at issue, they cannot fully capture the strong indirect effects of the Tax Division's affirmative and defensive litigation. Decisions in the Division's cases often reduce the need for future administrative and judicial tax proceedings by settling questions of law for millions of taxpayers. For example:

- In February 2021, a district court in Texas entered judgment for the United States on refund claims totaling \$1.35 billion brought by Exxon Mobil Corp. In doing so, the court made final its earlier rulings in the case rejecting Exxon's attempts to deduct fuel excise taxes that had been offset by its receipt of alcohol fuel credits (the same issue as in the Sunoco case discussed below) and to recharacterize its oil and gas contracts in Qatar and Malaysia as sales rather than leases;
- In December 2020, the Eighth Circuit Court of Appeals reversed the adverse decision of the U.S. Tax Courts in a \$2 million tax deficiency case arising from the IRS's efforts to crack down on meritless claims of U.S. Virgin Islands residency to avoid paying federal income tax. Holding that the Virgin Islands' transmittal of part of the taxpayers' local income tax return to the IRS did not trigger the statute of limitations for issuing a notice of federal income tax deficiency, the Eight Circuit favorably resolved an issue that, according to the IRS, is pending in more than 60 similar cases;
- In March and July 2020, district courts in Wisconsin and Texas affirmed the position of the United States that butane is not an alternative fuel for purposes of the alternative fuel mixture credit and rejected claims by U.S. Venture Inc., Vitol, Inc., and Valero Marketing and Supply Company that their gasoline-butane mixtures qualified for such credits. The Joint Committee on Taxation estimates that more than \$49.9 billion is at stake because of other taxpayers with the same issue;
- In April 2020, the Eight Circuit Court of Appeals rejected Wells Fargo's claimed entitlement to more than \$300 million in foreign-tax credits resulting from its participation in a then-popular type of tax shelter known as a structured trust advantaged repackaged securities (STARS) transaction. In doing so, the court joined the First, Second, and Federal Circuits in holding that STARS transactions lack economic substance;
- In June 2019, the Ninth Circuit Court of Appeals rejected a challenge to IRS cost-sharing regulations that govern the splitting of costs between domestic companies their foreign subsidiaries, which are often in lower-taxed jurisdictions. Affecting a wide range of tech companies and other corporate taxpayers, the Ninth Circuit's decision has already resulted in increased tax revenues of more than \$2 billion; and
- In November 2018, the Federal Circuit Court of Appeals affirmed the Court of Federal Claims and the position of the United States and precluded Sunoco, Inc.'s

attempt to obtain a \$300 million “windfall” arising from an approximate \$1 billion alcohol fuel mixture credit Sunoco had claimed on its federal excise tax returns, thus resolving an issue that has a potential industry-wide economic effect of \$8 billion. The Supreme Court denied cert in October 2019.

Improving Voluntary Compliance. The Tax Division’s high litigation success rate (higher than 90 percent) has an enormous effect on voluntary tax compliance. By law, the IRS cannot make public the fact of an IRS audit, or its result. By contrast, the Tax Division’s important tax litigation victories receive widespread media coverage, leading to a significant multiplier effect on voluntary compliance. A widely regarded study concluded that the marginal indirect revenue-to-cost ratio of a criminal conviction is more than 16 to 1.² While no comparable study of civil litigation exists, the same research suggests that IRS civil audits have an indirect effect on revenue that is more than 10 times the adjustments proposed in those audits. Another predicts that an additional dollar allocated to civil audits would return \$67 in general deterrence, while an additional dollar allocated to criminal investigation results in \$55 of deterrence.³ The positive effects of the IRS and the Tax Division’s efforts on this front are seen in public opinion regarding voluntary compliance. According to a survey by the IRS oversight board, the public takes a very negative view of cheating on one’s taxes, with 86 percent of the respondents indicating that it is never acceptable. Also, the IRS’s Offshore Voluntary Disclosure Initiatives, operating alongside the Division’s ongoing criminal and civil enforcement actions concerning unreported offshore accounts, have resulted in an unprecedented number of taxpayers – over 55,800 since 2009 – attempting to “return to the fold” by paying back taxes, interest and penalties totaling over \$10 billion.

Fair and Uniform Enforcement of Tax Law. The Tax Division plays a major role in assuring the public that the tax system is enforced uniformly and fairly. The Division independently reviews the merits of each case that the IRS requests be brought or defended to ensure that the Government’s litigating positions are consistent with applicable law and policy.

Tax Division’s Impact on Department Priorities

In carrying out its mission to enforce the nation’s tax law laws fully, fairly, and consistently, the Tax Division plays an integral part in supporting the priorities set out by the President and Attorney General, both directly and indirectly, as outlined below:

Combatting Financial Fraud and Transnational Crime. The Division focuses considerable resources on fighting financial fraud, abusive transactions, and transnational crime. Financial fraud and abusive transactions undermine the tax system and thus are a main target of the Division’s criminal and civil litigation efforts. In particular, Tax Division criminal litigators, and their partners at the IRS and in the United States Attorneys’ Offices, work tirelessly to hold wrongdoers accountable for corporate fraud, financial institution fraud, and health care fraud. For example:

- In October 2020, a federal grand jury in San Francisco, California, returned a 39-count indictment charging Robert T. Brockman, the CEO of an Ohio-based software company, with tax evasion, wire fraud, money laundering, and other offenses. The

² Alan H. Plumley, *The Determinants of Individual Income Tax Compliance*, pp. 35, 40, Internal Revenue Service Publication 1916 (1996). “For 2015, the IRS estimated that the cost of enforcement activities, combining enforcement and the relevant part of operations support, was \$5.6 billion, while the revenue generated was \$54.2 billion, for a return on investment of \$9.60 for every \$1 spent.”

³ Jeffrey A. Dubin, *The Causes and Consequences of Income Tax Noncompliance* 256 (2012).

charges stem from an alleged decades-long scheme to conceal approximately \$2 billion in income from the IRS as well as a scheme to defraud investors in the software company's debt securities;

- On October 20, 2020, two biofuel company owners were sentenced to prison for conspiracy to defraud the IRS and preparing a false tax claim, among other offenses. Ben Wootton, 55, of Savannah, Georgia, was sentenced to 70 months and Race Miner, 51, of Marco Island, Florida, to 66 months, after a jury convicted both defendants and their company, Keystone Biofuels Inc., in April 2019;
- In June 2020, a federal grand jury in Tennessee charged John David McAfee with tax evasion and willful failure to file tax returns. McAfee allegedly earned millions in income from promoting cryptocurrencies, consulting work, speaking engagements, and selling the rights to his life story for a documentary. According to the indictment, from 2014 to 2018, McAfee failed to file tax returns, despite receiving considerable income from these sources. The June 15, 2020, indictment was unsealed on October 5, 2020, following McAfee's arrest in Spain, where he is pending extradition;
- In July 2019, the CEO and CFO of Washakie Renewable Energy, a Utah based biodiesel company, and two additional co-defendants pleaded guilty as charged in a significant biofuel credit fraud case. Lev Dermen was convicted by a jury in March 2020 in a \$1 billion biodiesel tax fraud scheme. The defendants claimed \$1.16 billion in biofuel credits of which \$511 million in cash was received from the IRS. The four co-defendants, who have pleaded guilty, Jacob Kingston, Isaiah Kingston, Sally Kingston and Rachel Kingston, have agreed to \$511 million in restitution and to forfeit multiple assets;
- In February 2020, a Rhode Island property preservation businessperson, Monique Brady, was sentenced to eight years in prison for utilizing her business to run a \$10.3 million Ponzi scheme and obstructing the IRS; and
- In June 2019, the owner of several engineering businesses in Hawaii, Wagdy Guirguis, was sentenced to five years in prison for conspiring to defraud the IRS and filing false corporate income tax returns, as well as witness tampering. In July 2019, his co-conspirator Michael Higa, a Hawaii Certified Public Accountant (CPA) and controller of the engineering businesses, was sentenced to 40 months in prison for his role in the tax fraud scheme. Both were convicted at trial and over \$3.3 million in restitution to the IRS was ordered as part of sentencing.

The Tax Division's prosecutors and litigators are on the forefront of abusive transactions and take considered litigation efforts to not only end abusive practices, but to force promoters to cease engaging in fraudulent schemes. For example:

- In December 2020, two Atlanta-area tax professionals pleaded guilty to promoting a syndicated conservation easement tax scheme involving more than \$1.2 billion in fraudulent charitable deductions. Stein Agee of Canton, Georgia, and Corey Agee of Atlanta, Georgia, are currently awaiting sentencing for their role in the scheme; and

- In April 2021, one of the defendants in a suit seeking to stop several individuals from organizing, promoting, or selling an allegedly abusive conservation easement syndication tax scheme entered into a stipulated injunction in the case that bars her from participating in or facilitating such schemes in the future. The complaint, filed in December 2018, targeted activities that yielded over \$2 billion of tax deductions from overvalued and improper qualified conservation contributions resulting in hundreds of millions of dollars of tax harm. This case is continuing and plays a key role in the IRS's efforts in the area of abusive syndicated conservation easements.

The convictions and sentences, above, and the ongoing litigation efforts exemplify the increasing economic magnitude of fraud and the corresponding need for Tax Division prosecution and injunction action.

The Division also cooperates with other law enforcement components to formulate national policies, programs, strategies and procedures for a coordinated attack on financial crime. On the civil side, Tax Division litigators seek to put tax-fraud promoters and fraudulent tax preparers out of business, and to fight against abusive transactions that seek to game the tax system. Financial fraud is a particular focus of our efforts. Currently the Tax Division is committed to the fight on transnational crime in whatever form it takes, from identifying, investigating, and holding accountable U.S. taxpayers who conceal foreign financial accounts in an effort to evade U.S. reporting and tax obligations to assisting in counterterrorism efforts to thwart those that intend harm to this nation and its citizens.

Protect Law Enforcement. The Tax Division effectively defends IRS agents and officers, and the Government itself, against frivolous damage suits. Without successful representation of the quality provided by the Division, these suits could cripple or seriously impair effective tax collection and enforcement. Moreover, some “tax defiers”⁴ have resorted to violence against government officials, and it is essential that law enforcement be prepared to respond rapidly to threats against agents, prosecutors, and judges. The Tax Division has implemented a comprehensive strategy using both civil and criminal enforcement tools to address the serious and corrosive effect of tax defier and sovereign citizen activity. In July 2019, a Tax Division trial team convicted a tax defier, Lawrence Martin Birk, of tax evasion in Denver, Colorado. For more than twenty years, Birk did not voluntarily pay federal income taxes and owed more than \$2.0 million to the IRS. In October 2019, Birk was sentenced to 60 months in prison and ordered to pay approximately \$1.8 million in restitution. In October 2020, Birk was sentenced to an additional 78 months in prison for failing to surrender to serve his previously imposed tax evasion prison sentence and for unlawfully possessing firearms.

Counterterrorism. Tax Division attorneys play an important role in the fight against international terrorism. Tax Division attorneys lend their expertise to attorneys at the National Security Division and at U.S. Attorneys' Offices in prosecuting those who take advantage of the tax laws to fund terrorism through the use of tax-exempt organizations. A Tax Division Senior Litigation Counsel manages this effort. In the last several years, the Division has worked with Assistant U.S. Attorneys (AUSA) and Joint Terrorism Task Forces to authorize tax charges when other criminal violations were not available and currently are reviewing and approving a number of terrorist financing investigations.

⁴ Tax defiers, also known as illegal tax protestors, advance frivolous arguments and develop a wide variety of schemes to evade their income taxes, assist others in evading their taxes, and frustrate the IRS, all under the guise of constitutional and other meritless objections to the tax laws.

Full Program Costs

In the FY 2022 budget request, approximately 72 percent of the Division's resources are for Civil Tax Litigation and Appeals, and 28 percent for Criminal Tax Prosecution and Appeals. This budget request incorporates all costs, including mission costs related to cases and matters, mission costs related to oversight and policy, and overhead.

Environmental Accountability

The Tax Division has in place existing policies to incorporate environmental accountability in its day-to-day operations. These include green purchasing policies such as:

- Mandating the purchase of recycled paper products (copier/printer paper, paper towels); and
- Training and written guidance on green purchasing for those employees responsible for purchasing office supplies.

In addition, the Tax Division reduces waste and environmental impact by:

- Setting the default on printers to two-sided printing;
- Placing recycling bins for paper, glass, aluminum, and plastic in central locations and providing paper recycling containers for individual employee use;
- Recycling used printer cartridges;
- Promoting distribution of documents in electronic format only;
- Promoting scanning instead of photocopying;
- Recycling cell phones, laptops, computers and computer battery packs; and
- Sensitive materials are shredded and recycled.

The Division continues to work to reduce the environmental impact of its buildings. The Division is working with each building's Property Manager as they pursue LEED Certifications for their facilities through the General Services Administration and U.S. Green Building Council. In May 2019, the Tax Division moved its staff from the Patrick Henry Building to the newly constructed Four Constitution Plaza building with a Prestigious LEED Platinum Certification. Tax-occupied space in the Judiciary Center Building has been retrofitted with energy-efficient light fixtures and light bulbs, and motion sensors have replaced light switches throughout the Judiciary Center Building. The Division works with construction and maintenance contractors to use green materials whenever possible.

External and Internal Performance Challenges

The Tax Division faces serious and immediate challenges to accomplishing its mission.

External

Reducing the Tax Gap. The IRS collects more than \$3.5 trillion annually⁵. Enforcement actions brought in more than \$40 billion for FY 2019⁶. The IRS estimates that the annual tax gap – the difference between taxes owed and taxes paid voluntarily and timely – is \$450 billion. The IRS Oversight Board cited “Enforcement programs allow the IRS to further voluntary compliance, help

⁵ Internal Revenue Service Data Book, 2019 page 1.

⁶ Internal Revenue Service Data Book, 2019 page 58. In Fiscal Year (FY) 2019, the IRS collected more than \$121.0 billion in unpaid assessments on returns filed with additional tax due, netting more than \$44.0 billion after credit transfers.

reduce the estimated \$450 billion tax gap, and provide much needed dollars to the federal purse.”⁷ Improving compliance is the number one priority in the IRS Strategic Plan. The problem is exacerbated by the vast increase in financial globalization, which has expanded the opportunities for assets and income to be easily hidden offshore.

Reducing the tax gap will require increased enforcement. The challenge is to narrow that gap in a manner that not only collects the revenue due, but also assures the public that enforcement actions are vigorous, fair, and uniform.

Internal

The Tax Division’s vigorous civil and criminal enforcement program has not only enhanced deterrence and compliance – it also recovers substantial funds and more than pays for itself. The Division collects through criminal and civil affirmative enforcement more than the annual cost of its budget. A significant portion of the Division’s enforcement work on tax issues that dovetail with other, significant Department’s priorities, as outlined above.

Volatility in Resource Allocation. In addition to its affirmative enforcement mandate, TAX is responsible for defending cases filed against the United States involving tax laws and refund claims. Because the plaintiffs file these suits at a time of their choosing, TAX has little choice in allocating resources to defending the suits at the time they are filed. Taxpayer refund suits brought by sophisticated corporate counsel put at risk billions of dollars and require sophisticated and nuanced legal defense work by Division attorneys. On the other end of the spectrum, many taxpayers file frivolous claims against the United States, and it is critical that TAX vigorously defends those suits as well. The Tax Division saves taxpayers and the Treasury from paying millions of dollars each year in meritless damage claims. Because these suits are reactive in nature, TAX has little control over our defensive docket and must allocate the necessary attorney and staff resources required to defend these cases.

II. Summary of Program Changes

Not applicable.

III. Appropriations Language and Analysis of Appropriations Language

No substantive changes proposed. TAX’s appropriations language is included in the GLA rollup.

⁷ IRS Oversight Board, FY 2015 Budget Recommendation, Special Report, May 2014.

IV. Program Activity Justification

A. General Tax Matters

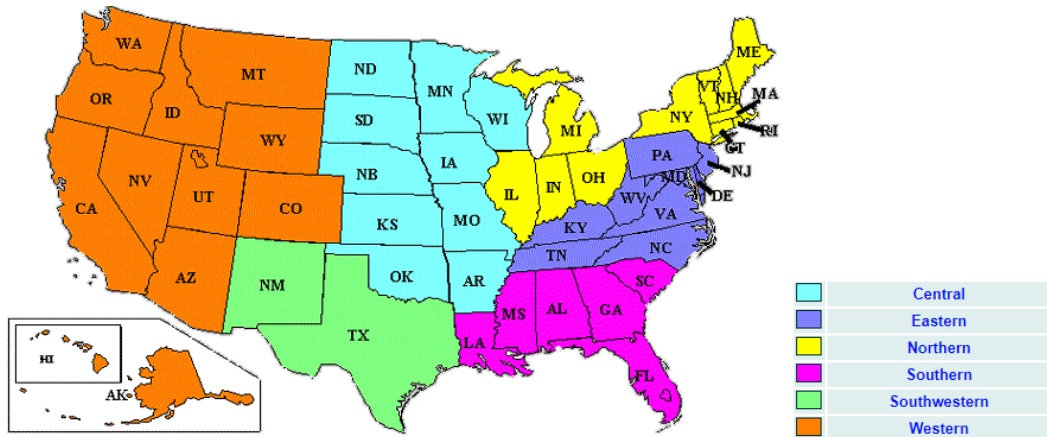
<i>General Tax Matters</i>	Direct Pos.	Estimate FTE	Amount (\$000)
2020 Actual	499	417	\$112,297
2021 Enactment	499	425	111,002
Adjustments to Base and Technical Adjustments	0	0	5,167
2022 President's Budget	499	425	116,169
2022 Program Increases	0	0	0
2022 Program Offsets	0	0	0
2022 Request	499	425	116,169
Total Change 2021-2022	0	0	\$5,167

<i>General Tax Matters-Information Technology Breakout (of Decision Unit Total)</i>	Direct Pos.	Estimate FTE	Amount (\$000)
2020 Actual	12	7	\$12,480
2021 Enactment	12	8	10,006
Adjustments to Base and Technical Adjustments	0	0	0
2022 President's Budget	12	12	9,600
2022 Program Increases	0	0	0
2022 Program Offsets	0	0	0
2022 Request	12	12	9,600
Total Change 2021-2022	0	0	\$-406

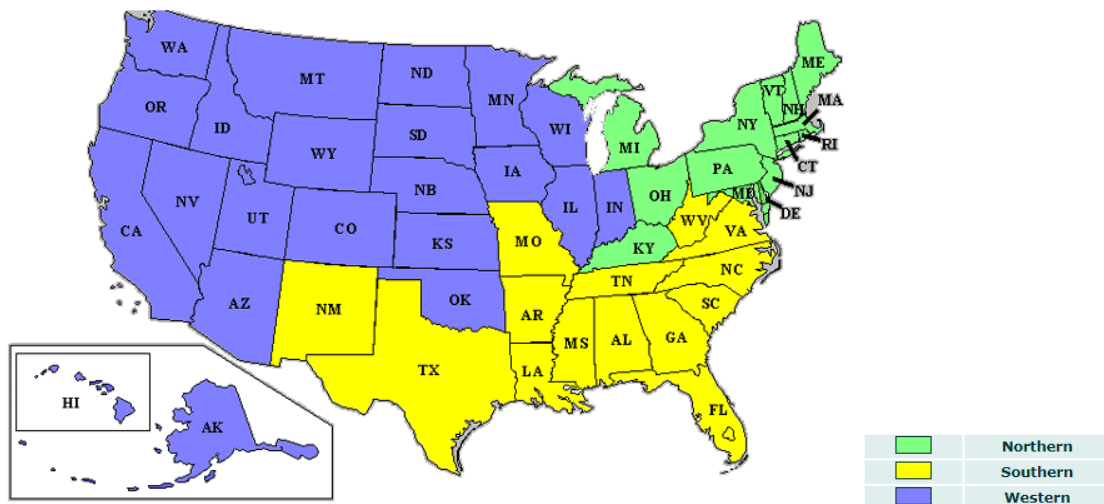
1. Program Description

The Tax Division represents the United States in both civil and criminal tax matters. The Division is composed of twelve litigating sections – civil trial (7), criminal enforcement (3), and appellate (2). All Tax Division sections are based in Washington, D.C., except for the Southwestern Civil Trial Section located in Dallas, Texas.

Civil Trial Sections



Criminal Enforcement Sections



Civil Trial and Appellate Sections

Tax Division civil sections litigate all matters arising under the internal revenue laws in all state and federal trial courts, (with the exception of the United States Tax Court), and in appeals from all trial courts, including the Tax Court. Tax Division civil attorneys defend the United States in suits relating to the tax laws, including refund suits, tax shelter cases, and other suits seeking monetary or other relief. Tax Division trial attorneys also bring suits that the IRS has requested, including suits to stop tax scam promoters and preparers; suits to collect unpaid taxes; and suits to allow the IRS to obtain information needed for tax enforcement. Tax Division civil appellate attorneys represent the United States in all appeals from trial court decisions.

Defending the United States. Tax cases filed against the United States comprise approximately 42 percent of the Division's civil caseload, in terms of both the number of cases litigated and the number of attorney work hours devoted to them each year. These lawsuits include requests for tax refunds, challenges to federal tax laws, challenges to liens, claims of unauthorized disclosure of confidential tax information, and allegations of wrongdoing by IRS agents. TAX's representation of the Government in these defensive suits saves the Treasury hundreds of millions of dollars annually, both by retaining money that taxpayers seek to recover and by fending off unjustified damage claims.

For example, in November 2019, the Fifth Circuit affirmed the order of the District Court for the Southern District of Texas denying Baker Hughes a refund of \$17.7 million plus interest for a \$52.0 million advance made by its predecessor to a Russian subsidiary, which Baker Hughes asserted was deductible as either a bad debt pursuant to § 166, or as an ordinary and necessary business expense pursuant to § 162. The courts agreed with the Government that the payment was a non-deductible capital contribution. And in August 2020, the Seventh Circuit rejected similar arguments about the deductibility of \$95 million that a family-controlled company had advanced to the son of its founder, affirming the Tax Court's determination that the company is liable for income tax deficiencies in excess of \$28.0 million.

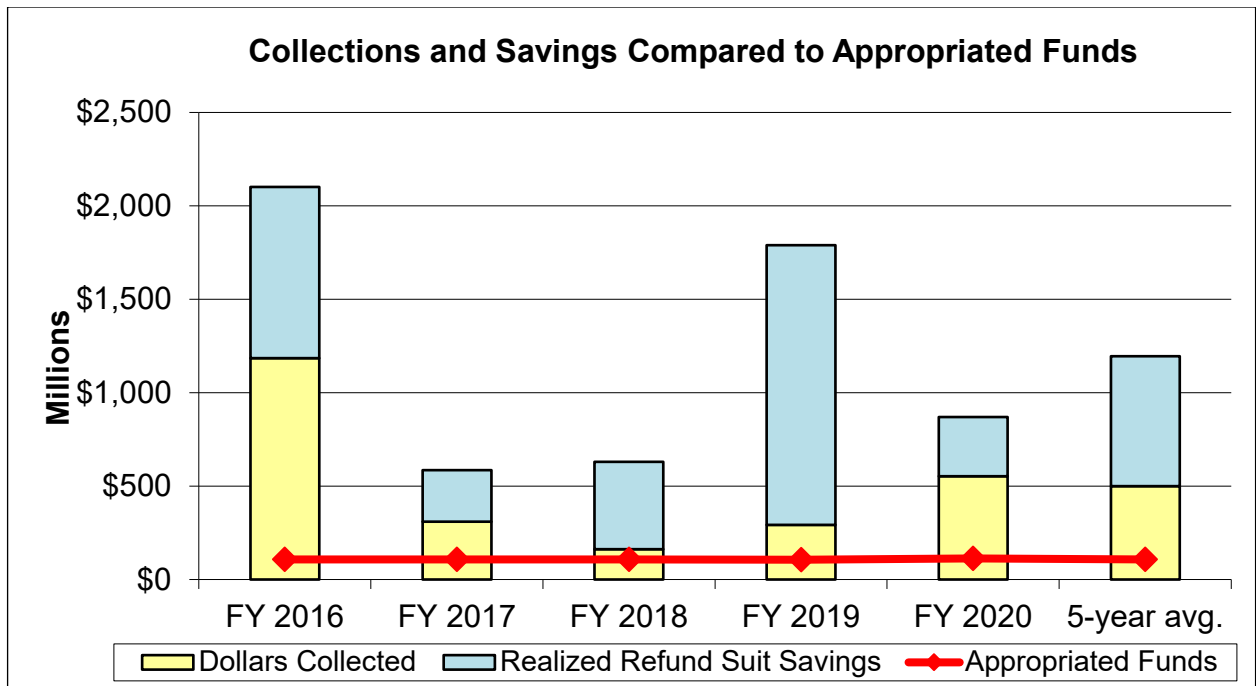
As another example, in May 2020, the Federal Circuit affirmed two judgments of the Court of Federal Claims rejecting wind-farm owners' claims that so-called "development fees" they had effectively paid to themselves in circular transactions were costs of developing the wind farms that entitled the owners to \$32 million in cash grants under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009. Although Section 1603 generally allowed the owners to claim cash grants, in lieu of tax credits, equal to 30 percent of each wind farm's cost basis, the courts agreed with the Government that the owners failed to prove that the development fees reflected true costs.

Shutting Down Tax-Fraud Schemes and Fraudulent Return Preparers. Since 2000, Tax Division attorneys have obtained injunctions against more than 500 tax-fraud promoters and return preparers. This number represents a dramatic increase over the 1990s, when the total number of promoters and preparers enjoined barely reached 25 for the entire decade. The schemes the Division has enjoined during the past several years had cost the Federal Treasury more than \$2.0 billion and placed an enormous administrative burden on the IRS. For example, in June 2020, the Tenth Circuit affirmed a district court judgement barring defendants R. Gregory Shepard, Neldon Johnson and Utah companies RaPower-3 LLC and International Automated Systems, Inc., from promoting and marketing an abusive tax shelter scheme, involving false tax deductions and solar energy credits, and ordering them to disgorge over \$50.0 million in gross receipts from facilitating and promoting the scheme. The court also froze the defendants' assets and appointed a receiver to

effect collection. On July 6, 2020, the court found Neldon Johnson, Glenda Johnson, LaGrand Johnson, and Randale Johnson in civil contempt for violating the receivership order and imposed sanctions. If permitted to continue unchecked, these schemes would undermine public confidence in the integrity of our tax system and require both the IRS and the Tax Division to devote tremendous resources to detecting, correcting, and collecting the resulting unpaid taxes.

Assisting with IRS Information Collection and Examinations. Individuals or businesses sometimes seek to thwart an IRS investigation by refusing to cooperate with IRS administrative summonses requesting information. When that happens, the IRS frequently asks the Tax Division to bring suit in federal court for an order to compel compliance with the summons. These judicial proceedings enable the Government to obtain needed information, while also providing important procedural and substantive rights to those affected by the summons.

Collecting Unpaid Taxes. The Division collects unpaid tax liabilities, including income tax, employment tax, and a variety of penalties, by bringing affirmative civil litigation against delinquent taxpayers. Most of the affirmative collection suits that the Division handles are factually complex and time-consuming – debts that the IRS has been unable to collect administratively and that frequently involve fraudulent transfers of property or other unlawful attempts by taxpayers to conceal their income or assets or to delay the proceedings. Despite these difficulties, Tax Division attorneys collected over **\$541.3 million** in taxes, interest, and penalties in FY 2020. Indeed, the Division’s affirmative litigation typically brings in more each year than the Division’s entire budget, as illustrated by the following chart and has averaged \$498.0 million from FY 2016 to FY 2020.



In June 2019, the Tax Division secured agreements to collect the income tax liabilities of Sam Wyly, under which Wyly agreed to pay approximately \$331.0 million, so far including \$137.0 million received in the current fiscal year. The bankruptcy court previously found that Wyly owed \$1.1 billion in income tax liabilities, having conducted tax fraud by concealing assets in offshore trusts. The settlement amount represents the vast bulk of the taxpayer’s assets, and the agreed upon payment is primarily from repatriation of offshore assets.

Civil Appellate Cases. Tax Division’s civil appellate attorneys represent the interests of the United States in all civil tax cases held in federal and state courts of appeals. During FY 2020, the Appellate Section litigated approximately 250 tax appeals, and won (in whole or in part) over 97 percent of taxpayer appeals and 75 percent of Government appeals. In addition to preparing briefs and presenting oral arguments in courts of appeal, Appellate Section attorneys assist the Office of the Solicitor General in preparing briefs in the United States Supreme Court and prepare recommendations to the Solicitor General on whether to file an appeal. When the United States is not a party in cases that may affect the interest of the United States on tax-related issues, Appellate Section attorneys prepare amicus curiae briefs setting forth the Government’s position on those issues.

Criminal Prosecutions and Appeals

The Division’s criminal enforcement goals are to prosecute criminal tax violations and to promote uniform nationwide criminal tax enforcement. In many cases, the Division receives requests from the IRS to prosecute violations after the IRS has completed an administrative investigation. In other cases, the IRS asks the Division to authorize grand jury investigations to determine whether prosecutable tax crimes have occurred. Division prosecutors review, analyze, and evaluate referrals to ensure that uniform standards of prosecution are applied to taxpayers across the country. In the past few years, the Division has authorized over 1,300 criminal tax investigations and prosecutions each year. After tax charges are authorized, cases are handled by a U.S. Attorney’s Office, by a Division prosecutor, or by a team of prosecutors from both offices. Division prosecutors also conduct training for IRS criminal investigators and Assistant U.S. Attorneys, and provide advice to other federal law enforcement personnel, such as the Drug Enforcement Administration and the Federal Bureau of Investigation.

During FY 2020, Division prosecutors obtained 72 indictments and 53 convictions (not including the additional criminal tax prosecutions handled exclusively by United States Attorneys’ Offices). The conviction rate for cases brought by Tax Division prosecutors for FY 2020 was 100 percent. Vigorous enforcement punishes violators, deters future violations, and reassures honest taxpayers that they will not bear an undue share of the federal tax burden.

Offshore Tax Evasion. For Tax Division’s criminal enforcement sections, one of the top litigation priorities is identifying, investigating and holding accountable U.S. taxpayers who conceal foreign financial accounts in an effort to evade U.S. reporting and tax obligations. Use of foreign tax havens by U.S. taxpayers has been on the rise, aided by increasingly sophisticated financial instruments and the ease of moving money around the globe, irrespective of national borders. While the Division’s enforcement focused initially on cross-border activities in Switzerland, it has expanded to include wrongdoing by U.S. accountholders, financial institutions, and other facilitators globally, including publicly disclosed enforcement concerning banking activities in India, Israel, Liechtenstein, Luxembourg, Belize, Hong Kong and the Caribbean.

More than ten banks and financial institutions have entered into guilty pleas, deferred prosecution agreements (DPA) and non-prosecution agreements (NPA) with the Department. Among the most notable are:

- In April 2020, Bank Hapoalim (Switzerland) Ltd. pleaded guilty and Bank Hapoalim B.M., Israel’s largest bank, entered into a deferred prosecution agreement for conspiring with U.S. taxpayers and others to hide more than \$7.6 billion in more than 5,500 secret Swiss and Israeli bank accounts and the income generated in these accounts. As part of the resolution,

Bank Hapoalim B.M. and Bank Hapoalim (Switzerland) Ltd. (BHS) agreed to pay approximately \$874.27 million to the U.S. Treasury, the Federal Reserve, and the New York State Department of Financial Services;

- UBS AG, Switzerland’s largest financial institution, paying approximately \$1.1 billion;
- Wegelin Bank, the oldest private bank in Switzerland, paying approximately \$74.0 million to the United States; and
- Credit Suisse AG, paying a total of \$2.6 billion – \$1.8 billion to the Department of Justice for the U.S. Treasury (as restitution for lost tax revenue), \$100 million to the Federal Reserve, and \$715 million to the New York State Department of Financial Services, and \$196 million in disgorgement, interest and penalties to the Securities and Exchange Commission (SEC).

Among the most notable to have entered into DPAs are:

- In December 2019, HSBC Private Bank (Suisse) SA, a private bank headquartered in Geneva, paying \$192.35 million in restitution, forfeiture, and penalties, and cooperating with DOJ and IRS;
- Bank Leumi, a major Israeli international bank, paying \$270 million to the United States, providing the names of more than 1,500 of its U.S. account holders, and cooperating with related ongoing investigations, marking the first time an Israeli bank admitted to such criminal conduct;
- Bank Julius Baer & Co Ltd., headquartered in Switzerland, paying \$547 million in restitution, forfeiture and penalties;
- In 2018, Basler Kantonalbank, headquartered in Switzerland, paying \$60.4 million in total penalties, including \$17.2 million in restitution to the IRS, \$29.7 million in disgorgement, and a criminal fine of \$13.5 million; and
- In March 2019, Mizrahi-Tefahot Bank Ltd. and two of its subsidiaries (collectively “Mizrahi-Tefahot”) entered into a DPA with the Department in which Mizrahi-Tefahot agreed to pay \$195 million to the United States. Mizrahi-Tefahot is one of Israel’s largest banks and its subsidiaries operated in Switzerland and the Cayman Islands. Mizrahi-Tefahot’s employees assisted U.S. customers in concealing their ownership and control of assets thereby enabling tax evasion. In addition, Mizrahi-Tefahot admitted that it violated its Qualified Intermediary Agreement (“QI Agreement”) with the IRS.

In addition, through the Swiss Bank Program, the Department has entered into 80 NPAs with 81 banks that collectively paid more than \$1.6 billion in penalties and are providing valuable leads concerning U.S. taxpayers maintaining secret accounts.⁸ The Program encouraged Swiss

⁸ These banks are referred to as “Category 2” banks. The Program established four categories of banks. The Program expressly excluded the fourteen banks, referred to in the Program as “Category 1 banks,” that were authorized for investigation in connection with their Swiss banking activity related to U.S. account holders before the Program was announced. Category 2 banks are Swiss banks that were not under investigation as of the date the Program was announced, but believed they had committed tax-related offenses. Category 2 banks were required to provide detailed

banks, about which the Department had little or no information, to come forward, disclose conduct and account information related to U.S. offshore accounts, and to cooperate with ongoing offshore enforcement efforts to target U.S. accountholders and the bankers and advisers who facilitated them.

Bank Lombard Odier & Co. Ltd. entered into a NPA with the Department of Justice in December 2015 and paid over \$99 million pursuant to the Agreement. Subsequent to the original agreement, Bank Lombard Odier & Co. Ltd. advised the Department that it had additional, previously undisclosed U.S. Related Accounts. As a result of the Tax Division's continued enforcement efforts, in July 2018, the bank entered an Addendum to its original agreement and agreed to pay an additional \$5.3 million to the Department.

As with Bank Lombard Olier & Co. Ltd., the Tax Division's continued investigation and review resulted in an Addendum to the original agreement with another Swiss bank, Banque Bonhote & Cie SA. In July 2019, Banque Bonhote & Cie SA acknowledged that it should have disclosed additional U.S.-related accounts at the time it signed the NPA with the Department in November 2015. The bank agreed to pay an additional \$1.2 million, double its original penalty.

The Tax Division's offshore compliance efforts extend beyond the Swiss Bank Program. In August 2019, LLB Verwaltung (Switzerland), a Swiss-based private bank formerly known as "Liechtensteinische Landesbank (Schweiz) AG," entered into an NPA with the Department and paid a \$10.6 million penalty for assisting U.S. taxpayers to commit tax evasion. In 2013, LLB-Switzerland was closed, and its banking license returned to the Swiss Financial Market Supervisory Authority.

The Tax Division's efforts extend beyond banks. In April 2019, Zurich Life Insurance Company Ltd. and Zurich International Life Limited entered into a NPA with the Department of Justice and paid \$5.1 million pursuant to the Agreement. The companies used insurance products, sold to U.S. taxpayers, that enabled those taxpayers to commit tax fraud.

The investigation and prosecution of professionals, including lawyers, financial advisors, and return preparers, who facilitate offshore tax evasion is an essential part of the Tax Division's efforts in this area. The Department has publicly charged approximately 42 bankers and advisors with violations arising from offshore banking activities; many remain fugitives. Furthermore, over 120 accountholders have pleaded guilty or been convicted at trial. For example:

- In August 2020, a Houston, Texas attorney was sentenced to 24 months in prison, after being convicted at trial of conspiring to defraud the United States and tax evasion by conspiring with a former client to repatriate more than \$18 million in untaxed income that the client had earned;
- In April 2020, a Dusko Bruer, a Lake Worth, Florida businessman pleaded guilty to evading taxes on millions income that had been stashed in secret accounts around the world;

information regarding their cross-border activities, employees and representatives, and U.S.-related accounts, and were required to pay a penalty that could be mitigated if the bank established that a particular account was declared or came into compliance through the IRS offshore voluntary disclosure programs. Category 3 and 4 banks are Swiss banks that did not commit any violations of U.S. law but sought a non-target letter after providing information required under the Program.

- In October 2019, a Beverly Hills, California businessman was sentenced to 21 months in prison, ordered to pay \$612,310 in restitution, and agreed to pay a Foreign Bank and Financial Accounts penalty in the amount of \$7.7 million, for filing false tax returns that failed to report his offshore accounts in Germany and Israel and the income earned on those accounts; and
- In August 2019, a former CPA formerly of Fort Lauderdale, Florida, was indicted for failing to report foreign bank accounts and filing false documents with the IRS relating to a “Streamlined Submission.”

The high-profile prosecutions of financial institutions, facilitators, and accountholders created pressure on non-compliant taxpayers to correct their tax returns to report previously undisclosed accounts. According to the IRS, since the inception of the investigation against UBS, over 55,800 taxpayers have reported previously secret accounts through the IRS’s offshore voluntary disclosure programs, and an additional 48,000 have made use of separate streamlined procedures to correct prior non-willful omissions. In total, the IRS has collected more than \$10 billion in back taxes, interest, and penalties through these programs. These enforcement efforts not only remedy past wrongdoing, but also bring into the system tax revenue from taxpayers who become compliant going forward. Through the voluntary disclosure programs, taxpayers are required to cooperate, providing leads on banks and facilitators.

International Cooperation to Investigate Tax Evasion. The Tax Division regularly provides advice and assistance to Assistant United States Attorneys and IRS agents seeking extradition, information, and cooperation from other countries for both civil and criminal tax investigations and cases. The Tax Division also provides assistance to attorneys from other federal agencies and offices, including the Federal Bureau of Investigation, the Securities and Exchange Commission, and the Department of Homeland Security as needed.

Pure Tax Crimes. Legal-source income tax cases are the core of Tax Division’s criminal enforcement mission. These cases encompass tax crimes where the source of the individual’s income is earned through legitimate means, and the examples are legion: a restaurateur who skims cash receipts; a corporation that maintains two sets of books, one reporting its true gross receipts and the other – used for tax purposes – showing lower amounts; a self-employed individual who hides taxable income or inflates deductible expenses to reduce the amount of tax due and owing; or, an individual who, although aware of the duty to file a return, knowingly and intentionally refuses to do so. The focus on legal-source income cases is important because tax crimes of this type significantly erode the tax base and, when such conduct is left unaddressed, have the potential to encourage tax cheating by otherwise law-abiding citizens. Prosecutions in these cases often receive substantial local media coverage, and convictions assure law-abiding citizens who pay their taxes that those who cheat are punished. During the past year, Tax Division attorneys investigated and prosecuted cases involving tax crimes committed by individuals from all walks of life. Included in these prosecutions, and of special significance to the Tax Division, are emerging fraud schemes in the biofuel area. For example:

- In December 2020, a New York City restaurateur was sentenced to 24 months in prison for tax evasion. Adel Kellel, the owner of Raffles Bistro, diverted business income for personal expenses, including rent for a high-end Manhattan apartment, college tuition payments for his children, and purchases from luxury retailers. As part of his sentence, Kellel was ordered to pay \$613,478 to the IRS;

- In August 2020, a North Carolina risk consultant pleaded guilty to filing a false tax return and illegally possessing a firearm. From 2011 through 2017, Charles Atkins underreported income from several risk consulting businesses, causing a tax loss of more than \$800,000 to the IRS. Atkins is currently awaiting sentencing;
- In May 2020, a Wisconsin dentist, Frederick G. Kriemelmeyer was sentenced to 72 months in prison for tax evasion. According to evidence presented at trial, Kriemelmeyer did not file tax returns reporting the income from his dental practice, directed his patients to pay him in cash or by check with blank payee lines, and paid his business and personal expenses with third-party checks and cash;
- In January 2020, a Pennsylvania anesthesiologist, James G. Allen Jr., was sentenced to 30 months in prison for filing a false income tax return and for failing to pay more than \$900,000 owed to the IRS;
- In November, 2019, Martin Fields, a Colorado business owner, was convicted at trial of conspiracy to defraud the United States, conspiracy to commit money laundering, making false claims against the United States, and money laundering for his role in a \$7 million biodiesel tax credit fraud scheme;
- In June 2019, a Tulsa, Oklahoma ATM installer, John Petrig, was sentenced to 24 months in prison for tax evasion and ordered to pay just under \$1 million in restitution to the IRS;
- In June 2019, a Cheyenne, Wyoming exercise equipment inventor, Douglas Brendle, was sentenced to 18 months in prison for willfully failing to file his income tax returns and making a fraudulent application for health care benefits; and
- In May 2019, a Durham, North Carolina mental health business owner, Haydn Patrick Thomas, was sentenced to 78 months in prison for tax evasion and making a false statement relating to health care matters. He was ordered to pay over \$500,000 to the IRS and almost \$4 million to the North Carolina Fund for Medical Assistance. His co-defendant, Catinia Farrington was sentenced to 60 months in prison for tax evasion and health care fraud conspiracy in March 2019.

Employment Tax Crimes. Recently, Tax Division, working in close partnership with CI, sharpened its focus on employers who willfully fail to collect, truthfully account for, and pay over employment taxes to the IRS. Employers have a legal obligation to withhold federal income, Social Security, and Medicare taxes from their employees' wages, hold these funds in trust, and then pay them over, along with a matching amount of Social Security and Medicare tax, to the IRS. Employment and income tax withheld comprise 71.6 percent of the total revenues collected by the IRS,⁹ and as of June 2016, nearly \$59.4 million of employment tax reported on quarterly employment tax returns remained unpaid. The Division has handled several notable employment tax cases this year. For example:

- In April 2021, the manager of the San Diego Home Cooking restaurant chain was sentenced to 30 months in prison for employment tax fraud. According to court

⁹ Internal Revenue Service Data Book, 2018 Table 1 Collections and Refunds by Type of Tax

records, from the last quarter of 2014 through 2017, Aleksandar Sreckovic did not file employment tax returns nor pay employment taxes for San Diego Home Cooking, causing a tax loss of over \$1.5 million. Instead of paying employment taxes, Sreckovic paid other creditors and his own personal expenses;

- In February 2020, a Maryland-based operator of companies providing food-services in government buildings, Steve Choi, was sentenced to 21 months for failing to account for and pay over more than \$10 million in employment and sales tax; and
- In October 2019, the owner of Tulsa, Oklahoma software company, Earenest J. Grayson Jr., was sentenced to 24 months in prison for failing to pay to the IRS more than \$1 million in withholdings and payroll taxes.

Prosecuting Abusive Promotions. The Department continues to actively target those who promote the use of fraudulent tax shelters and other schemes to evade taxes and hide assets. Some schemes use domestic or foreign trusts to evade taxes. Promoters of these schemes often use the internet to aggressively market these trusts to the public, and rely upon strained, if not demonstrably false, interpretations of the tax laws. Employing what they often call “asset protection trusts” (ostensibly designed to guard an individual’s assets from legitimate creditors, including the IRS), these promoters are in fact assisting taxpayers to fraudulently assign income and conceal ownership of income-producing assets in order to evade paying their taxes. The Tax Division and U.S. Attorneys’ Offices are vigorously employing a range of criminal and civil tools, including injunctive relief, to address these abusive activities.

- In November 2020, a New Jersey man was sentenced to 78 months in prison for conspiring to defraud the United States, filing false claims, and obstructing the internal revenue laws, following his conviction at trial. According to evidence presented at trial, between 2015 and 2016, Kenneth Crawford, Jr., and his co-conspirators promoted and sold a “mortgage recover” tax fraud scheme in which they obtained fraudulent refunds from the IRS for their clients. As a result of Crawford’s scheme, more than \$2.5 million in fraudulent refunds were sought from the IRS.

Stolen Identity Refund Fraud. While we have made substantial progress, Stolen Identity Refund Fraud (SIRF) crimes continue to be committed across the country, with many defendants filing thousands of false returns, resulting in millions of dollars in fraudulent refund claims. Moreover, their level of sophistication has risen, with a number of SIRF crimes now involving a cyber component. Victims hail from all segments of our society. The elderly are particularly vulnerable as a result of their contact with hospitals, assisted living centers, nursing homes, but they are not alone. SIRF victims include state and federal employees, the imprisoned, young children, the infirm, and members of our armed forces deployed overseas.

To deal efficiently with these cases, TAX has delegated to local U.S. Attorneys’ Offices the authority to initiate tax-related grand jury investigations in SIRF matters, to charge those involved in SIRF crimes by complaint, and to obtain seizure warrants for forfeiture of criminally-derived proceeds arising from SIRF crimes, all without prior authorization from the Tax Division. TAX also formed a SIRF Advisory Board, consisting of experienced Division SIRF prosecutors, which serves as resource for prosecutors in the field and sets a national strategy to investigate and prosecute these crimes.

As a result of our streamlined procedures, United States Attorneys' Offices has been able to respond quickly to SIRF type cases, and TAX has authorized more than 1,300 SIRF investigations involving more than 2,000 subjects. The Tax Division and the U.S. Attorneys' Offices have brought approximately 1,000 prosecutions involving more than 1,900 individuals. And the courts are responding with substantial sentences. Among the recent SIRF prosecutions handled by the Division are:

- In October 2020, a Las Vegas, Nevada, man was sentenced to 70 months in prison for mail and wire fraud conspiracy following his jury trials convictions. The trial evidence proved that from January 2009 through April 2011, Terry Williamson and his co-conspirators filed false tax returns with the IRS to fraudulently obtain tax refunds. More than 480 fraudulent tax refund checks totaling almost \$2 million were deposited into Williamson's account;
- In March 2020, Josiah Ntekume, a Las Vegas resident, was sentenced to 65 months in prison for his role in a stolen identity tax fraud. When Ntekume was arrested on March 13, 2012, he had in his backpack approximately 250 prepaid debit cards in the names of other individuals on which more than more than \$200,000 in fraudulent refunds had been loaded;
- In January 2020, a St. Louis resident was sentenced to 48 months in prison for his role in a stolen identity fraud scheme that claimed \$12 million in tax refunds;
- In October 2019, Tiffany Lewis, an Atlanta, Georgia, woman, was sentenced to 56 months in prison for her role in a scheme to file false tax returns using stolen identities to claim more than \$11.9 million in fraudulent refunds, and causing the IRS to issue more than \$3.7 million;
- In July 2019, Antoinette Winston, a Kansas City, Missouri woman also known as "Tweety," stole and used personal identifying information to file fraudulent income tax returns requesting refunds from the IRS and to obtain pre-paid debit cards in the names of those individuals to receive the refunds. The intended tax loss exceeded \$250,000. Winston was sentenced to 34 months in prison;
- In April and May of 2019, three Nevada family members were sentenced to prison for their respective roles in a fraudulent tax refund scheme in which they used the names of fictitious business entities and other individuals - including a long-deceased family member. Chanh Trinh was sentenced to 102 months in prison. Cannedy Trinh was sentenced to 24 months in prison, and Elizabeth Trinh was sentenced to 18 months in prison; and
- In April 2019, a District of Columbia woman, Sheila Scutchings, was sentenced to 54 months in prison for her role in a scheme to file false tax returns with the IRS, which caused a tax loss of over \$1.8 million. Scutchings solicited the Social Security numbers and names of individuals for filing the false tax returns.

Return-Preparer Fraud. Corrupt accountants and tax return preparers continue to present a serious law enforcement concern. Some accountants and return preparers deceive unwitting clients into filing false and fraudulent returns, while others serve as willing "enablers," providing a

vener of legitimacy for clients predisposed to cheat. In addition to the significant adverse impact these individuals have on the U.S. Treasury, their status as professionals may be perceived as legitimizing tax evasion, thereby promoting disrespect for the law. TAX has prosecuted many such return preparer cases during the past year. Recent cases include:

- In May 2021, Karen Marie Jones, a Durham return preparer, was sentenced to prison for conspiring to prepare false returns for clients and causing a tax loss to the IRS of approximately \$1.2 million;
- In February 2021, Adrienne Williams, a Rocky Mount, North Carolina, tax return preparer was sentenced to 50 months for conspiring to defraud the United States, by preparing false returns for clients. The returns claimed fraudulent refunds by including, among other falsities, bogus federal income tax withholdings. In all, Williams and her co-conspirators sought to defend the IRS of more than \$3.5 million;
- In January 2020, a Las Vegas, Nevada tax return preparer, Michael Sandoval, was sentenced to 40 months in prison for tax fraud, which caused over \$3.4 million in tax loss;
- In October 2019, Stacey Anderson, a Texas tax return preparer was sentenced to 87 months in prison for filing false client tax returns claiming false business items and/or education tax credits and seeking more than \$10 million in fraudulent refunds;
- Kenneth Mwase, a Minneapolis based tax return preparer, was sentenced to 121 months in prison in January 2019 for managing and directing a fraudulent return-preparation business. Mwase was extradited from South Africa. Together with co-defendants, Ishmael Kosh of Philadelphia, Pennsylvania, Amadou Sangaray of New York, New York, Francis Saygbay of Minneapolis, Minnesota, and David Mwangi of Arlington, Texas, the co-defendants filed over 2,000 fraudulent individual income tax returns with the IRS and 1,700 fraudulent state income tax returns with the State of Minnesota;
- In May 2019, Teresa Chism, a Mississippi tax return preparer, was sentenced to 60 months in prison for preparing and filing a fraudulent claim for a tax refund with the IRS. Chism was part of a significant tax fraud scheme operated out of the “Mo’ Money” tax return preparation franchise. She prepared more than 550 false income tax returns, seeking over \$3.5 million in fraudulent tax refunds; and
- Francisco Ventura, a Dallas, Texas area tax return preparer, was sentenced to 60 months in prison in July 2019 for conspiring to defraud the United States and for aiding and assisting in the preparation of false tax returns. Venture caused a tax loss exceeding \$8.3 million to the United States. In April 2019, co-defendant Mario Melendez, who pleaded guilty to conspiracy and aiding and assisting in the preparation of false tax returns, was sentenced to 51 months in prison.

National Tax Defier Initiative. Tax defiers, also known as illegal tax protesters, have long been a focus of the Tax Division’s investigative and prosecution efforts. Tax defiers advance frivolous arguments and develop a wide variety of schemes to evade their income taxes, assist others in evading their taxes, and frustrate the IRS, all under the guise of constitutional and other meritless objections to the tax laws. Frivolous arguments used by tax defiers include, for example, spurious claims that an individual is a “sovereign citizen” not subject to the laws of the United States, that the federal income tax is unconstitutional, and that wages are not income. Because a

segment of the tax defier community may and has resorted to violence to advance their cause, it is essential that law enforcement be prepared to respond rapidly to threats against agents, prosecutors, and judges. Tax Division has implemented a comprehensive strategy using both civil and criminal enforcement tools to address the serious and corrosive effect of tax defier and sovereign citizen activity. Led by a National Director, the Tax Division's Tax Defier Initiative facilitates coordination with representatives of IRS Criminal Investigations, Treasury Inspector General for Tax Administration, the FBI Domestic Terrorism Operations Unit, and the Department's National Security Division to attack this problem. TAX has been leaders in developing and implementing a national training program for prosecutors and investigators.

As in other areas, the Tax Division has made important strides in combating tax defier activity. In October 2018, Winston ShROUT, then 70 years of age and one of the most prominent sovereign citizen tax defier promoters, was sentenced to 10 years in prison following his conviction after a jury trial in 2017. ShROUT was highly influential in the sovereign citizen movement and has a significant following across the country and abroad. From approximately 2008 through 2015, ShROUT created and submitted more than 1,000 bogus financial instruments. He held worldwide seminars and private meetings to promote and market the use of these fake financial instruments to pay off debts, including federal taxes. ShROUT sold recordings of his seminars, templates for fake financial instruments and other materials through his website.

Corporate Fraud and other Financial Crimes. The Division investigates and prosecutes financial crimes such as corporate fraud and mortgage fraud. The Division also cooperates with other law enforcement components in formulating national policies, programs, strategies and procedures in a coordinated attack on financial crime.

Performance Tables

Performance and Resource Table

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: General Tax Matters											
RESOURCES											
		Target		Actual		Target		Changes		Requested (Total)	
		FY 2020		FY 2020		FY 2021		Current Services Adjustments and FY 2022 Program Changes		FY 2022 Request	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		479	\$112,831	425	\$112,831	451	\$111,002	0	\$5,167	451	\$116,169
TYPE	PERFORMANCE	FY 2020		FY 2020		FY 2021		Current Services Adjustments and FY 2022 Program Changes		FY 2022 Request	
Program Activity: Criminal Prosecution & Appeals		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		135	\$31,818	120	\$31,818	127	\$31,303	0	\$1,457	127	\$32,760
Performance Measure: Workload	Number of Cases received from the IRS and USAO for Authorization and Review	n/a		n/a		n/a		n/a		n/a	
Performance Measure: Output	Number of Investigations Authorized	n/a		543		n/a		n/a		n/a	
Performance Measure: Output	Number of Prosecutions Authorized	n/a		584		n/a		n/a		na/	
Performance Measure: Outcome	Success Rate for Criminal Tax Cases Handled by the Division	90%		100%		90%		n/a		90%	
Program Activity: Civil Litigation & Appeals		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		344	\$81,013	305	\$81,013	324	\$79,699	0	\$3,710	324	\$83,409
Performance Measure: Outcome	Civil Cases Successfully Litigated in the Trial Courts	80%		98%		80%		n/a		80%	
Performance Measure: Outcome	Civil Cases Successfully Litigated - Taxpayer Appeals	85%		97%		85%		n/a		85%	
Performance Measure: Outcome	Civil Cases Successfully Litigated - Government and Cross Appeals	60%		78%		60%		n/a		60%	
Performance Measure: Outcome	Tax Dollars Collected and Retained by Court Action and Settlement (\$ in millions)	n/a		553		n/a		n/a		n/a	
<p>Data Collection & Storage: The data sources for all performance data is TaxDoc, the Tax Division's automated case management system.</p> <p>Data Validation and Verification: The Tax Division has established procedures to collect and record reliable and relevant data in TaxDoc.</p> <p>Data Limitations: Some activities that are tracked in TaxDoc lack historical data. Dollars Collected and Retained fluctuates due to the type and stage of litigation resolved during the year.</p>											

Performance Measure Table

PERFORMANCE MEASURE TABLE								
Decision Unit: General Tax Matters								
Performance Report and Performance Plan Targets		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
		Actual	Actual	Actual	Actual	Actual	Target	Target
Performance Measure	Number of Criminal Investigations Authorized	553	467	543	542	588	n/a	n/a
Performance Measure	Number of Criminal Prosecutions Authorized	914	674	584	815	815	n/a	n/a
Outcome Measure	Success Rate for Criminal Tax Cases Handled by the Division	98%	100%	100%	97%	100%	90%	90%
Outcome Measure	Civil Cases Successfully Litigated in the Trial Courts	98%	98%	98%	98%	98%	80%	80%
Outcome Measure	Civil Cases Successfully Litigated - Taxpayer Appeals	96%	95%	97%	94%	97%	85%	85%
Outcome Measure	Civil Cases Successfully Litigated - Government and Cross Appeals	80%	50%	82%	60%	78%	60%	60%
Outcome Measure	Tax Dollars Collected and Retained by Court Action and Settlement (\$ in millions)	\$2,036.2	\$586.2	\$630.1	\$1,792.0	\$870.0	n/a	n/a
n/a = In accordance with Department guidance, there is no target for this measure.								

3. Performance, Resources, and Strategies

a. Performance Plan and Report for Outcomes

The goals of the Tax Division are to increase voluntary compliance, maintain public confidence in the integrity of the tax system, and promote the sound development of law.

Cases Favorably Resolved (TAX)



Data Definition: Favorable civil resolutions are through a judgment or settlement. Each civil decision is classified as a Government win, partial win, or taxpayer win; for this report, success occurs if the Government wins in total or in part. Criminal cases are favorably resolved by convictions which includes defendants convicted after trial or by plea agreement at the trial court level in prosecutions in which the Tax Division has provided litigation assistance at the request of a USAO.

Data Collection and Storage: The Tax Division utilizes a litigation case management system called TaxDoc.

Data Validation and Verification: The Tax Division has established procedures to collect and record reliable and relevant data in TaxDoc. Management uses the data to set goals, manage cases and project workload. The statistics in this table are provided on a monthly basis to Division management for their review.

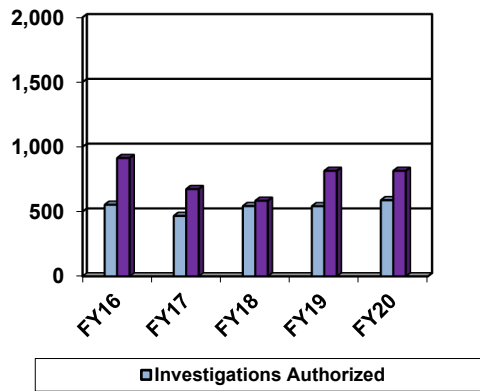
Data Limitations: The Tax Division lacks historical data on some activities that are now tracked in the case management system. The information system may cause variations in the way some statistics are presented.

Performance Measure 1: Percentage of Cases Favorably Resolved

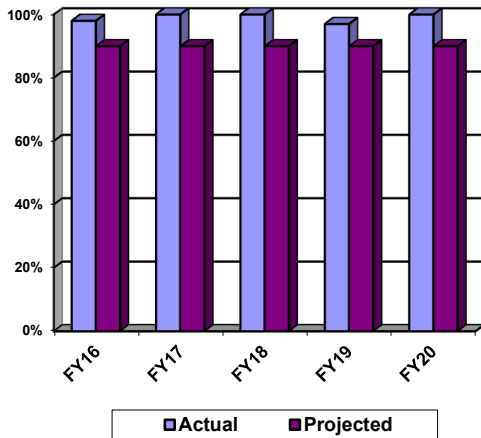
FY 2020 Actual: 98% for Civil Trial and 100% for Criminal.

Discussion: The outcome measure for this decision unit is favorable resolution of all cases. The Department of Justice Strategic Plan sets Department-wide goals for the litigating components: 90 percent of criminal cases favorably resolved Department-wide and 80 percent of civil cases favorably resolved. As illustrated in the chart “Cases Favorably Resolved (TAX),” Tax Division has exceeded the Department’s goal for the last several years. In FY 2020, favorable outcomes were achieved in 98 percent of all civil and 100 percent of all criminal cases litigated by Tax Division, including non-tax cases.

Investigation and Prosecution Referrals Authorized



Success Rate for Criminal Tax Cases



Data Definition: Investigation and Prosecution Referrals are grand jury investigation and criminal prosecution requests referred to the Tax Division for review to ensure that federal criminal tax enforcement standards are met. The number of prosecution referrals authorized is a defendant count; investigations may involve one or more targets. The Success Rate is convictions divided by the total of convictions and acquittals. “Convictions” includes defendants convicted after trial or by plea agreement at the trial court level in criminal tax prosecutions in which the Tax Division has provided litigation assistance at the request of a USAO. Defendants acquitted are defendants acquitted in the district court in cases in which the Tax Division provided litigation assistance.

Data Collection and Storage: The Tax Division utilizes a litigation case management system known as TaxDoc. The Division periodically reviews the complement of indicators that are tracked.

Data Validation and Verification: There are procedures to collect and record pertinent data, enabling Section Chiefs to make projections and set goals based on complete, accurate and relevant statistics.

Data Limitations: The Tax Division lacks historical data on some activities that are tracked in the case management system.

Performance Measure 2: Criminal Investigation and Prosecution Referrals Authorized

FY 2020 Actual: 588 Grand Jury Investigations and 815 Prosecutions

Discussion: The Tax Division also measures the number of authorized investigation and prosecution referrals in criminal cases. In FY 2020, the Division authorized 588 grand jury investigations and 815 prosecutions of individual defendants. Changes in the number of authorized investigations are largely proportional to the number of investigations initiated by the Internal Revenue Service.

Consistent with Department guidance, there is no FY 2021 or FY 2022 performance goal for authorized investigations and prosecutions.

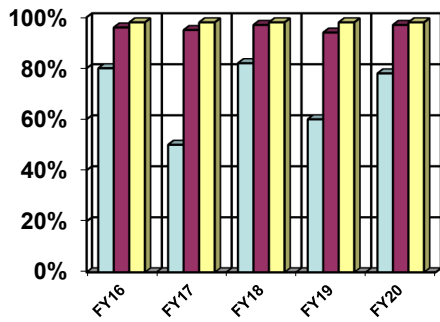
Performance Measure 3: Success Rate for Criminal Tax Cases

FY 2020 Actual: 100%

Discussion: The Tax Division’s Criminal Trial Sections assume responsibility for some cases at the request of the United States Attorney Offices, generally multi-jurisdictional investigations and prosecutions, and cases with significant regional or national importance. Although many of these cases are difficult to prosecute, the Division has maintained a conviction rate at or greater than 95 percent. In FY 2020, the Division’s conviction rate was 100 percent in tax cases.

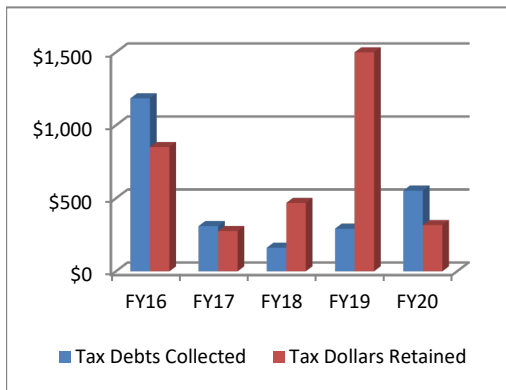
For FY 2021, and FY 2022, the Tax Division has established a conviction rate goal of 90 percent. While the Tax Division is very proud of its conviction rate, our emphasis is on uniform and fair enforcement of the tax laws, and not on meeting numeric targets.

Civil Cases Successfully Litigated [TAX]



■ Appellate Courts - Gov't & Cross Appeals
■ Appellate Courts - Taxpayer Appeals
■ Trial Courts

Tax Debts Collected and Dollars Retained (\$s in Millions)



Data Definition: A **decision** is the resolution of a claim through judgment or other court order. Each decision is classified as a Government win, partial win, or taxpayer win; for this report, success occurs if the Government wins in whole or in part. Appellate cases are classified as Taxpayer Appeals, Government Appeals, or Cross Appeals. The number of Government or Cross Appeals is generally less than 10% of the number of taxpayer appeals. **Tax Debts Collected** represents dollars collected on pending civil cases and outstanding judgments. **Tax Dollars Retained** represents the difference between claim amount sought and received by opposing parties in refund suits closed during the period.

Data Collection and Storage: The Tax Division utilizes a case management system known as TaxDoc.

Data Validation and Verification: The Tax Division has established procedures to collect and record reliable and relevant data in TaxDoc. Management uses the data to set goals, manage cases and project workload. The statistics in this table are provided on a monthly basis to Division management for their review.

Data Limitations: The Tax Debts Collected and Dollars Retained indicator fluctuates in response to the type and stage of litigation resolved during the year.

Performance Measure 4: Civil Cases Successfully Litigated

FY 2020 Actual:

Trial Courts – 98%

Taxpayer Appeals – 97%

Government and Cross Appeals – 78%

Discussion: For civil cases, the Tax Division measures cases successfully litigated, in total or in part, by the resolution of a claim through judgment or other court order.

TAX anticipates that maintaining this level of success will result in legal precedent that provides taxpayers, including individuals, businesses and industries, with guidance regarding their tax obligations; the collection of significant tax revenues; and the protection of the Government against unfounded taxpayer claims. Many of the Government appeals (and cross-appeals) during the reporting period involve the same (or similar) issues, so that a loss in a single case affects the outcome of multiple appeals.

Performance Measure 5: Tax Dollars Collected and Retained

FY 2020 Actual: \$552.8 Million Collected and \$317.0 Million Retained

Discussion: The Tax Division collects substantial amounts for the Federal Government in affirmative litigation and retains even more substantial amounts in defensive tax refund and other litigation. For FY 2020, the Division collected \$552.8 million and retained \$317.0 million.

In addition to this measurable impact, the Division’s litigation affects the revenue at issue in many cases being handled administratively by the IRS and determines tax liabilities of litigants for many additional tax years. Its litigation successes also foster overall compliance with the tax laws. This substantial financial impact is a consequence of the Division’s consistent and impartial enforcement of the tax laws. The Division does not measure these indirect effects of its litigation. Without sufficient resources, the Division will be forced to focus the majority of its resources on defensive cases, which would result in affirmative cases

- cases the IRS requests the Division to prosecute - being declined. If this occurs, the Division will not be able to meet its targets for this measure.

b. Strategies to Accomplish Outcomes

A strong tax system is vital to our national strength. It is essential that taxpayers believe, with good reason, in the integrity of the tax system. It is fundamental that TAX meets the obligation to citizens to ensure the full, fair, and consistent enforcement of our tax laws. The Division's long-standing coordinated approach to tax enforcement is a particularly effective component to reduce the tax gap. Because the Tax Division's work already encompasses the elements of an effective tax enforcement program, the organization is well suited to expand existing programs with greater benefits in return.

The Tax Division's primary civil strategy to achieve its goals is to litigate federal civil tax cases filed by and against taxpayers in the federal courts. Through this litigation, the Division ensures the tax laws are properly enforced, by targeting particularly acute tax enforcement problems that threaten tax administration. In carrying out its mission, the Tax Division conducts in each civil tax case an independent review of the IRS's views and administrative determinations to help ensure that the Government's position is consistent with applicable law and policy. This independence, backed by a willingness to engage in aggressive litigation where appropriate, promotes the effective collection of taxes owed, while also serving as a check against potential abuses in tax administration.

While the Tax Division is and will remain responsive to shifts in criminal tax schemes, enforcement of the criminal tax statutes against individuals and businesses that engage in attempts to evade taxes, willful failure to file returns, and the submission of false returns, are at the core of the Division's mission. Enforcement of the internal revenue laws serves the goals of both specific and general deterrence. Enforcement of our criminal tax laws also helps us meet our responsibility to all taxpayers who meet their obligations, to pursue those who do not.

V. Program Increase by Item

Not applicable.

VI. Program Offsets by Item

Not applicable.

VII. Exhibits