
Title 6

Tax Division

U.S. ATTORNEYS MANUAL 1988

SUMMARY
TABLE OF CONTENTS

- 6-1.000 POLICY
- 6-2.000 PRIOR APPROVALS
- 6-3.000 ORGANIZATION OF DIVISION
- 6-4.000 CRIMINAL TAX CASE PROCEDURES
- 6-5.000 CIVIL TAX CASE PROCEDURES
- 6-6.000 COMPROMISES AND CONCESSIONS
- 6-7.000 POST-LITIGATION UNIT
- 6-8.000 POST-JUDGMENT COLLECTION MATTERS

U.S. ATTORNEYS MANUAL 1988

UNITED STATES ATTORNEYS' MANUAL

DETAILED
TABLE OF CONTENTS
FOR CHAPTER 1

	<u>Page</u>
6-1.000 <u>POLICY</u>	1
6-1.100 DEPARTMENT OF JUSTICE POLICY AND RESPONSIBILITIES.....	1
6-1.110 <u>Other Relevant Manuals for U.S. Attorneys</u>	2

U.S. ATTORNEYS MANUAL 1988

October 1, 1988

(1)



U.S. Department of Justice

Tax Division

Assistant Attorney General

Washington, D.C. 20530

November 29, 1996

TO: HOLDERS OF UNITED STATES ATTORNEYS' MANUAL TITLE 6

FROM: Loretta C. Argrett *LA*
Assistant Attorney General
Tax Division

Janet A. Napolitano *JAN*
Chair
Attorney General's Advisory Committee

United States Attorneys' Manual Staff
Executive Office for United States Attorneys

- NOTE:**
1. This blue sheet is issued pursuant to USAM 1-1.550.
 2. Distribute to Holders of Title 6.
 3. Insert in front of affected section.

AFFECTS: USAM 6-4.127

This blue sheet implements a process that will shorten significantly the time required for Tax Division authorization of most prosecutions of criminal tax violations arising from grand jury investigations by providing for a simultaneous review of these cases by the Chief Counsel of the Internal Revenue Service ("Counsel") and the Tax Division. This reduction of time between investigation and prosecution will benefit tremendously tax enforcement.

Requests for grand jury investigations of offenses arising under the Internal Revenue laws can be initiated by the IRS or by a Department of Justice attorney. In either case, once a grand jury investigation has been authorized pursuant to Tax Division requirements, any subsequent recommendation for prosecution of a tax violation resulting from that grand jury investigation must be submitted to the Tax Division for authorization. *USAM* § 6-4.122. Under Tax Division practice prior to implementation of this blue sheet, cases arising out of grand jury investigations were reviewed sequentially. The Tax Division's practice was to obtain the advice and assistance of

Counsel's office before it began review of the matter.¹ *Chief Counsel Directives Manual (CCDM)* (31)5(10)0(1). Accordingly, the Special Agent assigned to the grand jury investigation prepared a Special Agent's Report (SAR), attached the relevant exhibits, and sent the case to IRS Regional Counsel. Regional Counsel prepared a grand jury case evaluation report and forwarded it to the Tax Division for the Division's consideration in determining whether to recommend prosecution.² USAM § 6-4.127. The Tax Division gave Regional Counsel 30 days within which to review any recommendation for prosecution arising out of a grand jury investigation. Thereafter, the Tax Division allotted itself 60 days to conduct its own review. *See* USAM 6-4.127. In practice, however, most Tax Division reviews took significantly less than the 60-day period, particularly when the United States Attorney's office requested expedited review.

In an effort to speed the review of criminal tax prosecutions resulting from grand jury investigations, the Tax Division has adopted a new policy that puts the review of these cases by Counsel and the Tax Division on parallel tracks. The new policy, as set forth below, provides a 60-day period within which a simultaneous review will ordinarily be completed. Although simultaneous review will require the Special Agent to prepare a duplicate set of SAR exhibits for both Counsel and the Tax Division, the additional burden of preparing an extra set of exhibits should be minimal when compared with the obvious benefits to law enforcement of shortening the review period. The Tax Division has agreed with Counsel that, although the proposed total time limit for review is set at 60 days, the Division expects to hear from Counsel in no more than 30 days after the case is forwarded to Counsel by the Special Agent. In the event that Counsel does not provide any input to the Tax Division before expiration of the 30-day period, the Tax Division may choose to authorize the case at any time thereafter. While there is an opportunity for Counsel to request an extension of the 30-day time limit, such requests are limited to extraordinary cases and the maximum extension that will ordinarily be available is 15 additional days. The Division has also acknowledged that cases will arise where the Tax Division may ask for an opinion from Counsel before expiration of the 30-day period, but in such instances, the Tax Division will advise Counsel of this request as early as possible.

The following replaces USAM 6-4.127, "IRS Transmittal of Reports and Exhibits from Grand Jury Investigations:"

Recommendations for prosecution of Title 26 violations arising out of grand jury investigations must be submitted to the Tax Division for authorization. *See* USAM 6-4.211, *infra*. When an

¹ At this stage, Counsel's evaluation is not required by statute or regulation. By contrast, Counsel's involvement is required whenever the Service recommends to the Department of Justice that a grand jury investigation be initiated. Under 26 U.S.C. § 6103(h), tax return information may not be disclosed to the Department of Justice until a case has been referred to the Department. Counsel is the referral authority for grand jury investigations. *See* CCDM (31)550(1). However, once a case has been referred to the Department for grand jury investigation, no further action by the Service is required by statute or regulation.

² Frequently, the responsibility of preparing the case evaluation report is delegated to District Counsel's office. *See* CCDM (31)5(10)0(3)(b).

investigation has produced sufficient evidence to merit indictment, the U.S. Attorney should have the special agent assigned to the matter prepare an SAR. Except in Drug Task Force matters, the U.S. Attorney and special agent should then forward to the Tax Division and Regional Counsel (Criminal Tax), respectively, separate copies of the SAR, with copies of the relevant exhibits attached to each copy of the report, for review and the ultimate determination by the Tax Division whether to authorize prosecution. The U.S. Attorney's views also should be forwarded to the Tax Division. Normally, review of the prosecution recommendation will be completed within sixty (60) days of receipt of the SAR by the Tax Division. See USAM 6-4.242, *infra*.

The IRS must also transmit recommendations against prosecution (or matters without IRS recommendation) resulting from such grand jury investigations to the Tax Division for evaluation. See IRM 9267; see also USAM 6-4.242, *infra*.

See USAM 6-4.125, *supra*, for Drug Task Force procedures.

6-1.000 POLICY

6-1.100 DEPARTMENT OF JUSTICE POLICY AND RESPONSIBILITIES

The Assistant Attorney General in charge of the Tax Division, subject to the general supervision of the Attorney General and under the direction of the Deputy Attorney General, is responsible for conducting, handling, or supervising tax matters, as more particularly described in 28 C.F.R. § 0.70.

The Tax Division, under the direction of the Assistant Attorney General, supports and coordinates tax litigation. The closest possible cooperation between the offices of the U.S. Attorneys and the Tax Division is highly desirable to ensure that tax litigation for the United States is handled in an expeditious and professional manner. The information in this manual is designed to describe the kinds of litigation that the Tax Division has encountered over the years and to explain in some detail the interrelationship of the U.S. Attorneys' offices and the Division in particular kinds of cases.

The Department of Justice, including the U.S. Attorneys, is responsible for the conduct of all phases of federal tax litigation in the federal and state courts, including the prosecution of criminal tax cases, the collection of tax claims in bankruptcy, probate and insolvency proceedings, the defense of mortgage foreclosure suits involving tax liens, the initiation of collection suits against delinquent taxpayers, the defense of refund litigation, and the handling of administrative summonses cases. All federal tax litigation in which the United States is a party must be handled by attorneys who are either employed by the Department of Justice or are authorized by it to represent the United States.

The Tax Division generally has the responsibility of authorizing prosecution in criminal tax cases. Once prosecution is authorized, U.S. Attorneys usually have the initial responsibility for the trial of criminal tax cases. However, the Tax Division has a staff of highly qualified attorneys who will render assistance in criminal tax cases upon request. The litigation assistance may be in the form of a senior Tax Division attorney who, either individually or with another Division attorney, may handle the grand jury investigative and/or trial aspects of a criminal tax case or even may assume responsibility for a period of time of a district's criminal tax docket. In other instances, the assistance may be provided by a Tax Division attorney acting as co-counsel with an Assistant U.S. Attorney in one or more cases or investigations. Tax Division attorneys also are available for consultation and assistance on criminal tax policy and litigation matters, including foreign evidence gathering problems.

In civil tax litigation, the primary responsibility for handling most of the cases rests with Tax Division attorneys. The function of the U.S. Attorney in civil tax cases varies depending on the nature of the case. In virtually all tax cases, other than in the Claims Court, the U.S. Attorney and his/her designated Assistant are counsel of record.

On occasion, special circumstances may make it desirable for the government to be represented in a particular civil tax case by the U.S. Attorney, and not by an attorney from one of the Civil Trial Sections. The Chief of the appropriate Civil Trial Section

or one of his/her Assistants is authorized to make the determination. An individual trial attorney has no authority to allow a U.S. Attorney to represent the government in any civil tax case. When, however, the U.S. Attorney is authorized to handle a civil tax case, a trial attorney will also be assigned to the case.

Some types of civil tax cases are assigned directly to the U.S. Attorneys, including certain types of bankruptcy proceedings, actions under 28 U.S.C. § 2410 (other than interpleaders), and some types of summons litigation. When U.S. Attorneys are unable because of personnel shortages or for other uncontrollable circumstances to staff civil tax cases for which their offices have litigation responsibilities, the Tax Division should be contacted and assistance requested. In the event that the Tax Division is unable to provide such assistance, it will undertake to aid the U.S. Attorney in preparing the paperwork necessary to have an IRS attorney appointed as a Special Assistant U.S. Attorney as an interim measure until the crisis is over.

In a district in which an IRS District Counsel office is located, special arrangements can be made with the concurrence of the Tax Division, the U.S. Attorney, and the District Counsel to have one or more District Counsel attorneys appointed as Special Assistant U.S. Attorneys to handle certain bankruptcy matters.

6-1.110 Other Relevant Manuals for U.S. Attorneys

U.S. Attorneys have been furnished with the Tax Division's Criminal Tax Manual (1985) and the Tax Division Judgment Collection Manual (1991). The Criminal Tax Manual is a comprehensive procedural and substantive guide to the handling of criminal tax cases and includes jury instructions and other forms. It is available by a request directed to the Director of the Criminal Enforcement Section. These publications should be of assistance to U.S. Attorneys and their staffs in the conduct of tax litigation. However, this Title of the USAM will prevail in any instance where any other manual is in derogation or conflict.

UNITED STATES ATTORNEYS' MANUAL

DETAILED
TABLE OF CONTENTS
FOR CHAPTER 2

	<u>Page</u>
6-2.000 <u>PRIOR APPROVALS</u>	1

U. S. ATTORNEYS MANUAL 1988

6-2.000 PRIOR APPROVALS

PRIOR APPROVAL REQUIREMENTS

USAM SECTION	TYPE & SCOPE OF APPROVAL	WHO MUST APPROVE	COMMENTS
6-4.120	Grand Jury investigations limited to tax violations. Exceptions, See section.	Assistant Chief, Criminal Section or higher official, Tax Division	28 C.F.R. § 0.70 IRC § 6103(h); Tax Division Directive No. 63 (3/1/86); Tax Directive No. 93 (12/31/91).
6-4.123	Expansion of a Title 26 grand jury investigations to include targets not authorized by the Tax Division.	See above	Written request and written approval required.
6-4.127; .211; .211(1); .213; .218; .242	Prosecutions of Title 26 cases resulting from grand jury investigations charging mail fraud counts, either independently or as predicate acts to a RICO charge: 1) when the only mailing charged is a tax return or other internal revenue form or document; or 2) when the mailing charged is a mailing used to promote or facilitate a scheme which is essentially only a tax fraud scheme.	See above	Written request and written approval required. See USAM 9-105.110; 9-110.414.
6-4.245	The declination of tax prosecutions.	Assistant Attorney General, Tax Division	Written request and written approval required. See USAM 6-4.245, Subpart A; Tax Directive No. 53 (3/1/86).
6-4.245	Presenting the same Title 26 matter to another grand jury or the same grand jury after a no bill.	Assistant Attorney General, Tax Division	Written request and written approval required. See USAM 6-4.245, Subpart B.
6-4.310	Plea to a lesser charge than Tax Division's designated major count.	Chief, Criminal Sec. or higher official Tax Division	Written request and written approval required.
6-4.320; .330	Taking of a <i>nolo contendere</i> or <i>Alford</i> Plea in criminal tax prosecution.	Assistant Attorney General, Tax Division	Written request and written approval required. See USAM 9-16.010.
6-5.110	Initiate a suit to collect taxes.	Chief, Civil Trial Sec., Tax Division	
6-5.111	Service of a summons and complaint outside of the United States.	Chief, Civil Trial Sec., Tax Division	Written approval required.
6-5.112	Writs of <i>ne exeat republica</i> .	Chief, Civil Trial Sec., Tax Division	Written approval required.

July 1, 1992

USAM SECTION	TYPE & SCOPE OF APPROVAL	WHO MUST APPROVE	COMMENTS
6-5.120	Intervention in a civil action to assert a federal tax lien on property which is the subject of the action.	Chief, Civil Trial Sec., Tax Division	
6-5.214	Utilize the attachment procedure on enforcement applications.	Tax Division	
6-5.323	Removal of an action under 28 U.S.C. § 2410 from a state court to a federal court.	Chief, Civil Trial Sec., Tax Division	
6-6.300; .411; .711	Agreements to compromise, sell property, stipulates for judgment in favor of the taxpayer, or make any other administrative disposition of, any case under the cognizance of the Tax Division except to the extent authority has been delegated to the U.S. Attorneys.	Tax Division	Written approval required.

U.S. ATTORNEYS MANUAL 1988

UNITED STATES ATTORNEYS' MANUAL

DETAILED
TABLE OF CONTENTS
FOR CHAPTER 3

	<u>Page</u>
6-3.000 <u>ORGANIZATION OF DIVISION</u>	1
6-3.100 OFFICE OF ASSISTANT ATTORNEY GENERAL	1
6-3.200 DEPUTY ASSISTANT ATTORNEYS GENERAL	1
6-3.300 OFFICE OF REVIEW	1
6-3.400 OFFICE OF LEGISLATION AND POLICY	1
6-3.500 CIVIL LITIGATION	1
6-3.510 <u>Civil Trial Sections</u>	1
6-3.520 <u>Claims Court Section</u>	2
6-3.530 <u>Special Interest Cases</u>	2
6-3.600 CRIMINAL ENFORCEMENT SECTIONS	3
6-3.700 APPELLATE SECTION	4

March 1, 1994

(1)

6-3.000 ORGANIZATION OF DIVISION

6-3.100 OFFICE OF ASSISTANT ATTORNEY GENERAL

The Assistant Attorney General is in charge of the Division and has overall responsibility for supervising its everyday operations. The Assistant Attorney General is assisted by three Deputy Assistant Attorneys General, and one Special Assistant, all of whom are assigned general supervisory and executive functions.

6-3.200 DEPUTY ASSISTANT ATTORNEYS GENERAL

The Deputy Assistant Attorneys General have responsibility for the general supervision of the work of the Division. They serve as consultants and advisors on questions of major policy and matters requiring the personal attention of the Assistant Attorney General.

In addition, pursuant to specific delegation directives of the Assistant Attorney General, certain components of the Tax Division report to a particular Deputy Assistant Attorney General. That Deputy in turn confers with and generally supervises the appropriate Section/Office Chiefs and their Assistants, concerning the designated areas of litigation for which they are responsible.

6-3.300 OFFICE OF REVIEW

The Office of Review has supervisory responsibility over settlement policy and decisions. On the basis of an independent review of proposed settlements and concessions which exceed the delegated authority of the Chiefs of the Civil Trial, Claims Court and Appellate Sections, the Chief of the Office of Review either exercises delegated authority to take final action or makes a recommendation to the Assistant Attorney General, preparing, where appropriate, memoranda for the Deputy Attorney General or the Joint Committee on Taxation.

6-3.400 OFFICE OF LEGISLATION AND POLICY

The Office of Legislation and Policy represents the Tax Division in legislative matters, including preparing reports on legislation on which the Division is asked to comment or in which it has an interest, and acting as the Division's liaison with the Department's Office of Legislative Affairs, the Internal Revenue Service, the Treasury Department and the Congressional staffs in improving or formulating legislative proposals which have a direct impact on the Department. The Office also provides the Assistant Attorney General with legal advice on policy matters.

6-3.500 CIVIL LITIGATION

6-3.500 Civil Trial Sections

The four Civil Trial Sections are divided on a geographical basis and are known as the Civil Trial Sections Northern Region, Eastern Region, Central Region, Southern Region, and Western Region, respectively. Attorneys in these sections are responsible

for the conduct of civil tax litigation in the federal district courts and state courts in the geographical region which their section encompasses.

The states or districts assigned to the various Civil Trial Sections are as follows:

CIVIL TRIAL SECTION, NORTHERN REGION		(202)307-6533
Connecticut	Massachusetts	Ohio
Illinois	Michigan	Rhode Island
Indiana	New Hampshire	Vermont
Maine	New York	
CIVIL TRIAL SECTION, EASTERN REGION		(202)307-6426
Dist. of Columbia	Maryland	Virginia
Delaware	New Jersey	West Virginia
Kentucky	Pennsylvania	Puerto Rico
North Carolina	Tennessee	Virgin Islands
CIVIL TRIAL SECTION, CENTRAL REGION		(202)514-6502
Arkansas	Minnesota	Oklahoma
Iowa	Missouri	South Dakota
Kansas	North Dakota	Wisconsin
CIVIL TRIAL SECTION, SOUTHERN REGION		(202)304-5905
Alabama	Louisiana	Texas
Florida	Mississippi	
Georgia	South Carolina	
CIVIL TRIAL SECTION, WESTERN REGION		(202)307-6413
Alaska	Idaho	Utah
Arizona	Montana	Washington
California	Nebraska	Wyoming
Colorado	Nevada	North Marianas
Guam	New Mexico	
Hawaii	Oregon	

6-3.520 Claims Court Section

The Claims Court Section is responsible for defending all suits involving tax questions which are instituted in the United States Claims Court. The Claims Court has jurisdiction to hear tax refund suits, some declaratory judgment suits, and a few other types of tax-related suits seeking monetary relief, such as suits for interest and informers' rewards. The U.S. Attorney has no role in Claims Court cases.

6-3.530 Special Interest Cases

The Civil Trial Section, Central Region, is responsible for obtaining injunctions against those involved in the promotion of abusive tax shelters as well as against those who aid and abet the understatement of tax liabilities of others, and for litigating refund cases arising from the imposition of penalties under 26 U.S.C. §§ 6700 and 6701. The Section also has responsibility for a variety of other litigation by or against the promoters of abusive tax shelters, including the enforcement of IRS summonses used to develop penalty and injunction cases against promoters. Additionally, it conducts criminal contempt proceedings against those who disobey injunctions that forbid the promotion of tax shelters.

The Civil Trial Section, Eastern Region, has been assigned the responsibility for all tax-related litigation involving the Freedom of Information Act or the Privacy Act, suits relating to taxation of the federal government, its agents or contractors, and

damage actions under 26 U.S.C. § 7431 for unauthorized disclosure of tax information (except in cases connected with abusive tax shelter investigations). Special assignments are also made to the section, particularly in cases challenging Treasury regulations or IRS rulings without reference to a specific tax assessment or to liability in a particular case.

6-3.600 CRIMINAL ENFORCEMENT SECTION

The Criminal Enforcement Sections are responsible for authorizing and supervising the investigation, prosecution, and appeals of criminal tax cases. The Director of Criminal Enforcement oversees the Criminal Enforcement function within the Tax Division. There are three operating Regional Trial Sections: the Northern Region, Southern Region and Western Region. The three Regional Sections are each supervised by a Section Chief and are assigned cases for review on the following geographic basis:

NORTHERN REGION		(202)514-3036
Connecticut	Maryland	New York
Delaware	Massachusetts	Ohio
District of Columbia	Michigan	Pennsylvania
Kentucky	New Hampshire	Rhode Island
Maine	New Jersey	Vermont
SOUTHERN REGION		(202)514-4334
Alabama	Missouri	Texas
Arkansas	New Mexico	Virgin Islands
Florida	North Carolina	Virginia
Georgia	Puerto Rico	West Virginia
Louisiana	South Carolina	
Mississippi	Tennessee	
WESTERN REGION		(202)514-5247
Alaska	Iowa	Oregon
Arizona	Kansas	South Dakota
California	Minnesota	Utah
Colorado	Montana	Washington
Hawaii	Nebraska	Wisconsin
Idaho	Nevada	Wyoming
Illinois	North Dakota	Northern Marianas
Indiana	Oklahoma	Guam

The Criminal Appeals and Tax Enforcement Policy Section (CATEPS) is responsible for criminal tax appeals, including an analysis of all criminal tax cases or issues lost by the Government at a federal court (other than the Supreme Court) to ascertain the advisability of seeking further review and the preparation of the Tax Division's memorandum to the Solicitor General recommending for or against such action. The Section is also responsible for policy, legislative, treaty and foreign evidence gathering, budgetary, information dissemination, automated data processing and litigation support functions. Assistant U.S. Attorneys are encouraged to contact CATEPS at (202)514-3011 for assistance regarding such matters as criminal appeals and sentencing guidelines and in, both criminal and civil tax cases, foreign evidence gathering problems.

To promote uniform enforcement of the Nation's tax laws, one of the central functions of the Criminal Enforcement Sections is to review cases recommended to the Tax Division

for prosecution resulting from either a grand jury or IRS investigation. Cases are assigned by a Section Chief to a line attorney within the appropriate regional Section if the case involves complex factual, legal, or technical issues. Cases recommended for prosecution which are deemed noncomplex by senior Section attorneys are authorized for prosecution by a Section Chief and transmitted within two weeks of receipt to the appropriate U.S. Attorney's Office for prosecution. Section attorneys also either handle or assist U.S. Attorneys in the investigation and trial of criminal tax cases upon request. Section litigation assignments often involve investigations and or trials requiring the particularized technical expertise of Criminal Enforcement Section attorneys.

Designated Criminal Enforcement Section attorneys also serve a critical liaison function with the 13 Organized Crime Drug Enforcement Task Forces. In addition to trial assistance, the Tax Division liaison attorneys provide guidance and expertise to Drug Task Force personnel in the investigation, review and trial aspects of these cases.

6-3.700 APPELLATE SECTION

The Appellate Section has two major functions. Its primary responsibility is to handle at the appellate level all civil tax cases. The bulk of these cases are in the federal appellate court system, but a significant number (usually collection cases) are litigated in the state court systems. Although the handling of such appeals consist primarily of preparation of briefs for the government and preparation and delivery of oral arguments, the Section has plenary responsibility for all activity in the appellate courts from the time of filing of the notice of appeal.

The second major responsibility of the Appellate Section is the analysis of all civil tax cases or issues lost by the Government in either a federal or state court (other than in the Supreme Court) with reference to the advisability of seeking further review, and the preparation of the Tax Division's memorandum to the Solicitor General recommending for or against such action.

UNITED STATES ATTORNEYS' MANUAL

DETAILED
TABLE OF CONTENTS
FOR CHAPTER 4

	<u>Page</u>
6-4.000	CRIMINAL TAX CASE PROCEDURES..... 1
6-4.010	<u>The Federal Tax Enforcement Program</u> 1
6-4.020	<u>Criminal Tax Manual and Other Tax Division Publications</u> 1
6-4.030	<u>Criminal Tax Materials on JURIS</u> 1
6-4.100	INVESTIGATIVE AUTHORITY AND PROCEDURE..... 2
6-4.110	<u>IRS Administrative Investigations</u> 2
6-4.111	Origin of IRS Administrative Investigations..... 2
6-4.112	IRS Joint Administrative Investigations 2
6-4.113	IRS Review of Administrative Investigations..... 2
6-4.114	IRS Referral of Reports and Exhibits from Administrative Investigations 3
6-4.115	Effect of IRS Referral on Administrative Investigations..... 3
6-4.116	Effect of Declination on Administrative Investigations 3
6-4.117	General Enforcement Plea Program..... 3
6-4.120	<u>Grand Jury Investigations</u> 4
6-4.121	IRS Requests to Initiate Grand Jury Investigations 5
6-4.122	U.S. Attorney Initiated Grand Jury Investigations 5
6-4.123	Joint U.S. Attorney-IRS Request to Expand Tax Grand Jury Investigations 7
6-4.124	Strike Force Requests 8
6-4.125	Drug Task Force Requests 8
6-4.126	Tax Division Requests 8
6-4.127	IRS Transmittal of Reports and Exhibits from Grand Jury Investigations 8
6-4.128	IRS Access to Grand Jury Material..... 8
6-4.129	Effect of DOJ Termination of Grand Jury Investigation and IRS Access to Grand Jury Material..... 9
6-4.130	<u>Search Warrants</u> 9
6-4.200	PROSECUTORIAL AUTHORITY AND PROCEDURES..... 10
6-4.210	<u>Tax Division Responsibility</u> 10
6-4.211	Tax Division Jurisdiction 10
6-4.211(1)	Filing False Tax Returns: Mail Fraud Charges or Mail Fraud Predicates for RICO 10
6-4.212	Delegation of Authority Within the Criminal Section 11
6-4.213	Review 11
6-4.214	Conferences 13
6-4.215	Expedited Review 13

March 1, 1994

(1)

TITLE 6—TAX DIVISION

	<u>Page</u>
6-4.216	Priority Review 13
6-4.217	On-Site Review 14
6-4.218	Authorizations and Declinations 14
6-4.219	Assistance of Criminal Section Personnel 14
6-4.240	<u>U.S. Attorney's Responsibilities</u> 14
6-4.241	Review of CRLs 14
6-4.242	Recommendation of Grand Jury Investigation 14
6-4.243	Review of Direct Referral Matters 15
6-4.244	Review of Noncomplex Matters 15
6-4.245	Request to Decline Prosecution 16
6-4.246	Request to Dismiss Prosecution 16
6-4.247	U.S. Attorney Protest of Declination 16
6-4.248	Status Reports 16
6-4.249	Return of Reports and Exhibits 17
6-4.270	<u>Criminal Division Responsibility</u> 17
6-4.300	TAX DIVISION POLICIES REGARDING CASE DISPOSITION AND SENTENCING 17
6-4.310	<u>Major Count(s) Policy/Plea Agreements</u> 17
6-4.311	Application of Major Count Policy in Sentencing Guideline Cases 18
6-4.320	<u>Nolo Contendere Pleas</u> 21
6-4.330	<u>Alford Pleas</u> 21
6-4.340	<u>Sentencing</u> 22
6-4.350	<u>Costs of Prosecution</u> 22
6-4.360	<u>Compromise of Criminal Liability/Civil Settlement</u> 23

6-4.000 CRIMINAL TAX CASE PROCEDURES6-4.010 The Federal Tax Enforcement Program

The Federal Tax Enforcement Program is designed to protect the public interest in preserving the integrity of this nation's self-assessment tax system through vigorous enforcement of the internal revenue laws. The purpose of a criminal tax prosecution is to expose the wrongdoer, thereby deterring other potential tax violators. Obviously, the most effective deterrent to would-be violators is successful prosecution coupled with a sentence commensurate with the gravity of the offense.

The government's objective in criminal tax prosecutions is to get the maximum deterrent value from the cases prosecuted. To achieve this objective, the government's tax enforcement activities must reflect uniform enforcement of the tax laws. Uniformity is particularly necessary because prosecution standards in the tax area potentially affect more individuals than any other area of the law. Accordingly, the Federal Tax Enforcement Program is designed to have the broadest possible impact on compliance attitudes by emphasizing balanced enforcement, not only with respect to the types of violations prosecuted but also the geographic location and economic and vocational status of the violators.

In view of the importance of the uniform prosecution program, the Tax Division has been delegated the responsibility of authorizing or declining investigation and prosecution in criminal tax matters. See USAM 6-4.211, *infra*. However, the tax enforcement program can only work effectively if the IRS, Department of Justice, and U.S. Attorneys work in harmony. The following guidelines are intended to harmonize this effort.

6-4.020 Criminal Tax Manual and Other Tax Division Publications

The Tax Division's *Criminal Tax Manual* (1985 ed.) and its "Institute on Criminal Tax Trials" contain exhaustive treatments of statutes, methods of proof, policies and procedures, indictments/information forms, jury instructions, and various specialized areas involved in criminal tax prosecutions. All prosecutors involved in federal criminal tax cases should cross-reference such works during their handling of criminal tax cases.

6-4.030 Criminal Tax Materials on JURIS

The Tax Division, in conjunction with the Justice Management Division, has created several criminal tax data base files on JURIS in its tax file group. The available criminal tax files in the tax file group are: (1) CRTAXMAN: Tax Division's Criminal Tax Manual; (2) FORMS: Tax Division's Indictment/Information Forms; (3) JURYINST: Tax Division's Model Criminal Tax Jury Instructions; (4) PROTEST: Tax Division's Criminal Tax Protestor Case Lists; and (5) CRTAXNEW: Recent Criminal Tax and other cases from Criminal Section Newsletter.

In addition, TAXBRIEF, a criminal tax appellate brief bank, is available in JURIS' brief bank file group to facilitate reference and research in criminal tax.

6-4.100 INVESTIGATIVE AUTHORITY AND PROCEDURE

6-4.110 IRS Administrative Investigations

The IRS' Criminal Investigation Division (CID) is responsible for investigating the violations of the criminal provisions of the internal revenue laws. CID's jurisdiction includes the investigation of all alleged criminal violations arising under 26 U.S.C. (Internal Revenue Code) (except those relating to alcohol, tobacco, and firearms taxes, and certain of the violations punishable under 26 U.S.C. §§ 7212(a), 7213(a), and 7214(a)) and related violations of the criminal provisions of 18 U.S.C.

CID special agents are responsible for conducting administrative investigations of alleged criminal violations arising under the internal revenue laws. To enable special agents to fulfill this responsibility, they are authorized to administer oaths under 26 U.S.C. § 7622 and to take testimony of witnesses and examine books and records under 26 U.S.C. § 7602. Special agents are also authorized to serve summonses and subpoenas, and to execute search and arrest warrants. See 26 U.S.C. § 7608.

6-4.111 Origin of IRS Administrative Investigations

CID investigations are generally initiated as a result of one of the following:

- A. Fraud referrals from other divisions within IRS;
- B. Information provided by other government agencies;
- C. Information provided by private parties;
- D. Matters or projects developed within CID.

Matters found to have criminal fraud prosecution potential, or deemed to warrant further inquiry, are approved for investigation and pursued by special agents to the extent available resources permit.

6-4.112 IRS Joint Administrative Investigations

Joint investigations are conducted by special agents in cooperation with representatives of other IRS divisions. Matters are usually investigated jointly with revenue agents (Examination Division) when false returns are filed or when a willful failure to file occurs. Joint investigations with revenue officers (Collection Division) usually evolve from a willful failure to pay tax.

6-4.113 IRS Review of Administrative Investigations

Upon concluding an administrative investigation, a special agent recommending prosecution must prepare a special agent's report (SAR) that details the investigation, its results, and the agent's recommendations. After review within CID, the SAR, together with the exhibits, is reviewed by District Counsel. When prosecution is deemed warranted, District Counsel prepares a criminal reference letter (CRL), that discusses the nature of the crime(s) for which prosecution is recommended, the evidence relied

upon to prove it, technical aspects and anticipated difficulties of prosecution, and the prosecution recommendations themselves.

6-4.114 IRS Referral of Reports and Exhibits from Administrative Investigations

Affirmative recommendations for prosecution or prosecution-related action in matters under the investigative jurisdiction of CID are referred to the Department of Justice, Tax Division, or, where the Tax Division has authorized, directly to U.S. Attorneys for the jurisdictions where venue most appropriately lies. See 26 U.S.C. § 6103(h). Such referrals generally include a CRL, SAR, and sufficient relevant exhibits to permit analysis of the matters to evaluate prosecutive merit. When matters are referred to the Tax Division, a copy of the CRL will be forwarded simultaneously to the appropriate U.S. Attorney. Likewise, where matters are directly referred to the U.S. Attorney, a copy of the CRL will be forwarded simultaneously to the Tax Division.

6-4.115 Effect of IRS Referral on Administrative Investigations

Referral of a matter to the Tax Division terminates IRS authority to use administrative process to further investigate the matter referred. See 26 U.S.C. § 7602(c).

6-4.116 Effect of Declination on Administrative Investigations

Declination of a matter referred for prosecution to the Tax Division permits IRS to take whatever administrative action it feels is appropriate under the circumstances including further investigation by CID. See IRM 9652. Administrative process is available to the special agent conducting such further investigation. 26 U.S.C. § 7602(c). The IRS may, if warranted, resubmit the matter to the Tax Division as a new referral.

6-4.117 General Enforcement Plea Program

The IRS and the Tax Division have implemented a nationwide guilty plea program in administratively investigated General Enforcement Program cases. Under this plea program, administratively investigated criminal tax cases may be referred directly and simultaneously from the IRS to U.S. Attorneys' Offices and the Tax Division in Washington, D.C., where only legitimate source income is involved (e.g., no narcotics or organized crime) and where taxpayer's counsel indicates during such early stage in the investigation taxpayer's wish to enter a guilty plea consistent with the Tax Division's major count policy. Following IRS consideration to ensure legal sufficiency, abbreviated written referrals from the CID and District Counsel to both the U.S. Attorney and Tax Division will permit an accelerated means for cases to be disposed of where the target of the investigation does not contest criminal liability. All authority to conduct plea negotiations rests with the U.S. Attorney and Tax Division and not the IRS. Tax Division and U.S. Attorney liaison attorneys for such program will ensure compliance with the Tax Division's major count policy. See Memorandum to all U.S. Attorneys from Acting Assistant Attorney General, Tax Division, regarding Program for Entering into Plea Negotiations on Title 26 Offenses Prior to Formal Review by District Counsel's Office and Tax Division (Feb. 25, 1986). See also IRM 9620.

6-4.120 Grand Jury Investigations

Although a federal grand jury is empowered to investigate both tax and nontax violations of federal criminal tax laws, use of the grand jury to investigate in general solely criminal tax violations must first be approved and authorized by the Tax Division. See 28 C.F.R. § 0.70; 26 U.S.C. § 6103(h).

Authority to authorize grand jury investigations of false and fictitious claims for tax refunds, in violation of 18 U.S.C. § 286 and 18 U.S.C. § 287 (other than violations committed by a professional tax return preparer), has been delegated to all United States Attorneys by the Tax Division (see Tax Division Directive No. 96, dated December 31, 1991). This delegation of authority is subject to the following limitations:

- (1) The case has been referred to the United States Attorney by Regional Counsel/District Counsel, Internal Revenue Service, and a copy of the request for grand jury investigation letter has been forwarded to the Tax Division, Department of Justice; and,
- (2) Regional Counsel/District Counsel has determined, based upon the available evidence, that the case involves a situation where an individual (other than a return preparer as defined in Section 7701(a)(55) of the Internal Revenue Code) for a single tax year, has filed or conspired to file multiple tax returns on behalf of himself/herself, or has filed or conspired to file multiple tax returns in the names of nonexistent taxpayers or in the names of real taxpayers who do not intend the returns to be their own, with the intent of obtaining tax refunds to which he/she is not entitled.

In all cases, a copy of the request for grand jury investigation letter, together with a copy of the Form 9131 and a copy of all exhibits, must be sent to the Tax Division by overnight courier at the same time the case is referred to the United States Attorney. In cases involving arrests or other exigent circumstances, the copy of the request for grand jury investigation letter (together with the copy of the Form 9131) must also be sent to the appropriate Criminal Enforcement Section of the Tax Division by telefax.

Any case directly referred to a United States Attorney's office for grand jury investigation which does not fit the above fact pattern or in which a copy of the request for grand jury investigation letter has not been forwarded to the Tax Division by overnight courier or by telefax by Regional Counsel/District Counsel will be considered an improper referral and outside the scope of the delegation of authority. In no such case may the United States Attorney's office authorize a grand jury investigation. Instead, the case should be forwarded to the Tax Division for authorization.

This authority is intended to bring the authorization of grand jury investigations of cases under 18 U.S.C. § 286 and 18 U.S.C. § 287 in line with the United States Attorneys' authority to authorize prosecution of such cases (see USAM, 6-4.243, *infra*). Because the authority to authorize prosecution in these cases was delegated prior to the time the Internal Revenue Service initiated procedures for the electronic filing of tax returns, false and fictitious claims for refunds which are submitted to the Service through electronic filing are not within the original delegation of authority to

authorize prosecution. Nevertheless, such cases, subject to the limitations set out above, may be directly referred for grand jury investigation. Due to the unique problems posed by electronically filed false claims for refunds, Tax Division authorization is required if prosecution is deemed appropriate in an electronic filing case.

6-4.121 IRS Requests to Initiate Grand Jury Investigations

CID generally relies upon the administrative process to secure evidence during an investigation. However, where CID is unable to complete its administrative investigation or otherwise determines that the use of administrative process is not feasible, it may request a grand jury investigation.

Procedurally, the request must include a completed IRS Form 9131, a Request for Grand Jury Investigation signed by Regional or District Counsel, and whatever exhibits are available to support the request. See IRM 9267.2 *et seq.* Because this request is a referral of the matter to the Department of Justice, CID may no longer use administrative process. See USAM 6-4.115, *supra*.

6-4.122 U.S. Attorney Initiated Grand Jury Investigations

A. IRS Direct Referrals

Although the U.S. Attorney is authorized to conduct a Title 26 grand jury investigation in direct referral matters, the instances where such referrals require grand jury investigation will be rare. See USAM 6-4.142, *infra*.

B. Tax Division Referrals for Prosecution

The U.S. Attorney is authorized to conduct a Title 26 grand jury investigation into matters referred for prosecution by the Tax Division to the extent necessary to perfect the tax charges authorized for prosecution.

C. Tax Division Referrals for Grand Jury Investigation

The U.S. Attorney is authorized to conduct a Title 26 grand jury investigation into matters referred for that purpose by the Tax Division, whether upon IRS (see USAM 6-4.121, *supra*) or Tax Division (see USAM 6-4.126, *infra*) request, to the extent necessary to either perfect the tax charges authorized for investigation or determine that prosecution is inappropriate (see USAM 6-4.242, *infra*).

D. Joint Tax-Nontax Investigations with IRS Participation: Delegation of Authority with Respect to Approving Request Seeking to Expand a Nontax Grand Jury Investigation to Include Inquiry into Possible Federal Criminal Tax Violations

Effective October 1, 1986, Tax Division Directive No. 86-59 was issued to confer a delegation of authority with respect to approving requests seeking to expand nontax grand jury investigations to include inquiry into possible federal criminal tax violations on the following individuals:

1. Any U.S. Attorney appointed under 28 U.S.C. § 541 or § 546.

2. Any attorney-in-charge of a Criminal Division Organized Crime Strike Force established pursuant to 28 U.S.C. § 510.

3. Any independent counsel appointed under 28 U.S.C. § 593.

The authority conferred allows the designated official to approve, on behalf of the Assistant Attorney General, Tax Division, a request seeking to expand a nontax grand jury investigation to include inquiries into potential federal criminal tax violations in a proceeding which is being conducted within the sole jurisdiction of the designated official's office. (26 C.F.R. § 301.6103(h)(2)-1(a)(2)(ii).) *Provided*, that the delegated official determines that:

1. There is reason to believe, based upon information developed during the course of the nontax grand jury proceedings, that federal criminal tax violations may have been committed.

2. The attorney for the government conducting the subject nontax grand jury inquiry has deemed it necessary in accordance with Rule 6(e)(3)(A)(ii), Fed.R. of Cr.P., to seek the assistance of government personnel assigned to the IRS to assist said attorney in his/her duty to enforce federal criminal law.

3. The subject grand jury proceedings do not involve a multi-jurisdictional investigation, nor are the target individuals considered to have national prominence—such as local, state, federal or foreign public officials or political candidates; members of the judiciary; religious leaders; representatives of the electronic or printed news media; officials of a labor union; and major corporations and/or their officers when they are the targets (subjects) of such proceedings.

4. A written request seeking the assistance of IRS personnel and containing pertinent information relating to the alleged federal tax offenses has been forwarded by the designated official's office to the appropriate IRS official (e.g., Chief, Criminal Investigations).

5. The Tax Division of the Department of Justice has been furnished by certified mail a copy of the request seeking to expand the subject grand jury to include potential tax violations, and the Tax Division interposes no objection to the request.

6. The IRS has made a referral pursuant to the provisions of 26 U.S.C. § 6103(h)(3) in writing stating that it:

a. Has determined, based upon the information provided by the attorney for the government and its examination of relevant tax records, that there is reason to believe that federal criminal tax violations have been committed;

b. Agrees to furnish the personnel needed to assist the government attorney in his/her duty to enforce federal criminal law; and

c. Has forwarded to the Tax Division a copy of the referral.

March 1, 1994

7. The grand jury proceedings will be conducted by an attorney(s) from the designated official's office in sufficient time to allow the results of the tax segment of the grand jury proceedings to be evaluated by the IRS and the Tax Division before undertaking to initiate criminal proceedings.

The authority delegated includes the authority to designate: the targets (subjects) and the scope of such tax grand jury inquiry, including the tax years considered to warrant investigation. This delegation also includes the authority to terminate such grand jury investigations, provided, that prior written notification is given to both the IRS and the Tax Division. If the designated official terminates a tax grand jury investigation or the targets (subjects) thereof, then the designated official shall indicate in its correspondence that such notification terminates the referral of the matter pursuant to 26 U.S.C. § 7602(c).

This delegation of authority does not include the authority to file an information or return an indictment on tax matters. No indictment is to be returned or information filed without specific prior authorization of the Tax Division. Except in Organized Crime Drug Enforcement Task Force Investigations (Drug Task Force), individual cases for tax prosecution growing out of grand jury investigations shall be forwarded to the Tax Division by the U.S. Attorney, independent counsel, or attorney-in-charge of a strike force with an SAR and exhibits through Regional Counsel (IRS) for evaluation prior to transmittal to the Tax Division. Cases for tax prosecutions growing out of the grand jury investigations conducted by a Drug Task Force shall be forwarded directly to the Tax Division by the U.S. Attorney with an SAR and exhibits.

The authority delegated is limited to matters which seek either to:

1. Expand nontax grand jury proceedings to include inquiry into possible federal criminal tax violations;
2. Designate the target(s) (subjects) and the scope of such inquiry; or
3. Terminate such proceedings.

In all other instances, authority to approve the initiation of grand jury proceedings which involve inquiries into possible criminal tax violations, including requests generated by the IRS, remains vested in the Assistant Attorney General in charge of the Tax Division as provided in 28 C.F.R. § 0.70. In addition, authority to alter any actions taken pursuant to the delegations contained herein, is retained by the Assistant Attorney General in charge of the Tax Division in accordance with the authority contained in 28 C.F.R. § 0.70.

See USAM 6-4.125, *infra*, for Drug Task Force procedures.

6-4.123 Joint U.S. Attorney-IRS Request to Expand Tax Grand Jury Investigations

The U.S. Attorney must secure Tax Division approval before expanding a Title 26 grand jury investigation to include targets not authorized by the Tax Division. A written request for expanded authorization must be submitted prior to initiating that phase of

the grand jury investigation. The request must establish the basis for the Tax Division's authorization to expand the investigation. See USAM 6-4.213(A)(2), *supra*.

6-4.124 Strike Force Requests

See USAM 6-4.122, *supra*.

6-4.125 Drug Task Force Requests

Matters for grand jury investigation involving tax which fall within the jurisdiction of an Organized Crime Drug Enforcement Task Force (Drug Task Force) are distinguished from similar matters for grand jury investigation handled by a U.S. Attorney only in that processing within IRS is streamlined. Regional Counsel (Criminal Tax) does not become involved in its Drug Task Force referrals or recommendations. Drug Task Force requests for joint tax-nontax investigation with IRS participation need to be approved by the District Director, who then makes a referral. Likewise, once the investigation has been concluded, recommendations for or against prosecution are submitted directly to the Tax Division by the District Director. See USAM 6-4.127, *infra*. In all other respects, tax matters within the jurisdiction of a Drug Task Force are procedurally indistinguishable from other tax matters.

6-4.126 Tax Division Requests

Grand jury authorization may originate within the Tax Division during evaluation of IRS referrals for prosecution.

6-4.127 IRS Transmittal of Reports and Exhibits from Grand Jury Investigations

Recommendations for prosecution of Title 26 violations resulting from grand jury investigations must be submitted to the Tax Division for authorization. See USAM 6-4.211, *infra*. When an investigation has produced sufficient evidence to merit indictment, the U.S. Attorney should have the special agent assigned to the matter prepare an SAR, attach the relevant exhibits, and, except in Drug Task Force situations, send it to Regional Counsel (Criminal Tax) for review and Counsel's recommendation to the Tax Division. Regional Counsel has requested that it be allowed thirty (30) days to review the matter prior to making any recommendation; Tax Division should be allowed sixty (60) days to review the proposed prosecution recommendation. The U.S. Attorney's views also should be forwarded to the Tax Division. See USAM 6-4.242, *infra*.

The IRS must also transmit recommendations against prosecution (or matters without IRS recommendation) resulting from such grand jury investigations to the Tax Division for evaluation. See IRM 9267.5; see also, USAM 6-4.242, *infra*.

See USAM 6-4.125, *supra*, for Drug Task Force procedures.

6-4.128 IRS Access to Grand Jury Material

All IRS personnel to whom grand jury material has been disclosed must be named in a list provided by the U.S. Attorney to the district court which empanelled the grand jury

whose material has been so disclosed. Fed.R.Crim.P. 6(e)(3)(B). Grand jury material is disclosed to IRS personnel under the following conditions:

A. Grand jury material remains under the aegis of the U.S. Attorney and/or Tax Division;

B. Disclosure of grand jury material may be made only to IRS personnel assisting the government attorney in the criminal investigation and only for the purpose of enforcing federal criminal law;

C. All grand jury material, and any copies made thereof, must be returned to the U.S. Attorney or Tax Division at the conclusion of the grand jury investigation.

6-4.129 Effect of DOJ Termination of Grand Jury Investigation and IRS Access to Grand Jury Material

See USAM 6-4.116, *infra*. IRS access to grand jury material may be accomplished for use in an administrative investigation only in accordance with Rule 6(e)(3)(C)(i), Federal Rules of Criminal Procedure. *United States v. Bayco*, 463 U.S. 476 (1983).

6-4.130 Search Warrants

By Tax Division Directive No. 52 (Jan. 2, 1986), which superceded Tax Division Directive No. 49 (Oct. 1, 1984), the authority of the Assistant Attorney General, Tax Division, generally to approve search warrants in Title 26 and Title 18 tax investigations was delegated to U.S. Attorneys and other specified officials in U.S. Attorneys' offices where such warrant is directed at offices, structures, premises, etc., of targets or subjects of the investigation. The authority to seek and execute search warrants is otherwise retained by the Assistant Attorney General, Tax Division, and is specifically retained where the target or subject is:

- A. An accountant;
- B. A lawyer;
- C. A physician;
- D. A public official/political candidate;
- E. A member of the clergy;
- F. A news media representative;
- G. A labor union official; or
- H. An official of a tax exempt organization under 26 U.S.C. § 501(c)(3).

In such instances where Tax Division authority is not delegated, specific prior written approval of the Tax Division must be obtained. The delegated official has discretion to seek Tax Division advice or approval in all instances. Within ten (10) working days of the execution of the warrant, the U.S. Attorney shall notify the Tax

March 1, 1994

Division, in writing, of results of the search and transmit copies of the warrant (and attachments and exhibits), inventory, and any other relevant papers.

6-4.200 PROSECUTORIAL AUTHORITY AND PROCEDURES

6-4.210 Tax Division Responsibility

6-4.211 Tax Division Jurisdiction

The Assistant Attorney General, Tax Division, has responsibility for all criminal proceedings arising under the internal revenue laws except the following: proceedings pertaining to misconduct of IRS personnel; taxes on liquor, narcotics, firearms, coin-operated gambling and amusement machines, and to wagering; forcible rescue of seized property (26 U.S.C. § 7212(b)); corrupt or forcible interference with an officer or employee acting under the internal revenue laws (26 U.S.C. § 7212(a)); unauthorized disclosure of information (26 U.S.C. § 7213); and counterfeiting, mutilation, removal or reuse of stamps (26 U.S.C. § 7208). See 28 C.F.R. § 0.70.

6-4.211(1) Filing False Tax Returns: Mail Fraud Charges or Mail Fraud Predicates for RICO

The authorization of the Tax Division is required before charging mail fraud counts either independently or as predicate acts to a RICO charge: (1) when the only mailing charged is a tax return or other internal revenue form or document; or (2) when the mailing charged is a mailing used to promote or facilitate a scheme which is essentially only a tax fraud scheme (e.g., a tax shelter).¹ Such authorization will be granted only in exceptional circumstances as explained below.

The filing of a false tax return, which almost invariably involves a mailing, is a tax crime chargeable under 26 U.S.C. 7206(1) (if the violator is the taxpayer) or 26 U.S.C. 7206(2) (if the violator is, for example, a tax return preparer or tax shelter promoter). It is the position of the Tax Division that Congress intended that tax crimes be charged as tax crimes and that the specific criminal law provisions of the Internal Revenue Code should form the focus of prosecutions when essentially tax law violation motives are involved, even though other crimes may technically have been committed. See, *United State v. Henderson*, 386 F.Supp. 1048, 1052-53 (S.D.N.Y.1971).²

Under certain narrowly defined circumstances, however, a mail fraud prosecution predicated on a mailing of an internal revenue form or document, or where the scheme involved is essentially a tax fraud scheme, might be appropriate in addition to, but never in lieu of, applicable substantive tax charges. See *United States v. Mangan*, 575 F.2d 32, 48-49 (2d Cir.1978) (where the defendant filed false refund claims on behalf of others, thereby acting more like a thief in the traditional sense). Such a situation could arise in a tax shelter or other tax fraud case, when individuals, through no

¹ A scheme does not fall in the latter category if it is designed to defraud individuals or to defraud the government in a non-revenue collecting capacity.

² The Ninth Circuit in *United States v. Miller*, 545 F.2d 1204, 1216 (9th Cir.1976) cert denied, 430 U.S. 930 (1977) in footnote 17 stated a contrary position, but did not analyze the issue as it was not squarely presented. The case involved corporate diversion and possible fraud on creditors as well as tax evasion.

deliberate fault of their own, were demonstrably victimized as a result of a defendant's fraudulent scheme and use of a mail fraud charge is necessary to achieve some legitimate, practical purpose like securing restitution for the individual victims. The fact that a defendant committed conduct which independently victimized individuals is to be reflected in the mail fraud allegations in the indictment. Mail fraud charges could also be used in a tax fraud case when the government was also victimized in a non-revenue collecting capacity. See, e.g., *United States v. Busher*, 817 F.2d 1409, 1412 (9th Cir.1987) (case involving primarily false contract claims). However, to the extent victimization of third parties constitutes an exception to the general rule, the evidence must demonstrate direct, substantial victimization as opposed to a general or theoretical harm to a general class of victims.

Normally, in a tax shelter case, the mere imposition of interest and penalties on the investors will not constitute sufficient victimization to warrant the use of mail fraud charges in addition to tax charges. However, each individual case will be reviewed on its merits to determine whether the degree of culpability of the individual investors is such as to treat them more as victims than participants in the particular scheme. Among the factors to consider are the existence of bona fide pending civil suits against the promoters by the investors, the nature and degree of misrepresentations made to the investors, and the degree of independent losses beyond the tax liability.

A similar policy will be followed with respect to the filing of RICO charges predicated on mail fraud charges which in turn involve essentially only a tax fraud scheme. Tax offenses are not predicates for RICO offenses—a deliberate Congressional decision—and charging a tax offense as a mail fraud charge could be viewed as circumventing Congressional intent unless unique circumstances justifying the use of a mail fraud charge are present.

However, once a decision has been made by the Tax Division to authorize mail fraud charges, the decision whether to authorize a RICO charge in turn based on these mail fraud charges is one for the Criminal Division to make.

For a determination as to whether a mail fraud charge predicated on the mailing of internal revenue forms or documents is appropriate, the Tax Division should be consulted early in the investigation rather than waiting until a last minute decision is needed.

6-4.212 Delegation of Authority Within the Criminal Section

See DOJ Tax Division Directive No. 53 (Mar. 1, 1986).

6-4.213 Review

A Standards for Review

1. Prosecution

The standards underlying review of criminal tax matters for authorization of prosecution require evidence supporting a prima facie case and a reasonable probability of conviction. Other considerations influencing authorization for prosecu-

tion are in accord with the dictates of the Federal Tax Enforcement Program. See generally USAM 6-4.010, *supra*.

2. Grand Jury Investigation

The standards underlying review of criminal tax matters for authorizing grand jury investigations require articulable facts supporting a reasonable belief that a tax crime is being or has been committed.

B. Categories of Matters Reviewed

1. IRS Referrals

The Tax Division utilizes a complex/noncomplex case designation procedure to expedite the review of criminal tax matters referred from IRS while maintaining uniformity of prosecution standards. See USAM 6-4.114, *supra* and 6-4.121, *supra*.

a. Complex Matters

Complex matters are those IRS referrals which utilize an indirect method of proof, are factually or legally complex, contain technical and/or sensitive tax issues, or involve a policy issue. Complex matters are reviewed by Criminal Section docket attorneys. Docket attorneys prepare prosecution memoranda analyzing the evidence, highlighting procedural and/or substantive problems and discussing recommendations for further action. The matters are further reviewed by one or more Criminal Section senior attorneys whereupon a final decision to prosecute or decline prosecution is made. See USAM 6-4.212, *supra* and 6-4.241, *infra*.

b. Noncomplex Matters

Noncomplex matters are those IRS referrals in which the specific items method of proof is used. Noncomplex matters are screened by senior Criminal Section attorneys to ensure that no issues requiring in-depth review are present. Should the screening procedure reveal such issues, the matters are referred to docket attorneys for in-depth review. Otherwise, the matters are transmitted within two weeks to the appropriate U.S. Attorney for consideration within ninety (90) days. See USAM 6-4.244, *infra*.

2. U.S. Attorney Requests for Grand Jury Authorization

See USAM 6-4.122, *supra* and 6-4.123, *supra*.

When Tax Division authorization is required, requests for Title 26 grand jury authorizations are approved or denied by Criminal Section personnel.

C. Review of Direct Referrals

To ensure national uniformity of prosecution standards, the Tax Division monitors all matters directly referred to U.S. Attorneys. See USAM 6-4.243, *infra*. Should such review reveal that a matter was improperly referred, the Tax Division will so notify the U.S. Attorney.

6-4.214 Conferences

Conferences are not a matter of right but, if requested, are generally granted.

A conference is designed to provide the putative defendant an opportunity to present any explanations or evidence which he/she desires the Tax Division to consider in reaching a decision regarding prosecution. A conference is not an opportunity to explore the government's evidence. The Division's practice regarding "discovery" is to advise conferees of the proposed charges, method of proof, and income and tax figures recommended by IRS. The putative defendant is also advised that the charges, method of proof, and computations are subject to change. Statements made by a proposed defendant will be used not only to evaluate the matter but also in any court proceeding, criminal or civil. Fed.R.Evid. 801(d)(2). However, since May 30, 1986, statements made by attorneys for taxpayers (i.e., vicarious admissions) at conferences will not be utilized in general in court proceedings. Investigative leads provided at the conference may, however, of course be developed. In administratively investigated cases, plea negotiations are permitted consistent with the Tax Division's major count policy and appropriate U.S. Attorney's Office policy. See DOJ Tax Division Directive No. 86-58 (May 14, 1986).

Normally, if time and circumstances permit, a conference in Washington, D.C., is granted upon a written request to the Tax Division from the taxpayer or the taxpayer's authorized representative. However, if the matter has been forwarded to the U.S. Attorney before the request is received, the request will be denied with the suggestion that the taxpayer seek a conference with the U.S. Attorney. Such conference is granted at the discretion of the U.S. Attorney. In unusual circumstances, the Tax Division may request that a conference be held and that the U.S. Attorney submit a report regarding any recommended changes in the authorization.

6-4.215 Expedited Review

An expedited review is one in which the Tax Division will render a final decision regarding prosecution within thirty (30) days of receipt from IRS of the CRL, SAR and relevant exhibits. In exceptional circumstances when the U.S. Attorney finds that a given matter cannot be processed within the Division's stated guidelines, the U.S. Attorney personally must submit a written request to the Chief, Criminal Section, requesting an expedited review. The request must outline whatever difficulties exist requiring such expedited review. An expedited review will be granted only when such difficulties are shown to be exceptional circumstances.

6-4.216 Priority Review

A priority review is one wherein the Tax Division will render a final decision regarding prosecution within sixty (60) days of receipt from IRS of the CRL, SAR, and relevant exhibits. A request for a priority review must be made in writing by an Assistant U.S. Attorney to the Chief, Criminal Section and will be granted on a showing of exceptional circumstances.

6-4.217 On-Site Review

Criminal Section personnel will perform on-site reviews of Drug Task Force and other matters in appropriate circumstances. On-site reviews, either of grand jury investigations or prosecution recommendations, are only granted in exceptional circumstances and through written request procedure outlined in USAM 6-4.215, *supra*.

6-4.218 Authorizations and Declinations

The final authority for the prosecution of all criminal tax matters rests with the Assistant Attorney General, Tax Division, 28 C.F.R. § 0.70. See USAM 6-4.212, *supra*.

6-4.219 Assistance of Criminal Section Personnel

The Tax Division will consider requests by the U.S. Attorney for litigation assistance. Reasons for requests for trial assistance include those instances when the U.S. Attorney:

- A. Recuses himself/herself and his/her office;
- B. Lacks sufficient resources or personnel; or
- C. Declines to prosecute a matter. (See USAM 6-4.245, *infra*.)

The U.S. Attorney is generally expected to handle those matters accepted for prosecution under the non-complex procedure. See USAM 6-4.244, *infra*.

6-4.240 U.S. Attorney's Responsibilities

The U.S. Attorney is normally responsible for investigation and prosecution of criminal tax matters after authorization by the Tax Division. See USAM 6-2.212, *supra*.

6-4.241 Review of CRLs

The U.S. Attorney will receive a copy of CRLs in any matters under the investigative jurisdiction of CID and referred to the Tax Division for prosecution or prosecution-related actions when venue for charges recommended in the referral falls within the U.S. Attorney's district. The U.S. Attorney may desire to review the matter and communicate his/her views to the Tax Division within twenty-one (21) days of receipt of the CRL, or within such shorter period as may be necessitated by an impending expiration of the statute of limitations or other exigent circumstances. When no comments are received within three (3) weeks, the Tax Division will assume that the U.S. Attorney did not wish to express his/her views regarding the prosecution potential of the matter.

6-4.212 Recommendation of Grand Jury Investigation

At the conclusion of a grand jury investigation authorized by or on behalf of the Tax Division, the U.S. Attorney conducting the investigation should submit an analysis of the investigation to the Tax Division and recommend either that charges be brought or prosecution be declined. If nontax charges are recommended, the analysis must explain

how these nontax charges relate to the tax charges. A copy of the proposed indictment or information should accompany the analysis. In addition to the U.S. Attorney's analysis, all relevant exhibits generated during the course of the grand jury investigation, the transcript of the proceedings, and the CRL and SAR must be submitted. See USAM 6-4.127, *supra*.

The Tax Division must receive this material at least sixty (60) days prior to the expiration of the statute of limitations unless the Tax Division already has agreed to handle the matter in accordance with USAM 6-4.215, *supra*.

6-4.243 Review of Direct Referral Matters

The direct referral program is designed to promote the rapid prosecution of matters that constitute an imminent drain on the U.S. Treasury. Because immediate action is often required, IRS is authorized to refer the following categories of matters directly to the U.S. Attorney for prosecution:

A. Excise taxes—all 26 U.S.C. and 18 U.S.C. offenses involving taxes imposed by Subtitles C, D and E, except Chapter 24;

B. Multiple filings of false and fictitious returns claiming refunds (18 U.S.C. §§ 286 and 287)—all offenses wherein taxpayer files two or more returns for a single tax year claiming false refunds, excluding return preparers who falsify returns to claim refunds and cases involving false or fictitious claims for refund which are submitted to the Internal Revenue Service through the Electronic Filing (ELF) program.

C. Trust fund matters (26 U.S.C. §§ 7215 and 7512)—offenses involving alleged violations of the trust fund laws;

D. "Ten percenter" matters (26 U.S.C. § 7206(2))—when arrest occurs contemporaneously with the offense;

E. Returns (IRS Form 8300) relating to cash received in a trade or business pursuant to 26 U.S.C. § 6050I (26 U.S.C. §§ 7203 and 7206 only). See DOJ Tax Division Directive No. 87-61 (Feb. 27, 1987).

The U.S. Attorney may initiate or decline prosecution of direct referrals without prior approval from the Tax Division (whereas in all other instances the U.S. Attorney can initiate proceedings only with specific Tax Division authorization). However, once prosecution has been initiated, the indictment, information, or complaint may not be dismissed without the prior approval of the Tax Division. See USAM 6-4.246, *infra*.

6-4.244 Review of Noncomplex Matters

Within three months of receipt of a designated non-complex matter, the U.S. Attorney is to review the matter and initiate proceedings, request that the matter be declined (see USAM 6-4.245, *infra*), or request that the Tax Division handle the matter (see USAM 6-4.219, *supra*).

6-4.245 Request to Decline Prosecution

A. Request by U.S. Attorney

Whenever the U.S. Attorney feels that a particular tax matter should not be prosecuted, those views are to be forwarded to the Tax Division. The Assistant Attorney General will then consider the matter and determine whether the matter should be prosecuted or declined. If it is determined that the matter should be prosecuted, the U.S. Attorney will be requested to proceed. If the U.S. Attorney declines to proceed, the matter will be handled by Criminal Section personnel. Notice that the U.S. Attorney desires not to proceed must be received sufficiently in advance of the expiration of the statute of limitations or any other deadlines to allow adequate consideration by the Tax Division and adequate time for preparation by Division personnel.

B. Grand Jury No Bill

Once a grand jury returns a no bill or otherwise acts on the merits in declining to return an indictment, the same matter (i.e., same transaction or event and the same putative defendant) must not be presented to another grand jury or represented to the same grand jury without first securing the approval of the Assistant Attorney General, Tax Division. Ordinarily such approval will not be given in the absence of additional or newly discovered evidence or a clear circumstance of a miscarriage of justice.

6-4.246 Request to Dismiss Prosecution

Indictments, informations, and complaints may not be dismissed without prior approval of the Tax Division except when a superseding indictment has been returned or the defendant has died. Requests to dismiss prosecutions are the personal responsibility of the U.S. Attorney and all requests relating thereto must accordingly be signed. Form USA-900 may be used for this purpose.

6-4.247 U.S. Attorney Protest or Declination

If in disagreement with the Tax Division's decision to decline prosecution of a matter arising out of a grand jury investigation, the U.S. Attorney may request reconsideration of that determination. Such request must be in writing and set forth the U.S. Attorney's reasons for desiring to proceed with prosecution.

The Tax Division will not entertain protests by the U.S. Attorney of matters which were administratively investigated by the IRS. See USAM 6-4.241, *supra*.

6-4.248 Status Reports

After criminal tax cases have been referred to a U.S. Attorney, it is essential that the Tax Division be kept advised of all developments. As the case progresses, the minimum information required for the records of the Tax Division is as follows:

- A. A copy of the indictment returned (or no billed), or the information filed, which reflect the date of the return (or no bill) or filing;

March 1, 1994

- B. Date of arraignment and kind of plea;
- C. Date of trial;
- D. Verdict and date verdict returned;
- E. Date and terms of sentence; and
- F. Date of appeal and appellate decision.

It is important that information regarding developments in pending cases be provided to the Tax Division in a timely manner in order that the Department's files reflect the true case status and so that, upon completion of the criminal case, the case can be timely closed and returned to the IRS for the collection of any revenue due through civil disposition.

6-4.249 Return of Reports and Exhibits

Upon completion of a criminal tax prosecution by a final judgment and the conclusion of appellate procedures, the U.S. Attorney should return to witnesses their exhibits. Grand jury materials should be retained by the U.S. Attorney under secure conditions, in accordance with the requirements of maintaining the secrecy of grand jury material. See Fed.R.Cr.P. 6(e). All non-grand jury reports, exhibits, and other materials furnished by the IRS for use in the investigation or trial should be returned by certified mail, return receipt requested, to the appropriate District Director, IRS, Attention: Chief, CID, as directed in the Tax Division's letter authorizing prosecution or as directed by Regional Counsel in cases directly referred to the U.S. Attorney.

6-4.270 Criminal Division Responsibility

The Criminal Division has limited responsibility for the prosecution of offenses investigated by the IRS. Those offenses are: excise violations involving liquor tax, narcotics, stamp tax, firearms, wagering, and coin-operated gambling and amusement machines; malfeasance offenses committed by IRS personnel; forcible rescue of seized property; corrupt or forcible interference with an officer or employee acting under the internal revenue laws; and unauthorized mutilation, removal or misuse of stamps. See 28 C.F.R. § 0.70.

6-4.300 TAX DIVISION POLICIES REGARDING CASE DISPOSITION AND SENTENCING

6-4.310 Major Count(s) Policy/Plea Agreements

The overwhelming percentage of all criminal tax cases are disposed of by entry of a plea of guilty. In most cases, the transmittal letter forwarding the case from the Tax Division to the U.S. Attorney will identify the major count(s) that have been authorized for prosecution. The U.S. Attorney's Office, without prior approval of the Tax Division, is authorized to accept a plea of guilty to the major count(s) of the indictment or information.

March 1, 1994

The U.S. Attorney also is authorized to seek a plea to more than the major count(s) if it is considered warranted. As part of the major count policy, the timeliness of a plea offer should also be considered in assessing the value of the plea solely to the major count(s). This comports with standard DOJ policy regarding prompt disposition of cases. See *Principles of Federal Prosecution* on JURIS.

The designation of the major count is generally premised on the following considerations:

- A. Felony counts take priority over misdemeanor counts.
- B. Tax evasion counts (26 U.S.C. § 7201) take priority over all other substantive tax counts.
- C. The count charged in the indictment or information which carries the longest prison sentence will be considered a major count.
- D. As between counts under the same statute, the count involving the greatest financial detriment to the United States (*i.e.*, the greatest additional tax due and owing) will be considered the major count.
- E. Where there is little difference in financial detriment between counts, the determining factor will be the relevant flagrancy of the offense.
- F. Where the determination of the major count(s) is complicated by considerations not covered by the above rule, the U.S. Attorney is encouraged to consult the Tax Division.

When the major count of a tax indictment charges a felony offense, U.S. Attorneys will not accept a plea to a lesser-included offense nor substitute misdemeanor offenses for the felony offense charged. The Tax Division will not, absent unusual circumstances, consent to reduce a charge from a felony to a misdemeanor merely to secure a plea.

After a defendant's guilty plea to one or more major counts has been accepted by the court and the sentence has been imposed, the remaining counts of the indictment or information may be dismissed.

A defendant sometimes indicates in advance of the indictment or information that he intends to enter a guilty plea to the major count(s). If this occurs, the full extent of the defendant's tax offenses must be included in the court records by charging the defendant with all of the authorized offenses even though, after plea and sentence, the residual counts may be dismissed. In presenting the factual basis for the prosecution in compliance with Rule 11, Fed.R. of Cr.P., the government prosecutor should include the full extent of the violations on residual counts in order to demonstrate the actual criminal intent on the part of the defendant. A plea of guilty by a corporation will not result in the dismissal of charges against an individual unless special circumstances exist for justifying such dismissal. See USAM 9-2.146.

6-4.311 Application of Major Count Policy in Sentencing Guideline Cases

Indictments are now beginning to be returned and informations filed in tax cases involving years for which the Sentencing Guidelines are in effect (offenses committed

after November 1, 1987). The Department has adopted policies dealing with pleas and sentencing under the Guidelines. The Guidelines and the Department's policies pursuant thereto necessitate minor conforming changes to the Tax Division's Major Count Policy (USAM 6-4.310). Under that policy, the Tax Division designates one of the counts approved for prosecution as the major count and the United States Attorney's office may accept a plea to that count without consulting the Tax Division. If the United States Attorney's office desires to accept a plea to any count other than the designated major count, it may do so only after seeking and obtaining the approval of the Tax Division. Except as specifically modified herein, the Major Count Policy (USAM 6-4.310) otherwise remains the same.

The Department's plea policy for Sentencing Guideline cases is set forth in the Attorney General's Memorandum to Federal Prosecutors, dated March 13, 1989. Under that policy, a federal prosecutor should initially charge the most serious, readily provable offense or offenses consistent with the defendant's conduct. Thereafter, charges are not to be bargained away or dropped unless the prosecutor has a good faith doubt as to the government's ability readily to prove a charge for legal or evidentiary reasons. However, if the applicable guideline range from which a sentence may be imposed would be unaffected, readily provable charges may be dismissed or dropped as part of a plea bargain.

Under the Sentencing Guidelines, sentences in criminal tax cases are primarily determined by the amount of "tax loss." The relevant "tax loss" includes the tax loss caused by the offense or offenses of conviction (See, e.g., United States Sentencing Guidelines (U.S.S.G.) § 2T1.1(a)), plus the tax loss from any other year which is part of the same course of conduct or common scheme or plan as the offense of conviction (See U.S.S.G. § 1B1.3(a)(2); U.S.S.G. § 2T1.1, comment (n.3)). The Guidelines provide that "all conduct violating the tax laws should be considered as part of the same course of conduct or common scheme or plan unless the evidence demonstrates that the conduct is clearly unrelated." (U.S.S.G. § 2T1.1, comment (n.3).) The Guidelines also include a list of examples, not intended to be inclusive, of conduct that is part of the same course of conduct or common scheme or plan. (*Id.*)

1. Tax Offenses Which Are All Part of the Same Course of Conduct or Common Scheme or Plan. Normally, no change in the application of the Major Count Policy will be required by virtue of the Guidelines and the Department's plea policy for Guideline cases. In most cases, all of the tax charges in an indictment are related. Consequently, even if the defendant pleads to a single count and the remaining counts are dismissed, the tax loss from all of the years should be taken into account in determining the tax loss for the offense to which a defendant pleads. Thus, in the usual case, the Tax Division will continue to designate a single count as the major count according to the principles previously utilized in designating the major count. (See USAM 6-4.310.) This will be the case even where one or more of the counts relates to a pre-Guideline year, so long as the counts are related. In that case, the count designated as the major count by the Tax Division will be a Guideline year count in order to meet the Department's goal of bringing all sentencings under the Guidelines as rapidly as possible.

2. Tax Offenses Which Are Not All Part of the Same Course of Conduct or Common Scheme or Plan. Where all of the tax charges are not part of the same course of conduct or common scheme or plan, however, the Department's plea policy for Guideline cases may require the Tax Division either to designate as major counts one count from each group of unrelated counts or to designate one count from one of the groups of unrelated counts as the major count and have the prosecutor obtain a stipulation from the defendant establishing the commission of the offenses in the other group (See U.S.S.G. § 1B1.2(c)). This will be the case where the offense level of the group with the highest offense level must be increased under § 3D1.4. Only in this way will prosecutors in tax cases be able to comply with the Attorney General's directive that readily provable charges may be dismissed only when the applicable guideline range from which a sentence may be imposed would be unaffected by the dismissal of charges. In selecting the major count or counts, the usual rules for selecting major counts will apply. Again, Guideline year counts will take precedence over pre-Guideline year counts in the selection process.

3. Designating More Than One Count as a Major Count. Designating more than a single year as a major count may also be required where the computed guideline sentencing range exceeds the maximum sentence which can be imposed under a single count. For example, the situation may arise in a prosecution for a number of Section 7206(1) violations that the guideline sentence range is computed to be 37 to 46 months, although the statutory maximum sentence imposable under the major count is only 36 months. Although it is likely that such a situation will rarely arise, the possibility does exist. No hard and fast rules can be set out to deal with these kinds of situations. A number of variables must be taken into account, such as the willingness of the defendant to agree with the government's calculation of the guideline range, the defendant's willingness to plead to more than a single count, the effect of any acceptance of responsibility reduction, and so on. Therefore, the most that can be said is that each case will be carefully examined by the Tax Division (and reconsidered when necessary) to determine whether more than a single count must be designated as a major count.

4. Selection of a Pre-Guideline Offense as a Major Count. Where there are both pre-Guideline year counts and Guideline year counts, pre-Guideline year counts will be selected by the Tax Division as major counts, in addition to one or more Guideline year counts, only if they are not part of the same course of conduct or common scheme or plan as one of the Guideline year counts and there is some significant reason for taking a plea to that count or counts. For example, designation of a pre-Guideline year count as a major count, in addition to one or more Guideline year counts, may be appropriate where the amount involved in the pre-Guideline year is substantially greater than the amounts in any of the Guideline year counts.

5. Tax Charges and Non-Tax Charges. In cases in which there are both tax counts and non-tax charges, the selection of which tax count to designate as the major count may not have any effect on the applicable guideline range because the offense level of the group or groups of non-tax offenses is 9 or more levels higher than the offense level of the group containing the tax charges (See U.S.S.G. §§ 3D1.2, 3D1.4). In such cases, the Tax Division will normally continue to designate the major count by application of the usual

rules for selecting the major count. However, the Tax Division may designate a less serious tax offense in the group as the major count if it is supplied with sufficient information establishing that such a selection will not affect the applicable guideline range and with adequate justification for a deviation from the Major Count Policy.

6-4.320 Nolo Contendere Pleas

It is the policy of both the Department of Justice and the Tax Division not to consent to a plea of nolo contendere in tax cases. When a defendant enters a plea of guilty to, or is found guilty of, income tax evasion (26 U.S.C. § 7201) the plea and conviction collaterally estops the taxpayer from contesting the civil fraud penalty in subsequent civil tax proceedings. A plea of nolo contendere does not entitle the government to utilize the doctrine of collateral estoppel.

When a plea of nolo contendere is offered over the government's objection, the attorney for the government will state for the record why acceptance of the plea would not be in the public interest. Fed.R.Cr.P. 11(b). In addition to a factual recitation, the government attorney will bring to the court's attention whatever arguments exist for rejecting the plea. The government attorney also will oppose dismissal of any charges to which the defendant does not plead nolo contendere. As in the case with guilty pleas, the attorney for the government will urge the court to require the defendant to admit publicly the facts underlying the criminal charges, to minimize the effectiveness of any attempt by the defendant to portray him or herself as technically liable, but not seriously culpable.

Thus, attorneys for the government must oppose acceptance of nolo contendere pleas. A government attorney cannot consent to the acceptance of a nolo contendere plea in criminal tax cases unless the Assistant Attorney General, Tax Division, has expressly concluded that the circumstances of a particular case are so unusual that acceptance of such a plea would be in the public interest. See *Principles of Federal Prosecution*.

6-4.330 Alford Pleas

In the landmark case of *North Carolina v. Alford*, 400 U.S. 25 (1970), the Supreme Court upheld the validity of accepting a plea of guilty over the defendant's claims of innocence. The Court stated that the standard by which the validity of the plea is to be judged is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." *Id.* at 31. The record must reflect the voluntary nature of the plea and the factual foundations supporting it.

An attorney for the government will not, absent prior approval of the Assistant Attorney General, Tax Division, enter into an Alford plea agreement if the defendant maintains his innocence with respect to the charge or charges to which he offers to plead guilty. Involvement by government attorneys in the inducement of guilty pleas by defendants who protest their innocence may create the appearance of prosecutorial overreaching.

Apart from refusing to enter into *Alford* plea agreements, however, the degree to which government attorneys can express their opposition to such pleas is limited. Government prosecutors should discourage *Alford* pleas by refusing to agree to terminate prosecutions where such a plea is proffered to fewer than all of the charges pending. If an *Alford* plea to fewer than all charges is tendered and accepted over the government's objection, the government attorney will proceed to trial on all of the remaining counts not barred on double jeopardy grounds unless the Assistant Attorney General, Tax Division, approves dismissal of the charges.

In *Alford* plea cases, the attorney for the government will attempt to establish as strong a factual basis as possible for the plea, not only to satisfy the requirements of Rule 11(f), Fed.R. of Cr.P., but also to thwart the defendant's efforts to project a public image of innocence. See *Principles of Federal Prosecution*.

6-4.340 Sentencing

Rule 32(a), Federal Rules of Criminal Procedure, permits government counsel to make a statement to the court at the time of sentencing. Counsel for the government will be prepared to make a full statement of facts, including if applicable, the amount of tax evaded in all the years for which a defendant was indicted; the means utilized to perpetrate and conceal any fraud; the past criminal record of the taxpayer; and all other information which the court may consider important in imposing an appropriate sentence.

Under no circumstances, either following a trial conviction or plea of guilty, will the government recommend that there be no period of incarceration. In some instances the attorney for the government may agree not to make any recommendation for sentence. Still, the court should be advised that the government's standing silent should not be construed as a recommendation for leniency.

Whenever recommendations are made to the court on sentencing the Tax Division's policy is to request the imposition of a jail sentence in addition to the fine, together with the costs of prosecution. In the Tax Division's view, payment of the civil tax liability, plus a fine, costs, and suspended sentence does not constitute a satisfactory disposition of a criminal tax case.

6-4.350 Costs of Prosecution

The principal substantive criminal tax offenses (*i.e.*, 26 U.S.C. §§ 7201, 7203, 7206(1) and (2)), provide for the imposition of costs of prosecution upon conviction. Courts increasingly are recognizing that the imposition of costs in such criminal tax cases is mandatory and constitutional. See, *e.g.*, *United States v. Saussy*, 802 F.2d 849 (6th Cir.1986); *United States v. Wyman*, 724 F.2d 684 (8th Cir.1984); *United States v. Chavez*, 627 F.2d 953 (9th Cir.1980); *United States v. Fowler*, 794 F.2d 1446 (9th Cir.1986); and *United States v. Palmer*, 809 F.2d 1504 (11th Cir.1987). The Tax Division strongly recommends that attorneys for the government seek costs of prosecution in criminal tax cases.

6-4.360 Compromise of Criminal Liability/Civil Settlement

While statutory authority under 26 U.S.C. § 7122(a) does exist for both the Secretary of the Treasury and the Attorney General to enter into agreements to compromise criminal tax cases without prosecution, as a matter of longstanding policy, such authority is very rarely exercised. If it is concluded that there is a reasonable probability of conviction and that prosecution would advance the administration of the internal revenue laws, any decision to forego prosecution on the ground that the taxpayer is willing to pay a fixed sum to the United States, would be susceptible to the attack that the taxpayer was given preferential treatment because of his ability to pay whatever amount of money the government demanded. Such action could also implicate adversely the "traditional aversion to imprisonment for debt." See *Spies v. United States*, 317 U.S. 492, 498 (1943).

Consequently, proposed criminal tax cases are reviewed without any consideration being given to the matter of civil liability or the collection of taxes, penalties, and interests. In short, proposed criminal tax cases are examined with the view to determining whether a violation has occurred to the exclusion of any consideration of civil liability.

Absent extraordinary circumstances, such as permanent loss of tax revenues unless immediate protective action is taken, settlement of the civil liability is postponed until after sentence has been imposed in the criminal case, except when the court chooses to defer sentencing pending the outcome of such settlement. In this event, the IRS should be notified so that it can begin civil negotiations with the defendant.

UNITED STATES ATTORNEYS' MANUAL

DETAILED
TABLE OF CONTENTS
FOR CHAPTER 5

	<u>Page</u>
6-5.000 <u>CIVIL TAX CASE PROCEDURES</u>	1
6-5.100 <u>TAX COLLECTION SUITS</u>	2
6-5.110 <u>Suits to Collect Tax and Foreclose Tax Liens</u>	2
6-5.111 <u>Service of Process Abroad</u>	2
6-5.112 <u>Writ of Ne Exeat</u>	2
6-5.113 <u>Priority of a Federal Tax Lien</u>	3
6-5.114 <u>Public Sale; Bidding by U.S. Attorney</u>	3
6-5.120 <u>Intervention by the United States in Court Actions</u>	4
6-5.130 <u>Order for Entry to Effect Levy</u>	4
6-5.200 <u>SUMMONS LITIGATION</u>	5
6-5.210 <u>Enforcement Cases</u>	5
6-5.211 <u>Summonses Issued by Criminal Investigation Division</u>	5
6-5.212 <u>Summonses Issued by Examination or Collection Divisions</u>	5
6-5.213 <u>Notification Required</u>	5
6-5.214 <u>Commencement of the Proceeding</u>	6
6-5.215 <u>Prosecution Under 26 U.S.C. § 7210</u>	6
6-5.220 <u>Actions or Petitions to Quash or Injoin IRS Summonses</u>	6
6-5.221 <u>Procedures</u>	7
6-5.230 <u>Training and Litigation Support Relating to Summons Cases</u>	7
6-5.300 <u>SUITS AGAINST THE UNITED STATES OR ITS OFFICERS AND EMPLOYEES</u>	8
6-5.310 <u>General</u>	8
6-5.320 <u>Actions Under 28 U.S.C. § 2410</u>	8
6-5.321 <u>Nature of the Suit</u>	8
6-5.322 <u>Procedures</u>	9
6-5.323 <u>Removal of Actions from State Courts</u>	10
6-5.330 <u>Injunction Actions</u>	11
6-5.340 <u>Suits Under the Freedom of Information Act and the Privacy Act</u>	11
6-5.350 <u>Subpoenas Served on Employees of the IRS</u>	12
6-5.360 <u>Suits to Review Jeopardy and Termination Assessments Under 26 U.S.C. § 7429</u>	12
6-5.370 <u>Suits Against IRS Officials in Their Personal Capacities</u>	13
6-5.400 <u>SUITS INVOLVING GOVERNMENTAL IMMUNITY FROM STATE AND LOCAL TAXES</u>	13
6-5.500 <u>CLAIMS OF UNITED STATES IN BANKRUPTCY, RECEIVERSHIP, PROBATE, AND INSOLVENCY PROCEEDINGS</u>	13
6-5.510 <u>General</u>	13

March 1, 1994

(1)

TITLE 6—TAX DIVISION

	<u>Page</u>
6-5.520	<u>Bankruptcy Proceedings</u> 14
6-5.521	Contested Cases and Adversarial Proceedings 14
6-5.522	Directly Referred Cases 14
6-5.523	Appeal to District Court 15
6-5.524	Reorganization Proceedings 15
6-5.530	<u>Receivership Proceedings</u> 16
6-5.540	<u>Probate Proceedings</u> 16
6-5.550	<u>Insolvency Proceedings</u> 16
6-5.560	<u>Appeals in Bankruptcy, Receivership, Probate, and Insolvency Proceedings</u> 17
6-5.600	SUITS FOR REFUND OF TAXES PAID 17
6-5.610	<u>General</u> 17
6-5.620	<u>Responsibilities of U.S. Attorney on Receipt of Complaint</u> 17
6-5.621	Copies to Tax Division..... 17
6-5.622	Copies and Call to Service Center 17
6-5.623	Service Centers 18
6-5.630	<u>Role of IRS District Counsel</u> 20
6-5.640	<u>Preparation and Trial of Refund Suits</u> 20
6-5.641	Cooperation With the IRS 21
6-5.642	Extensions 21
6-5.643	Trial 21
6-5.700	PROCEDURE UPON LOWER COURT RENDERING A DECISION 22
6-5.710	<u>Favorable Decisions</u> 22
6-5.711	Suspension of Case 22
6-5.712	Case Transfer to Appellate Section 22
6-5.720	<u>Adverse or Partially Adverse Decisions</u> 22
6-5.721	Actions to be Taken 22
6-5.722	Filing of Notice of Appeal by the Government 23
6-5.723	When the Solicitor General Approves an Appeal 23
6-5.724	When the Solicitor General Declines to Appeal 23
6-5.725	Applications for Attorneys' Fees and Litigation Expenses 23
6-5.800	MISCELLANEOUS PROBLEMS AND ARRANGEMENTS 23
6-5.810	<u>Newspaper Reporters and Publicity</u> 23
6-5.820	<u>Pre-trial and Special Calendar Rules</u> 23
6-5.830	<u>Claims Court Cases</u> 24

March 1, 1994

(2)

6-5.000 CIVIL TAX CASE PROCEDURES

Civil tax litigation in the district courts and the state courts is supervised or handled by five Civil Trial Sections. The Civil Trial Sections are generally responsible for cases that arise within their respective geographic areas. See USAM 6-3.510. In addition, Civil Trial Section, Central and Eastern Region, has nationwide jurisdiction over certain cases of special interest. See USAM 6-3.530. Except as otherwise instructed, documents mailed to the Civil Trial Sections should be addressed as follows:

Civil Trial Section, _____ Region
 Department of Justice, Tax Division
 P.O. Box _____
 Ben Franklin Station
 Washington, D.C. 20044
 Attention: (Name of Civil Trial Section Attorney)

The Post Office Box numbers for the five regions are as follows.

Northern Region	55
Eastern Region	227
Central Region	7238
Southern Region	14198
Western Region	683

See USAM 6-3.510 for the States and Districts assigned to each Civil Trial Section.

Trial responsibility normally reposes with the U.S. Attorney in cases arising under 28 U.S.C. § 2410 (except for interpleader litigation) and in summons enforcement and bankruptcy litigation directly referred to the U.S. Attorneys by the IRS.

In refund litigation and in cases referred by IRS to the Tax Division, trial responsibility normally reposes in the Civil Trial Sections.

Except for the responsibility of the U.S. Attorney for filing notice of appeal or cross-appeal as provided in Title 2 of the USAM when civil matters are assigned to, and handled by, personnel of the Tax Division, the Division has the responsibility for the handling of the case in the trial court, including all correspondence, motions, responses, briefs, and trial of the case. For administrative and informational purposes, the Division should keep the U.S. Attorney advised of the progress of such matters by forwarding to him/her copies of correspondence and pleadings served on opposing counsel. The U.S. Attorney shall immediately forward to the assigned Tax Division trial attorney copies of all correspondence, pleadings, briefs, notices (including scheduled court appearances), etc., received and served on the U.S. Attorney, unless such communication clearly indicates service on such civil trial attorney. The U.S. Attorney should also advise the appropriate civil trial attorney of any informal information received that may have a bearing on the just disposition of the case. Where civil matters are assigned to the U.S. Attorney, he/she shall be responsible for the entire proceeding, including the filing of all pleadings and representation at all proceedings and shall keep the Tax Division advised in the manner as set forth in this Manual. The Division and the U.S. Attorney should confer with each other with respect to the position to be taken in civil cases, and utilize such assistance as may be

March 1, 1994

mutually agreeable between the Division and the U.S. Attorney. Notwithstanding the assignment of case responsibilities, the Division and the U.S. Attorney should cooperate in assisting each other by taking complementary steps to protect fully the interests of the United States and to assure the successful prosecution of the litigation.

However, nothing contained in this Manual shall diminish the authority of the Assistant Attorney General, Tax Division, to exercise his/her prerogative to reassign any civil tax case within the jurisdiction of the Tax Division.

6-5.100 TAX COLLECTION SUITS

6-5.110 Suits to Collect Tax and Foreclose Tax Liens

Tax collection suits are brought by the Department at the request of the IRS pursuant to 26 U.S.C. § 7401. The IRS District Counsel requests the commencement of a collection action, whether it be to reduce the assessment to judgment or to foreclose the tax lien on specific property, by a letter addressed to the Assistant Attorney General in charge of the Tax Division. These requests are routed to the Chief of the appropriate Civil Trial Section who assigns them to individual attorneys for handling. An attorney in the appropriate Civil Trial Section drafts the complaint and then forwards the pleading, with a detailed letter setting out the facts and citing the pertinent authorities, to the U.S. Attorney. The U.S. Attorney should promptly forward advice as to the date the complaint was filed.

Occasionally, emergencies will arise because of statute of limitations requirements or other need to assert the tax claims promptly with the result that the Chief of the appropriate Civil Trial Section will orally request that the U.S. Attorney bring suit immediately. In those instances, the U.S. Attorney will either be authorized to prepare and file the complaint, or the complaint will be telephoned or wired to the U.S. Attorney's Office for filing, with written authorization to follow. Occasionally, the local IRS office may contact the U.S. Attorney's Office directly with a request to institute suit due to time limitations, but complaints should not be filed on an emergency basis without prior approval of the Chief of the appropriate Civil Trial Section.

6-5.111 Service of Process Abroad

In any tax case in which it is determined that service of a summons and complaint should be attempted outside of the United States, the matter should be referred to the Tax Division and the U.S. Attorney should not seek to obtain such service without prior written approval of the Chief of the appropriate Civil Trial Section.

6-5.112 Writ of *Ne Exeat*

A writ of *ne exeat republica* is issued by a court to restrain a person from going beyond the jurisdiction of the court until the person has satisfied a claim or has given bond for the satisfaction of the liability. Writs of *ne exeat republica* are expressly authorized by 26 U.S.C. § 7402(a). This remedy is used infrequently and should not be

sought without prior written approval of the Chief of the appropriate Civil Trial Section.

6-5.113 Priority of a Federal Tax Lien

A federal tax lien automatically arises on all of a taxpayer's property upon neglect or refusal to pay an assessed tax after demand. See 26 U.S.C. § 6321. Although proof of demand is a prerequisite to the existence of the lien, the lien relates back to the time of assessment and the lien continues until the liability is satisfied or becomes unenforceable by reason of lapse of time. See 26 U.S.C. § 6322. If the United States secures a judgment against a taxpayer arising out of an assessed tax liability, the tax lien is not merged in the judgment but is independently enforceable until the judgment has been satisfied.

With respect to the priority of a federal tax lien vis-à-vis the liens of other creditors, the general rule is that the first in time is the first in right. However, before an interest may compete with a federal tax lien, the interest must be choate in the federal sense: the identity of the lienor, the property subject to the lien and the amount of the lien must be established. *United States v. New Britain*, 347 U.S. 81 (1954). In addition, the federal tax lien is not valid as against any purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor until notice of the lien has been filed. See 26 U.S.C. § 6323(a). The question of whether a claimant to the taxpayer's property falls within one of these protected classes is a federal question and the characterization of a particular claimant by state law as one of the protected persons is not binding on the United States. See *United States v. Gilbert Associates*, 345 U.S. 361 (1953); *United States v. R.F. Ball Construction Co.*, 355 U.S. 587 (1958); *United States v. Pioneer America, Inc. Co.*, 374 U.S. 84, 85 (1963).

The test of first in time first in right also has statutory exceptions in that 26 U.S.C. § 6323(b) creates certain so-called "super priorities" and 26 U.S.C. § 6323(c) lays out special rules as to specific commercial financing agreements. If any problems arise with respect to these exceptions, please contact the appropriate Civil Trial Section.

6-5.114 Public Sale; Bidding by U.S. Attorney

In a lien foreclosure suit the court may order the sale of the property at either a public or private sale subject to the procedures provided in 28 U.S.C. § 2001 *et seq.* In addition to these procedures for the sale of property, a sale of property may be held pursuant to a stipulation entered into by all parties; however, such an arrangement must be treated as a compromise and the approval of the Tax Division is necessary.

It is the practice in cases where it appears likely that the property may be sold at a judicially ordered public sale for less than its fair value and where the liens of the United States are prior to all other liens to seek from the Treasury Department an authorization for the U.S. Attorney or an Assistant U.S. Attorney to bid on the property on behalf of the United States in accordance with 31 U.S.C. § 3715. Upon receipt of the proper appointment, instructions will be given the U.S. Attorney concerning the amounts

that should be bid for the property and other steps that should be taken to protect the government's interests. The deed to property so purchased for the United States will be taken in the name of the United States. The U.S. Attorney should have the deed recorded promptly and take any other action required under state law to protect the government's title. Any expense necessary should be reported to the Department on Form 25-B.

6-5.120 Intervention by the United States in Court Actions

If the United States is not party to a civil action, the United States may intervene in such action to assert a federal tax lien on property which is the subject of the action. See 26 U.S.C. § 7424. Where the United States intervenes in a state court action, it has the same right of removal as in cases where it is named a party to an action under 28 U.S.C. § 2410(a).

Intervention may be commenced only with the authorization of the District Counsel and at the direction of the Chief of the appropriate Civil Trial Section.

Appropriate pleadings will be prepared by a section attorney and forwarded to the U.S. Attorney, together with a letter of instruction, except where an emergency exists in which event instructions regarding intervention will be communicated by telephone or other means. If local IRS officials request the U.S. Attorney directly to intervene because of an emergency, the Chief of the appropriate Civil Trial Section should be advised in order that proper authorization for the intervention may be obtained.

6-5.130 Order for Entry to Effect Levy

The IRS must obtain a warrant before entering constitutionally protected premises to seize property for the payment of taxes. Cases involving orders of this type will be referred directly to the U.S. Attorneys. District Counsel has been instructed to prepare the pleadings—standard forms consisting of an application, affidavit and proposed order—and to present the pleadings to the U.S. Attorneys' offices for review and submission to the federal district court. If the case requires any substantial deviation from these forms, please consult immediately with the Chief of the appropriate Civil Trial Section.

Upon receipt of the material from District Counsel, the U.S. Attorney should expeditiously review the material to determine whether the legal standard for probable cause to effect a Writ of Entry has been met—assessment, notice and demand, refusal or neglect to pay—and a factual basis (probable cause) for concluding that property of the taxpayer is located on the premises. See *In re Carlson*, 580 F.2d 1365 (10th Cir.1978); *United States v. Shriver, Jr.*, 645 F.2d 221 (4th Cir.1981). The legal standard in these cases does not require that the circumstances be exigent. However, a determination should be made that the taxpayer is, indeed, recalcitrant, and that the revenue officer has been unable to gain admittance to the property for purpose of seizure. The Assistant U.S. Attorney to whom the case assigned for processing should discuss the matter with the revenue officer to assure that the affidavit is complete and accurate and to ascertain whether there are any unusual features of the case which may lead to denial of the writ. In some cases, for example, the taxpayer has entered into arrangements with

6380 the IRS for payment of the outstanding taxes and was not in default. For obvious reasons
orders should not be sought under such circumstances.

6381 In order to effectively support the collection efforts of the IRS, it is important
that the proposed pleadings be reviewed and submitted to the court in an expeditious
manner.

6382 In some districts, judges refer applications for Writs of Entry to the local U.S.
Magistrates. We have no objection to that procedure since it appears to fall within the
rationale of *Mathews v. Weber*, 423 U.S. 261 (1976). The Federal Magistrates Act, 28
U.S.C. § 636(b), was enacted to increase the scope of responsibilities that magistrates
can undertake upon reference, in order to increase the overall efficiency of the federal
judiciary.

6383 If any difficulties are encountered, please call the chief of the appropriate Civil
Trial Section.

6385 6-5.200 SUMMONS LITIGATION

6387 6-5.210 Enforcement Cases

6389 6-5.211 Summonses Issued by Criminal Investigation Division

6390 Requests for the enforcement of administrative summonses issued by the Criminal
Investigation Division will be referred to the Tax Division through the IRS District
Counsel. Authorization to initiate petitions for enforcement of summonses arising out
of the Criminal Investigation Division normally will be forwarded to the U.S. Attorneys
by the Tax Division together with appropriate pleadings and instructions. The Tax
Division should be kept advised of the progress of the proceedings to final disposition.

6392 6-5.212 Summonses Issued by Examination or Collection Divisions

6393 Requests for enforcement of most administrative summonses issued by the Examination
Division or the Collection Division will be referred directly to the U.S. Attorneys by
the District Counsel. With respect to such summonses, it will not be necessary to obtain
authorization from the Tax Division prior to instituting court proceedings except in
those instances where in refusing to produce records, the person summoned has invoked
the privilege against self-incrimination under the fifth amendment of the United States
Constitution. All requests for enforcement of Examination Division or Collection
Division summonses relating to matters under the jurisdiction of the Organized Crime
Section of the Criminal Division will be referred to the Tax Division in the same manner
as Criminal Investigation Division summonses.

6395 6-5.213 Notification Required

6396 The U.S. Attorney should notify the Tax Division when enforcement proceedings are
commenced, furnishing copies of pleadings, and should keep the Tax Division advised of
the progress of the proceedings.

6-5.214 Commencement of the Proceeding

Summons enforcement proceedings are summary in nature and are usually commenced by filing a petition and a proposed order to show cause why the summons should not be enforced. The court's order should be under the seal of the court and signed by the clerk, as provided by 28 U.S.C. § 1691, in order to ensure that the proceeding is not void.

While a summons enforcement proceeding could also be commenced by means of an attachment under 26 U.S.C. § 7604(b) of the summoned person, that procedure is reserved for aggravated situations in view of the holding in *Reisman v. Caplin*, 375 U.S. 440 (1964), and should not be utilized without receiving the prior written authorization of the Chief of the appropriate Civil Trial Section.

6-5.215 Prosecution Under 26 U.S.C. § 7210

Prosecution under 26 U.S.C. § 7210 for failure to honor an IRS summons should not be initiated without specific written authorization from the Chief of the regional Criminal Enforcement Section. These cases should be processed by the IRS and referred to the Tax Division in the same manner as other general program criminal cases.

6-5.220 Actions or Petitions to Quash or Enjoin IRS Summonses

The general rule is that no action may be brought to quash an IRS summons, or to enjoin the IRS from seeking to enforce such a summons by appropriate court action. See *Reisman v. Caplin*, *supra*.

Section 7609, 26 U.S.C., contains a legislative exception to the holding of *Reisman v. Caplin*, *supra*, for summonses issued to third-party recordkeepers. The person to whom the records relate is given notice that a summons has been issued to a "third-party recordkeeper," a term defined as including financial institutions, attorneys, and accountants. The noticee can stay compliance with a third-party recordkeeper summons by commencing a proceeding to quash in the appropriate district court within twenty (20) days of the date on which notice is given, mailing a copy of the petition to the recordkeeper and to the office of the IRS designated in the notice. These procedural rules are jurisdictional and upon failure to follow these provisions meticulously, a motion to dismiss will lie.

Proceedings to quash may also be instituted with respect to another type of IRS document request, a formal document request under 26 U.S.C. § 982 for foreign-based documents. These proceedings are similar to 26 U.S.C. § 7609 proceedings, except that the taxpayer is allowed ninety (90) days from the date of the request to initiate the proceeding.

A proceeding to quash is a civil action subject to the normal filing fee and to the provisions of Rule 4 of the Fed.R. of Civ.P. concerning service of the summons and complaint. These cases differ significantly, however, from cases in which the government is in a purely defensive posture in a civil action because the filing of a petition to quash under 26 U.S.C. §§ 7609 or 982 stays compliance with the summons or document

request. Since it is not in the best interest of the government to delay resolution of the proceeding by insisting that the service of process rules be followed in all technical respects, absent compelling reasons to the contrary, the Tax Division will generally waive a technical insufficiency of service of process in cases otherwise properly brought on the authority of 26 U.S.C. §§ 7609 or 982.

6-5.221 Procedures

Most 26 U.S.C. §§ 7609 and 982 cases will be handled by Tax Division attorneys. Upon receipt of a petition to quash, your office should contact the appropriate Civil Trial Section by telephone to notify us of the case. For the reasons noted above, these procedures should be followed even when it appears that service on the United States might be defective. The persons to be contacted are:

Northern—Gerald C. Miller	(202) 307-6490
Eastern—Michael J. Kearns	(202) 307-6430
Central—John A. DiCicco	(202) 514-6502
Southern—Herbert L. Moody	(202) 514-5907
Western—Terri E. Schapiro	(202) 307-6543

Unless otherwise instructed by the Tax Division, the petition should then be forwarded to us by express mail.

With regard to other types of suits to quash or enjoin an IRS summons, the U.S. Attorney should notify the Tax Division immediately and furnish copies of the pleadings. If the suit is brought in a state court and the United States or an IRS official is named, the U.S. Attorney should remove the action to the federal court immediately. In any suit in which neither the United States nor an IRS official is named, the U.S. Attorney should not become involved in any manner in the action.

Whenever an action is filed to enforce the IRS or a summoned witness, or to quash a summons or a document request, the IRS official who issued the summons or document request should be advised immediately so that a determination can be made whether judicially to enforce the summons or to moot a defective summons or document request. If the IRS decides to seek enforcement of a summons, its recommendation should be processed promptly through regular channels so as to ensure an early determination on the enforcement of the summons.

6-5.230 Training and Litigation Support Relating to Summons Cases

A 63-minute color videotape training film on the preparation and trial of a summons case is available on loan from the Tax Division. A mock case file built on the training film scenario and containing model pleadings and briefs has been distributed to each U.S. Attorney's office, and copies are available from the Tax Division upon request.

THIS contains a computerized research file of all summons and summons-related cases (located in the "WORKPRDT" group under the name "SUMENF") which is updated periodically and which provides instant computer-access to all summons cases by court, year, parties, citation, or any of more than 100 separate summons enforcement issues, or any combination of these factors.

Each U.S. Attorney's office has also previously been furnished a copy of the Tax Division's *Summons Enforcement Decisions List* containing a printout of all reported summons cases with case histories and parallel citations. Finally, summons enforcement lectures and seminars by experienced Tax Division trial attorneys are available on request.

Any inquiries or requests concerning training and litigation support should be directed to James H. Jeffries, III, on FTS 724-6543.

6-5.300 SUITS AGAINST THE UNITED STATES OR ITS OFFICERS AND EMPLOYEES

6-5.310 General

The general rule is that upon being served with a summons and complaint in a suit involving the internal revenue laws or otherwise connected with tax administration, a copy of the summons and complaint should be forwarded to the appropriate Civil Trial Section of the Tax Division and to the local IRS District Counsel. While the general rule applies to interpleaders or suits in the nature of interpleaders brought under 28 U.S.C. § 2410, different procedures apply to other types of section 2410 actions as provided in USAM 6-5.322. Special additional rules for tax refund suits are set out at USAM 6-5.630, *et seq.*, *infra*. See also USAM 6-5.521, *infra*, for rules relating to bankruptcy cases.

In suits under 26 U.S.C. § 7429 for review of jeopardy assessments, the appropriate Civil Trial Section should immediately be notified by telephone of the commencement of the case in light of the expedited hearing of these matters. See USAM 6-5.360, *infra*. Notification by telephone is also essential if a hearing is set on a temporary restraining order or an early hearing is set on a preliminary injunction.

6-5.320 Actions Under 28 U.S.C. § 2410

6-5.321 Nature of the Suit

Under 28 U.S.C. § 2410 the United States has consented to be sued in any suit instituted in a federal or state court having jurisdiction of the subject matter (1) to quiet title to; (2) to foreclose a mortgage or other lien upon; (3) to partition; (4) to condemn; or (5) of interpleader or in the nature of interpleader with respect to, real or personal property on which the United States has or claims a mortgage or other lien. By this statute, the United States has waived its sovereign immunity to suit, subject to specified conditions which must be strictly complied with as a jurisdictional prerequisite for maintenance of the suit. The District Director of Internal Revenue is not a proper party-defendant in any suit under this statute because he/she has no proprietary interest in the tax lien. If he/she is named, steps should be taken to have him/her dismissed. Similarly, if the suit is against the United States, but is not a permitted suit under 28 U.S.C. § 2410, a motion to dismiss for lack of jurisdiction should be filed.

The manner of service upon the United States is provided for in the statute and must be strictly complied with. Service is made by serving the process of the court, together

with the complaint, on the U.S. Attorney and sending copies of the process and complaint by either registered or certified mail to the Attorney General.

Any pleading (whether or not designated as a complaint) which attempts to join the United States as a party in the types of actions named, where the action involves liens arising under 26 U.S.C., must set forth with particularity the nature of the interest or lien of the United States, i.e. (1) the name and address of the delinquent taxpayer, and (2) if a notice of tax lien has been filed, (a) the identity of the IRS office which filed the notice, and (b) the date and place such notice of lien was filed. See 28 U.S.C. § 2410(b). Further, in an action to foreclose a mortgage or other lien, the plaintiff must seek judicial sale. See 28 U.S.C. § 2410(c).

A judgment or decree in an action under 28 U.S.C. § 2410 has the same effect respecting the discharge of property from the mortgage or other lien held by the United States as may be provided with respect to such matters by the local law of the place where the court is situated. If for any reason a judicial sale is not held in a lien or mortgage foreclosure action and the United States does not consent to the lack of judicial sale, the junior federal tax lien or mortgage will not be divested from the property involved. Where a judicial sale is held and the tax lien of the United States is discharged, the United States may redeem the sold realty within 120 days from the date of sale, or within such longer period as may be allowed under local law. A revolving fund has been authorized for such purpose. The amount which the United States must pay in the exercise of its right of redemption, whether it relates to a sale under 28 U.S.C. § 2410(c) or a sale in foreclosure other than the plenary judicial proceedings (26 U.S.C. § 7425(d)(1)), is set forth in a formula contained in 28 U.S.C. § 2410(d). If you deem that redemption is advisable, please contact the Chief of the appropriate Civil Trial Section.

Where the United States asks, by way of affirmative relief, for foreclosure of its own lien, and property is sold to satisfy a first lien held by the United States, the United States may bid at the sale such sum, not exceeding the amount of its claim with expenses of sale, as may be directed by the IRS. See USAM 6-5.114, *supra*.

6-5.322 Procedures

In quiet title, foreclosure, partition and condemnation actions, it is not necessary to forward the summons and complaint to the local District Counsel or the Tax Division, but the Tax Division should be notified by memorandum or letter of the filing of the suit and the date of service. No further action should be taken until receipt of acknowledgment from the Tax Division that service has been made on the Attorney General and the jurisdictional requirements of the statute have been met. Upon receipt of the form referral letter from the Tax Division, the U.S. Attorney should then request the IRS Special Procedures Function to provide the information necessary to prepare an answer. A copy of the government's answer should be forwarded to the Tax Division. It is unnecessary for the U.S. Attorney to correspond further with the Tax Division with regard to these cases unless an offer in compromise is submitted or an appellate issue arises. Any questions should be directed to the Tax Division's Lien Unit on (202) 307-0505.

March 1, 1994

If an offer in compromise is made, promptly submit the matter to the Chief of the appropriate Civil Trial Section, with your recommendation and sufficient supporting data. A copy of any compromise offer together with a copy of the complaint, should at the same time be forwarded to the local IRS District Counsel. This procedure is not applicable to those applications for release of the government's right to redemption with respect to which authority has been delegated to U.S. Attorneys' offices. See USAM 6-6.140 and 6-6.800.

If an appeal is taken by another party to the proceeding, the U.S. Attorney should promptly advise the Chief of the appropriate Civil Trial Section and inform us of the time limitation involved. If a decision is rendered adverse to the government on an issue contested by your office, please submit your recommendation with sufficient data to evaluate the question of appeal.

Please note that 26 U.S.C. § 6323 will govern the determination of the priority of the federal tax lien in these cases. The appropriate Civil Trial Section should be contacted should any interpretative problems arise concerning the priority to be accorded to the tax lien.

In all other respects, the case becomes the responsibility of the U.S. Attorney who should notify the IRS Special Procedures Function when the case is closed.

Interpleader actions, as well as those in the nature of interpleader, will be handled by the Tax Division. The necessary pleadings will be prepared by our attorney and forwarded to the U.S. Attorney together with a letter of instruction.

In any other type of action allegedly brought under 28 U.S.C. § 2410 in which the United States or the District Director is named a party, the U.S. Attorney should advise the District Counsel as well as the Tax Division when the U.S. Attorney is served. In several instances, taxpayers against whom federal tax liens have been filed have instituted actions to quiet title their property and to have such liens removed as a cloud on title in an attempt to contest the merits of the tax assessments made against them which were secured by the liens. Jurisdiction of such suits is usually asserted under 28 U.S.C. §§ 2410 and 1340, granting jurisdiction to district courts in internal revenue matters. It is the government's position that 28 U.S.C. § 2410 is not a jurisdictional statute, but only a waiver of sovereign immunity to certain specified types of suit to which a court has independent subject matter jurisdiction; that 28 U.S.C. § 1340 is only a general grant of subject matter jurisdiction to a federal district court which must be buttressed by some other statute specifically waiving the sovereign immunity of the United States in a particular type of action; and that the waiver of immunity found in 28 U.S.C. § 2410 does not extend to a suit by the taxpayer to inquire into the merits of a tax assessment. See *Falik v. United States*, 343 F.2d 38 (2d Cir. 1965); *Quinn v. Hook*, 341 F.2d 920 (3d Cir. 1965); *Floyd v. United States*, 361 F.2d 112 (4th Cir. 1966).

6-5.323 Removal of Actions from State Courts

Most cases under 28 U.S.C. § 2410 are filed in the state courts. The United States as a general rule does not seek to remove such cases to the federal courts unless there is a

March 1, 1994

real dispute respecting the rights of the United States and a substantial amount or important principle is involved. Where it appears to be desirable to remove an action involving tax claims to a federal court and circumstances permit, the matter should be discussed with the Tax Division. Since 28 U.S.C. § 1446(b) provides only thirty (30) days in which to remove a case, the suit should be brought to the attention of the Tax Division at the earliest possible moment. The judgment of the U.S. Attorney is relied upon heavily in deciding the matter, but removal should not be effected without prior approval of the Chief of the appropriate Civil Trial Section.

State court actions where the United States intervenes under 26 U.S.C. § 7424 such as in the case of a petition to sell real estate of a decedent, can also be removed where it appears to be desirable, with the approval of the Chief of the appropriate Civil Trial Section. However, if a motion to dismiss as to the United States or the District Director is filed, and it is determined that the United States should intervene, there must be an independent basis for jurisdiction in the federal court because, once the dismissal is effected, unless there is an independent jurisdictional basis, the case is subject to remand to the state court.

6-5.330 Injunction Actions

Section 7421(a), 26 U.S.C., provides, generally, that no suit for the purpose of restraining the assessment of any tax shall be maintained by any person in any court, whether or not such person is the person against whom such tax was assessed. In light of 26 U.S.C. § 7421, injunctive relief may be had only upon satisfaction of the twofold test laid down in *Enochs v. Williams Packing & Navigation Co.*, 370 U.S. 1 (1962).

Since injunction cases are often set for hearing on very short notice, the Tax Division, in some instances, will consent to a status quo arrangement whereby the District Director will agree to take no collection activity for a specified period of time in order to afford the IRS an opportunity to conduct an investigation and prepare a defense letter. On occasion, however, it may be necessary to consent to a temporary restraining order to accomplish the same purpose. See Fed.R.Civ.P. 65(b). In either case, prior authorization should be obtained from the Chief of the appropriate Civil Trial Section. Of course, any suit attempting to restrain the collection of taxes must be served upon the Attorney General. The U.S. Attorney's Office, however, should immediately notify the appropriate Civil Trial Section when served with such a suit; if a temporary restraining order is set for hearing or an early hearing on a preliminary injunction is set, please telephone the Chief of the appropriate Civil Trial Section so that the necessary pleading can be prepared and forwarded to the U.S. Attorney.

6-5.340 Suits Under the Freedom of Information Act and the Privacy Act

Freedom of Information Act (FOIA) suits against the IRS and against the Tax Division are handled on a centralized basis by the Tax Division's Civil Trial Section, Eastern Region.

Since under 5 U.S.C. § 552(a)(4)(C) an answer or other pleading to the complaint must be served within thirty (30) days after the complaint is served upon the defendant, it is

imperative that the Civil Trial Section, Eastern Region, receive immediate notice of the filing such a suit. Specifically, the U.S. Attorney's Office should immediately notify that section by telephone when served with the complaint in such a suit. The appropriate pleading will be prepared by the Tax Division and forwarded to the U.S. Attorney for filing. The same procedure should be followed in the case of lawsuits brought against the Tax Division under the FOIA.

Suits under the Privacy Act against the IRS and the Tax Division are also handled by the Civil Trial Section, Eastern Region, and when the U.S. Attorney's office is served with the complaint in such a suit, immediate written notice thereof should be given to that section. The appropriate responsive pleading will be forwarded to the U.S. Attorney.

6-5.350 Subpoenas Served on Employees of the IRS

Frequently, subpoenas are served upon revenue agents and other employees of the IRS in cases not involving federal taxes, and in which the United States is not a party, requiring them to appear in court to produce official documents and records or to testify with respect to matters which have come to their attention in their official capacity.

Section 301.9000-1, 26 C.F.R. provides that in such cases the internal revenue officer should appear in court and respectfully decline to produce the records or to give the testimony called for on the ground that he/she is prohibited therefrom by the Treasury regulations. Instructions have been issued to IRS personnel regarding these procedures. In most cases, if there is sufficient time, the Commissioner will issue specific instructions to the employee and request that these be exhibited to the U.S. Attorney.

The validity of the Treasury regulations has been upheld and approved by the Supreme Court, *Boske v. Comingore*, 177 U.S. 459 (1900); cf. *Touhy v. Ragen*, 340 U.S. 462 (1951), involving a subpoena served upon an employee of the Department of Justice.

In the event the IRS employee is served with a subpoena and contacts the U.S. Attorney for the purpose of protecting his/her interests and those of the government, the U.S. Attorney should appear, if necessary, with the individual employee before the court out of which the subpoena was issued. The U.S. Attorney should also give notice of the subpoena matter to the Civil Trial Section, Eastern Region. If the necessity arises, the matters set out above should be submitted to the court. Frequently, this will not be necessary since experience has demonstrated that if this prohibition is explained to the attorney who is responsible for the issuance of the subpoena, the attorney will voluntarily release the IRS employee from responding without requiring the U.S. Attorney to seek the aid of the court.

6-5.360 Suits to Review Jeopardy and Termination Assessments Under 26 U.S.C. § 7429

Section 7429, 26 U.S.C., provides for both administrative and judicial review of jeopardy and termination assessment actions taken under 26 U.S.C. §§ 6851, 6861 or 6862.

March 1, 1994

When your office has been served with a copy of a summons and a complaint alleging a cause of action under 26 U.S.C. § 7429, the Chief, Special Procedures Function in the District Director's Office should be immediately notified of the action so that steps can be taken to meet the stringent time requirements imposed by 26 U.S.C. § 7429. Notification *must* be given within one (1) working day. This is necessary to ensure a prompt response since 26 U.S.C. § 7429 provides that the district court is to make a determination of the reasonableness of the assessment within twenty (20) days after the action was commenced. The Tax Division will prepare the answer and defend the suit.

Because of the 20-day limitation within which the court is supposed to make its determination, it is necessary that we immediately be informed when a 26 U.S.C. § 7429 complaint is served on the U.S. Attorney. The U.S. Attorney, therefore, is requested to telephone the Chief of the appropriate Civil Trial Section upon learning that this type of action has been commenced so that the Tax Division can prepare an appropriate response as expeditiously as possible.

6-5.370 Suits Against IRS Officials in Their Personal Capacities

IRS officials who are sued in their personal capacities, for example in *Bivens* suits, are amenable to service of process by mail under Rule 4(c)(2)(C)(ii), Fed.R. Civ.P. In such situations, the official will seek advice of the appropriate Regional Counsel concerning whether receipt should be acknowledged. If, due to the shortness of time, there would be no opportunity to seek the advice of Regional Counsel, the U.S. Attorney may be asked to review the receipt and acknowledgment form. Any returned acknowledgment form should contain a statement that all defenses under Rule 12(b), Federal Rules of Civil Procedure, are specifically preserved.

6-5.400 SUITS INVOLVING GOVERNMENTAL IMMUNITY FROM STATE AND LOCAL TAXES

The Tax Division is charged with the responsibility of representing the interests of government agencies and officers in contesting the improper imposition of state or local taxes. Requests for assistance frequently come directly from government contractors and members of the Armed Forces, as well as from government agencies. Because of their sensitive nature and the need for their close coordination, all such matters are handled directly by the Tax Division. All requests, whether to institute litigation or merely for advice or to persuade taxing authorities not to impose a tax, should be promptly referred to the Civil Trial Section, Eastern Region.

6-5.500 CLAIMS OF UNITED STATES IN BANKRUPTCY, RECEIVERSHIP, PROBATE, AND INSOLVENCY PROCEEDINGS

6-5.510 General

The field offices of the IRS file proofs of claim for unpaid taxes in bankruptcy proceedings, state court receivership and insolvency proceedings, and in probate proceedings. The Tax Division is ordinarily not notified of the filing of these claims and the U.S. Attorney may or may not be advised of the filing of a proof of claim. Where a controversy arises and the U.S. Attorney is requested to take any action or make a

March 1, 1994

court appearance, the appropriate Civil Trial Section should be notified as soon as possible, by telephone if necessary, and prior to the filing of any pleading or the making of any court appearance, except in direct referral bankruptcy cases. See USAM 6-5.522, *infra*.

If an objection to a proof of claim is filed, no action should be taken without prior consultation with the Tax Division. The necessity for prompt action will frequently require a telephone consultation with the appropriate Civil Trial Section.

6-5.520 Bankruptcy Proceedings

It is the practice in bankruptcy cases for the District Directors through the Special Procedures Function to file proofs of claim for taxes. The U.S. Attorney may be furnished with a copy of the proof of claim. In many cases this ends the matter so far as the U.S. Attorney is concerned because the claim will be allowed and paid by the trustee in bankruptcy as a matter of course from the bankrupt's estate to the extent that funds are available.

6-5.521 Contested Cases and Adversarial Proceedings

In contested cases and adversarial proceedings any pleading involving matters relating to the internal revenue laws should be promptly forwarded to the Tax Division, the District Counsel and the IRS Special Procedures Function.

6-5.522 Directly Referred Cases

The IRS will directly refer to the U.S. Attorneys bankruptcy matters involving:

- A. Complaints or other pleading to sell property;
- B. Cash collateral hearings;
- C. Motions to compel distribution and accounting;
- D. Motions to pay taxes or stop pyramiding of taxes;
- E. Motions for a more particularized disclosure statement;
- F. Chapter 13 cases involving \$10,000 or less where the proposed payments are insufficient or the period of payment is too long;
- G. Motions for relief from the automatic stay to permit commencement or continuation of proceedings before the United States Tax Court;
- H. Objection to confirmation of a plan;
- I. Motion by the United States to vacate or modify the automatic stay where all the other parties agree to the relief requested;
- J. Motion for order compelling production of records and/or filing of pre-petition tax returns;

March 1, 1994

K. Motion for order compelling the filing of post-petition tax returns;

L. Motion for order requiring segregation and/or deposit of post-petition trust fund taxes.

In a number of Districts, IRS attorneys have been appointed Special Assistant U.S. Attorneys under a program for handling bankruptcy cases. In Districts having such a program, the following matters will also be directly referred to the United States Attorney:

A. Cases involving dischargeability (except those involving fraud or novel issues).

B. All motions to lift the stay.

C. Turn-over hearings where the government's defense is limited to adequate protection, and

D. Objections to proofs of claims (except those involving responsible person liability, the merits of the debtor's tax liability, evidentiary hearings as to disputed matters, or important or novel issues).

All other tax-related bankruptcy matters will be referred by the IRS to the Tax Division, including matters required to be reviewed by the IRS National Office, cases in which the debtors are prominent individuals or major corporations, and any matters not subject to the direct referral procedure.

6-5.523 Appeal to District Court

If the United States is aggrieved by an order of a bankruptcy court, it must within ten (10) days after the entry of the order, or within a possible extended period of up to twenty (20) additional days, file with the bankruptcy court an appeal to the district court and serve copies on all adverse parties. Because of this short time limit, it is usually advisable for the U.S. Attorney to obtain an extension of time concurrently with advice of the matter to the Tax Division. The U.S. Attorney should promptly notify the appropriate Civil Trial Section by telephone and advise the District Counsel of adverse decisions, and take the necessary steps, including the filing of a notice of appeal to protect the government's interest. The decision on whether to appeal is made by the Tax Division. As to the procedure for appeals from orders of the district court, see USAM 6-5.560, *infra*.

6-5.524 Reorganization Proceedings

The IRS District Counsel will directly file an acceptance or rejection of a plan of reorganization after notifying the U.S. Attorney. The Tax Division will be alerted by District Counsel if the debtor is a prominent individual or major corporation and will be consulted in the event the Tax Division is involved in litigation that would be affected by the plan.

6-5.530 Receivership Proceedings

Where receivers for the taxpayer are appointed in a state or federal court, the IRS immediately assesses any tax owing and files proofs of claim, as provided by 26 U.S.C. § 6871(a). In such cases the receivership court has jurisdiction to hear and determine objections to the merits of the tax claim. The priorities of the United States in receivership proceedings are asserted under 31 U.S.C. § 3713.

Whenever a contest develops as to the merits or priority of the claim, the U.S. Attorney should notify the Tax Division immediately and furnish all relevant pleadings and information. In such proceedings in state courts, the United States is generally required to abide by the procedural rules and time limits of the court.

6-5.540 Probate Proceedings

Where assessments have been made against the decedent in his/her lifetime, or are made thereafter, notice of the assessment in the form of a proof of claim is brought to the attention of the personal representative of the decedent. The U.S. Attorney may be furnished with a copy of the proof of claim. Generally, such a claim is allowed and paid in due course of administration and no further questions arise.

When a tax claim against a decedent's estate is disallowed in whole or in part, the District Director reports the fact to IRS District Counsel. In case further action to collect the claim is desired, the District Counsel will request the Tax Division to take such action. If the request is approved the Tax Division will send appropriate instructions and pleadings to the U.S. Attorney to be filed and a discussion of the facts and the law involved.

Occasionally it will be necessary for the U.S. Attorney to seek to control action of the personal representative through the processes of the probate court. Sometimes, if there is insolvency, the threatened action of the personal representative (such as failure to recognize the government's priority) can be discouraged by calling his/her attention to the provisions of 31 U.S.C. § 3713. In other cases, the supervisory authority of the probate court, provided by most state codes or statutes, will ordinarily be adequate.

Whenever a contest develops, or whenever it becomes necessary to compel the personal representative to act on a claim of the United States, the U.S. Attorney should notify the Tax Division and furnish any papers or information which may be germane to the question raised. Because of the differences in probate law in the several states, it is the general policy of the Tax Division to rely heavily in probate court proceedings on the experience of the U.S. Attorney concerning the laws of that jurisdiction.

6-5.550 Insolvency Proceedings

There are various forms of insolvency proceedings in state courts, the most frequent of which is an assignment for the benefit of creditors. Where proofs of claim are filed in such proceedings and litigation arises, 31 U.S.C. § 3713, relating to priorities, is

applicable. Where a contest develops, the U.S. Attorneys should notify the Tax Division prior to taking any action and furnish all relevant pleadings and information.

6-5.560 Appeals in Bankruptcy, Receivership, Probate, and Insolvency Proceedings

The time limit on appeals to the circuit court of appeals from an order of the district court in bankruptcy cases is sixty (60) days where the United States is involved in a suit. The U.S. Attorney must assume responsibility for filing a timely notice of appeal and taking all steps necessary to perfect the right to appeal in such cases and in other receivership, probate, and insolvency proceedings, pending authorization of appeal by the Solicitor General. If the adverse decision is rendered in a state court, the U.S. Attorney should advise the Tax Division as each step to perfect an appeal is completed. For a further discussion on appeals, see USAM Title 2 (Appeals).

6-5.600 SUITS FOR REFUND OF TAXES PAID

6-5.610 General

The five Civil Trial Sections and the Claims Court Section are responsible for defending suits brought against the United States for refund of taxes alleged to have been improperly assessed and collected. The technical nature of the issues involved and the nationwide distribution of the suits require a close coordination between the appropriate Civil Trial Sections, the IRS and the U.S. Attorneys' offices. In those cases defended by a Civil Trial Section, the appropriate U.S. Attorney's Office will receive information copies of the proceedings from that section.

6-5.620 Responsibilities of U.S. Attorney on Receipt of Complaint

The U.S. Attorney is responsible for sending a copy of all complaints filed against the United States or one of its present or former officers or employees in tax refund suits immediately to the Tax Division, the local IRS District Counsel, the IRS District Director, and the Internal Revenue Service Center. In tax refund suits involving the 100-percent penalty imposed by 26 U.S.C. § 6672, the complaint need not be forwarded to the Service Center and the copy forwarded to the District Director should be sent to the attention of the Special Procedures Function.

6-5.621 Copies to Tax Division

The memorandum accompanying the copies of the complaint sent to the Tax Division should state the date when the complaint was served and filed and should include any suggestions the U.S. Attorney may have concerning the case, the taxpayer, the court, state law, etc., which the U.S. Attorney believes would be helpful to the Tax Division in preparing the case for trial or exploring settlement possibilities.

6-5.622 Copies and Call to Service Center

It is essential that the Internal Revenue Service Centers be given the earliest possible notice that a tax refund suit has been filed with the district court. This is

necessary because the IRS must, in most cases, assemble its administrative files, forward them to Washington, D.C., and prepare an analysis of the government's litigating position within the sixty (60) days provided for serving an answer under the Fed.R. of Civ.P.

A list of the Service Centers is provided below. No cover letter or memorandum need accompany the complaint sent to the Service Center, but it is essential that the envelope bear the notation REFUND LITIGATION CASE.

Contemporaneously with mailing a copy of the complaint to the Service Center, a telephone call should be made to the appropriate Service Center, informing the personnel there that a suit has been filed in the district court and the following information should be furnished:

- A. The name and address of the taxpayer-plaintiff;
- B. Type of tax by form number and the taxable period involved, e.g., Form 1040 for the calendar year 1970;
- C. Employer identification number or social security number, if available; and
- D. The Civil Action Number.

6-5.623 Service Centers

The Service Centers for the various states, their addresses, and their FTS telephone numbers are as follows:

Andover Service Center
 Connecticut
 Maine
 Massachusetts
 Minnesota
 New Hampshire
 New York (except N.Y.C.)
 Rhode Island
 Vermont

Mailing Address
 Internal Revenue Service Center
 310 Lowell Street
 Andover, Mass. 01812
 Attn: Ref. Lit/Stop 800
 Telephone: FTS 840-9775 or 9583

Atlanta Service Center

Alabama
 Florida
 Georgia
 Mississippi
 South Carolina

Mailing Address
 Internal Revenue Service Center
 P.O. Box 47-421
 Doraville, GA 30362
 Attn: Ron Moore/Stop 75B
 Telephone: FTS 232-2229

Austin Service Center

Arkansas
 Kansas
 Louisiana
 New Mexico
 Oklahoma
 Texas

Mailing Address
 Internal Revenue Service Center
 P.O. Box 934
 Austin, Texas 78767
 Attn: Ref. Lit/Stop 6721AUSC
 Telephone: FTS 660-8499 or 8490

Brookhaven Service Center

New Jersey
 New York City
 Long Island

Mailing Address
 Internal Revenue Service Center
 1040 Waverly Avenue
 Holtsville, N.Y. 11799
 Attn: Ref. Lit/Stop 523
 Telephone: FTS 663-6249

Cincinnati Service Center

Kentucky
 Michigan
 Ohio

Mailing Address
 Internal Revenue Service Center
 P.O. Box 267
 Covington, KY 41019
 Attn: Ref. Lit/Stop 536
 Telephone: 606-525-2446 (nonFTS)

Fresno Service Center

California
 Hawaii

Mailing Address
 Internal Revenue Service Center
 P.O. Box 12866
 Fresno, CA 93779
 Attn: Ref. Lit/Stop 5336
 Telephone: FTS 461-6257

Kansas City Service Center

Illinois
 Iowa
 Missouri
 Wisconsin

Mailing Address
 Internal Revenue Service Center
 P.O. Box 5321
 Kansas City, Mo. 64131
 Attn: Ref. Lit/Stop 57A
 Telephone: FTS 926-5626

Memphis Service Center

Indiana
 North Carolina
 Tennessee
 Virginia
 West Virginia
 West Virginia

Mailing Address
 Internal Revenue Service Center
 P.O. Box 30309
 Memphis, Tenn. 37501
 Attn: Ref. Lit/Stop 70
 Telephone: FTS 228-5104

Ogden Service Center

Alaska
 Arizona

Mailing Address
 Internal Revenue Service Center
 P.O. Box 9953

March 1, 1994

Colorado
Idaho

Ogden, Utah 84409
Attn: Refund Lit. Coordinator/Stop
6723

Montana
Nebraska
Nevada
North Dakota
Oregon
South Dakota
Utah
Washington
Wyoming

Telephone: FTS 586-7125

Philadelphia Service Center
Delaware
District of Columbia
Foreign Operations District
Guam
Maryland
Pennsylvania
Puerto Rico
Samoa
Virgin Islands

Mailing Address
Internal Revenue Service Center
P.O. Box 69
Philadelphia, PA 19020
Attn: Director/Technical Unit
Telephone: FTS 481-2170

6-5.630 Role of IRS District Counsel

Immediately after a new case is received in the Tax Division, a copy of the complaint is sent to the IRS District Counsel requesting that the Department be furnished with the administrative files and a statement of the IRS litigating position. After receiving this notice and request, the District Counsel's office requisitions and assembles all relevant files, analyzes these files for a determination and application of current IRS policies, and sends these files to the Tax Division with a letter setting forth a summary of the jurisdictional and operative facts, a statement of relevant IRS policies, and a recommendation concerning the factual or legal defenses which might be raised.

After a copy of the complaint is sent to District Counsel and receipt of the complaint has been acknowledged, the case is referred to the Chief of the cognizant Civil Trial Section.

6-5.640 Preparation and Trial of Refund Suits

After examining the complaint to ascertain the nature of the issues involved and the geographical location, the Chief of the appropriate Civil Trial Section or the Office of Special Litigation will normally assign the case to a trial attorney for preparation and trial. The trial attorney will then request the court to enter his/her appearance as a government counsel of record for the trial and disposition of the case, and by copy of the request notify opposing counsel. Thereafter, the assigned trial attorney will be responsible for the handling of the case in the trial court, including all correspondence, motions, responses, briefs, and trial of the case. For administrative and informational purposes the trial counsel shall keep the U.S. Attorney advised of the progress of the case by forwarding copies of correspondence and pleadings served on opposing counsel. When requested, the U.S. Attorney shall endeavor to provide material assistance in the trial of a case, particularly in jury cases. The U.S. Attorney shall

March 1, 1994

immediately forward to the assigned trial attorney copies of all correspondence, motions, briefs, notices, etc., which may be received and served on the U.S. Attorney, unless the forwarding communication clearly indicates service on the trial counsel.

After issue is joined, discovery and other pre-trial preparation will be done by the trial attorney during trips to the field. Close cooperation of the U.S. Attorney's Office and the trial attorneys before, during, and after these field trips is essential. Witnesses may have to be located and interviewed, facilities and a court reporter for depositions may be needed or occasional stenographic assistance may be needed.

The primary responsibility for making all arrangements necessary for preparing refund cases for trial rests with the trial attorney, but the attorney will obviously be unable to make these arrangements or prepare the case for trial without the close cooperation of the U.S. Attorney. The U.S. Attorney, on the other hand, has many pressing problems to resolve and should not have added to them burdensome or tardy requests for assistance.

If a refund suit is assigned for preparation and trial to the U.S. Attorney, the U.S. Attorney shall be responsible for the entire proceedings, including the filing of all pleadings and representations at all proceedings, and shall keep the Tax Division fully advised. The Division and the U.S. Attorney should confer with each other with respect to the position to be taken in such cases, and utilize such assistance as may be mutually agreeable between the Division and the U.S. Attorney. Notwithstanding the assignment of case responsibilities, the Division and the U.S. Attorney should cooperate in assisting each other by taking complementary steps to protect fully the interests of the United States and to assure the successful prosecution of the litigation.

6-5.641 Cooperation With the IRS

In preparing a case for trial, the attorney assigned the case continues a close liaison with the IRS. It is often necessary to request the IRS to conduct supplemental field investigations and valuation, engineering, or other necessary technical studies; make special actuarial, accounting, or tax computations; evaluate offers to settle pending cases; review offers to settle pending cases; review current policy decisions and litigating policies of the IRS; and perform other activities which may be needed to prepare a case for trial.

6-5.642 Extensions

If, on occasion, the trial attorney requires an extension of time for the filing of a brief or other submission, it is the responsibility of the trial attorney to attempt to arrange such extension with the court. If problems of distance prevent the trial attorney from doing so, the trial attorney may request the assistance of the U.S. Attorney for that purpose, advising of the nature of the problem which has arisen and asking the U.S. Attorney to request the court for additional time.

6-5.643 Trial

The Civil Trial Sections are normally responsible for the trial of refund suits. However, since the U.S. Attorney (or an Assistant U.S. Attorney) has an intimate

knowledge of the community, the court, the opposing counsel, and the jury panels, material assistance may very often be given, particularly in jury cases.

Depending upon the assistance needed and the time required, the help of the U.S. Attorney or an Assistant U.S. Attorney may be requested. As with other problems and arrangements which may arise in tax refund suits, however, it is recognized that such assistance may be arranged (or declined) not as a general rule but only as needed in particular cases, and then only as the U.S. Attorney or the Assistant U.S. Attorney may have the time. The U.S. Attorney or an Assistant U.S. Attorney should in jury cases, whenever possible, assist in selection of the jury panel.

6-5.700 PROCEDURE UPON LOWER COURT RENDERING A DECISION

6-5.710 Favorable Decisions

6-5.711 Suspension of Case

When a case is decided in favor of the government, the case is held in suspense until (1) the time for appeal has expired without notice of appeal being filed, or (2) a notice of appeal has been filed. The U.S. Attorney has the responsibility of furnishing a copy of notice of appeal or cross-appeal filed by an adverse party.

6-5.712 Case Transfer to Appellate Section

If an appeal is noticed, the case is then transferred to the Appellate Section of the Tax Division. The case is returned to the Civil Trial Section or to the Office of Special Litigation after the appeal has been decided and becomes final. If the decision of the trial court in favor of the government is affirmed, the Tax Division file is closed and the IRS files are returned to District Counsel. If the decision of the trial court is modified or the case is reversed, the attorney who tried the case will make appropriate arrangements consistent with the court's order.

6-5.720 Adverse or Partially Adverse Decisions

When a judgment or order adverse to the United States is entered which requires the United States to make a tax refund or credit, pay attorneys' fees or costs or make some other payment, the U.S. Attorney should furnish to the Civil Trial Section or the Office of Special Litigation two certified copies of each such judgment or order so that payment may be made promptly if the Solicitor General decides that an appeal will not be prosecuted or if the United States is unsuccessful on appeal.

6-5.721 Actions to be Taken

The Civil Trial Section will furnish the District Counsel with a summary of the evidence presented at trial (or a copy of the transcript when available), copies of all exhibits when practical, stipulations, pleadings, briefs, etc., and request the recommendation of the IRS as to whether an appeal should be taken. If the case was tried by an Assistant U.S. Attorney, the pertinent documentary material and a recommendation

concerning appeal should be forwarded to the Civil Trial Section or Office of Special Litigation.

The Civil Trial Section prepares its own recommendation on whether to appeal. The recommendations and files are then sent to the Appellate Section for further review and recommendation to the Solicitor General.

6-5.722 Filing of Notice of Appeal by the Government

Until the Solicitor General decides whether an appeal should be prosecuted, the U.S. Attorney is responsible for protecting the government's interest in the case by filing a timely notice of appeal and for obtaining any needed extensions for docketing the appeal. See USAM 2-2.130.

6-5.723 When the Solicitor General Approves an Appeal

If the Solicitor General decides that an appeal will be authorized, the Civil Trial Section is responsible for taking such steps as may be necessary to perfect an appeal under the rules of the particular court of appeals, and may request the assistance of the U.S. Attorney.

6-5.724 When the Solicitor General Declines to Appeal

If the Solicitor General decides that an appeal will not be prosecuted, the Tax Division advises the U.S. Attorney immediately of this decision. The case is then transferred to the Post Litigation Unit of the Tax Division for processing and prompt payment of the judgment, as set forth in USAM 6-7.200.

6-5.725 Applications for Attorneys' Fees and Litigation Expenses

Attorneys' fees and litigation expenses may be awarded against the United States in tax cases filed prior to March 1, 1983, on the authority of 28 U.S.C. § 2412(b) and (d) and on the authority of 26 U.S.C. § 7430 for cases filed on or after March 1, 1983.

When applications are filed for attorneys' fees and related expenses, copies should be forwarded to the appropriate Civil Trial Section and to District Counsel. The transmittal letter or memorandum to the Tax Division should indicate that a copy has been furnished to District Counsel.

6-5.800 MISCELLANEOUS PROBLEMS AND ARRANGEMENTS

6-5.810 Newspaper Reporters and Publicity

The U.S. Attorney is requested to furnish the Civil Trial Section or Office of Special Litigation with copies of all newspaper publicity and/or comments which, in the U.S. Attorney's judgment, may merit the Department's attention.

6-5.820 Pre-trial and Special Calendar Rules

In tax refund suits, the government is concerned with keeping to a minimum its potential liability for interest as well as with the heavy congestion which arises in

court from any delays. Therefore, the Tax Division has found it to be extremely wise in refund suits to explore the possibilities of settlement, initiate stipulations where warranted, discourage continuances, to arrange special tax calendars, and especially to resort to pre-trial proceedings under Rule 16 of the Federal Rules of Civil Procedure. By these procedures, refund suits can be greatly expedited to the overall benefit of both government and taxpayers.

The U.S. Attorney should call any pre-trial calendar rules which are applicable to the handling of tax litigation to the attention of the Tax Division.

6-5.830 Claims Court Cases

The U.S. Attorney may be requested to provide assistance on some aspects of a Claims Court case, such as locating and/or interviewing some local witnesses.

U.S. ATTORNEYS MANUAL 1988

UNITED STATES ATTORNEYS' MANUAL

DETAILED
TABLE OF CONTENTS
FOR CHAPTER 6

	<u>Page</u>
6-6.000 <u>COMPROMISES AND CONCESSIONS</u>	1
6-6.100 <u>AUTHORITY OF ATTORNEY GENERAL</u>	1
6-6.110 <u>To Compromise Cases</u>	1
6-6.120 <u>To Make Concessions</u>	1
6-6.130 <u>Redelegation of Authority to Compromise and Close Civil Claims</u> <u>(Tax Division Directive No. 95)</u>	1
6-6.140 <u>Redelegation of Authority to Release Rights of Redemption in</u> <u>Certain Cases (Tax Division Directive No. 83)</u>	4
6-6.200 NO COMPROMISE OF CIVIL LIABILITY WHEN CRIMINAL CASE PENDING.....	5
6-6.300 TAX DIVISION APPROVAL REQUIRED.....	5
6-6.400 OFFERS IN COMPROMISE.....	6
6-6.410 <u>Form of Offer in Compromise</u>	6
6-6.411 <u>General Rule</u>	6
6-6.412 <u>IRS Form 433</u>	6
6-6.420 <u>Offers Submitted to the U.S. Attorney</u>	6
6-6.421 <u>Payment of Amount Offered</u>	6
6-6.422 <u>Time for Processing Offers</u>	6
6-6.430 <u>Offers Submitted to the Division</u>	7
6-6.440 <u>Opportunity for Conference Regarding Offers</u>	7
6-6.450 <u>Settlement Negotiation</u>	7
6-6.500 <u>COMPROMISES OF GOVERNMENT CLAIMS, INCLUDING COMPROMISES BASED ON</u> <u>INABILITY TO PAY</u>	7
6-6.510 <u>Statutory Interest</u>	7
6-6.520 <u>Collateral Agreements</u>	8
6-6.530 <u>Waiver of Net Operating Losses, Etc.</u>	8
6-6.540 <u>Security for Deferred or Installment Payments</u>	8
6-6.550 <u>Tax Division Judgment Collection Manual</u>	8
6-6.600 <u>CONCESSIONS</u>	8
6-6.700 <u>CLOSING OUT CASES COMPROMISED OR CONCEDED</u>	9
6-6.710 <u>Refund Suits</u>	9
6-6.711 <u>Compromises</u>	9
6-6.712 <u>Concessions</u>	9
6-6.713 <u>Issuance of Refund Checks</u>	9
6-6.720 <u>Government Claims</u>	10
6-6.721 <u>Compromises</u>	10
6-6.722 <u>Concessions</u>	10

October 1, 1994

(1)

TITLE 6-TAX DIVISION

	<u>Page</u>
6-6.800 RELEASE OF RIGHT OF REDEMPTION	10
6-6.900 FORMS	12
6-6.901 IRS Form 433, Statement of Financial Condition and Other Information	12
6-6.902 Collateral Agreement, Future Income Individual and Future Income Corporation	20
6-6.903 DOJ Form OBD-225, Application for Release of Right of Redemption in Respect of Federal Tax Liens	3.

U.S. ATTORNEYS MANUAL 1988

6-6.000 COMPROMISES AND CONCESSIONS

6-6.100 AUTHORITY OF ATTORNEY GENERAL

6-6.110 To Compromise Cases

The Attorney General, by virtue of the authority vested in that office, has plenary power to compromise or settle any civil or criminal cases arising under the internal revenue laws after reference to the Department of Justice for prosecution or defense. Section 7122, 26 U.S.C., is supplemental to, and declaratory of, that power, and it is discussed at length in 38 Op.A.G. 98 (1934). The following excerpt from the opinion summarizes the extent of the power by saying (at 102) that it is:

[T]o be exercised with wise discretion and resorted to only to promote the Government's best interest or to prevent flagrant injustice, but that it is broad and plenary may be asserted with equal assurance, and it attaches, of course, immediately upon the receipt of a case in the Department of Justice, carrying with it both civil and criminal features, if both exist, and any other matter germane to the case which the Attorney General may find it necessary or proper to consider before he invokes the aid of the courts; nor does it end with the entry of judgment, but embraces execution . . .

6-6.120 To Make Concessions

The Attorney General "may dismiss a suit or abandon defense at any stage when in his sound professional discretion it is meet and proper to do so." 38 Op.A.G. 114, 126 (1934). This authority is wholly distinct from the power to compromise and should not be confused therewith. A compromise is based upon mutuality of consideration, whereas there is no mutuality of consideration when the Department simply dismisses or abandons defense of a suit. Such concessions in the past have sometimes been referred to, particularly in the context of refund suits, as administrative settlements.

6-6.130 Redelegation of Authority to Compromise and Close Civil Claims (Tax Division Directive No. 95)

The authority to compromise and close civil claims has been redelegated pursuant to Tax Division Directive No. 95 which reads as follows:

Section 1. The Chiefs of the Civil Trial Sections, the Claims Court Section, the Appellate Section, and the Attorney-in-Charge of the Dallas Field Office are authorized to reject offers in compromise, regardless of amount, provided that such action is not opposed by the agency or agencies involved.

Section 2. Subject to the conditions and limitations set forth in Section 8 hereof, the Chiefs of the Civil Trial Sections and the Claims Court Section are authorized to:

March 1, 1994

(A) Accept offers in compromise in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed \$200,000,

(B) Approve administrative settlements not exceeding \$100,000, exclusive of statutory interest,

(C) Approve concessions (other than by compromise) of civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed \$100,000,

(D) Accept offers in compromise in injunction or declaratory judgment suits against the United States in which the principal amount of the related liability, if any, does not exceed \$200,000, and

(E) Accept offers in compromise in all other nonmonetary cases, provided that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 3. Subject to the conditions and limitations set forth in Section 8 hereof, the Chief of the Appellate Section is authorized to:

(A) Accept offers in compromise with reference to litigating hazards of the issues on appeal in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed \$200,000,

(B) Accept offers in compromise in declaratory judgment suits against the United States in which the principal amount of the related liability, if any, does not exceed \$200,000, and

(C) Accept offers in compromise in all other nonmonetary cases which do not involve issues concerning collectibility,

provided that such action is not opposed by the agency or agencies involved or the chief of the section in which the case originated, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 4. Subject to the conditions and limitations set forth in Section 8 hereof, the Attorney-in-Charge of the Dallas Field Office is authorized to accept offers in compromise in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed \$75,000, provided that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 5. Subject to the conditions and limitations set forth in Section 8 hereof, the Chief of the Office of Review is authorized to:

March 1, 1994

(A) Accept offers in compromise in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed \$500,000,

(B) Approve administrative settlements not exceeding \$500,000, exclusive of statutory interest,

(C) Approve concessions (other than by compromise) of civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed \$500,000,

(D) Accept offers in compromise in all nonmonetary cases, and

(E) Reject offers in compromise, or disapprove administrative settlements or concessions, regardless of amount,

provided that the action is not opposed by the agency or agencies involved or the chief of the section to which the case is assigned, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 6. Subject to the conditions and limitations set forth in Section 8 hereof, each of the Deputy Assistant Attorneys General is authorized to:

(A) Accept offers in compromise of claims against the Government in all cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed \$750,000,

(B) Approve administrative settlements not exceeding \$750,000, exclusive of statutory interest,

(C) Accept offers in compromise of claims on behalf of the Government in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed \$750,000 or 10 percent of the original claim, whichever is greater,

(D) Approve concessions (other than by compromise) of civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed \$750,000,

(E) Accept offers in compromise in all nonmonetary cases, and

(F) Reject offers in compromise, or disapprove administrative settlements or concessions, regardless of amount,

provided that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 7. Subject to the conditions and limitations set forth in Section 8 hereof, United States Attorneys are authorized to:

(A) Reject offers in compromise of judgments in favor of the Government, regardless of amount,

March 1, 1994

(B) Accept offers in compromise of judgments in favor of the Government where the amount of the judgment does not exceed \$200,000, and

(C) Terminate collection activity by that office as to judgments in favor of the Government which do not exceed \$200,000 if the United States Attorney concludes that the judgment is uncollectible,

Section 8. The authority re delegated herein shall be subject to the following conditions and limitations:

(A) When, for any reason, the compromise or administrative settlement or concession of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims totalling more than the respective amounts designated in Sections 2, 3, 4, 5, 6 and 7 the case shall be forwarded for review at the appropriate level.

(B) When, because of the importance of a question of law or policy presented, the position taken by the agency or agencies or by the United States Attorney involved, or any other considerations, the person otherwise authorized herein to take final action (or the Chief of the Office of Review, in cases which have been considered by such office) is of the opinion that the proposed disposition should be reviewed at a higher level, the case shall be forwarded for such review.

(C) If the Department has previously submitted a case to the Joint Committee on Taxation leaving one or more issues unresolved, any subsequent compromise or concession in that case must be submitted to the Joint Committee, whether or not the overpayment exceeds the amount specified in Section 6405 of the Internal Revenue Code.

(D) Nothing in this Directive shall be construed as altering any provision of Subpart V of Part 0 of Title 28 of the Code of Federal Regulations requiring the submission of certain cases to the Attorney General, the Deputy Attorney General, or the Solicitor General.

(E) Authority to approve recommendations that the Government confess error, or make administrative settlements, in cases on appeal, is excepted from the foregoing re delegations.

(F) The Assistant Attorney General, at any time, may withdraw any authority delegated by this Directive as it relates to any particular case or category of cases, or to any part thereof.

* * *

6-6.140 Redelegation of Authority to Release Rights of Redemption in Certain Cases (Tax Division Directive No. 83)

The authority to release rights of redemption has been re delegated pursuant to Tax Division Directive No. 83 which reads as follows in relevant part:

March 1, 1994

Section 1. The U.S. Attorney for each district in which is located real property, which is subject to a right of redemption of the United States in respect of Federal tax liens, arising under section 2410(c) of Title 28 of the United States Code, or under State law when the United States has been joined as a party to a suit, is authorized to release the right of redemption, subject to the following limitations and conditions—

(1) This redelegation of authority relates only to real property on which is located only one single-family residence, and to all other real property having a fair market value not exceeding \$200,000. That limitation as to value or use shall not apply in those cases in which the release is requested by the Department of Veterans Affairs or any other Federal agency.

(2) The consideration paid for the release must be equal to the value of the right of redemption, or fifty dollars (\$50), whichever is greater. However, no consideration shall be required for releases issued to the Veterans Affairs or any other Federal agency.

(3) The following described documents must be placed in the U.S. Attorney's file in each case in which a release is issued—

(A) Appraisals by two disinterested and well-qualified persons. In those cases in which the applicant is a Federal agency, the appraisal of that agency may be substituted for the two appraisals generally required.

(B) Such other information and documents as the Tax Division may prescribe.

* * *

See USAM 6-6.800, *infra*, for a discussion of the release of the right of redemption arising in favor of the United States under 28 U.S.C. § 2410.

6-6.200 NO COMPROMISE OF CIVIL LIABILITY WHEN CRIMINAL CASE PENDING

It is the view of the Department, sustained by decisions of the courts, that collection of the related civil liabilities, including fraud penalties, is a matter entirely separate and apart from the criminal aspects of a case. The latter, therefore, should receive priority in disposition. No consideration will be given to settlement of the civil liability until after sentence has been imposed in the criminal case, except where the court chooses to defer sentence in order to permit the defendant an opportunity to settle the civil liability.

6-6.300 TAX DIVISION APPROVAL REQUIRED

Except as authorized in Tax Division Directive No. 95 (See USAM 6-6.130, *supra*), U.S. Attorneys should not enter into any agreement to compromise, or make any other administrative disposition of, any case under the cognizance of the Tax Division without the specific approval of the Division.

March 1, 1994

6-6.400 OFFERS IN COMPROMISE

6-6.410 Form of Offer in Compromise

6-6.411 General Rule

As a general rule, the Department does not require any printed forms to be used in connection with offers in compromise of tax cases. Ordinarily it is sufficient if the offer is in writing, is signed by the taxpayer or his/her counsel of record, is definite and unambiguous, and sets forth clearly the proposed basis of compromise. A letter from the U.S. Attorney setting forth the terms of taxpayer's offer will not suffice. The offer should be specific with respect to interest to be paid or refunded.

6-6.412 IRS Form 433

In tax cases in which the offer is based upon inability to pay, a sworn statement of assets and liabilities on IRS Form 433 should accompany the offer. These forms are available at the local offices of the IRS. IRS Forms 433-AB, 433-A, and 433-B and Justice Form OBD-500 should not be used.

6-6.420 Offers Submitted to the U.S. Attorney

Generally, upon receipt of an offer, the U.S. Attorney should forward it directly to the Tax Division, together with any appropriate comments and recommendations if it is a case in which he/she has taken an active part.

Normally, it is not necessary that amounts offered to the government accompany the offer when it is submitted. However, the offer should include a specific time when the amount due under the settlement will be paid. Generally, this should be thirty (30) days from the date of the letter accepting the offer.

As to the U.S. Attorney's authority to accept or reject offers in compromise as to certain judgments and under certain conditions, See USAM 6-6.130, *supra*, and 6-8.300.

6-6.421 Payment of Amount Offered

Payment of amounts offered shall be by certified or cashier's check, or money order, made payable to Internal Revenue Service. If a check or money order is submitted with the offer, the U.S. Attorney should hold the check or money order pending action on the offer. If the offer is accepted, the check or money order should be deposited through the direct deposit (lockbox) system pursuant to OBD Order 2110 (Jan. 31, 1984) and the Tax Division and the Internal Revenue Service Center advised. If the offer is rejected, the check or money order should be returned to the offeror.

The Tax Division should be advised immediately in the event that any check is dishonored, or any payment is not made when due.

6-6.422 Time for Processing Offers

U.S. Attorneys should make a suitable allowance of time to permit action on offers in compromise. It is the Division's policy to obtain the recommendation of the IRS District Counsel on offers in compromise of tax cases, except in cases that District

March 1, 1994

Counsel has classified as S.O.P. (Settlement Option Procedure). Moreover, additional computations and/or investigation by the IRS might be necessary before the Department will be in a position to act on the offer. An investigation is almost always necessary when settlement is based on collectibility. For all of these reasons, U.S. Attorneys should urge the proponents and the courts to allow ample time for the orderly processing of offers. The amount of time required for this purpose will vary, depending upon the nature and complexity of each case, and the amount involved. For example, settlements involving a refund or credit in excess of \$1,000,000 of income, excess profits, estate or gift tax, or certain excise taxes must be submitted to the Joint Committee on Taxation. A minimum of forty-five (45) days should be allowed even in a relatively uncomplicated matter, where no additional investigation or submission is required.

6-6.430 Offers Submitted to the Division

Frequently, compromise proposals are submitted directly to the Division. It is the Division's general practice to request the U.S. Attorney's recommendation on the offer when the U.S. Attorney has had an active part in the case, or if matters particularly within the U.S. Attorney's knowledge are involved.

During compromise negotiations and the pendency of the offer, the Division will rely upon the trial attorney to secure any additional time for the next step in the court proceedings which may be necessary in order to protect the government's interest and to permit final action by the Division on the proposal.

6-6.440 Opportunity for Conference Regarding Offers

In the event the proponent and/or proponent's counsel desires to confer with the Tax Division, they should be advised that opportunity for an informal conference in Washington, D.C., will be afforded upon timely request. The U.S. Attorney may be requested to participate in these conferences in appropriate cases.

6-6.450 Settlement Negotiations

In those cases where, after thorough study, the U.S. Attorney considers it appropriate to become involved in settlement negotiations, either alone or in conjunction with the trial attorney of the Tax Division, the U.S. Attorney should impress upon taxpayer's counsel (and also upon the court) that, except as set forth in Tax Division Directive No. 95 (see USAM 6-6.130, *supra*), offers in compromise in tax cases are subject to final action by the Attorney General or certain officials of the Department in Washington, D.C., to whom the Attorney General has specifically delegated such authority, and that the U.S. Attorney and the Tax Division trial attorney can do no more than make a recommendation.

6-6.500 COMPROMISES OF GOVERNMENT CLAIMS, INCLUDING COMPROMISES BASED ON INABILITY TO PAY

6-6.510 Statutory Interest

The amount in controversy includes statutory interest under 26 U.S.C. § 6601. Accordingly, interest should not be conceded as part of a settlement unless such

concession is justified in light of the taxpayer's inability to pay or litigating hazards (prejudgment) with respect to establishing the government's claim or the amount thereof. In any settlement based on collectibility where the government is receiving less than the total amount of its claims, plus interest, the offer should provide specifically that no part of the payment is deductible for federal income tax purposes.

6-6.520 Collateral Agreements

Generally, when there is a possibility that the taxpayer may come into some money or property (e.g., through earnings, inheritance or gifts), the settlement should include the execution of a collateral agreement providing for the payment of increasing percentages of annual income (as defined in the agreement) over a period of years. The duration of the collateral agreement and the percentages of income should be fixed on the basis of the facts and circumstances of the case. Under the terms of a future income collateral agreement, a taxpayer is obligated to pay, for each year the agreement is in force, graduated percentages, usually ranging between 20 to 50 percent, of "annual income" in excess of a threshold or floor. Sample collateral agreements relating to future income of individuals and of corporations can be found at USAM 6-6.902. Guidance concerning acceptable terms can be obtained from the Tax Division's Civil Trial Sections and Office of Review.

6-6.530 Waiver of Net Operating Losses, Etc.

If the taxpayer has any valuable tax attributes such as net operating losses, bad debt deductions, etc., and is proposing settlement based on collectibility, such tax attributes should be waived for purposes of settlement.

6-6.540 Security for Deferred or Installment Payments

Where the offer provides for deferred or installment payments, including payments pursuant to a collateral agreement, the taxpayer should agree to entry of judgment for the full amount of the government's claim. The settlement should further provide that the judgment will be marked satisfied when the taxpayer has completed his obligations under the settlement, (i.e., paying the amount due under the settlement including any amount due under a collateral agreement).

6-6.550 Tax Division Judgment Collection Manual

The Tax Division Judgment Collection Manual contains a discussion on collectibility compromises which discusses these points in greater detail.

6-6.600 CONCESSIONS

As set forth in USAM 6-6.120, *supra*, the Department may abandon defense of a taxpayer's suit for refund. Generally, such concession (sometimes referred to as an "administrative settlement") occurs when the government has no defense to the taxpayer's claim or for various reasons determines not to defend. The result of the government's abandonment of the defense is that the taxpayer obtains a refund of the

amount the taxpayer would have received had the taxpayer prevailed in the litigation. Similarly, the Department may dismiss a collection action or counterclaim in a refund suit where the defendant has a defense to the government's claim or various reasons the government determines not to pursue the claim.

6-6.700 CLOSING OUT CASES COMPROMISED OR CONCEDED

6-6.710 Refund Suits

6-6.711 Compromises

After an offer in compromise of a refund suit has been accepted by the Department, the case will be terminated by dismissal of the suit pursuant to a stipulation for dismissal. Such stipulation shall be in the following form:

It is hereby stipulated and agreed that the above-entitled action be dismissed with prejudice, each party to bear its own costs, including any possible attorneys' fees or other expenses of this litigation.

In general, it is the policy of the Tax Division not to permit the terms of a compromise to be set forth in the stipulation. The U.S. Attorney should send the Tax Division a copy of the dismissal order so that the file may be closed. It is contrary to the policy of the Department to stipulate for judgment in favor of the taxpayer when a case has been compromised, and the U.S. Attorney should never do so without prior authority from the Tax Division.

6-6.712 Concessions

After a concession of a refund suit has been approved by the Department, if taxpayer agrees, the case will be terminated by a stipulation of dismissal, each party to bear its own costs and expenses, including attorneys' fees. Otherwise, the parties will simply stipulate to entry of judgment against the United States.

6-6.713 Issuance of Refund Checks

After an offer has been accepted, or a concession has been approved, the Tax Division will authorize the IRS to issue a refund in the appropriate amount, plus statutory interest. At that time, the case will be transferred within the Tax Division to the Post-Litigation Unit for supervision of the issuance of the refund check and/or notice of credit and the dismissal of the suit or entry of judgment. See USAM 6-7.000. The IRS usually requires about sixty (60) days to effect the refund after the amount of the refund has been computed.

In cases handled by the U.S. Attorneys' offices, the refund check and/or notice of credit due under a compromise will be sent by the Tax Division to the U.S. Attorney for delivery to taxpayer's counsel only after the U.S. Attorney has received an executed stipulation of dismissal in the form set forth in USAM 6-6.711, *supra*; the refund check and/or notice of credit due under a concession will be sent by the Tax Division to the

U.S. Attorney for delivery to taxpayer's counsel, together with a stipulation of dismissal or satisfaction of judgment.

6-6.720 Government Claims

6-6.721 Compromises

After the Department's acceptance of an offer in compromise of a case handled by the U.S. Attorney, where payment to the government is required within a relatively short period of time (e.g., thirty (30) days of notification of acceptance), the U.S. Attorney will be authorized to execute a stipulation for dismissal of the case or the government's claim upon receipt of the total amount due. Such stipulation shall be in the following form:

It is hereby stipulated and agreed that the [complaint] [and] [counterclaim] [and] [third-party claim filed against _____] in the above-entitled case be dismissed with prejudice, each party to bear its respective costs, including any possible attorneys' fees or other expenses of this litigation.

In general, it is the policy of the Tax Division not to permit the terms of a compromise to be set forth in the stipulation. The U.S. Attorney should send the Tax Division a copy of the dismissal order so that the file may be closed.

When payment to the government is due beyond ninety (90) days of notification of acceptance, generally the settlement will provide for entry of judgment in the government's favor. See USAM 6-6.540, *supra*. The U.S. Attorney should send the Tax Division a copy of the judgment.

Payments due under a compromise should be made by cashier's or certified check payable to the "Internal Revenue Service." All such payments (other than those due under a collateral agreement) should be made to the U.S. Attorney and upon the U.S. Attorney's receipt should be deposited through the direct deposit (lockbox) system pursuant to OBD Order 2110 (Jan. 31, 1984) with advice of receipt of payment made to the Tax Division and the Internal Revenue Service Center. *The Tax Division should be advised immediately in the event of any default.* Payments required under a collateral agreement should be sent by the taxpayer directly to the Service Center.

6-6.722 Concessions

After approval by the Tax Division of a concession of a government claim in a case being handled by the U.S. Attorney, if the taxpayer agrees, the stipulation of dismissal will provide that each party will bear its own costs and expenses, including attorneys' fees. Otherwise, the stipulation will simply provide for dismissal of the action.

6-6.800 RELEASE OF RIGHT OF REDEMPTION

Occasionally the Department is requested to release rights of redemption arising in favor of the United States under 28 U.S.C. § 2410. As set forth in Tax Division

Directive No. 83 (see USAM 6-6.140, *supra*), the U.S. Attorney may accept an application to release a right of redemption involving (1) real property on which is located only one single-family residence, and (2) all other real property having a fair market value not exceeding \$200,000. The consideration paid for the release must be equal to the value of the right of redemption or \$50, whichever is greater. The limitations as to value or use of the property and consideration to be paid do not apply in those instances where the release is requested by the Department of Veterans Affairs or any other federal agency. Form OBD-225 is the prescribed form of application for release of right of redemption in respect of federal tax liens, copies of which can be requisitioned in the usual manner. Detailed information as to the procedure to be followed is set forth on the back of the application form.

In all instances not covered by the redelegation order, applications for release of rights of redemption should be handled in a manner similar to compromises.

Department of the Treasury - Internal Revenue Service

Form 433
(Rev. Feb. 1982)

Statement of Financial Condition and Other Information

(Please file in duplicate with offer in compromise)

Please furnish the information requested in this form with your offer in compromise, if the offer is based in whole or in part on inability to pay the liability. If you need help in preparing this statement, call on any Internal Revenue office. It is important that you answer all questions. If a question does not apply, please enter N/A. This will speed up consideration of your offer.

1a. Name(s) of Taxpayer(s)		b. Social Security Number	c. Employer Identification Number
d. Business Address		e. Bus. Tel. No.	2. Name and Address of Representative, if any
f. Home Address		g. Home Tel. No.	

3. Kind of tax involved	Taxable period	Amount due	Amount offered
a.			
b.			
c.			
d.			
e.			

4. Due and unpaid Federal taxes, (except those covered by this offer in compromise)		
Kind of tax	Taxable period	Amount due
a.		
b.		
c.		

5. Names of banks and other financial institutions you have done business with at any time during past 3 years--	
Name and address	Name and address
a.	b.
c.	d.

6. Do you rent a safety deposit box in your name or in any other name?
 No Yes (If yes, give name and address of bank)

7. If income withholding or employment tax is involved, please complete 8a through 8c

8a. Were the employees' income withholding and employment taxes, due from employees on wages they received from employment, deducted or withheld from the wages paid during any period shown above? <input type="checkbox"/> Yes <input type="checkbox"/> No	
8b. If so, was the tax paid or deposited to the Internal Revenue Service?	8c. If deducted but not paid or deposited to IRS, how did you dispose of the deducted amounts?
<input type="checkbox"/> No <input type="checkbox"/> Yes	

8. Has business in which you incurred such taxes been discontinued? No Yes

9. If so, on what date was it discontinued?

10. How did you dispose of assets of discontinued business?

7. Offer filed by individual		
a. Name of Spouse	b. Age of Spouse	c. Age of Taxpayer
d. Names of dependent children or relatives	Relationship	Age
(1)		
(2)		
(3)		
(4)		
(5)		
(6)		
(7)		

B. Statement of assets and liabilities as of _____ (date)

a. Assets		Cost*	Fair market value
(1) Cash		\$	
(2) Cash surrender value of insurance (See item 9)			
(3) Accounts receivable (See item 11)			
(4) Notes receivable (See item 11)			
(5) Merchandise inventory (See item 12)			
(6) Real estate (See item 13)			
(7) Furniture and fixtures (See item 14)			
(8) Machinery and equipment (See item 14)			
(9) Trucks and delivery equipment (See item 15)			
(10) Automobiles (See item 15)			
(11) Securities (See item 16)			
(12)			
(13)			
(14)			
(15)			
(16)			
(17)			
(18)			
(19)			
(20)			
(21)			
(22)			
(23)			
(24)			
(25)			
(26)			
(27) Total assets		\$	\$
b. Liabilities		Amount	
(1) Loans on insurance (See items 9 and 10)		\$	
(2) Accounts payable			
(3) Notes payable			
(4) Mortgages (See item 13)			
(5) Accrued real estate taxes (See item 13)			
(6) Judgments (See item 17)			
(7) Reserves (itemize)			
(8)			
(9)			
(10)			
(11)			
(12)			
(13)			
(14)			
(15)			
(16)			
(17)			
(18)			
(19)			
(20)			
(21)			
(22) Total liabilities		\$	

(*Less depreciation, if any)

9. Life insurance policies now in force with right to change beneficiary reserved

Number of Policy	Name of Company	Amount of Policy	Present Cash Surrender Value Plus Accumulated Dividends	Policy Loan	Date Made	Automatic Premium Payments*	Date Made
a.		\$	\$	\$		\$	
b.							
c.							
d.							
e.							
f.							
g.							
h.							
i.							
j.							

*Show only those made before date notice of levy was served on the insurance company.

10. Life insurance policies assigned or pledged on indebtedness

If any of the policies listed in item 9 are assigned or pledged on indebtedness, except with insurance companies, give the following information about each policy:

Number of Policy Assigned or Pledged	Name and Address of Pledgee or Assignee	Amount of Indebtedness	Date Pledged or Assigned
a.		\$	
b.			
c.			
d.			
e.			
f.			
g.			

11. Accounts and notes receivable

Name	Book Value	Liquidation Value	Amount of Indebtedness if Pledged	Date Pledged
a. Accounts Receivable				
(1)	\$	\$	\$	
(2)				
(3)				
(4)				
(5)				
(6)				
(7)				
(8)				
(9)				
(10)				
(11)				
(12) Total	\$	\$	\$	
b. Notes Receivable				
(1)	\$	\$	\$	
(2)				
(3)				
(4)				
(5)				
(6)				
(7)				
(8)				
(9)				
(10)				
(11) Total	\$	\$	\$	

UNITED STATES ATTORNEYS' MANUAL

6-6.901

12. Merchandise inventory					
Description	Cost	Fair Market Value	Liquidation Value	Amount of Indebtedness if Pledged	Date Pledged
a. Raw material	\$	\$	\$	\$	
b. Work in progress					
c. Finished goods					
d. Supplies					
e. Other (Specify)					
f. Total	\$	\$	\$	\$	

13. Real estate					
Description	Cost*	Fair Market Value	Balance Due on Mortgage	Date Mortgage Recorded	Unpaid Interest and Taxes
a.	\$	\$	\$		\$
b.					
c.					
d.					
e.					
f.					
g.					
h.					
i. Total	\$	\$	\$		\$

14. Furniture and fixtures - Machinery and equipment					
Description	Cost*	Liquidation Value	Amount of Indebtedness if Pledged	Date Pledged	
a. Furniture and fixtures (Business)	\$	\$	\$		
b. Furniture (Household-residence)					
c. Machinery (Specify kind)					
d.					
e.					
f.					
g. Equipment (Except trucks and automobiles) (Specify)					
h.					
i.					
j.					
k. Total	\$	\$	\$		

15. Trucks and automobiles					
Description	Cost*	Liquidation Value	Amount of Indebtedness if Pledged	Date Pledged	
a. Trucks	\$	\$	\$		
b.					
c.					
d.					
e.					
f.					
g. Automobiles (Personal or used in business)					
h.					
i.					
j.					
k.					
l. Total	\$	\$	\$		

Less depreciation, if any)

March 1, 1994

16. Securities (Bonds, stocks, etc.)

Name of company	Number of Units	Cost	Fair Market Value	Amount of Indebtedness If Pledged	Date Pledged
a.		\$	\$	\$	
b.					
c.					
d.					
e.					
f.					
g.					
h.					
i. Total		\$	\$	\$	

17. Judgments

Name of Creditor	Amount of Judgment	Date Received	Where Recorded
a.	\$		
b.			
c.			
d.			
e. Total	\$		

18. Statement of income - Corporation

IMPORTANT: If the offer in compromise is from a corporation, please furnish the information requested below (from income tax returns, as adjusted, for past 2 years and from records for current year from January 1 to date).

	19	19	19
a. Gross income			
(1) Gross sales or receipts (Subtract returns and allowances)	\$	\$	\$
(2) Cost of goods sold			
(3) Gross profit - trading or manufacturing			
(4) Gross profit - from other sources			
(5) Interest income			
(6) Rents and royalties			
(7) Gains and losses (From Schedule D)			
(8) Dividends			
(9) Other (Specify)			
(10) Total income	\$	\$	\$
b. Deductions			
(1) Compensation of officers	\$	\$	\$
(2) Salaries and wages (Not deducted elsewhere)			
(3) Rents			
(4) Repairs			
(5) Bad Debts			
(6) Interest			
(7) Taxes			
(8) Losses			
(9) Dividends			
(10) Depreciation and depletion			
(11) Contributions			
(12) Advertising			
(13) Other (Specify)			
(14)			
(15) Total deductions	\$	\$	\$
c. Net income (loss)	\$	\$	\$
d. Nontaxable income	\$	\$	\$
e. Unallowable deductions	\$	\$	\$

18. Salaries paid to principal officers and dividends distributed - Corporation

IMPORTANT: If the offer in compromise is from a corporation, please show salaries paid to principal officers for past 3 years and amounts distributed in dividends, if any, during and since the taxable years covered by this offer.

a. Salaries paid to (Name and Title)		19	19	19
(1)	, President	\$	\$	\$
(2)	, Vice President			
(3)	, Treasurer			
(4)	, Secretary			
(5)				
(6)				
(7) Total		\$	\$	\$

b. Year	Dividends Paid	Year	Dividends Paid	Year	Dividends Paid
(1)	\$	(8)	\$	(15)	\$
(2)		(9)		(16)	
(3)		(10)		(17)	
(4)		(11)		(18)	
(5)		(12)		(19)	
(6)		(13)			
(7)	\$	(14)	\$	(20) Total	\$

20. Statement of income - Individual

IMPORTANT: If the offer in compromise is from an individual or an estate, please furnish information requested below (from income tax returns as adjusted for past 2 years).

a. Gross income	19	19
(1) Salaries, wages, commissions	\$	\$
(2) Dividends		
(3) Interest		
(4) Income from business or profession		
(5) Partnership income		
(6) Gains or losses (From Schedule D, Form 1040)		
(7) Annuities and pensions		
(8) Rents and royalties		
(9) Income from estates and trusts		
(10)		
(11)		
(12)		
(13)		
(14)		
(15) Total income	\$	\$

b. Deductions		
(1) Contributions	\$	\$
(2) Interest paid		
(3) Taxes paid		
(4) Casualty losses (by fire, theft, etc.)		
(5) Medical expenses		
(6) Bad debts		
(7)		
(8)		
(9)		
(10)		
(11)		
(12) Total deductions	\$	\$

c. Taxable income (less)	\$	\$
d. Nontaxable income	\$	\$
e. Unallowable deductions	\$	\$

22. Disposal of assets—From the beginning of the taxable period covered by this offer in compromise to the present date, have you disposed of any assets or property with a cost or fair market value of more than \$500, except for full value at the time of sale, transfer, exchange, gift or other disposition?

No Yes (If yes, please furnish the following information)

Description of Asset	Date of Transfer	Fair Market Value When Transferred	Consideration Received	Relationship of Transferee to Taxpayer
		\$	\$	

23. Interest in or beneficiary of estate or trust — Have you any life interest or remainder interest, either vested or contingent in any trust or estate, or are you a beneficiary of any trust?

No Yes (If yes, please furnish a copy of the instrument creating the trust or estate — Also give the following information)

Name of Trust or Estate	Present Value of Assets	Value of Your Interest	Annual Income Received From This Source
	\$	\$	\$

24. Grantor, donor, trustee or fiduciary — Are you the grantor or donor of any trust, or the trustee or fiduciary for any trust?

No Yes (If yes, please furnish a copy of the instrument creating the trust. Also give present value of corpus of trust, and any other pertinent information.)

25. Any other assets or interests in assets — Have you any other assets or an interest in assets, either actual or contingent, other than those listed here (i.e., Profit-sharing plan or pension plan)?

No Yes (If yes, please describe the assets)

26a. Are foreclosure proceedings pending on any real estate which you own or have an interest in? <input type="checkbox"/> No <input type="checkbox"/> Yes	26b. If yes, please describe the nature of real estate.	26c. Was the government made a party to the suit? <input type="checkbox"/> No <input type="checkbox"/> Yes
---	---	---

27a. Are bankruptcy or receivership proceedings pending against you? <input type="checkbox"/> No <input type="checkbox"/> Yes	27b. If a corporation, is it in process of liquidation? <input type="checkbox"/> No <input type="checkbox"/> Yes
--	---

28. Is the sum offered in compromise being loaned to you? (If yes, please give name and address of lender and list collateral, if any, pledged to secure the loan.)

No Yes

29. What is the proper cause of an increase in value of assets or in present income? (Please give general statement)

30. Under penalties of perjury, I declare that I have examined the information given in this statement and, to the best of my knowledge and belief, it is true, correct, and complete, and I further declare that I have no assets, owned either directly or indirectly, or income of any nature other than as shown in this statement.

a. Date of this statement	b. Signature
---------------------------	--------------

6-6.902 Collateral Agreement, Future Income Individual and Future Income Corporation

UNITED STATES DEPARTMENT OF JUSTICE-TAX DIVISION
COLLATERAL AGREEMENT
Future Income-Individual

Name and Address of Taxpayer) Social Security and Employer
) Identification Numbers
)
)
)

To: ASSISTANT ATTORNEY GENERAL-TAX DIVISION

The taxpayer identified above has submitted a settlement offer dated _____ to compromise the following liabilities, plus statutory interest and additions. [SPECIFY TYPES OF LIABILITIES AND TAX PERIODS, INCLUDING THE NAME OF ANY CORPORATION FOR WHICH ANY 100% PENALTY WAS ASSERTED, AND DELETE THIS INSTRUCTION] _____

The purpose of this collateral agreement (hereinafter referred to as this agreement) is to provide additional consideration for acceptance of the offer referred to above. It is understood and agreed as follows:

1. In addition to any payments and other consideration under the settlement offer referred to above, the taxpayer will pay out of annual income for the years _____ to _____ inclusive-

- (a) Nothing on the first \$ _____ of annual income;
- (b) _____ percent of annual income in excess of \$ _____ and not in excess of \$ _____;
- (c) _____ percent of annual income in excess of \$ _____ and not in excess of \$ _____;
- (d) _____ percent of annual income in excess of \$ _____ and not in excess of \$ _____;
- (e) _____ percent of annual income in excess of \$ _____ and not in excess of \$ _____;
- (f) _____ percent of annual income in excess of \$ _____.

2. The term annual income, as used in this agreement, means adjusted gross income as defined in Section 62 of the Internal Revenue Code ("Code") with the modifications specified in paragraph 3 below, and with the additions and subtractions specified herein. Annual income shall include all nontaxable income (including the taxpayer's share of tax-exempt income of any partnership or S corporation, as defined in Code Section 1361) and profits or gains from any source whatsoever (including the fair market value of gifts, bequests, devises, and inheritances). Federal, state, and local income tax reportable on the taxpayer's federal, state and local income tax returns for the year for which such annual income is being computed shall be subtracted in computing annual income, provided that such tax has been reported and paid. Any monthly, annual, or other regular periodic payment

March 1, 1994

made under the terms of the underlying settlement during the year for which annual income is being computed shall be subtracted. This agreement is subject to the following rules:

- (a) If the taxpayer is a married couple, annual income shall include their combined income, except that, in the event that such married couple becomes, and thereafter remains, divorced and separated, then this agreement, as applied to the computation, reporting, and making of payments required after such divorce and separation, shall be construed as a separate agreement with each spouse (without altering any other obligations under the settlement, including this agreement).
 - (b) Annual income shall be calculated without regard to the effect of any state, community or other inter-spousal property laws.
 - (c) Where income of the taxpayer's spouse is not included but the taxpayer files a joint income tax return with the taxpayer's spouse, the federal, state, and/or local income tax to be subtracted from the taxpayer's separate income in computing the payment required hereunder shall be that portion of the joint federal, state, and/or local income tax which bears the same ratio to the whole of such tax as the amount of the federal income tax for which the taxpayer would have been liable bears to the sum of the federal income taxes for which the taxpayer and the taxpayer's spouse would have been liable had each spouse filed a separate return (ignoring state, community or other inter-spousal property laws).
3. In computing annual income under paragraph 2 above for purpose of determining the amount of the payment required under paragraph 1, the following modifications shall be made to the definition of adjusted gross income:
- (a) Losses from the sale or exchange of property shall not be allowed, and any losses from the sale or exchange of property of any partnership or S corporation in which the taxpayer holds an interest shall be excluded in computing the taxpayer's share of the entity's income or loss under Code Sections 702 and 1366(a)(1).
 - (b) The deductions under Code Section 404 for contributions on behalf of a self-employed individual and Code Section 219 for contributions to an individual retirement account shall not be allowed.
 - (c) Any deduction or exclusion for long-term capital gains shall not be allowed.
 - (d) Consistent with paragraph 10 below, carryovers or carrybacks of net operating losses incurred before or after the period covered by this agreement shall not be allowed. Further, any net operating loss for any year during the period covered by this agreement shall be carried forward and only to the immediately succeeding year.
4. In the event closely held corporations (other than S corporations as defined in Code Section 1361) are directly or indirectly controlled or owned by the taxpayer during the existence of this agreement, the computation of annual income shall include the taxpayer's proportionate share of the total corporate annual income in excess of \$10,000, to the extent such sum is greater than any dividends actually

received from such corporation during the applicable year (and thus included under paragraph 2 above). The term corporate annual income, as used in this agreement, means the taxable income of the corporation with the following additions, subtractions, and modifications. All nontaxable income of the corporation shall be added. Federal, state, and local income tax paid by the corporation for the year for which annual income is being computed shall be subtracted. The corporation's special deductions (Code Sections 241 through 250) shall not be allowed. The corporation's losses from sales or exchanges of property shall not be allowed. Carryovers or carrybacks of net operating losses incurred before or after the period covered by this agreement shall not be allowed, and any net operating loss for any year during the period covered by this agreement shall be carried forward and only to the immediately succeeding year.

5. The annual payments provided for in this agreement (including interest pursuant to Code Sections 6621(a)(2) and 6622(a) on any delinquent payment computed from the due date of such payment) shall be paid to the Internal Revenue Service, without notice, on or before the 15th day of the 4th month following the close of the calendar or fiscal year, except that the taxpayer will not be considered in default of this agreement if the payment, with interest, is made on such later date as may be allowed to the taxpayer to file a federal income tax return for such year; such payments to be accompanied by a sworn statement (in the form attached to this agreement) and copies of the taxpayer's federal, state, and any local income tax returns. The statement shall refer to this agreement and show the computation of annual income in accordance with paragraphs 2, 3, and 4 of this agreement, and the further computation of the amount being paid in accordance with paragraph 1 of this agreement. If the taxpayer's spouse's income is not included under this agreement but the taxpayer files a joint income tax return with such spouse, the taxpayer shall also supply hypothetical (unsigned) Forms 1040 as they would be completed for the taxpayer and the taxpayer's spouse as if they had filed as married filing separate returns, or otherwise supply equivalent information sufficient to support the computation made under paragraph 2(c) above. If the annual income for any year covered by this agreement is insufficient to require a payment under its terms, the taxpayer shall still furnish the Internal Revenue Service a sworn statement of such income and copies of the taxpayer's federal, state, and any local income tax returns. All books, records, and accounts shall be open at all reasonable times for inspection by the Internal Revenue Service and the United States Department of Justice to verify the annual income shown in the statement. The taxpayer further hereby consents to the disclosure of information required to be provided hereunder for the purpose of administering this agreement. The annual payments (if any), the sworn statements, and copies of the applicable income tax returns shall be transmitted to:

Internal Revenue Service
Special Procedures Function

In the event that the taxpayer's adjusted gross income for any year covered by this agreement is thereafter increased on any amended income tax return, the

March 1, 1994

taxpayer shall recompute the annual payment required under this agreement for such year and send any portion that was not paid, together with interest at the rates referred to above, to the office indicated above, along with a copy of such amended return and a revised sworn statement (in the form attached hereto). If the taxpayer's adjusted gross income for any year covered by this agreement is proposed by the Internal Revenue Service to be increased as the result of any audit or examination, the taxpayer shall immediately advise the office specified above of a potential need to recompute the payment that was due under this agreement for such year, shall pay any additional amount that the taxpayer agrees was due hereunder (with interest at the rates referred to above), and shall remain liable for any additional amount determined to be due by a court of competent jurisdiction.

6. The aggregate amount paid under the terms of the settlement (including this agreement) shall not exceed an amount equivalent to the liability sought to be compromised plus statutory additions and interest that would have become due in the absence of the settlement.
7. Payments made under the terms of the settlement (including this agreement) may be applied, as among the various periods covered and as among tax, penalty, and/or interest for each period, in such order as the Internal Revenue Service, in its sole discretion, deems to be in its best interests, and may be reapplied among the same to the extent deemed appropriate by the Internal Revenue Service.
8. Upon the United States' acceptance of the settlement offer (including this agreement), the taxpayer shall have no right to contest in court or otherwise the amount of the liability sought to be compromised and, in the event that the amount of such liability becomes the subject of any court proceeding, the taxpayer agrees to the immediate entry of judgment, if appropriate, for the full unpaid balance of such liability (unless a judgment for a lesser amount has already been entered pursuant to the settlement). It is understood and agreed that the taxpayer's full performance under the settlement (including this agreement), without impairment of any security interest of the United States prior to such full performance and without any unjustified preferential treatment of any other creditor, is a condition precedent to any forgiveness of the balance of liability sought to be compromised as provided in the settlement, and that default shall not be excused on grounds of any inability of the taxpayer to comply with any term of the settlement (including this agreement) resulting from any cause or circumstance whatsoever, including the taxpayer becoming the subject of a proceeding under the Bankruptcy Code. Therefore, the following is also agreed:
 - (a) In the event of default in payment of any installment of principal or interest due under the terms of the settlement (including this agreement) or in the event any other provision of this agreement is not carried out in accordance with its terms, or in the event the taxpayer becomes the subject of any proceeding whereby the affairs of the taxpayer are placed under the control of another person or under the control and jurisdiction of a court other than in a case under the Bankruptcy Code, the United States, at its sole option, may—

March 1, 1994

- (1) proceed immediately (by suit if necessary) to collect the entire unpaid balance of the amount due under the settlement (including this agreement); or
 - (2) proceed immediately (by suit if necessary) to collect the full unpaid balance of the liability sought to be compromised (including the entry of a judgment, if one has not been entered), with statutory additions and interest pursuant to Code Sections 6621(a)(2) and 6622(a); or
 - (3) disregard the settlement (including this agreement) and apply all amounts previously paid thereunder against the amount of the liability sought to be compromised and, without further notice of any kind, assess (if not yet assessed) and collect, by levy or by proceedings supplemental to judgment or by separate suit (any restrictions against assessment and collection being waived), the balance of such liability with statutory additions and interest pursuant to Code Sections 6621(a)(2) and 6622(a).
- (b) In the event that the taxpayer becomes the subject of a proceeding under the Bankruptcy Code, any claim filed with the court with respect to the liability that is the subject of this agreement may be allowed in the amount of the full unpaid balance of the liability sought to be compromised (unless theretofore otherwise fixed by judgment), and the United States shall have the right to terminate the settlement (including this agreement) and seek to enforce such claim in accordance with the Bankruptcy Code, unless the following conditions are met for assumption or reinstatement of the settlement (with the approval of the court as necessary):
- (1) the taxpayer must promptly cure any payment default (with interest, including post-petition interest, pursuant to Code Sections 6621(a)(2) and 6622);
 - (2) the taxpayer must demonstrate adequate assurance of future performance without deferral or delay both during the bankruptcy proceeding and after confirmation of a plan or other termination of the proceeding, and without impairment of any security interest of the United States arising by virtue of any tax lien; and
 - (3) no creditor with a claim of lower distribution priority may receive more than it would if the United States terminated this agreement and sought enforcement of the full amount of its tax claim in accordance with the Bankruptcy Code.

Further, the taxpayer agrees to provide notice to the appropriate Internal Revenue Service office and also to the Department of Justice, Tax Division, if the taxpayer becomes the subject of any proceeding under the Bankruptcy Code, making reference in such notice to the settlement (including this agreement), and the taxpayer agrees that, unless both such notices are provided, the United States may be deemed not to have notice of the bankruptcy.

9. The taxpayer waives the benefit of any statute of limitations applicable to the assessment and/or collection of the liability sought to be compromised, and agrees to the suspension of the running of the statutory period of limitations on

March 1, 1994

assessment and collection for the period during which the settlement offer (including this agreement) is pending or the period during which any installment or payment under the settlement (including this agreement) remains unpaid or any provision of this agreement is not carried out in accordance with its terms, and for one year thereafter.

10. Any net operating losses or capital losses sustained for years ending before the date on which the settlement offer (including this agreement) is accepted, and any unused credits from any such years, are waived and shall not be claimed as loss carryovers or credit carryovers in computing federal income taxes for the year in which the settlement offer (including this agreement) is accepted or any subsequent year and, accordingly, shall not be reported on any such federal income tax return. If this agreement is submitted by the taxpayer in the second half of the current tax year, then this paragraph shall also extend to any net operating loss, capital loss, or unused credit from the current tax year.
11. Any overpayment of any federal tax liability (income, excise, employment, or otherwise) made by the taxpayer with respect to any tax period ended before the date on which the settlement offer (including this agreement) is accepted, to the extent claimed as an overpayment within the applicable period of limitations, shall be applied to the tax liabilities sought to be compromised under the settlement offer (including this agreement).
12. All federal taxes due and owing with respect to any tax period ending while any other provision of this agreement is still in effect will be timely reported and paid in accordance with the provisions of the Code (and the failure of the taxpayer to do so shall constitute noncompliance entitling the United States to take any of the actions described in paragraph 8 above).
13. The taxpayer understands that the settlement offer (including this agreement) is evaluated on the premise that any financial information provided by the taxpayer or other information bearing on the collectibility of the liability sought to be compromised is fully truthful and accurate. Upon the discovery that any information supplied to the Internal Revenue Service or the Department of Justice in such regard contains a material misstatement of fact or a material omission, the United States may take any of the actions described in paragraph 8 above.
14. The taxpayer shall not attempt or otherwise take any action the effect of which would be to lessen the amount of income coming within the definition of annual income subject to this agreement by causing the taxpayer's assets, or income attributable to the taxpayer's assets or services, to be transferred to or realized by a family member or other nominee of the taxpayer (and a breach of this provision shall entitle the United States to take any of the actions described in paragraph 8 of this agreement).
15. In the event that any paragraph of this agreement or any provision within any paragraph of this agreement is declared invalid or unenforceable, the other provisions of such paragraph and the other paragraphs of this agreement and the terms of the underlying settlement shall remain in full force and effect.

March 1, 1994

This agreement shall be of no force or effect unless the underlying settlement offer is accepted.

 Signature of taxpayer) Date
)
)
)

 (Second signature if taxpayer is a married couple)) Date
)
)
)

UNITED STATES DEPARTMENT OF JUSTICE-TAX DIVISION
 COLLATERAL AGREEMENT
 Future Income-Corporation

 Name and Address of Taxpayer) Employer Identification Number
)
)
)
)

To: ASSISTANT ATTORNEY GENERAL-TAX DIVISION

The taxpayer identified above ("the taxpayer" or "the corporation") has submitted a settlement offer dated _____ to compromise the following liabilities, plus statutory interest and additions: [SPECIFY TYPE OF LIABILITIES AND TAX PERIODS, INCLUDING NAME OF ANY OTHER CORPORATION FOR WHICH A 100% PENALTY WAS ASSERTED, AND DELETE THIS INSTRUCTION] _____

The purpose of this collateral agreement (hereinafter referred to as this agreement) is to provide additional consideration for acceptance of the offer referred to above. It is understood and agreed as follows:

1. In addition to any payments and other consideration under the settlement offer referred to above, the taxpayer will pay out of annual income for the fiscal years ending _____ to _____ inclusive-
 - (a) Nothing on the first \$ _____ of annual income;
 - (b) _____ percent of annual income in excess of \$ _____ and not in excess of \$ _____;
 - (c) _____ percent of annual income in excess of \$ _____ and not in excess of \$ _____;
 - (d) _____ percent of annual income in excess of \$ _____ and not in excess of \$ _____;
 - (e) _____ percent of annual income in excess of \$ _____ and not in excess of \$ _____;
 - (f) _____ percent of annual income in excess of \$ _____.

2. The term annual income, as used in this agreement, means the corporation's taxable income as defined in Section 63 of the Internal Revenue Code ("Code") with the following additions, subtractions, and modifications:

March 1, 1994

- (a) All tax-exempt, excludable, or other nontaxable income of the corporation shall be added.
 - (b) Federal, state, and local income tax reportable on the corporation's federal, state, and local income tax returns for the year for which annual income is being computed shall be subtracted, provided that such tax has been reported and paid.
 - (c) Any monthly, annual, or other regular periodic payment made under the terms of the underlying settlement during the year for which annual income is being computed shall be subtracted.
 - (d) The corporation's special deductions (dividends received and other deductions under Code Sections 241 through 250) shall not be allowed.
 - (e) The corporation's losses from sales or exchanges of property shall not be allowed.
 - (f) Consistent with paragraph 9 below, carryovers or carrybacks of net operating losses incurred before or after the period covered by this agreement shall not be allowed. Further, any net operating loss for any year during the period covered by this agreement shall be carried forward and only to reduce annual income for the immediately succeeding year.
3. The annual income subject to this agreement shall include the income of all subsidiaries and affiliates of the taxpayer which file a subsidiaries and affiliates of the taxpayer which file a consolidated federal income tax return therewith and, in the event the taxpayer owns or controls, directly or indirectly, a majority of the stock of any other corporation with which it does not file a consolidated return, the computation of annual income shall include the taxpayer's proportionate share of such other corporation's annual income in excess of \$10,000 to the extent such sum is greater than any dividends actually received from such other corporation during the applicable year (and thus included under paragraph 2 above). The annual income of any other corporation covered by this paragraph shall be computed in the same manner as the annual income of the taxpayer under paragraph 2 above.
4. The annual payments provided for in this agreement (including interest pursuant to Code Sections 6621(a)(2) and 6622(a) on any delinquent payment computed from the due date of such payment) shall be paid to the Internal Revenue Service, without notice, on or before the 15th day of the 3rd month following the close of the calendar or fiscal year, except that the taxpayer will not be considered in default of this agreement if the payment, with interest, is made on such later date as may be allowed to the taxpayer to file its federal income tax return for such year; such payments to be accompanied by a sworn statement (in the form attached to this agreement) and copies of the taxpayer's federal, state, and any local income tax returns. The statement shall refer to this agreement and show the computation of annual income in accordance with paragraphs 2 and 3 of this agreement, and the further computation of the amount being paid in accordance with paragraph 1 of this agreement. If the annual income for any year covered by this agreement is

insufficient to require a payment under its terms, the taxpayer shall still furnish the Internal Revenue Service a sworn statement of such income and a copy of the taxpayer's federal, state, and any local income tax returns. All books, records, and accounts shall be open at all reasonable times for inspection by the Internal Revenue Service and the United States Department of Justice to verify the annual income shown in the statement. The taxpayer further hereby consents to the disclosure of information required to be provided hereunder for the purpose of administering this agreement. The annual payments (if any), the sworn statements, and copies of the applicable income tax returns shall be transmitted to:

Internal Revenue Service
Special Procedures Function

In the event that the taxpayer's taxable income for any year covered by this agreement is thereafter increased on any amended income tax return, the taxpayer shall recompute the annual payment required under this agreement for such year and send any portion that was not paid, together with interest at the rates referred to above, to the office indicated above, along with a copy of such amended return and a revised sworn statement (in the form attached hereto). If the taxpayer's taxable income for any year covered by this agreement is proposed by the Internal Revenue Service to be increased as the result of any audit or examination, the taxpayer shall immediately advise the office specified above of a potential need to recompute the payment that was due under this agreement for such year, shall pay any additional amount that the taxpayer agrees was due hereunder (with interest at the rates referred to above), and shall remain liable for any additional amount determined to be due by a court of competent jurisdiction.

5. The aggregate amount paid under the terms of the settlement (including this agreement) shall not exceed an amount equivalent to the liability sought to be compromised plus statutory additions and interest that would have become due in the absence of the settlement.
6. Payments made under the terms of the settlement (including this agreement) may be applied, as among the various periods covered and as among tax, penalty, and/or interest for each period, in such order as the Internal Revenue Service, in its sole discretion, deems to be in its best interests, and may be reapplied among the same to the extent deemed appropriate by the Internal Revenue Service.
7. Upon the United States' acceptance of the settlement offer (including this agreement), the taxpayer shall have no right to contest in court or otherwise the amount of the liability sought to be compromised and, in the event that the amount of such liability becomes the subject of any court proceeding, the taxpayer agrees to the immediate entry of judgment, if appropriate, for the full unpaid balance of such liability (unless a judgment for a lesser amount has already been entered pursuant to the settlement). It is understood and agreed that the taxpayer's full performance under the settlement (including this agreement), without impairment of

March 1, 1994

any security interest of the United States prior to such full performance and without any unjustified preferential treatment of any other creditor, is a condition precedent to any forgiveness of the balance of liability sought to be compromised as provided in the settlement, and that default shall not be excused on grounds of any inability of the taxpayer to comply with any term of the settlement (including this agreement) resulting from any cause or circumstance whatsoever, including the taxpayer becoming the subject of a proceeding under the Bankruptcy Code. Therefore, the following is also agreed:

- (a) In the event of default in payment of any installment of principal or interest due under the terms of the settlement (including this agreement) or in the event any other provision of this agreement is not carried out in accordance with its terms, or in the event the taxpayer becomes the subject of any proceeding whereby the taxpayer's affairs are placed under the control of another party or under the control and jurisdiction of a court other than in a case under the Bankruptcy Code, the United States, at its sole option, may—
- (1) proceed immediately (by suit if necessary) to collect the entire unpaid balance of the amount due under the settlement (including this agreement); or
 - (2) proceed immediately (by suit if necessary) to collect the full unpaid balance of the liability sought to be compromised (including the entry of a judgment, if one has not been entered), with statutory additions and interest pursuant to Code Sections 6621(a)(2) and 6622(a); or
 - (3) disregard the settlement (including this agreement) and apply all amounts previously paid thereunder against the amount of the liability sought to be compromised and, without further notice of any kind, assess (if not yet assessed) and collect, by levy or by proceedings supplemental to judgment or by separate suit (any restrictions against assessment and collection being waived), the balance of such liability with statutory additions and interest pursuant to Code Sections 6621(a)(2) and 6622(a).
- (b) In the event that the taxpayer becomes the subject of a proceeding under the Bankruptcy Code, any claim filed with the court with respect to the liability that is the subject of this agreement may be allowed in the amount of the full unpaid balance of the liability sought to be compromised (unless theretofore otherwise fixed by judgment), and the United States shall have the right to terminate the settlement (including this agreement) and seek to enforce such claim in accordance with the Bankruptcy Code, unless the following conditions are met for assumption or reinstatement of the settlement (with the approval of the court as necessary):
- (1) the taxpayer must promptly cure any payment default (with interest, including post-petition interest, pursuant to Code Sections 6621(a)(2) and 6622);
 - (2) the taxpayer must demonstrate adequate assurance of future performance without deferral or delay both during the bankruptcy proceeding and after confirmation of a plan or other termination of the proceeding, and without

impairment of any security interest of the United States arising by virtue of any tax lien; and

- (3) no creditor with a claim of lower distribution priority may receive more than it would if the United States terminated this agreement and sought enforcement of the full amount of its tax claim in accordance with the Bankruptcy Code.

Further, the taxpayer agrees to provide notice to the appropriate Internal Revenue Service office and also to the Department of Justice, Tax Division, if its becoming the subject of any proceeding under the Bankruptcy Code, making reference in such notice to the settlement (including this agreement), and agrees that, unless both such notices are provided, the United States may be deemed not to have notice of the bankruptcy.

8. The taxpayer waives the benefit of any statute of limitations applicable to the assessment and/or collection of the liability sought to be compromised, and agrees to the suspension of the running of the statutory period of limitations on assessment and collection for the period during which the settlement offer (including this agreement) is pending or the period during which any installment or payment under the settlement (including this agreement) remains unpaid or any provision of this agreement is not carried out in accordance with its terms, and for one year thereafter.
9. Any net operating losses or capital losses sustained for tax years ending before the date on which the settlement offer (including this agreement) is accepted, and any unused credits from any such years, are waived and shall not be claimed as loss carryovers or credit carryovers in computing federal income taxes for the tax year in which the settlement offer (including this agreement) is accepted or any subsequent year and, accordingly, shall not be reported on any such federal income tax return. If this agreement is submitted by the taxpayer in the second half of the current tax year, then this paragraph shall also extend to any net operating loss, capital loss, or unused credit from the current tax year.
10. Any overpayment of any federal tax liability (income, excise, employment, or otherwise) made by the taxpayer with respect to any tax period ended before the date on which the settlement offer (including this agreement) is accepted, to the extent claimed as an overpayment within the applicable period of limitations, shall be applied to the tax liabilities sought to be compromised under the settlement offer (including this agreement).
11. All federal taxes due and owing with respect to any tax period ending while any other provision of this agreement is still in effect will be timely reported and paid in accordance with the provisions of the Code (and the failure of the taxpayer to do so shall constitute noncompliance entitling the United States to take any of the actions described in paragraph 7 above).
12. The taxpayer understands that the settlement offer (including this agreement) is evaluated on the premise that any financial information provided by the taxpayer or other information bearing on the collectibility of the liability sought to be

March 1, 1994

compromised is fully truthful and accurate. Upon the discovery that any information supplied to the Internal Revenue Service or the Department of Justice in such regard contains a material misstatement of fact or a material omission, the United States may take any of the actions described in paragraph 7 above.

13. The taxpayer shall not attempt or otherwise take any action the effect of which would be to lessen the amount of income coming within the definition of annual income subject to this agreement by causing the taxpayer's assets, or income attributable to the taxpayer's assets, services, or production to be transferred to or realized by an affiliate, shareholder, or other nominee of the taxpayer, and a breach of this provision shall entitle the United States to take any of the actions described in paragraph 7 of this agreement).

14. In the event that any paragraph of this agreement or any provision within any paragraph of this agreement is declared invalid or unenforceable, the other provisions of such paragraph and the other paragraphs of this agreement and the terms of the underlying settlement shall remain in full force and effect.

This agreement shall be of no force or effect unless the underlying settlement offer is accepted.

Name of Corporation) Signature and Title of Officer) Date
))
))
))

6-6.903 DOJ FORM OBD-225, Application for Release of Right of Redemption in Respect of Federal Tax Liens

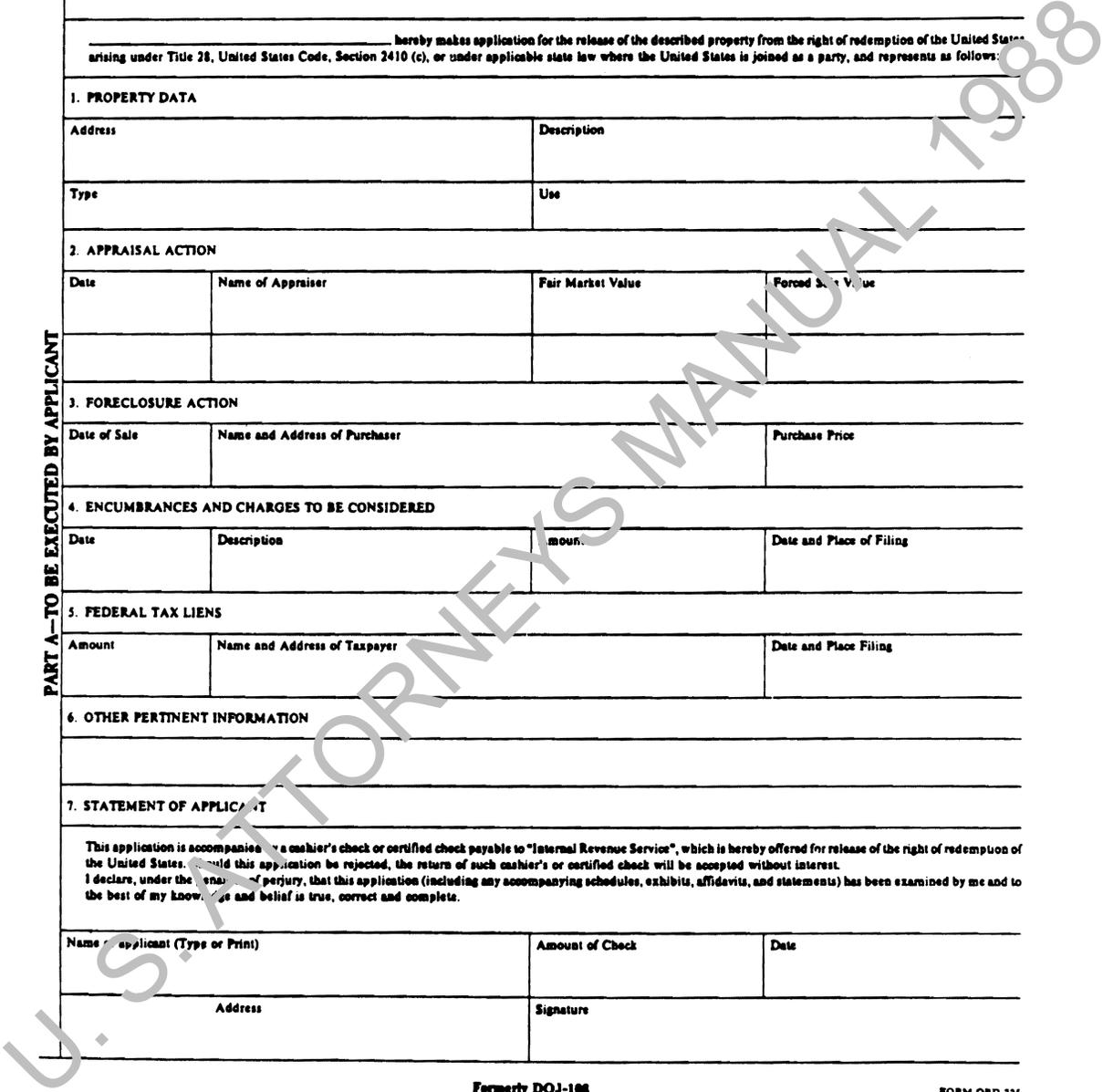
U.S. Department of Justice

Application for Release of Right of Redemption in Respect of Federal Tax Liens

(See instructions on reverse)

Title of Case (Give exact and complete data)			
_____ hereby makes application for the release of the described property from the right of redemption of the United States arising under Title 28, United States Code, Section 2410 (c), or under applicable state law where the United States is joined as a party, and represents as follows:			
1. PROPERTY DATA			
Address		Description	
Type		Use	
2. APPRAISAL ACTION			
Date	Name of Appraiser	Fair Market Value	Forced Sale Value
3. FORECLOSURE ACTION			
Date of Sale	Name and Address of Purchaser	Purchase Price	
4. ENCUMBRANCES AND CHARGES TO BE CONSIDERED			
Date	Description	Amount	Date and Place of Filing
5. FEDERAL TAX LIENS			
Amount	Name and Address of Taxpayer	Date and Place Filing	
6. OTHER PERTINENT INFORMATION			
7. STATEMENT OF APPLICANT			
<p>This application is accompanied by a cashier's check or certified check payable to "Internal Revenue Service", which is hereby offered for release of the right of redemption of the United States. Should this application be rejected, the return of such cashier's or certified check will be accepted without interest.</p> <p>I declare, under the penalty of perjury, that this application (including any accompanying schedules, exhibits, affidavits, and statements) has been examined by me and to the best of my knowledge and belief is true, correct and complete.</p>			
Name of Applicant (Type or Print)		Amount of Check	Date
Address		Signature	

PART A - TO BE EXECUTED BY APPLICANT



Formerly DOJ-106

FORM OBD-225
SEP. 82
(E4431)

March 1, 1994

PART B—FOR GOVERNMENT USE	Release Recommended <input type="checkbox"/> Yes <input type="checkbox"/> No		Reasons for recommending rejection, if any.		
	Date		Signature (District Director, Internal Revenue Service)		
	Release Recommended <input type="checkbox"/> Yes <input type="checkbox"/> No		Reasons for recommending rejection, if any.		
	Date		Signature (Regional Counsel, Internal Revenue Service)		
	Release Recommended <input type="checkbox"/> Yes <input type="checkbox"/> No		D. J. File Number	CMN	Signature of United States Attorney
	FOR USE OF OFFICIAL AUTHORIZED TO TAKE FINAL ACTION: Application is <input type="checkbox"/> Accepted <input type="checkbox"/> Rejected		Date	Signature of Appropriate Official	

Instructions Regarding Applications for Releases of Rights of Redemption

PART A—To be executed by applicant

The application on obverse side of this sheet is to be completed in applying for any release of right of redemption of United States in respect of federal tax liens arising under 28 U.S.C. Section 2410(c), or under state law when the United States is joined as a party. In making application for such release applicant must complete obverse side hereof and submit original and three (3) copies to the United States Attorney for the district in which property subject to right is located in accordance with the following instructions:

- Property Data**—State address and legal description of property as it appears in the foreclosure or quiet title complaint. Attach additional sheets if necessary. Indicate type and use of property. As to type, indicate whether it is commercial or residential; as to use, indicate whether it is personal residence, rental property, etc.
- Appraisal Action**—State fair market value and forced sale value as of current date as established by written appraisals of two (2) disinterested persons qualified to render appraisals. Written appraisals in triplicate must accompany application, together with brief statement setting forth each appraiser's qualifications. Veterans' Administration or any other Federal Agency may submit its own appraised value in lieu of two written appraisals.
- Foreclosure Information**—Give date of foreclosure sale, name and address of purchaser, and purchase price. Attach copy of decree of foreclosure or other judicial proceeding.
- Encumbrances and Charges to be Considered**—List all encumbrances and charges which applicant requests be taken into consideration in valuing the right of redemption, in order of priority, together with sufficient information to establish or identify such priority. Attach additional sheets if necessary in supplying the information requested.
- Federal Tax Liens**—List applicable notices of federal tax liens in chronological order, using additional sheets if necessary to supply the information requested.
- Other Pertinent Information**—List any other information which, in the opinion of the applicant, might have a bearing upon the determination to be made.
- This applicant must be accompanied by a cashier's or certified check payable to the "Internal Revenue Service" in an amount equal to the value of the right of redemption of the United States as best estimated by the applicant based on the information contained in this application, but in no event can the consideration offered for the release be less than \$50.00 (except in the case of applications by agencies of the United States Government). The remittance shall be retained by the United States Attorney, and should this application be rejected such cashier's or certified check will be returned without interest.

PART B—For Government Use

The United States Attorney will forward original and three copies of application together with one set of the appraisals to District Director of Internal Revenue for his verification and recommendation. The Internal Revenue Service will return the original application to the United States Attorney who must satisfy himself that amount offered is at least equal to the value of right of redemption of the United States. He may take into consideration his own experience and familiarity with this or similar property in the area. Also, he may take into consideration forced sale value when it bears systematic relationship to fair market value. United States Attorney upon satisfying himself that acceptance of application is in best interest of the United States and with concurrence of Internal Revenue Service is authorized to accept any application to release right involving (1) real property on which is located a single-family residence, (2) all other property having fair market value not in excess of \$60,000, and (3) any application of Veterans' Administration or any other Federal Agency. If the United States Attorney concludes that acceptance of any application is not in best interest of the United States, he is authorized to reject such application. When the United States Attorney takes final action, a completed copy of the application should be sent to the Tax Division, U.S. Department of Justice. When the United States Attorney is not authorized to take final action, the original application and all appraisals and schedules which he has should be sent to the Tax Division.

[E4432]

UNITED STATES ATTORNEYS' MANUAL

DETAILED
TABLE OF CONTENTS
FOR CHAPTER 7

	<u>Page</u>
6-7.000 <u>POST-LITIGATION UNIT</u>	1
6-7.100 DUTIES OF POST-LITIGATION UNIT.....	1
6-7.200 DELIVERY OF REFUND CHECKS.....	1

U.S. ATTORNEYS MANUAL 1988

6-7.000 POST-LITIGATION UNIT

6-7.100 DUTIES OF POST-LITIGATION UNIT

After a compromise or concession has been approved by the Department, or a final adverse judgment has been entered, where a refund or payment of costs or attorneys' fees is due to the taxpayer, the Post-Litigation Unit of the Administrative Section is responsible for seeing that the refund check, notice of credit or other check is timely issued and that the case is closed at the appropriate time.

6-7.200 DELIVERY OF REFUND CHECKS

In cases handled by the U.S. Attorney, the Post-Litigation Unit will forward the refund check and/or notice of credit, together with a notice of adjustment, Form 1331-B, to the U.S. Attorney for delivery to taxpayer's counsel of record. See USAM 6-6.713. Checks for costs, fees, and expenses payable from the judgment fund, 31 U.S.C. § 1304, will be mailed by the General Accounting Office directly to taxpayer's counsel. If there is a disagreement as to the amount of any check, the U.S. Attorney should immediately advise the Tax Division. The U.S. Attorney may be instructed to tender a check to counsel of record unconditionally, so as to stop the running of interest. Acceptance of a refund check will not prejudice the taxpayer's right to claim any additional amount. See 26 U.S.C. § 6611(b)(2).

UNITED STATES ATTORNEYS' MANUAL

DETAILED
TABLE OF CONTENTS
FOR CHAPTER 8

	<u>Page</u>
6-8.000 <u>POST-JUDGMENT COLLECTION MATTERS</u>	1
6-8.100 RESPONSIBILITY OF THE TAX DIVISION	1
6-8.200 RESPONSIBILITY OF THE U.S. ATTORNEY	1
6-8.300 COMPROMISE AUTHORITY OF U.S. ATTORNEYS	2
6-8.400 DIFFERENCES BETWEEN TAX JUDGMENTS AND OTHER CIVIL JUDGMENTS	2
6-8.410 <u>Ability of IRS to Collect Administratively</u>	3
6-8.420 <u>Inapplicability of State Exemption Statutes as to Tax Judgments</u>	3
6-8.430 <u>Effect of a Tax Lien</u>	3
6-8.440 <u>Bankruptcy Provisions as to Priority and Dischargeability Which Differ from Provisions Applicable to Other Government Claims</u>	3
6-8.450 <u>Post-Judgment Interest Rate Under 28 U.S.C. § 1961</u>	3
6-8.460 <u>Availability of IRS Personnel to Perform Collection Investigations</u>	4
6-8.470 <u>Availability of Tax Returns and Tax Return Information</u>	4

6-8.000 POST-JUDGMENT COLLECTION MATTERS

If the federal system of self-assessment taxation is to function properly, individuals must have confidence in the government's fair and consistent application of the internal revenue laws. This fairness and consistency extends to the actual collection of taxpayers' legally established monetary obligations to the United States.

Once a judgment is obtained, the sooner collection activity begins, the more likely it is that it may be collected in full. The greater the delay, the greater the likelihood that assets previously available for collection will be dissipated or disappear. Accordingly, every effort must be made to effect collection as quickly as may be feasible.

There are substantial differences between the collection of tax judgments and collection of other civil judgments, and these differences must be kept in mind. These differences are set forth in USAM 6.8.400, *infra*.

In view of the importance of the collection function, the Tax Division prepared a Manual Judgment Collection to serve as a guide for collection activity. One copy of the manual has been distributed to each U.S. Attorney's Office.

6-8.100 RESPONSIBILITY OF THE TAX DIVISION

Money judgments are entered in favor of the United States either in suits originating as a collection matter or on counterclaims in refund suits. After entry of judgment, the Civil Trial Section has the initial responsibility to pursue collection of the judgment promptly and vigorously.

As set forth in the Tax Division Directive No. 93, for approximately a nine-month period after a judgment has been entered, the trial attorney will follow the collection steps outlined in the Tax Division Judgment Collection Manual. During this period of initial collection activity, the Tax Division will have the primary responsibility for collecting the judgment. The Tax Division, however, may request the assistance of the U.S. Attorney (e.g., to register (record, docket, or index) the judgment).

After the initial collection activity has been completed or, if later, when all pending litigation in the case has been terminated, the Tax Division will close its file on the case and refer the judgment to the IRS or to the U.S. Attorney for further collection efforts. If, however, it should subsequently appear that litigation is necessary to effect collection of the judgment, the Tax Division may elect to conduct the litigation.

6-8.200 RESPONSIBILITY OF THE U.S. ATTORNEY

Under Tax Division Directive No. 95 (see USAM 6-6.130), it is important to distinguish between two categories of cases:

- A. Cases formally referred to the U.S. Attorneys' offices; and

March 1, 1994

B. Cases as to which the U.S. Attorneys' offices may have open files, and be furnishing assistance to the Tax Division, but which have not been formally referred to the U.S. Attorney.

A judgment is formally referred to the U.S. Attorney, within the meaning of the Directive only when a letter states that the case is being formally referred.

After the Tax Division has formally referred a judgment to the U.S. Attorney the U.S. Attorney will have the primary responsibility within the Department of Justice for further collection efforts. As noted in USAM 6-6.100, however, if it develops that litigation is necessary to effect collection of the judgment, the Tax Division may elect to conduct the litigation.

The U.S. Attorney should take whatever steps are necessary to effect collection and to protect the government's interests. To assist the U.S. Attorney in the collection of the judgment, at the same time that the Tax Division refers the case to the U.S. Attorney, the Tax Division will request the Special Procedures Function of the IRS District Director's office to advise the U.S. Attorney directly of the existence of potential assets for collection by procedures in aid of execution and to send the U.S. Attorney annually a copy of their Investigation Report of Judgment Debtor (Form 3347), if one is prepared. The Tax Division will also request the IRS, if it deems appropriate, to request the U.S. Attorney to extend the judgment lien.

The U.S. Attorney should advise the Tax Division if any problems arise as to which the Tax Division might be of assistance, including any possible differences of view that might arise between the U.S. Attorney's office and the IRS in connection with the handling of a case.

6-8.300 COMPROMISE AUTHORITY OF U.S. ATTORNEYS

As set forth in USAM 6-6.300, the U.S. Attorneys are authorized to:

A. Reject offers in compromise of judgments in favor of the government, regardless of amount;

B. Accept offers in compromise of judgments in favor of the government where the amount of the judgment does not exceed \$200,000; and

C. Terminate collection activity by that office as to judgments in favor of the government which do not exceed \$200,000 if the U.S. Attorney concludes that the judgment is uncollectible, provided that such action has the concurrence in writing of the agency or agencies involved, and provided further that this authorization extends only to judgments which have been formally referred to the U.S. Attorney for collection. (See USAM 6-8.210, *supra*, as to what constitutes a formal reference.)

The U.S. Attorney is required to refer to the Tax Division any offer to compromise a judgment (1) as to which a difference of opinion exists between the U.S. Attorney and the IRS, or (2) where the judgment exceeds \$200,000.

March 1, 1994

6-8.400 DIFFERENCES BETWEEN TAX JUDGMENTS AND OTHER CIVIL JUDGMENTS

6-8.410 Ability of IRS to Collect Administratively

A suit to reduce a tax assessment to judgment must be brought, or a counterclaim filed, prior to the expiration of the ten-year period provided under 26 U.S.C. § 6502, or the extension of that period (by agreement or by operation of law). During this period the IRS has the power to seize property by levy and distraint. See 26 U.S.C. § 6331. The period for administrative collection is extended by the timely commencement of a collection suit. Only that property specified in 26 U.S.C. § 6334 is exempt from an IRS levy.

6-8.420 Inapplicability of State Exemption Statutes as to Tax Judgments

Government claims generally are subject to the various exemptions from creditor's process enacted in each state. However, with respect to federal taxes, the only exemptions generally available (outside of bankruptcy) are those provided under 26 U.S.C. § 6334. Moreover, while a debtor in a bankruptcy case may elect either the state exemptions or federal bankruptcy exemptions, such exemptions will not be applicable as against a tax lien, notice of which is properly filed. See 11 U.S.C. § 522(c)(2).

6-8.430 Effect of a Tax Lien

A tax lien arises when a tax is assessed and attaches to all of a taxpayer's property and rights to property. 26 U.S.C. § 6321. If a timely collection suit is commenced, the tax lien remains in effect until the liability or a judgment for the liability is satisfied or becomes unenforceable. 26 U.S.C. § 6322. A tax lien has priority over subsequent bona fide purchasers, judgment lien creditors, and a mechanics lienor from the date on which a notice of federal tax lien is filed.

Since a tax lien normally arises prior to the filing of suit and is not merged into the judgment, the Government normally has greater priority over other creditors by relying on the tax lien than by relying on a judgment lien.

6-8.440 Bankruptcy Provisions as to Priority and Dischargeability Which Differ from Provisions Applicable to Other Government Claims

Under Sections 507 and 523 of 11 U.S.C. priority is granted and no discharge may be given for, *inter alia*, withheld taxes, or taxes for which the debtor is liable as a responsible officer under 26 U.S.C. § 6672. Similar treatment is accorded as to taxes due within three (3) years of the date of filing the petition, or assessed within 240 days prior thereto, and as to most income taxes not assessed on the date of filing the petition.

6-8.450 Post-Judgment Interest Rate Under 28 U.S.C. § 1961

The federal post-judgment interest statute, 28 U.S.C. § 1961, provides that in nontax cases, the post-judgment interest rate is fixed by reference to the T-bill rate, may change as often as every four weeks, and is compounded annually. The rate effective

on the date of entry of a nontax judgment will remain the rate for that judgment until satisfied.

Section 1961(c)(1), 28 U.S.C., provides with respect to tax cases that "Interest shall be allowed in such cases at the underpayment rate . . . established under section 6621 of the Internal Revenue Code of 1954." The Section 6621, 26 U.S.C., rate may change as often as every three months. Contrary to the practice for nontax judgments, when the 26 U.S.C. § 6621 rate changes prior to satisfaction of a tax judgment, the interest rate applicable to the judgment will also change. Thus, post-judgment interest in tax cases is computed in exactly the same manner as pre-judgment interest. For that reason, it is not necessary to obtain an interest computation prior to the entry of judgment, and the judgment can simply provide for the recovery of tax, penalties, and interest assessed, and for the recovery of interest from the assessment date (which should be specified in the judgment) to the date of payment in accordance with law. Alternatively, if an interest computation is available, the amount of interest accrued to a date certain can be specified in the judgment as long as the judgment also provides for the continual accrual of interest as provided by law.

Another difference between tax judgments and other civil money judgments in the federal courts concerns the compounding of interest. Instead of compounding the interest on an annual basis, interest in tax cases accruing after January 1, 1983, is compounded on a daily basis in accordance with 26 U.S.C. § 6622.

In connection with satisfaction of a tax judgment, the best approach is to request a computation of interest owing on the judgment from the IRS.

6-8.460 Availability of IRS Personnel to Perform Collection Investigations

The personnel of the local IRS Special Procedures Function are trained in the collection of tax indebtedness and also have continuing access to financial data contained in subsequent tax returns of judgment debtors. To assist the U.S. Attorney in the collection of judgments, at the same time that the Tax Division refers a case to the U.S. Attorney, the Tax Division will request the Special Procedures Function to conduct investigations to determine if a source exists for satisfying the judgment and to advise the U.S. Attorney directly of the existence of potential assets, and to send the U.S. Attorney annually a copy of their Investigative Report of Judgment Debtor (Form 3347), if one is prepared. See USAM 6-6.210.

The U.S. Attorney should request the Special Procedures Function to verify a financial statement submitted by a taxpayer in connection with an offer to compromise a judgment or in response to the U.S. Attorney's request for financial information.

6-8.470 Availability of Tax Returns and Tax Return Information

Pursuant to 26 U.S.C. § 6103(h)(2)(A), tax returns and return information of tax judgment debtors may be disclosed to U.S. Attorneys for their use in the collection of tax judgments. Such returns and return information, however, are prohibited from disclosure in the collection of nontax judgments in favor of the United States, and extreme care must be used to assure that this distinction is observed.

CODE OF FEDERAL REGULATION REFERENCES

Code of Federal Regulation		Code of Federal Regulation	
Title and Section	USAM Section	Title and Section	USAM Section
26 C.F.R. § 301.6103.....	6-4.122	28 C.F.R. § 0.70	6-4.120
26 C.F.R. § 301.9000-1.....	6-5.350	28 C.F.R. § 0.70	6-4.122
28 C.F.R. § 0.70	6-1.100	28 C.F.R. § 0.70	6-4.211
		28 C.F.R. § 0.70	6-4.218
		28 C.F.R. § 0.70	6-4.270

U.S. ATTORNEYS MANUAL 1988

UNITED STATES CODE REFERENCES

United States Code		United States Code	
Title & Section	USAM Section	Title & Section	USAM Section
5 U.S.C. § 552	6-5.340	26 U.S.C. § 7215	6-4.243
11 U.S.C. § 507	6-8.430	26 U.S.C. § 7401	6-5.110
11 U.S.C. § 523	6-8.430	26 U.S.C. § 7402	6-5.112
18 U.S.C. § 286	6-4.243	26 U.S.C. § 7421	6-5.330
18 U.S.C. § 287	6-4.243	26 U.S.C. § 7424	6-5.120
26 U.S.C. § 501	6-4.130	26 U.S.C. § 7424	6-5.323
26 U.S.C. § 982	6-5.220	26 U.S.C. § 7425	6-5.321
26 U.S.C. § 982	6-5.221	26 U.S.C. § 7429	6-5.310
26 U.S.C. § 6103	6-4.114	26 U.S.C. § 7429	6-5.360
26 U.S.C. § 6103	6-4.120	26 U.S.C. § 7430	6-1.110
26 U.S.C. § 6103	6-4.122	26 U.S.C. § 7430	6-5.725
26 U.S.C. § 6103	6-8.460	26 U.S.C. § 7431	6-3.540
26 U.S.C. § 6321	6-5.113	26 U.S.C. § 7512	6-4.243
26 U.S.C. § 6322	6-4.113	26 U.S.C. § 7602	6-4.110
26 U.S.C. § 6323	6-5.113	26 U.S.C. § 7602	6-4.115
26 U.S.C. § 6323	6-5.322	26 U.S.C. § 7602	6-4.116
26 U.S.C. § 6331	6-8.410	26 U.S.C. § 7602	6-4.122
26 U.S.C. § 6334	6-8.410	26 U.S.C. § 7604	6-5.214
26 U.S.C. § 6334	6-8.420	26 U.S.C. § 7608	6-4.110
26 U.S.C. § 6502	6-8.410	26 U.S.C. § 7608	6-5.220
26 U.S.C. § 6601	6-6.510	26 U.S.C. § 7609	6-5.221
26 U.S.C. § 6611	6-7.200	26 U.S.C. § 7622	6-4.110
26 U.S.C. § 6621	6-8.440	28 U.S.C. § 510	6-4.122
26 U.S.C. § 6622	6-8.440	28 U.S.C. § 541	6-4.122
26 U.S.C. § 6672	6-8.430	28 U.S.C. § 546	6-4.122
26 U.S.C. § 6672	6-5.620	28 U.S.C. § 593	6-4.122
26 U.S.C. § 6700	6-3.530	28 U.S.C. § 636	6-5.130
26 U.S.C. § 6701	6-3.530	28 U.S.C. § 1340	6-5.322
26 U.S.C. § 6851	6-5.360	28 U.S.C. § 1446	6-5.323
26 U.S.C. § 6861	6-5.360	28 U.S.C. § 1691	6-5.214
26 U.S.C. § 6862	6-5.360	28 U.S.C. § 1961	6-8.440
26 U.S.C. § 6871	6-5.530	28 U.S.C. § 2001 et seq.	6-5.114
26 U.S.C. § 7122	6-4.360	28 U.S.C. § 2410	6-1.100
26 U.S.C. § 7122	6-5.115	28 U.S.C. § 2410	6-5.000
26 U.S.C. § 7201	6-4.310	28 U.S.C. § 2410	6-5.120
26 U.S.C. § 7201	6-4.320	28 U.S.C. § 2410	6-5.310
26 U.S.C. § 7201	6-4.350	28 U.S.C. § 2410	6-5.320
26 U.S.C. § 7203	6-4.243	28 U.S.C. § 2410	6-5.321
26 U.S.C. § 7203	6-4.350	28 U.S.C. § 2410	6-5.322
26 U.S.C. § 7206	6-4.243	28 U.S.C. § 2410	6-5.323
26 U.S.C. § 7206	6-4.350	28 U.S.C. § 2410	6-6.140
26 U.S.C. § 7208	6-4.211	28 U.S.C. § 2410	6-6.800
26 U.S.C. § 7210	6-5.215	28 U.S.C. § 2412	6-5.725
26 U.S.C. § 7212	6-4.110	31 U.S.C. § 1304	6-7.200
26 U.S.C. § 7212	6-4.211	31 U.S.C. § 3713	6-5.530
26 U.S.C. § 7213	6-4.110	31 U.S.C. § 3713	6-5.540
26 U.S.C. § 7213	6-4.211	31 U.S.C. § 3713	6-5.550
26 U.S.C. § 7214	6-4.110	31 U.S.C. § 3715	6-5.114

1994 Cumulative Supplement to Title 6 Index— Tax Division

Cumulates and replaces previous Title 6 Supplements

U.S. ATTORNEYS MANUAL 1988

1994 CUMULATIVE SUPPLEMENT TO TITLE 6 INDEX—TAX DIVISION

“•” indicates 1994 changes.

ACTIONS AND PROCEEDINGS

Tax fraud, civil cases, shelters, 6-4.211

BANKRUPTCY

United States attorneys,
• Tax cases, direct referrals, 6-5.522

CRIMINAL ENFORCEMENT SECTIONS

• Tax division, 6-3.600

DISCLOSURE

Tax Cases, this index

FREEDOM OF INFORMATION ACT

Tax cases,
• Responsibility for litigation, 6-3.530

GRAND JURY

Internal revenue service,
Request for investigation, 6-4.121

INJUNCTIONS

• Abusive tax shelters, 6-3.530
• Tax liabilities, understatement, 6-3.530
• Tax shelters, 6-3.530

JUDGMENT LIENS

• Tax cases, extension, 6-8.200

MAIL FRAUD

Tax cases, 6-4.211

PRIOR APPROVAL

Criminal proceedings,
Mail fraud, 6-4.218, 6-4.242
Grand jury,
Tax cases, 6-4.120
Mail fraud, 6-4.218, 6-4.242
RICO violations,
Mail fraud, tax violations, 6-4.218, 6-4.242
Tax cases,
Fraud, 6-4.218, 6-4.242
Mail fraud, 6-4.218, 6-4.242

PRIVACY ACT

Tax cases,
• Responsibility for litigation, 6-3.530

RICO

Tax returns, false entries, predicate offenses,
6-4.211

STATEMENT OF ASSETS AND LIABILITIES

• Tax cases, compromise and settlement, inability to
pay, 6-6.412

STATEMENT OF FINANCIAL CONDITION

Tax cases,
• Forms, 6-6.901

STAYS

• Tax cases, bankruptcy, direct referrals to United
States attorneys, 6-5.522

TAX CASES

• Administrative settlements, approval, redelegation
of authority, 6-6.130
Appeal and review,
• Criminal appeals and tax enforcement policy sec-
tion, 6-3.600
• Criminal enforcement sections, 6-3.600
Bankruptcy,
Dischargeability,
• Direct referrals to United States attorneys,
6-5.522
• Post-judgment collection procedures, 6-8.440
• Post-judgment collection, 6-8.440
• Priorities and preferences, post-judgment collec-
tion procedures, 6-8.440
• Proofs of claims, direct referrals to United States
attorneys, 6-5.522
• Stays, direct referrals to United States attorneys,
6-5.522
• Turn-over hearings, direct referrals to United
States attorneys, 6-5.522
Collection,
• Investigations, internal revenue service special
procedures function, 6-8.460
• Common scheme or plan, sentencing guidelines,
major count policy, plea agreements, 6-4.311
Compromise and settlement,
• Administrative settlements, approval, redelegation
of authority, 6-6.130
Collateral agreements,
• Forms, 6-6.902
Forms,
• Collateral agreements, 6-6.902
• Inability to pay, statement of assets and liabili-
ties, 6-6.412
• Redemption, release of right, 6-6.903
• Statement of financial condition and other infor-
mation, 6-6.901
• Future income collateral agreements, 6-6.520
• Graduated percentages, future income collateral
agreements, 6-6.520
Inability to pay,
• Statement of assets and liabilities, 6-6.412
Offers in compromise,
• Financial statements, verification, internal reve-
nue service special procedures function,
6-8.460

TAX CASES—Cont'd

- Compromise and settlement—Cont'd
 - Offers in compromise—Cont'd
 - Inability to pay, statement of assets and liabilities, form, **6-6.412**
 - Statement of assets and liabilities, inability to pay, **6-6.412**
 - Post-judgment collection procedures,
 - Financial statements, verification, internal revenue service special procedures function, **6-8.460**
 - Redemption, federal tax liens, application for release, forms, **6-6.903**
 - Statement of assets and liabilities, inability to pay, **6-6.412**
 - Statement of financial condition and other information, forms, **6-6.901**
- Course of conduct, sentencing guidelines, major count policy, plea agreements, **6-4.311**
- Damages, unauthorized disclosure of information, **6-3.530**
- Delegation of authority,
 - Refunds, false and fictitious claims, grand jury investigations, authorization, **6-4.120**
- Dischargeability, bankruptcy, direct referrals to United States attorneys, **6-5.522**
- Disclosure,
 - Damages actions, unauthorized disclosure of information, **6-3.530**
 - Returns and return information, post-judgment collection procedures, **6-8.470**
- Dismissal of proceedings,
 - Sentencing guidelines, plea bargains, major count policy, **6-4.311**
- Electronic filing,
 - Multiple filings of false and fictitious returns claiming refunds, direct referral to United States attorneys, **6-4.211**
 - Tax refund cases, grand jury investigations, authorization, **6-4.120**
- False returns, filing, **6-4.211**
- Federal government,
 - Responsibility for litigation, **6-3.530**
- Federal tax liens,
 - Redemption,
 - Release of liens,
 - Forms, **6-6.903**
- Forms. Compromise and settlement, ante
- Freedom of Information Act,
 - Responsibility for litigation, **6-3.530**
- Guidelines,
 - Sentence and punishment, major count policy, plea agreements, **6-4.311**
- Guilty pleas,
 - Sentencing guidelines, major count policy, **6-4.311**
- Injunctions,
 - Understatement of tax liabilities, **6-3.530**
- Interest,
 - Post-judgment collection procedures, **6-8.450**

INDEX**TAX CASES—Cont'd**

- Internal revenue service,
 - Special procedures function,
 - Collection investigation, **6-8.460**
 - Post-judgment collection, advising United States attorney, **6-8.200**
- Investigations,
 - Collection investigations, internal revenue service special procedures function, **6-8.460**
 - Criminal enforcement sections, **6-3.600**
 - Reports, judgment debtors, special procedures function of internal revenue service, assisting United States attorneys, **6-8.200**
- Judgment liens, extension, **6-8.200**
- Judgments,
 - Collection of taxes,
 - United States attorneys, **6-8.200**
- Jurisdiction,
 - Filing false tax returns, **6-4.211**
- Liens, **6-8.430**
 - Compromise and settlement, redemption, application for release, forms, **6-6.903**
 - Judgment liens, extension, **6-8.200**
- Mail fraud, **6-4.211**
- Major counts,
 - Sentencing guidelines, plea agreements, **6-4.311**
- Pleas,
 - Sentencing guidelines, major count policy, **6-4.311**
- Post-judgment collection procedures,
 - Bankruptcy, **6-8.440**
 - Compromise and settlement, ante
 - Interest, **6-8.450**
 - Investigations, internal revenue service special procedures function, **6-8.460**
 - Liens, **6-8.430**
 - Referrals to United States attorneys, **6-8.200**
 - Returns and return information, disclosure, **6-8.470**
 - Special procedures function, internal revenue service, advising and assisting United States attorneys, **6-8.200**
- Pre-sentencing guideline offenses, major count policy, plea agreements, **6-4.311**
- Priorities and preferences,
 - Liens, post-judgment collection procedures, **6-8.430**
- Privacy act,
 - Responsibility for litigation, **6-3.530**
- Proof of claims,
 - Direct referrals to United States attorneys, bankruptcy, **6-5.522**
- Prosecutorial authority and procedure,
 - Criminal enforcement sections, **6-3.600**
 - Recommendations for prosecution, review, **6-3.600**
- Recommendations for prosecution, criminal tax cases, review, **6-3.600**
- Referrals,
 - Grand jury investigations,
 - Refunds, false and fictitious claims, **6-4.120**
 - Post-judgment collections, **6-8.200**

INDEX

TAX CASES—Cont'd

- Refund suits,
 - Abusive tax shelters, penalties, **6-3.530**
 - Civil trial sections, **6-5.000**
 - Fines and penalties, abusive tax shelters and understatement of tax liabilities, **6-3.530**
- Grand jury investigations, delegation of authority to United States attorneys by tax division, **6-4.120**
- Multiple filings, false and fictitious returns claiming refunds, direct referral to United States attorneys, **6-4.243**
- Tax shelters, penalties, **6-3.530**
- Understatement of tax liabilities, penalties, **6-3.530**
- Regulations, responsibility for litigation, **6-3.530**
- Reports,
 - Investigation reports of judgment debtors, special procedures function of internal revenue service, assisting United States attorneys, **6-8.200**
- Returns,
 - Electronic filing, tax refund cases, grand jury investigations, authorization, **6-4.120**
 - False entries, filing, **6-4.211**
 - Post-judgment collection procedures, disclosure, **6-8.470**
- RICO, predicate offenses, **6-4.211**
- Rulings, responsibility for litigation, **6-3.530**
- Same course of conduct, sentencing guidelines, major count policy, plea agreements, **6-4.311**
- Sentence and punishment,
 - Criminal appeals and tax enforcement policy section, guidelines, **6-3.600**
 - Guidelines, major count policy, plea agreements, **6-4.311**
- Shelters, mail fraud, **6-4.211**
- Special interest litigation, **6-5.000**
- Statement of assets and liabilities, compromise and settlement, inability to pay, forms, **6-4.412**
- Statement of financial condition,
 - Forms, **6-6.901**
- Stays, bankruptcy, direct referrals to United States attorneys, **6-5.522**
- Summons enforcement,
 - Abusive tax shelters, penalty and injunction cases, **6-3.530**

TAX CASES—Cont'd

- Tax returns. Returns, generally, ante
- Turn-over hearings, bankruptcy, direct referrals to United States attorneys, **6-5.522**
- Unauthorized disclosure of information, damage actions, **6-3.530**
- United States attorneys,
 - Bankruptcy, direct referrals, **6-5.522**
 - Post-judgment collection procedures, responsibilities, **6-8.200 et seq.**

TAX DIVISION

- Central region, civil trial section,
 - Special interest cases, **6-3.530**
- Criminal appeals and tax enforcement policy section, **6-3.600**
- Criminal enforcement sections, **6-3.600**
- Director of criminal enforcement, **6-3.600**
- Eastern region, civil trial section **6-3.510**
 - Special interest cases, **6-3.530, 6-5.000**
- Judgment collection manual, **6-4.110**
- Prior approval, grand jury investigations, tax refunds, delegation to United States attorneys, **6-4.120**
- Regional section chiefs, criminal enforcement sections, **6-3.600**
- Special interest cases, **6-3.530**

TAX LIENS

- Post-judgment collection procedures, **6-8.430**

TAX RETURNS

Tax Cases, this index

TAX SHELTERS

- Injunctions, **6-3.530**
- Tax fraud, mail fraud, **6-4.211**

UNITED STATES ATTORNEYS

- Direct referrals, tax cases, bankruptcy, **6-5.522**
- Referrals, tax cases, bankruptcy, **6-5.522**
- Special assistant United States attorneys,
 - Tax cases, bankruptcy, direct referrals, **6-5.522**
- Tax Cases, this index

†

INDEX TO
TITLE 6 - TAX DIVISION

ABUSIVE TAX SHELTERS

Promotion, injunctions, 6-3.530

ACCOUNTANTS

Tax cases,
 Search warrants, 6-4.130
 Summons, proceedings to quash or enjoin, 6-5.220

ACCOUNTS AND ACCOUNTING

Tax cases,
 Bankruptcy, claims for unpaid taxes, direct referral
 to U.S. attorney, 6-5.522
 Refund cases, computations, 6-5.641

ACTUARIAL COMPUTATIONS

Tax cases, refund suits, 6-5.641

ADMINISTRATIVE INVESTIGATIONS

Tax Cases, this index

ADMINISTRATIVE SETTLEMENTS

Tax Cases, this index

ADMINISTRATIVE SUMMONS

Tax Cases, this index

ALABAMA

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

ALASKA

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

ALFORD PLEAS

Accepting guilty plea over defendants claim of innocence, 6-4.330
 Prior approval requirements, 6-2.000

AMERICAN SAMOA

Tax division, criminal section, 6-3.600

ANDOVER SERVICE CENTER

Refund suits, 6-5.623

ANSWERS

Tax Cases, this index

APPEAL AND REVIEW

Tax Cases, this index

APPEARANCE

Tax cases, refund suits, 6-5.640

APPELLATE SECTION

Tax division, 6-3.700
 Transfer of cases following decisions favorable to government, 6-5.712

APPRAISAL

Tax cases, releasing rights of redemption, redelegation of authority, 6-6.140

ARIZONA

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

ARKANSAS

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

ARMED FORCES

Tax cases, suits involving governmental immunity from state and local taxes, 6-5.400

ARRAIGNMENT

Tax cases, United States attorney status reports, 6-4.248

ASSIGNMENTS FOR BENEFIT OF CREDITORS

Tax cases, claims of United States for unpaid taxes, 6-5.510, 6-5.550
 Appeals, 6-5.560

ASSISTANT ATTORNEY GENERAL

Tax Cases, this index
Tax division, 6-3.100
 Final authority for prosecutions, 6-4.218

ATLANTIC SERVICE CENTER

Tax cases, refund suits, 6-5.623

ATTACHMENT

Tax Cases, this index

ATTORNEYS

Tax Cases, this index

ATTORNEYS FEES

Tax Cases, this index
Tax division, manual concerning award, 6-1.110

AUSTIN SERVICE CENTER

Tax cases, refund suits, 6-5.623

BAD DEBT DEDUCTIONS

Tax cases, proposed settlement based on collectability, waiver, 6-6.530

BANKRUPTCY

Tax Cases, this index

INDEX

BANKS

Tax cases, summons, proceedings to quash or enjoin, 6-5.220

BIDS AND BIDDING

Tax cases, foreclosure, bidding on behalf of United States, 6-5.114

BIVENS SUITS

Tax cases, actions against internal revenue service officials in personal capacities, 6-5.370

BRIEF BANK

Juris, tax cases, 6-4.030

BRIEFS

Tax cases, refund cases, extension of time, 6-5.642

BROOKHAVEN SERVICE CENTER

Tax cases, refund suits, 6-5.623

CALIFORNIA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

CASH COLLATERAL HEARINGS

Tax cases, bankruptcy proceedings, claims for unpaid taxes, direct referral, 6-5.522

CENTRAL REGION, CIVIL TRIAL SECTION

Tax division, 6-3.510
Special interest cases, 6-3.540

CINCINNATI SERVICE CENTER

Tax cases, refund suits, 6-5.623

CIVIL CASE PROCEDURES

Tax Cases, this index

CIVIL TRIAL SECTIONS

Tax Division, this index

CLAIMS COURT

Tax cases, 6-3.520
Assisting in cases, 6-5.830

CLAIMS COURT SECTION

Tax division, 6-3.520

CLERGY

Tax cases, search warrants, 6-4.130

COLLATERAL AGREEMENTS

Tax Cases, this index

COLLATERAL APPEALS STOPPEL

Tax cases, guilty plea or verdict, contesting, civil fraud penalties, 6-4.320

COLLECTION

Tax Cases, this index

COLORADO

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

COMMENCEMENT OF ACTIONS

Tax Cases, this index

COMMERCIAL FINANCING AGREEMENTS

Tax cases, federal tax liens, priority, 6-5.113

COMPLAINTS

Tax Cases, this index

COMPROMISE AND SETTLEMENT

Tax Cases, this index

CONCESSIONS

Tax Cases, this index

CONDEMNATION

Tax cases, suits against United States, 6-5.320 et seq.

CONFERENCES

Tax cases,
Offers in settlement, 6-6.440
Prosecutorial authority and procedure, 6-4.214

CONNECTICUT

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

CONTEMPT

Tax cases,
Promoting abusive tax shelters, disobeying injunction, 6-3.230
Summons for contempt proceedings, attachment, 6-5.214

CONTRACTORS

Tax cases, government contractors, suits involving immunity from state and local taxes, 6-5.400

CONVICTION OF CRIME

Tax cases, costs of prosecution, 6-4.350

CORPORATIONS

Tax cases, guilty plea, resulting in dismissal of charges against individual, 6-4.310

COSTS

Tax Cases, this index

CREDITS

Tax cases, decisions adverse to United States, procedures upon lower courts decision, 6-5.720

CRIMINAL DIVISION

Tax cases,
Organized crime strike force, joint tax-nontax investigations, 6-4.122
Prosecutorial authority, 6-4.270

CRIMINAL INVESTIGATION DIVISION

Tax cases,
Administrative summons, issuance, 6-5.211
Internal revenue service, 6-4.110 et seq.

CRIMINAL PROCEEDINGS

Tax Cases, this index

CRIMINAL REFERENCE LETTERS

Tax cases,
Internal revenue service administrative investigations, 6-4.113

INDEX

CRIMINAL REFERENCE LETTERS—Cont'd

Tax cases—Cont'd

Review by United States attorney, 6-4.241

CRIMINAL SECTION

Tax division, 6-3.600

CRIMINAL TAX MANUAL

Generally, 6-4.020

Juris, 6-4.030

Tax division, 6-1.110, 6-4.020

CROSS-APPEALS

Tax cases, procedures, 6-5.000

DALLAS FIELD OFFICE

Tax cases, authority to compromise, 6-6.130

DEBT ADJUSTMENT

Bankruptcy, claims for unpaid taxes, direct referral to United States attorney, 6-5.522

DECEDENTS ESTATES

Claims of United States for unpaid taxes, 6-5.510, 6-5.540

Appeals, 6-5.560

DECLARATORY JUDGMENTS

Tax cases,

Claims court, 6-3.520

Compromise offers, acceptance, redelegation of authority, 6-6.130

DEDUCTIONS

Tax cases, compromise payments, 6-6.510

DEFERRED PAYMENTS

Tax cases, compromise offers, 6-6.540

DELAWARE

Tax division,

Civil trial section, 6-3.510

Criminal section, 6-3.600

DELEGATION OF AUTHORITY

Tax Cases, this index

DELINQUENT TAXES

Initiating collection actions, 6-1.100

DIRECT REFERRALS TO UNITED STATES ATTORNEYS

Tax Cases, this index

DISCLOSURE

Tax cases,

Grand jury material, internal revenue service personnel, 6-4.128

Returns and return information, judgment debtors, post-judgment collection, 6-8.460

DISCLOSURE STATEMENTS

Tax cases, bankruptcy, claims for unpaid taxes, direct referral to United States attorney, 6-5.522

DISCOVERY

Tax Cases, this index

DISMISSAL OF PROCEEDINGS

Tax Cases, this index

DISTRICT OF COLUMBIA

Tax division,

Civil trial section, 6-3.510

Criminal section, 6-3.600

DOCKET ATTORNEYS

Tax cases, complex case review, internal revenue service criminal referrals, 6-4.213

DRUG TASK FORCE

Tax cases,

Grand jury investigations, requests, 6-4.127

On-site reviews, criminal prosecution, 6-4.217

DRUGS

Tax cases, prosecutions, criminal division responsibilities, 6-4.270

EMERGENCIES

Tax cases,

Commencement of actions, United States attorneys duties, 6-1.110

Prior approval requirements, 6-2.000

EMINENT DOMAIN

Tax cases, suits against United States, 6-5.320

ENTRY ON PROPERTY

Tax cases, warrant, seizure of property, 6-5.130

EVIDENCE

Tax Cases, this index

EXCISE TAXES

Liquor tax, criminal division responsibilities, 6-4.270

Prosecution, direct referrals to United States attorneys, 6-4.243

EXECUTION

Tax cases, 6-8.220

EXHIBITS

Tax cases, criminal proceedings, return on conclusion of case, 6-4.249

FALSE RETURNS

Tax cases, joint administrative investigations, internal revenue service, 6-4.112

FEDERAL GOVERNMENT

Tax Cases, this index

FEDERAL TAX ENFORCEMENT PROGRAM

Tax Cases, this index

FEDERAL TAX LIENS

Tax Cases, this index

FICTITIOUS RETURNS

Tax cases, claiming refunds, multiple filings, direct referrals to United States attorneys, 6-4.243

FINANCIAL INSTITUTIONS

Tax cases, summons, proceedings to quash or enjoin, 6-5.220

INDEX

FIREARMS

Tax cases, prosecutions, criminal division responsibilities, 6-4.270

FLORIDA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

FORECLOSURE

Tax Cases, this index

FOREIGN COUNTRIES

Tax Cases, this index

FORMS

Tax Cases, this index

FRAUD

Tax Cases, this index

FREEDOM OF INFORMATION ACT

Tax cases,
Responsibility for litigation, 6-3.540
Suits against United States, 6-5.340

FRESNO SERVICE CENTER

Tax cases, refund suits, 6-5.623

GAMBLING

Tax cases, prosecutions, criminal division responsibilities, 6-4.270

GARNISHMENT

Tax cases, post-judgment collection procedures, 6-8.220

GEORGIA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

GRAND JURY

Tax Cases, this index

GUAM

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

GUILTY PLEAS

Tax Cases, this index

HAWAII

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

IDAHO

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

ILLINOIS

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

IMMUNITY

Tax cases, state and local taxes, 6-5.400

INDIANA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

INDICTMENT OR INFORMATION

Tax Cases, this index

INFORMERS

Tax cases, rewards, claims court, 6-3.520

INJUNCTIONS

Tax Cases, this index

INSOLVENCY PROCEEDINGS

Tax Cases, this index

INSTALLMENT PAYMENTS

Tax cases, compromise offers, 6-6.510

INSTITUTE ON CRIMINAL TAX TRIALS

Tax division, 6-4.020

INTEREST

Tax Cases, this index

INTERNAL REVENUE SERVICE

Tax Cases, this index

INTERPLEADER

Tax cases, suits against United States, 6-5.310 et seq.

INTERROGATORIES

Tax cases, post-judgment collection procedures, statement of financial condition and other information, 6-8.220

INTERVENTION

Tax Cases, this index

INVESTIGATIONS

Tax Cases, this index

IOWA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

JEOPARDY ASSESSMENTS

Tax cases,
Review, 6-5.360
Suits against United States, 6-5.310

JOINER

Tax cases, United States as party, actions affecting property on which United States has lien, 6-5.321

JOINT ADMINISTRATIVE INVESTIGATIONS

Internal revenue service, 6-4.112

JUDGMENT LIENS

Tax cases, extending, 6-8.210

JUDGMENTS

Tax Cases, this index

INDEX

JUDICIAL SALES

Tax cases, actions affecting property on which United States has lien, 6-5.321

JURIS

Tax cases,
Criminal tax materials, 6-4.030
Summons litigation, 6-5.230

JURISDICTION

Claims court, tax cases, 6-3.520
Tax Cases, this index

JURY

Tax cases,
Model criminal instructions, Juris, 6-4.030
Refunds, United States attorney assisting in selection, 6-5.643

KANSAS

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

KANSAS CITY SERVICE CENTER

Tax cases, refund suits, 6-5.623

KENTUCKY

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

LABOR UNIONS

Tax cases, search warrants, 6-5.130

LEGISLATION AND POLICY, OFFICE OF

Tax division, 6-3.400

LESSER INCLUDED OFFENSES

Tax cases, major counts authorized for prosecution, guilty plea, 6-4.310
Prior approval requirements, 6-2.000

LIENS

Tax Cases, this index

LIMITATION OF ACTIONS

Tax cases,
Emergencies, commencement of action, 6-5.110
Reducing assessment to judgment, 6-8.410

LOUISIANA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

MAINE

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

MALFEASANCE OFFENSES

Tax cases, internal revenue service personnel, prosecutions, criminal division responsibilities, 6-4.270

MANUALS

Tax cases,
Collection of judgments, 6-8.000

MANUALS—Cont'd

Tax cases—Cont'd
Criminal Tax Manual, generally, this index
Tax Division, this index

MARYLAND

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

MASSACHUSETTS

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

MEMORANDA

Tax Cases, this index
Tax division, office of review, 6-5.300

MEMPHIS SERVICE CENTER

Tax cases, refund suits, 6-5.623

MICHIGAN

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

MILITARY FORCES

Tax cases, suits involving governmental immunity from state and local taxes, 6-5.400

MINNESOTA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

MISSISSIPPI

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

MISSOURI

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

MONTANA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

NARCOTICS

Tax cases, prosecutions, criminal division responsibilities, 6-4.270

NE EXEAT REPUBLICA, WRIT OF

Tax cases, 6-5.112
Prior approval requirements, 6-2.000

NEBRASKA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

NEVADA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

INDEX

NEW HAMPSHIRE

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

NEW JERSEY

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

NEW MEXICO

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

NEW YORK

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

NEWSLETTERS

Tax division, criminal section, Juris, 6-4.030

NOLO CONTENDERE PLEAS

Tax cases, 6-4.320
Prior approval requirements, 6-2.000

NONCOMPLEX CASES

Tax cases,
Designations, internal revenue service criminal referrals, review, 6-4.213, 6-4.244
United States attorney handling, 6-4.219

NORTH CAROLINA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

NORTH DAKOTA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

NORTHERN MARIANAS

Tax division, civil trial section, 6-3.510

NORTHERN REGION, CIVIL TRIAL SECTIONS

Tax division, 6-3.510

NORTHERN REGION, CRIMINAL SECTION

Tax division, 6-3.600

NOTICE

Tax Cases, this index

NOTICE OF APPEAL

Tax Cases, this index

OFFICES

Tax Division, this index

OGDEN SERVICE CENTER

Tax cases, refund suits, 6-5.623

OHIO

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

OKLAHOMA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

ORDERS

Tax Cases, this index

OREGON

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

ORGANIZED CRIME

Tax Cases, this index

PARTIES

Tax cases, joinder, actions affecting property on which United States has lien, 6-5.321

PARTITION

Tax cases, suits against United States, 6-5.320

PENNSYLVANIA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

PHILADELPHIA SERVICE CENTER

Tax cases, refund suits, 6-5.623

PHYSICIANS

Tax taxes, search warrants, 6-4.130

PLEADINGS

Tax Cases, this index

PLEAS

Tax Cases, this index

POLICY AND TAX ENFORCEMENT OFFICE

Tax division, criminal section, 6-3.600

POLITICAL CANDIDATES

Tax cases, search warrants, 6-4.130

POST-JUDGMENT COLLECTION PROCEDURES

Tax Cases, this index

POST-LITIGATION UNIT

Tax division, 6-7.000 et seq.

PRELIMINARY INJUNCTIONS

Tax cases, suits against United States, 6-5.310

PRE-TRIAL PROCEEDINGS

Tax cases, refund suits, 6-5.820

PRIOR APPROVAL REQUIREMENTS

Tax cases, 6-2.000

PRIORITIES AND PREFERENCES

Tax Cases, this index

PRIVACY ACT

Tax cases,
Responsibility for litigation, 6-3.540
Suits against United States, 6-5.340

INDEX

PROBATE PROCEEDINGS

Tax Cases, this index

PROTESTS

Tax cases, declining prosecution, 6-4.247

PUERTO RICO

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

QUIET TITLE ACTIONS

Tax cases, suits against United States, 6-5.320 et seq.

RECEIVERS AND RECEIVERSHIP

Tax cases, claims of United States, 6-5.500 et seq.
Appeals, 6-5.560

RECORDS AND RECORDATION

Tax cases, major account plea agreements, including violations on residual accounts, 6-4.310

RECUSAL

Tax cases, requests for criminal trial assistance, 6-4.219

REDEMPTION

Tax Cases, this index

REFERRALS

Tax Cases, this index

REFUND SUITS

Tax Cases, this index

REGIONAL COUNSELS

Tax cases, recommendations for prosecution, review, 6-4.127

REMAND

Tax cases, lower court decision in favor of government, 6-5.712

REMOVAL OF ACTIONS

Tax Cases, this index

REPLEVIN

Tax cases, post-judgment collection procedures, 6-8.220

REPORTS

Tax cases, disposition following conclusion of criminal cases, 6-4.249
Tax division, office of legislation and policy, 6-3.400

REVENUE AGENTS

Tax cases, subpoenas, 6-5.350

REVIEW, OFFICE OF

Tax division, 6-3.300

RHODE ISLAND

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

SALES

Tax cases,
Bankruptcy proceedings, claims for unclaimed taxes, direct referral to United States attorney, 6-5.522
Foreclosure, 6-5.114

SEARCH WARRANTS

Tax cases, 6-4.130

SEIZURE

Tax Cases, this index

SELF-INCRIMINATION

Tax cases, administrative summons, requests for enforcement, authorization, 6-5.212

SENTENCE AND PUNISHMENT

Tax Cases, this index

SEQUESTRATION

Tax cases, post-judgment collection procedures, 6-8.220

SERVICE OF PROCESS

Tax Cases, this index

SINGLE FAMILY DWELLINGS

Tax Cases, this index

SLURP MACHINES

Tax cases, prosecutions, criminal division responsibilities, 6-4.270

SOUTH CAROLINA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

SOUTH DAKOTA

Tax division,
Civil trial section, 6-3.510
Criminal section, 6-3.600

SOUTHERN REGION, CIVIL TRIAL SECTIONS

Tax division, 6-3.510

SOUTHERN REGION, CRIMINAL SECTION

Tax division, 6-3.600

SOVEREIGN IMMUNITY

Tax cases, waiver, 6-5.321

SPECIAL CALENDARS

Tax cases, refund suits, 6-5.820

SPECIAL INTEREST CASES

Tax division, 6-3.540

SPECIAL LITIGATION OFFICE

Tax division, 6-3.530, 6-5.000
Tax shelters, 6-5.000

STAMP TAX

Prosecutions, criminal division responsibilities, 6-4.270

STATE COURT CASES

Tax Cases, this index

INDEX

STATE LAW

- Tax cases,
 - Execution procedures, 6-8.220
 - Post-judgment collection procedures, application of exemption statutes, 6-8.420

STATE TAXES

- Suits involving governmental immunity, 6-5.400

STATEMENT OF FINANCIAL CONDITION

- Tax cases,
 - Form, 6-6.902
 - Post-judgment collection procedures, use with interrogatories, 6-8.220

STATEMENTS OF ASSETS AND LIABILITIES

- Tax cases, compromise, inability to pay, 6-6.413

STATUTE OF LIMITATIONS

- Tax cases,
 - Emergencies, commencement of action, 6-5.110
 - Reducing assessment to judgment, 6-8.410

STIPULATIONS

- Tax Cases, this index

SUBJECT MATTER JURISDICTION

- Tax cases, actions affecting property on which United States has lien, 6-5.322

SUBPOENAS

- Tax cases, internal revenue service employees, 6-5.350

SUMMONS LITIGATION

- Tax Cases, this index

SUSPENSION OF CASES

- Tax cases, lower court rendering favorable decision, 6-5.711

TAX CASES

- Abandonment of defense, attorney general's authority, 6-6.120
- Abusive tax shelters, promotion, injunction, 6-3.530
- Accelerated disposal, guilty pleas, administratively investigated cases, 6-4.117
- Accountants,
 - Search warrants, 6-4.125
 - Summons, proceedings to quash or enjoin, 6-5.220
- Accounts and accounting,
 - Bankruptcy, claims for unpaid taxes, direct referral to United States attorney, 6-5.522
 - Refund cases, computations, 6-5.641
- Actions under 28 U.S.C. § 2410, 6-5.320 et seq.
- Actuarial computations, refund suits, 6-5.641
- Administrative collection, internal revenue service, 6-8.110
- Administrative investigations, 6-4.110 et seq.
 - Access to grand jury material, 6-4.129
 - Declaration, 6-4.116
 - General enforcement plea program, 6-4.117
 - Joint investigation, 6-4.112
 - Origin, 6-4.111
 - Plea negotiations, conferences, 6-4.214
 - Referral of reports and exhibits, internal revenue service, 6-4.114

TAX CASES—Cont'd

- Administrative investigations—Cont'd
 - Review by internal revenue service, 6-4.113
 - Termination upon referral to tax division, 6-4.115
- Administrative review, jeopardy and termination assessments, 6-5.360
- Administrative settlements. Concessions, generally, post
- Administrative summons, cases, 6-1.100
 - Issuance by criminal investigation division, 6-5.211
 - Requests for enforcement, 6-5.212
- Adverse decisions to United States, procedure on lower courts decision, 6-5.720 et seq.
- Alford pleas, accepting guilty plea over defendant's claim of innocence, 6-4.330
 - Prior approval requirements, 6-2.000
- Andover service center, refund suits, 6-5.623
- Answers,
 - Actions affecting property on which United States has lien, 6-5.322
 - Freedom of Information Act suits against United States, 6-5.340
 - Jeopardy and termination assessments, suits to review, 6-5.360
- Appeal and review, 6-2.700
 - Actions affecting property on which United States has lien, 6-5.322
 - Approval, Solicitor General, 6-5.723
 - Bankruptcy proceedings, claims for unpaid taxes, 6-5.523, 6-5.560
 - Compromise and settlement, issues on appeal, 6-6.130
 - Declining, solicitor general, 6-5.724
 - Insolvency proceedings, claims for unpaid taxes, 6-5.560
 - Jeopardy and termination assessments, 6-5.360
 - Litigating hazards, redelegation of authority, 6-6.130
 - Notice of appeal, generally, post
 - Probate proceedings, claims for unpaid taxes, 6-5.560
 - Quiet title, foreclosure, partition and condemnation actions, 6-5.322
 - Receivership proceedings, claims for unpaid taxes, 6-5.560
 - Recommendation, adverse or partially adverse decisions to United States, 6-5.721
 - Transferred cases, appellate section, cases decided in favor of government, 6-5.712
 - United States attorney status reports, 6-4.248
- Appearance, refund suits, 6-5.640
- Application of law, state exemption statutes, post-judgment collection, 6-8.420
- Appraisals, releasing rights of redemption, redelegation of authority, 6-6.140
- Armed forces, suits involving governmental immunity from state and local taxes, 6-5.400
- Arraignment, United States attorney status reports, 6-4.248
- Assessment of tax, injunction, 6-5.330
- Assignment of cases, 6-1.100

INDEX

TAX CASES—Cont'd

Assignments for benefit of creditors, claims of United States for unpaid taxes, 6-5.510, 6-5.550
 Appeals, 6-5.560
 Assistant attorney general,
 Final authority for prosecution, 6-4.218
 Prior approval requirements, 6-2.000
 Search warrants, approval, 6-4.130
 Atlantic service center, refund suits, 6-5.623
 Attachment,
 Post-judgment collection procedures, 6-8.220
 Prior approval requirements, 6-2.000
 Summons litigation, commencement of proceeding, 6-5.214
 Attorneys,
 Conferences, statements by attorneys for taxpayers, admissibility in proceedings, 6-4.214
 Search warrants, 6-4.130
 Summons, proceedings to quash or enjoin, 6-5.220
 Attorneys fees,
 Adverse or partially adverse decisions to United States, 6-5.720
 Awarding against United States, 6-5.725
 Compromise and settlement, refund suits, 6-6.711
 Concessions, refund suits, 6-6.712
 Government claims, concessions, 6-6.722
 Post-litigation unit, duties, 6-7.100
 Austin service center, refund suits, 6-5.623
 Authorization of prosecution, standards for review, 6-4.213
 Prior approval requirements, 6-2.000
 Automatic stay, bankruptcy, claims for unpaid taxes, direct referral to United States attorney, 6-5.522
 Bad debt deductions, proposed settlement based on collectibility, waiver, 6-6.530
 Bankruptcy,
 Appeals, 6-5.523, 6-5.560
 Assignment of cases, 6-1.100
 Claims of United States, 6-5.500 et seq.
 Collection of claims, policy and responsibilities, 6-1.100
 Contested cases and adversarial proceedings, 6-5.521
 Direct referral to United States attorney, 6-5.522
 Federal tax lien, 6-8.420
 Post-judgment collection, 6-8.420, 6-8.430
 Priority and dischargeability, 6-8.430
 Reorganization proceedings, 6-5.524
 Suits against United States, 6-5.310
 Bank summons, proceedings to quash or enjoin, 6-5.220
 Bids and bidding, foreclosure, United States attorney bidding on behalf of United States, 6-5.114
 Divis suits, actions against IRS officials in personal capacities, 6-5.370
 Brief bank file group, Juris, 6-4.030
 Briefs, refund cases, extensions of time, 6-5.642
 Brookhaven service center, refund suits, 6-5.623
 Case disposition, 6-4.300 et seq.
 Cash collateral hearings, bankruptcy proceedings, claims for unpaid taxes, direct referral to United States attorney, 6-5.522

TAX CASES—Cont'd

Cash received in trade or business, criminal prosecutions, direct referrals to United States attorneys, 6-4.243
 Certified mail, request to expand nontax grand jury investigation, 6-4.122
 Cincinnati service center, refund suits, 6-5.623
 Civil case procedures, 6-5.000 et seq.
 Adverse or partially adverse decisions, 6-5.720 et seq.
 Claims of United States, bankruptcy, receivership, probate and insolvency proceedings, 6-5.500 et seq.
 Collection, generally, post
 Favorable decisions, procedure upon lower court rendering, 6-5.711, 6-5.712
 Governmental immunity from state and local taxes, 6-5.400
 Limitation of actions, 6-8.410
 Lower court decisions, procedure upon rendering, 6-5.700 et seq.
 Miscellaneous problems and arrangements, 6-5.800 et seq.
 Policies and responsibilities, 6-1.100
 Post-judgment collection procedures, generally, post
 Refund suits, generally, post
 Suits against United States or officers and employees, 6-5.300 et seq.
 Summons litigation, generally, post
 Civil fraud, contesting penalties, guilty plea or verdict constituting collateral estoppel, 6-4.320
 Civil liability, compromise of criminal cases, 6-4.360
 Claims by government, compromise or concession, 6-6.720 et seq.
 Claims court cases, 6-3.520
 Assisting in cases, 6-5.830
 Claims of United States, bankruptcy, receivership, probate and insolvency proceedings, 6-5.500 et seq.
 Clergy, search warrants, 6-4.130
 Closing of case, decisions in favor of government, 6-5.712
 Coin-operated gambling and amusement machines, prosecutions, criminal division responsibilities, 6-4.270
 Collateral agreements. Compromise and settlement, post
 Collateral estoppel, guilty plea or verdict, contesting civil fraud penalties, 6-4.320
 Collection, 6-5.100 et seq.
 Injunctions, 6-5.330
 Investigations, internal revenue service special procedures function personnel, 6-8.450
 Limitation of actions, emergencies, commencement of action, 6-5.110
 Policy and responsibilities, 6-1.100
 Post-judgment collection procedures, generally, post
 Termination of collection activity as to judgments in favor of government, 6-6.130
 Commencement of actions,
 Collection suits, 6-5.110
 Prior approval requirements, 6-2.000
 Summons litigation, 6-5.214

INDEX

TAX CASES—Cont'd

Commercial financing agreements, federal tax liens, priority, 6-5.113

Complaints,
 Civil cases, drafting, 6-5.110
 Prior approval requirements, 6-2.000

Refunds, responsibilities of United States attorney on receipt, 6-5.620 et seq.

Service abroad, 6-5.111
 Prior approval requirements, 6-2.000

Complex case designations, internal revenue service criminal referrals, review, 6-4.213
 Prior approval requirements, 6-2.000

Compromise and settlement, 6-6.000 et seq.
 Acceptance,
 Post-judgment collections, 6-8.300
 Redelegating authority, 6-6.130

Actions affecting property on which United States has lien, approval, 6-5.322

Appeals, issues on, 6-6.130

Approval, 6-6.300
 Actions affecting property on which United States has lien, 6-5.322
 Prior approval requirements, 6-2.000

Attorney generals authority, 6-6.100 et seq.

Bad debt deductions, proposed settlement based on collectibility, waiver, 6-6.530

Closing out cases, 6-6.700 et seq.
 Post-litigation unit duties, 6-7.100

Collateral agreements,
 Deferred or installment payments, 6-6.540
 Form, 6-6.903

Payments,
 Government claims, 6-6.721
 Increasing percentages of annual income, 6-6.520

Conditions and limitations, redelegated authority, 6-6.130

Conference regarding offers, 6-6.440

Criminal proceedings, 6-4.360
 Pending, 6-6.200
 Settlement of civil liability, 6-4.300

Dallas field office, authority, 6-6.130

Declaratory judgments, acceptance of offers, redelegation of authority, 6-6.130

Deductibility of payment, federal income tax purposes, 6-6.510

Deferred payments, 6-6.540

Duration of collateral agreement, 6-6.520

Foreclosure sales, stipulations, 6-5.114

Forms, 6-6.900 et seq.
 Collateral agreements, 6-6.520, 6-6.903
 Government claims, stipulation for dismissal, 6-6.721

Inability to pay, statement of assets and liabilities, 6-6.413

Offers in compromise, 6-6.410 et seq., 6-6.901

Redemption, release of right, 6-6.904

Statement of financial condition and other information, 6-6.902

Stipulation for dismissal, refund suits, 6-6.711

Government claims, 6-6.500 et seq., 6-6.721

Inability to pay,
 Statement of assets and liabilities, 6-6.413

TAX CASES—Cont'd

Compromise and settlement—Cont'd
 Inability to pay—Cont'd
 Statutory interest, 6-6.510

Injunctions, acceptance of offers, redelegation of authority, 6-6.130

Installment payments, 6-6.540

Interest, 6-6.510
 Paid or refunded, 6-6.411

Issues on appeal, 6-6.130
 Redelegating authority, 6-6.130
 Statutory interest, 6-6.510

Manual for collection of judgments, 6-6.550

Negotiations, 6-6.450

Net operating losses, proposed settlement based on collectibility, waiver, 6-6.530

Non-monetary cases, acceptance of offers, redelegation of authority, 6-6.130

Offers in compromise, 6-6.400 et seq.
 Conferences, 6-6.440
 Deductibility of payment, federal income tax purposes, 6-6.510
 Forms, 6-6.410 et seq., 6-6.901
 Inability to pay, statement of assets and liabilities, form, 6-6.413
 Payment, 6-6.421
 Post-judgment collection procedures, verification of financial statements submitted by taxpayer, 6-8.450
 Submitted directly to division, 6-6.430
 Submitted to United States attorney, 6-6.420 et seq.
 Time for processing, 6-6.422
 Writing requirement, 6-6.411

Payment of amounts offered, 6-6.421

Post-judgment collection,
 Authority of United States attorney, 6-8.300
 Verification of financial statements submitted by taxpayer, 6-8.450

Post-litigation unit, duties, 6-7.100

Prior approval requirements, 6-2.000

Receipt of payment by United States attorney, 6-6.721

Recommendations,
 Internal revenue service district counsel, 6-6.422
 Offer submitted directly to division, 6-6.430
 Offer submitted to United States attorney, 6-6.420

Redelegating authority, 6-6.130

Refund suits, post

Rejection, post-judgment collections, 6-8.300

Rejection of offers, redelegation of authority, 6-6.130

Review of disposition at higher level, redelegation of authority, 6-6.130

Statement of financial condition and other information, form, 6-6.902

Statutory interest, 6-6.510

Stipulation for dismissal, post

Supervision, 6-3.300

Tax attributes, waiver, 6-6.530

Time, 6-6.420

INDEX

TAX CASES—Cont'd

Concessions,
 Approval,
 Division, 6-6.300
 Redelegation of authority, 6-6.130
 Attorney generals authority to make, 6-6.120
 Government claims, 6-6.722
 Post-litigation unit, duties, 6-7.100
 Prior approval requirements, 6-2.000
 Refund suits, post
 Condemnation, suits against United States, 6-5.320 et seq.
 Conferences,
 Offers in settlement, 6-6.440
 Prosecutorial authority and procedure, 6-4.214
 Contempt,
 Promoting abusive tax shelters, disobeying injunctions, 6-3.530
 Summons enforcement proceedings, commencement by attachment, 6-5.214
 Contractors, government contractors, suits involving immunity from state and local taxes, 6-5.400
 Conviction, costs of prosecution, 6-4.350
 Coordination, 6-1.100
 Corporations, guilty plea, resulting in dismissal of charges against individual, 6-4.310
 Costs,
 Awarding against United States, 6-5.725
 Compromise and settlement, refund suits, 6-6.711
 Concessions, refund suits, 6-6.712
 Delivery to taxpayers counsel, post-litigation unit duties, 6-7.200
 Government claims, concessions, 6-6.722
 Post-litigation unit, duties, 6-7.100
 Prosecution, conviction, 6-4.350
 Credits, decisions adverse to United States, procedures upon lower courts decision, 6-5.720 et seq.
 Criminal division,
 Organized crime strike force, joint tax-nontax investigations, 6-4.127
 Prosecutorial authority, 6-4.210
 Criminal investigation division,
 Administrative summons, issuance, 6-5.211
 Internal revenue service, 6-4.110 et seq.
 Criminal proceedings, 6-4.000 et seq.
 Authorizing prosecution, 6-1.100
 Case disposition and sentencing, 6-4.300 et seq.
 Compromise and settlement, ante
 Grand jury, generally, post
 Internal revenue service administrative investigations, 6-4.110 et seq.
 Investigation and prosecution, 6-3.600
 Investigative authority and procedure, 6-4.100 et seq.
 Juris, 6-4.030
 Litigation assistance requests, United States attorney, 6-4.219
 Prosecutorial authority and procedure, generally, post
 Responsibility for prosecution, 6-1.100
 Sentence and punishment, generally, post

TAX CASES—Cont'd

Criminal reference letters,
 Internal revenue service administrative investigations, 6-4.113
 Review by United States attorney, 6-4.241
 Criminal Tax Manual, generally, this index
 Cross-appeals, procedures, 6-5.000
 Dallas field office, authority to compromise, 6-6.130
 Debt adjustment, bankruptcy, claims for unpaid taxes, direct referral to United States attorney, 6-5.522
 Decedents estates, claims of United States for unpaid taxes, 6-5.510, 6-5.540
 Appeals, 6-5.560
 Declaratory judgments,
 Claims court, 6-3.520
 Compromise offers, acceptance, redelegation of authority, 6-6.130
 Declining prosecution. Prosecutorial authority and procedure, post
 Deductions, compromise payments, federal income tax purposes, 6-6.110
 Deferred payments, compromise offers, 6-6.540
 Delegation of authority,
 Compromise, return or close claims, 6-6.130
 Joint tax-nontax investigations, 6-4.122
 Prosecution of cases, 6-4.212
 Redemption rights, release, 6-6.140
 Search warrants, 6-4.130
 Delinquency, initiating collection actions, 6-1.100
 Direct referrals to United States attorneys, 6-4.243
 Administrative summons, request for enforcement, 6-5.212
 Bankruptcy proceedings, claims for unpaid taxes, 6-5.522
 Grand jury investigations, 6-4.122
 Guilty pleas, administratively investigated cases, 6-4.117
 Internal revenue service investigations, 6-4.114
 Review, 6-4.213
 Prior approval requirements, 6-2.000
 Seizure of property, payment of taxes, warrant, 6-5.130
 Discharge from lien, actions affecting property on which United States has lien, 6-5.321
 Disclosure,
 Grand jury material, internal revenue service personnel, 6-4.128
 Returns and return information, judgment debtors, post-judgment collection, 6-8.460
 Disclosure statements, bankruptcy, claims for unpaid taxes, direct referral to United States attorney, 6-5.522
 Discovery,
 Criminal conferences, 6-4.214
 Post-judgment collection procedures, 6-8.220
 Refund suits, 6-5.640
 Dismissal of proceedings,
 Attorney generals authority, 6-6.120
 Cases directly referred to United States attorneys, 6-4.243
 Criminal prosecutions, request, 6-4.246
 Government claims,
 Compromise, 6-6.721

INDEX

TAX CASES—Cont'd

Dismissal of proceedings—Cont'd
 Government claims—Cont'd
 Concessions, 6-6.722
 Guilty plea by corporation, resulting in dismissal against individual, 6-4.310
 Guilty plea to major counts, dismissal of remaining counts, 6-4.310
 Prior approval requirements, 6-2.000
 Refund suits,
 Compromise, 6-6.711
 Prior approval requirements, 6-2.000
 Concessions, 6-6.712
 Stipulation for dismissal, generally, post
 Suits against United States, actions affecting property on which United States has lien, 6-5.321
 Disposition of cases, 6-4.300 et seq.
 Distribution in bankruptcy, claims for unpaid taxes, direct referral to United States attorney, 6-5.522
 Division approval, grand jury investigations, joint United States attorney-internal revenue service request to expand, 6-4.123
 Docket attorneys, complex case review, internal revenue service criminal referrals, 6-4.213
 Document requests, foreign-based documents, summons, proceedings to quash, 6-5.220
 Drug task force,
 Grand jury investigations, requests, 6-4.125
 On-site reviews, criminal prosecutions, 6-4.217
 Emergencies, civil cases, commencement of actions, United States attorneys duties, 6-5.110
 Prior approval requirements, 6-2.000
 Eminent domain, suits against United States, 6-5.320 et seq.
 Enforcement proceedings. Summons litigation, generally, post
 Engineering studies, refund cases, 6-5.641
 Entry on property, warrant, seizure of property, 6-5.130
 Evasion,
 Guilty verdict or plea, contesting civil fraud penalties, collateral estoppel, 6-4.320
 Major count plea agreements, priorities 6-4.310
 Evidence,
 Discovery, generally, ante
 Exhibits, criminal proceedings, returning at conclusion of case, 6-4.249
 Foreign evidence gathering problems, 6-3.600
 Policy and responsibilities, 6-1.100
 Excise taxes,
 Liquor tax, criminal division responsibilities, 6-4.270
 Prosecution, direct referrals to United States attorneys, 6-4.243
 Execution, 6-8.220
 Exhibits, criminal proceedings, return on conclusion of case, 6-4.249
 Expedited review, decisions regarding prosecution, 6-4.215
 Expenses, litigation expenses, awarding against United States, 6-5.725
 Extensions of time,
 Notice of appeal, adverse or partially adverse decisions to United States, 6-5.722

TAX CASES—Cont'd

Extensions of time—Cont'd
 Trial, 6-5.642
 False returns, joint administrative investigations, internal revenue service, 6-4.112
 Favorable decisions, procedure upon lower court rendering, 6-5.711, 6-5.712
 Federal government,
 Foreclosure sales, bidding on behalf of federal government, 6-5.114
 Intervention, civil actions, 6-5.120
 Prior approval requirements, 6-2.000
 Liens, actions affecting property, 6-5.320 et seq.
 Suits against United States or officers and employees, 6-5.300 et seq.
 Federal tax enforcement program, 6-4.010
 Authorization of prosecution, standards for review, 6-4.213
 Prior approval requirements, 6-2.000
 Federal tax liens,
 Intervention by federal government asserting, 6-5.120
 Prior approval requirements, 6-2.000
 Priority, 6-5.113
 Redemption,
 Actions affecting property on which United States has lien, 6-5.321
 Release of rights, 6-6.800
 Form, 6-6.904
 Redlegation of authority, 6-6.140
 State exemptions, application, 6-8.420
 Felony counts, major counts authorized for prosecution plea agreements, 6-4.310
 Prior approval requirements, 6-2.000
 Fictitious returns claiming refunds, multiple filings, direct referrals to United States attorneys, 6-4.243
 Financial institutions, summons, proceedings to quash or enjoin, 6-5.220
 Firearms, prosecutions, criminal division responsibilities, 6-4.270
 First in time, first in right, federal tax liens, priority, 6-5.113
 Flagrancy of offense, major counts authorized for prosecution, guilty plea, priorities, 6-4.310
 Foreclosure,
 Mortgages, involving tax liens, defending, 6-1.100
 Sales, 6-5.114
 Suits against United States, 6-5.320 et seq.
 Foreign countries, service of process, 6-5.111
 Prior approval requirements, 6-2.000
 Foreign evidence gathering problems, 6-3.600
 Policy and responsibilities, 6-1.100
 Foreign-based documents, summons, proceedings to quash, 6-5.220
 Forms, 6-6.900 et seq.
 Compromise and settlement, ante
 Offers in compromise, 6-6.410 et seq.
 Release of right of redemption, 6-6.800
 Fraud,
 Civil fraud, contesting penalties, guilty plea or verdict contesting collateral estoppel, 6-4.320
 Direct referrals to United States attorneys, 6-4.243

INDEX

TAX CASES—Cont'd

Fraud—Cont'd

- Internal revenue service criminal investigation division, initiation of investigations, 6-4.111
- Freedom of Information Act,
 - Responsibility for litigation, 6-3.540
 - Suits against United States, 6-5.340
- Fresno service center, refund suits, 6-5.623
- Gambling, prosecutions, criminal division responsibilities, 6-4.270
- Garnishment, post-judgment collection procedures, 6-8.220
- Governmental immunity, state and local taxes, suits involving, 6-5.400
- Grand jury, investigations, 6-4.120 et seq.
 - Authorization, 6-4.120
 - Approval or denial, 6-4.213
 - Standards for review, 6-4.213
 - Prior approval requirements, 6-2.000
 - Declining to return indictment, rehearing or presentation to another grand jury, 6-4.245
 - Prior approval requirements, 6-2.000
 - Direct referral to United States attorney, 6-4.122
 - Division requests, 6-4.126
 - Drug task force, requests, 6-4.125
 - Expansion, 6-4.123
 - Independent counsel, requests, 6-4.122
 - Internal revenue service, post
 - Joint tax-nontax investigations, 6-4.122
 - Joint United States attorney-internal revenue service request to expand, 6-4.123
 - Prior approval requirements, 6-2.000
 - No bill, rehearing or presentation to another grand jury, 6-4.245
 - Non-tax matters, 6-4.122
 - On-site review, criminal prosecutions, 6-4.217
 - Organized crime strike force, requests, 6-4.122
 - Policy and responsibilities, 6-1.100
 - Prior approval requirements, 6-2.000
 - Recommendations for prosecution, 6-4.127
 - Prior approval requirements, 6-2.000
 - United States attorney, 6-4.242
 - Reports and exhibits, internal revenue service transmittal, 6-4.127
 - Secrecy, maintaining following conclusion of case, 6-4.249
 - Standards for authorizing, 6-4.213
 - Targets, post
 - United States attorney initiated investigations, 6-4.122
 - United States attorney recommendation, 6-4.242
- Guidelines, award of attorneys fees and related expenses, 6-5.725
- Guilty pleas,
 - Alford pleas, accepting plea over defendants claim of innocence, 6-4.330
 - Prior approval requirements, 6-2.000
 - Case disposition, 6-4.310
 - Administratively investigated cases, 6-4.117
 - Prior approval requirements, 6-2.000
- Immunity, state and local taxes, 6-5.400
- Incarceration, sentencing, recommendation, 6-4.340
- Independent counsel,
 - Grand jury investigation, requests, 6-4.122

TAX CASES—Cont'd

Independent counsel—Cont'd

- Joint tax-nontax investigations, 6-4.122
- Indictment or information,
 - Forms, Juris, 6-4.030
 - Joint tax-nontax investigations, 6-4.122
 - Request to dismiss, 6-4.246
 - United States attorney status reports, 6-4.248
- Informers rewards, claims court, 6-3.520
- Injunctions,
 - Abusive tax shelters, promotion, 6-3.530
 - Compromise, acceptance of offers, redelegation of authority, 6-6.130
 - Suits against United States, 6-5.310, 6-5.350
 - Summons, 6-5.220, 6-5.221
- Insolvency proceedings, claims of United States, 6-5.500 et seq.
 - Appeals, 6-5.560
 - Policy and responsibilities, 6-1.100
- Installment payments, compromise offers, 6-6.540
- Institute on criminal tax trials, 6-4.020
- Interest,
 - Claims court, 6-3.520
 - Compromise and settlement, 6-6.510
 - Amount paid or refunded, 6-6.411
 - Post-judgment collection, 6-8.440
 - Refund suits, compromise or concession, 6-6.713
- Internal revenue service,
 - Access to grand jury materials, 6-4.128
 - Administrative collection, 6-8.410
 - Administrative investigations, generally, ante
 - Attorneys, appointment, special assistants, 6-1.100
 - Collection suits, requesting, 6-5.110
 - Disposition of materials following conclusion of case, 6-4.249
- District counsel,
 - Recommendations on compromise, 6-6.422
 - Refund cases, duties, 6-5.630
- District director, actions affecting property on which United States has lien, naming as party, 6-5.321
- Grand jury investigations,
 - Access to materials, 6-4.128, 6-4.129
 - Direct referrals, 6-4.122
 - Requests, 6-4.121
- Interference, prosecutions, criminal division responsibilities, 6-4.270
- Joint administrative investigations, 6-4.112
- Levy and distraint, 6-8.410
- Malfesance by employees, prosecutions, criminal division responsibilities, 6-4.270
- Officers and employees,
 - Subpoenas, 6-5.350
 - Suits against in personal capacity, 6-5.370
- Organized crime, drug enforcement task force, grand jury investigations, 6-4.125
- Post-judgment collection procedures,
 - Administrative collection, 6-8.410
 - Responsibilities, 6-8.100
- Recommendations for prosecution, submission for authorization, 6-4.127
- Referrals for prosecution, 6-4.114, 6-4.115
 - Complex and noncomplex case designation procedures, 6-4.213

INDEX

TAX CASES—Cont'd

Internal revenue service—Cont'd
 Referrals for prosecution—Cont'd
 Declining prosecution, administrative investigation, 6-4.116
 Standards for review, 6-4.213
 Prior approval requirements, 6-2.000
 Referrals to division, administrative investigations, 6-4.114, 6-4.115
 Refund cases,
 Cooperation, 6-5.641
 Role of district counsel, 6-5.630
 Review, administrative investigations, 6-4.113
 Rulings, challenging, responsibility for litigation, 6-3.540
 Seizure of property, levy and distraint, 6-8.410
 Special procedures function,
 Collection investigation, 6-8.450
 Post-judgment collection, advising United States attorney, 6-8.210
 Subpoenas, service on employees, 6-5.350
 Suits against officials in personal capacities, 6-5.370
 Internal revenue service centers, 6-5.623
 Interpleader, suits against United States, 6-5.310 et seq.
 Interrogatories, post-judgment collection procedures, statement of financial condition and other information, 6-8.220
 Intervention,
 Actions affecting property on which United States has lien, removal from state courts, 6-5.323
 Federal government, tax liens, 6-5.120
 Prior approval requirements, 6-2.000
 Investigations, 6-4.100 et seq.
 Administrative investigations, generally, ante
 Collection investigations, internal revenue service special procedures function personnel, 6-8.450
 Compromise, processing offers, 6-6.422
 Grand jury, generally, ante
 Refund cases, supplemental field investigations by IRS, 6-5.641
 Report of judgment debtors, special procedures function of internal revenue service, assisting United States attorney, 6-8.210
 Targets, generally, post
 United States attorney responsibilities, 6-4.240
 Investigative leads, provided at conferences, development, 6-4.214
 Jeopardy assessments,
 Review, 6-5.300
 Suits against United States, 6-5.310
 Joinder. United States as party, actions affecting property on which United States has lien, 6-5.3.1
 Joint administrative investigations, internal revenue service, 6-4.112
 Joint tax-nontax investigations,
 Grand jury, drug task force, 6-4.125
 Internal revenue service participation, 6-4.122
 Judgment debtors. Post-judgment collection procedures, generally, post
 Judgment liens, extending, 6-8.210

TAX CASES—Cont'd

Judgments,
 Adverse or partially adverse decisions to United States, procedure upon lower court rendering, 6-5.720 et seq.
 Collection manual, compromise and settlement, 6-6.550
 Collection of taxes,
 Tax division responsibility, 6-8.100
 United States attorney responsibility, 6-8.210
 Copy to tax division, compromise of government claims, 6-6.721
 Entry,
 Full amount of claim, compromise offers for deferred or installment payments, 6-6.540
 Governments favor, compromise, 6-6.721
 Favorable decisions to United States, procedures upon lower court rendering, 6-5.711, 6-5.712
 Post-judgment collection procedures, generally, post
 Post-litigation unit, duties, 6-7.100
 State exemption statutes, application, 6-8.420
 Judicial sales, actions affecting property on which United States has lien, 6-5.321
 Juris,
 Criminal tax materials, 6-4.030
 Summons litigation, 6-5.230
 Jurisdiction,
 Actions affecting property on which United States has lien, 6-5.322
 Civil cases, 6-5.000
 Criminal investigation division, internal revenue service, 6-4.110
 Nunc pro tunc, writ of, 6-5.112
 Prosecutorial authority, tax division, 6-4.211
 Prior approval requirements, 6-2.000
 Receivership proceedings, claims for unpaid taxes, 6-5.530
 Jury,
 Instructions, model criminal instructions, Juris, 6-4.030
 Refund cases, United States attorney assisting in selection, 6-5.643
 Kansas City service center, refund suits, 6-5.623
 Labor union officials, search warrants, 6-4.130
 Leniency, sentencing, recommendation, 6-4.340
 Lesser-included offenses, major counts authorized for prosecution, guilty plea, 6-4.310
 Prior approval requirements, 6-2.000
 Levy and distraint, internal revenue service, 6-5.130, 6-8.410
 Liens,
 Discharge, actions affecting property on which United States has lien, 6-5.321
 Federal government, actions affecting property, 6-5.320 et seq.
 Federal tax liens, generally, ante
 Foreclosure, sales, 6-5.114
 Judgment liens, extending, 6-8.210
 Mortgage foreclosure actions, defending, 6-1.100
 State exemption statutes, application, 6-8.420
 United States government, actions affecting property, trial responsibility, 6-5.000
 Limitation of actions,
 Emergencies, commencement of action, 6-5.110

INDEX

TAX CASES—Cont'd

Limitation of actions—Cont'd
 Reducing tax assessment to judgment, 6-8.410
 Liquor tax, prosecutions, criminal division responsibilities, 6-4.270
 Litigation assistance, United States attorney requests, criminal proceedings, 6-4.219
 Litigation expenses, awarding against United States, 6-5.725
 Litigation support, summons litigation, 6-5.230
 Local taxes, suits involving governmental immunity, 6-5.400
 Major counts,
 Administratively investigated general enforcement program cases, guilty plea, 6-4.117
 Authorized for prosecution, guilty plea, 6-4.310
 Malfeasance offenses, internal revenue service personnel, prosecutions, criminal division responsibilities, 6-4.270
 Manuals,
 Collection of tax judgments, 6-8.000
 Criminal Tax Manual, generally, this index
 Media publicity, 6-5.810
 Memoranda,
 Actions affecting property on which United States has lien, 6-5.322
 Criminal section docket attorneys, complex criminal cases, 6-4.213
 Refund suits, accompanying complaint, United States attorney, 6-5.621
 Memphis service center, refund suits, 6-5.623
 Military forces, suits involving governmental immunity from state and local taxes, 6-5.400
 Modification of decision on appeal, lower court decision in favor of government, 6-5.712
 Mortgages, foreclosure, suits against United States, 6-1.100, 6-5.320 et seq.
 Multiple filings, false or fictitious returns claiming refunds, direct referrals to United States attorneys, 6-4.243
 Narcotics, prosecutions, criminal division responsibilities, 6-4.270
 Ne exeat republica, writ of, 6-3.112
 Prior approval requirements, 6-2.000
 Negotiations, compromise and settlement, 6-6.450
 Net operating losses, proposed settlement based on collectibility, waiver, 6-6.530
 News media,
 Publicity, 6-5.810
 Search warrants, 6-4.130
 Newsletter, criminal section newsletter, Juris, 6-4.030
 Non contentendere pleas, 6-4.320
 Prior approval requirements, 6-2.000
 Noncomplex cases,
 Designations, internal revenue service criminal referrals, review, 6-4.213, 6-4.244
 United States attorney handling, 6-4.219
 Notice,
 Adjustment, post-litigation unit duties, 6-7.200
 Claims of United States, bankruptcy, receivership, probate and insolvency proceedings, 6-5.510
 Declining prosecution, United States attorney, 6-4.245
 Prior approval requirements, 6-2.000

TAX CASES—Cont'd

Notice—Cont'd
 Federal tax liens, filing, 6-5.113
 Freedom of Information Act, suits against United States, 6-5.340
 Injunctions, suits against United States, 6-5.330
 Insolvency proceedings, claims for unpaid taxes, 6-5.550
 Jeopardy and termination assessments, suits to review, 6-5.360
 Liens, actions affecting property on which United States has lien, 6-5.322
 Petitions to quash, 6-5.221
 Privacy Act, suits against United States, 6-5.340
 Probate proceedings, claims for unpaid taxes, 6-5.540
 Receivership proceedings, claims for unpaid taxes, 6-5.530
 Refund suits, service centers, 6-5.622
 Reorganization plans, bankruptcy, claims for unpaid taxes, 6-5.524
 Service centers, refund suits, 6-5.622
 Subpoenas, service on employees of internal revenue service, 6-3.350
 Suits against United States, 6-5.310
 Summons litigation, 6-5.213
 Notice of appeal,
 Adverse or partially adverse decisions to United States, 6-5.722
 Bankruptcy,
 Claims for unpaid taxes, 6-5.523
 Receivership, probate and insolvency proceedings, 6-5.560
 Claims for unpaid taxes, bankruptcy, receivership, probate and insolvency proceedings, 6-5.523
 Decisions favorable to government, suspension of case, 6-5.711
 Procedures, 6-5.000
 Offers in compromise. Compromise and settlement, ante
 Ogden service center, refund suits, 6-5.623
 On-site review, criminal prosecutions, 6-4.217
 Order to show cause, summons litigation, commencement of proceeding, 6-5.214
 Orders,
 Adverse or partially adverse decisions to United States, procedure upon lower court rendering, 6-5.720 et seq.
 Entry to effect levy, 6-5.130
 Favorable decisions to United States, procedures upon lower court rendering, 6-5.711, 6-5.712
 Organized crime drug enforcement task force,
 Grand jury investigations, requests, 6-4.125
 Liaison, 6-3.600
 Organized crime section, criminal division, enforcement of summons, referrals, 6-5.212
 Organized crime strike force,
 Grand jury investigation, requests, 6-4.122
 Joint tax-nontax investigations, 6-4.122
 Partially adverse decisions to United States, procedure upon lower courts decision, 6-5.720 et seq.
 Parties, joinder, actions affecting property on which United States has lien, 6-5.321
 Partition, suits against United States, 6-5.320 et seq.

INDEX

TAX CASES—Cont'd

Payments,
 Government claims, compromise, 6-6.721
 Seizure of property, warrant, 6-5.130
 Petitions. Summons litigation, post
 Philadelphia service center, refund suits, 6-5.623
 Physicians, search warrants, 6-4.130
 Pleadings,
 Bankruptcy, claims of United States, unpaid taxes,
 6-5.521
 Freedom of Information Act, suits against United
 States, 6-5.340
 Interpleader, actions affecting property on which
 United States has lien, 6-5.322
 Intervention by United States, asserting federal tax
 lien, 6-5.120
 Prior approval requirements, 6-2.000
 Seizure of property, payment of taxes, warrant,
 6-5.130
 Pleas,
 Alford pleas, accepting guilty plea over defendants
 claim of innocence, 6-4.330
 Prior approval requirement, 6-2.000
 Guilty pleas, case disposition, 6-4.310
 Prior approval requirements, 6-2.000
 Major accounts, 6-4.117
 Negotiations, administrative or investigative cases,
 6-4.117
 Conferences, 6-4.214
 Nolo contendere, 6-4.320
 Prior approval requirements, 6-2.000
 United States attorney status reports, 6-4.248
 Political candidates, search warrants, 6-4.130
 Post-judgment collection procedures, 6-8.000 et seq.
 Administrative collection, internal revenue service,
 6-8.410
 Bankruptcy, 6-8.420, 6-8.430
 Civil trial section, responsibilities, 6-8.100
 Compromise and settlement,
 Authority of United States attorney, 6-8.300
 Verification of financial statements submitted by
 taxpayer, 6-8.450
 Delay, 6-8.000
 Differences between tax judgments and other civil
 judgments, 6-8.400 et seq.
 Differences between United States attorney and in-
 ternal revenue service, 6-8.210
 Compromise and settlement, 6-8.300
 Discovery, 6-8.220
 Execution, 6-8.220
 Interest rate, 6-8.440
 Investigations, availability of internal revenue ser-
 vice personnel, 6-8.450
 Litigation necessary to collect, cases referred to
 United States attorneys, 6-8.210
 Manual for collection of tax judgments, 6-8.000
 Public policy, 6-8.000
 Referral to United States attorney, 6-8.100
 Responsibility of tax division, 6-8.100
 Responsibility of United States attorney, 6-8.200 et
 seq.
 Returns and return information, judgment debtors,
 disclosure, 6-8.460
 Seizure of property, 6-8.220

TAX CASES—Cont'd

Post-judgment collection procedures—Cont'd
 Special procedures function, internal revenue ser-
 vice, advising United States attorney, 6-8.210
 State exemption statutes, application, 6-8.420
 Tax division responsibilities, 6-8.100
 Trial attorney, responsibilities, 6-8.100
 Uncollectible judgments, 6-8.100
 Termination of collection activity, 6-8.300
 United States attorneys responsibilities, 6-8.200 et
 seq.
 Referral from tax division, 6-8.100
 Post-litigation unit, 6-7.000 et seq.
 Pre-trial preparation, refund suits, 6-5.640
 Pre-trial proceedings, refund suits, 6-5.820
 Preliminary injunctions, suits against United States
 6-5.310
 Prior approval requirements, 6-2.000
 Priorities and preferences,
 Criminal proceedings, settlement of civil liability,
 6-6.200
 Federal tax liens, 6-5.113
 Major counts authorized for prosecution, guilty
 plea, 6-4.310
 Receivership proceedings, claims for unpaid taxes,
 6-5.530
 Priority review, criminal prosecutions, 6-4.216
 Privacy Act,
 Responsibility for litigation, 6-3.540
 Suits against United States, 6-5.340
 Probate proceedings, claims of United States, 6-5.500
 et seq.
 Appeals, 6-5.560
 Collection of claims, policy and responsibilities,
 6-1.100
 Proofs of claim, unpaid taxes, bankruptcy, receiver-
 ship, probate and insolvency proceedings,
 6-5.500 et seq.
 Prosecutorial authority and procedure, 6-4.000 et
 seq.
 Conferences, 6-4.214
 Costs, 6-4.350
 Criminal division responsibilities, 6-4.270 et seq.
 Declining prosecution,
 Administrative investigations, effect, 6-4.116
 Prior approval requirements, 6-2.000
 Protest, 6-4.247
 United States attorney, 6-4.245
 Delegation of authority, 6-4.212
 Direct referrals to United States attorneys, 6-4.243
 Review, 6-4.213
 Dismissal, request, 6-4.246
 Expedited review, 6-4.215
 Final authority for prosecution, 6-4.218
 Prior approval requirements, 6-2.000
 Grand jury, recommendation, 6-4.242
 Jurisdiction, tax division, 6-4.211
 Prior approval requirements, 6-2.000
 Litigation assistance, United States attorney re-
 quests, 6-4.219
 On-site review, 6-4.217
 Priority review, 6-4.216
 Request to decline prosecution, 6-4.245
 Prior approval requirements, 6-2.000

INDEX

TAX CASES—Cont'd

Prosecutorial authority and procedure—Cont'd
 Request to dismiss, 6-4.246
 Review, 6-4.213
 Prior approval requirements, 6-2.000
 Summons enforcement proceedings, 6-5.215
 Tax division responsibilities, 6-4.210 et seq.
 United States attorney responsibilities, 6-4.240 et seq.

Protests by United States attorney, declining prosecution, 6-4.247

Public officials, search warrants, 6-4.130

Publicity, 6-5.810

Pyramiding of taxes, bankruptcy proceedings, claims for unpaid taxes, direct referral to United States attorney, 6-5.522

Quashing, summons, 6-5.220, 6-5.221

Quiet title actions, suits against United States, 6-5.320 et seq.

Receivers and receivership, claims of United States, 6-5.500 et seq.
 Appeals, 6-5.560

Recommendations,
 Appeal, adverse or partially adverse decisions to United States, 6-5.721
 Prosecution, 6-4.127
 Prior approval requirements, 6-2.000
 Referral to justice department, 6-4.114
 Sentencing, 6-4.340

Records and recordation, major count plea agreements, including violations on residual counts, 6-4.310

Recusal, United States attorney, requests for criminal trial assistance, 6-4.219

Redelegation of authority,
 Compromise, settle or close claims, 6-5.130
 Redemption rights, release, 6-6.140

Redemption. Federal tax liens, ante

Reduction of charges, major counts authorized for prosecution, plea agreements, 6-4.310
 Prior approval requirements, 6-2.000

Referrals,
 Grand jury investigations, 6-4.122
 Internal revenue service, ante
 Post-judgment collections, 6-8.100, 6-8.210
 Prosecution, division requests, 6-4.126
 Refund suits, 6-5.640
 Status reports, 6-4.248
 Trial responsibility, 6-5.000

Refund suits, 6-5.600 et seq.
 100-percent penalty, complaints, responsibilities of United States attorney on receipt, 6-5.620
 Abandonment of defense, 6-6.600
 Adverse decisions to United States, procedures upon lower courts decision, 6-5.720 et seq.
 Claims court cases, 6-3.520
 Complaints, responsibilities of United States attorney on receipt, 6-5.620 et seq.
 Compromise and settlement,
 Closing out, 6-6.711
 Prior approval requirements, 6-2.000
 Evaluation, 6-5.641
 Issuance of refund check, 6-6.713
 Post-litigation unit duties, 6-7.100

TAX CASES—Cont'd

Refund suits—Cont'd
 Concessions, 6-6.120, 6-6.600
 Closing out, 6-6.712
 Issuance of refund check, 6-6.713
 Post-litigation unit, duties, 6-7.100
 Cooperation with Internal Revenue Service, 6-5.641
 Defense litigation, 6-1.100
 Discovery, 6-5.640
 District counsel, duties, 6-5.630
 Expediting, 6-5.820
 Extension of time, 6-5.642
 Issuance of check, post-litigation unit duties, 6-7.100, 6-7.200
 Juries, United States attorney assisting in selection, 6-5.643
 Litigating, 6-3.530
 Trial responsibility, 6-5.000
 Memorandum accompanying complaint, United States attorney sending to division, 6-5.621
 Notice of credit, post-litigation unit duties, 6-7.100, 6-7.200
 Post-litigation unit, duties, 6-7.100
 Preparation and trial of suits, 6-5.640 et seq.
 Pre-trial proceedings, 6-5.820
 Role of Internal Revenue Service district counsel, 6-5.630
 Service centers, notice of suits, 6-5.622, 6-5.623
 Settlement, 6-5.820
 Suits against United States, 6-5.310
 Trial, 6-5.640 et seq.

Regional counsels, recommendations for prosecution, review, 6-4.127

Regulations, challenging, responsibility for litigation, 6-3.540

Release, rights of redemption, 6-6.800
 Redelegation of authority, 6-6.140

Remand of case, lower court decision in favor of government, 6-5.712

Removal of actions from state courts,
 Actions affecting property on which United States has lien, 6-5.323
 Prior approval requirements, 6-2.000
 Summons litigation, petition to quash, 6-5.221

Reorganization plans, bankruptcy, claims for unpaid taxes, 6-5.524

Replevin, post-judgment collection procedures, 6-8.220

Reports, disposition following conclusion of criminal cases, 6-4.249

Residual counts, major count plea agreements, record including full extent of violations, 6-4.310

Responsibilities of United States attorney, investigation and prosecution, 6-4.240 et seq.

Returns,
 Judgment debtors, disclosure, post-judgment collection, 6-8.460
 Willful failure to file, internal revenue service joint administrative investigations, 6-4.112

Revenue agents, subpoenas, 6-5.350

Review. Appeal and review, generally, ante

Revolving funds, redemption, actions affecting property on which United States has lien, 6-5.321

INDEX

TAX CASES—Cont'd

Sales,
 Bankruptcy proceedings, claims for unpaid taxes, direct referral to United States attorney, 6-5.522
 Foreclosure, 6-5.114
 Search warrants, 6-4.130
 Seizure of property,
 Forcible rescue, prosecutions, criminal division responsibilities, 6-4.270
 Internal revenue service, 6-8.410
 Post-judgment collection procedures, 6-8.220
 Warrants, 6-5.130
 Self-incrimination, administrative summons, requests for enforcement, authorization, 6-5.212
 Sentence and punishment, 6-4.300 et seq.
 Statements, 6-4.340
 United States attorney status reports, 6-4.248
 Sequestration, post-judgment collection procedures, 6-8.220
 Service centers, refund suits, 6-5.623
 Notice, 6-5.622
 Service of process,
 Federal government, actions affecting property on which United States has lien, 6-5.321
 Foreign countries, 6-5.111
 Prior approval requirements, 6-2.000
 Injunctions, suits against United States, 6-5.330
 Internal revenue service officials in personal capacities, suits against, 6-5.370
 Settlement. Compromise and settlement, generally, ante
 Shelters, litigation, office of special litigation, 6-5.000
 Single family dwellings, redemption, release of right, 6-6.800
 Form, 6-6.904
 Redlegation of authority, 6-6.140
 Slot machines, prosecutions, criminal division responsibilities, 6-4.270
 Sovereign immunity, waiver, suits against United States, federal liens on property, 6-5.321
 Special agents report, internal revenue service,
 Administrative investigations, 6-4.113
 Recommendations for prosecution, 6-4.127
 Special calendars, refund suits, 6-5.820
 Special litigation office, tax shelters, 6-5.000
 Stamp tax, prosecutions, criminal division responsibilities, 6-4.270
 State court cases,
 Appeals, 6-3.700
 Intervention by United States asserting federal tax lien, 6-5.120
 Prior approval requirements, 6-2.000
 Prior approval requirements, 6-2.000
 Removal of actions, generally, ante
 Summons litigation, petition to quash, 6-5.221
 State law,
 Execution procedures, 6-8.220
 Post-judgment collection procedures, application of exemption statutes, 6-8.420
 State taxes, suits involving governmental immunity, 6-5.400
 Statement of assets and liabilities, compromise and settlement, inability to pay, 6-6.413

TAX CASES—Cont'd

Statement of financial condition,
 Form, 6-6.902
 Post-judgment collection procedures, use with interrogatories, 6-8.220
 Statements, sentencing, 6-4.340
 Status reports, criminal cases referred to United States attorney, 6-4.248
 Statute of limitations,
 Emergencies, commencement of action, 6-5.110
 Reducing assessment to judgment, 6-8.410
 Statutory interest,
 Compromise and settlement, 6-6.510
 Refund suits, compromise or concession, 6-6.713
 Stipulation for dismissal,
 Compromise and settlement,
 Government claims, 6-6.721
 Refund suits, 6-6.711
 Prior approval requirements, 6-2.000
 Concessions,
 Government claims, 6-6.722
 Refund suits, 6-6.712
 Stipulations,
 Foreclosure sales, 6-5.111
 Refund suits, 6-5.820
 Subject matter jurisdiction, actions affecting property on which United States has lien, 6-5.322
 Subpoenas, internal revenue service employees, 6-5.350
 Substitution of misdemeanors for felonies, plea agreements, major counts authorized for prosecution, 6-4.310
 Summons and complaint, suits against United States, 6-5.310
 Summons enforcement, trial responsibility, 6-5.000
 Summons litigation, 6-5.200 et seq.
 Administrative summons, generally, ante
 Commencement of proceeding, 6-5.214
 Criminal investigation division, issuance, 6-5.211
 Enforcement cases, 6-5.210 et seq.
 Enforcement decisions list, furnishing, 6-5.230
 Juris research file, 6-5.230
 Notice requirement, 6-5.213
 Petitions,
 Commencement of proceeding, 6-5.214
 Enforcement, 6-5.211
 Proceedings to quash or enjoin, 6-5.220, 6-5.221
 Proceedings to quash or enjoin, 6-5.220, 6-5.221
 Prosecution, failure to honor summons, 6-5.215
 Requests for enforcement, 6-5.212
 Third-party recordkeepers, 6-5.220
 Training and litigation support, 6-5.230
 Suspension of case, lower court rendering favorable decision, 6-5.711
 Targets,
 Grand jury, investigation,
 Joint request to expand, 6-4.123
 Prior approval of requirements, 6-2.000
 Joint tax-nontax investigation, 6-4.122
 Search warrants, 6-4.130
 Tax attributes,
 Proposed settlement based on collectibility, waiver, 6-6.530
 Waiver, settlement proposals, 6-6.530

INDEX

TAX CASES—Cont'd

- Tax evasion,
 - Guilty plea or verdict, contesting civil fraud penalties, collateral estoppel, 6-4.320
 - Major counts authorized for prosecution, guilty plea, priorities, 6-4.310
- Tax exempt organizations, officials, search warrants, 6-4.130
- Tax information, unauthorized disclosure, damage actions, 6-3.540
- Tax preparers, criminal prosecutions, direct referrals to United States attorneys, 6-4.243
- Tax protester case lists, Juris, 6-4.030
- Taxation of federal government, responsibility for litigation, 6-3.540
- Technical studies, refund cases, 6-5.641
- Temporary restraining orders, suits against United States, 6-5.310, 6-5.330
- Ten percenter matters, tax preparers, criminal prosecutions, direct referrals to United States attorneys, 6-4.243
- Termination assessments, review, 6-5.360
- Termination of proceedings, joint tax-nontax investigations, 6-4.122
- Third-party recordkeepers, summons, proceedings to quash or enjoin, 6-5.220
- Title to property, quiet title actions, suits against United States, 6-5.320 et seq.
- Training, summons litigation, 6-5.230
- Trial,
 - Civil cases, responsibilities, 6-5.000
 - Criminal section assistance, 6-4.219
 - Date, United States attorney status reports, 6-4.248
 - Policy and responsibilities, 6-1.100
 - Refund cases, 6-5.640 et seq.
- Trust funds, prosecutions, direct referrals to United States attorneys, 6-4.243
- Understatement of liabilities, aiding and abetting, 6-3.530
- Uniform enforcement, promotion, 6-3.600
- Uniform prosecution program, 6-4.010
- United States attorney initiated grand jury investigations, 6-4.122
- Unpaid taxes, claims of United States, bankruptcy, receivership, probate and insolvency proceedings, 6-5.500 et seq.
- Valuation, refund cases, 6-5.641
- Verdicts, United States attorney status reports, 6-4.248
- Veterans administration,
 - Redemption rights, release, 6-6.800
 - Releasing rights of redemption, redelegation of authority, limits on market value, 6-6.140
- Vicarious admissions, conferences, statements by attorneys for taxpayers, 6-4.214
- Videotape training films, summons litigation, 6-5.230
- Waiver,
 - Sovereign immunity, federal liens, 6-5.321
 - Tax attributes, proposed settlement based on collectibility, 6-6.530
- Warrants,
 - Search warrants, 6-4.130
 - Seizure of property, 6-5.130

TAX CASES—Cont'd

- Writs,
 - Entry, seizure of property for payment of taxes, 6-5.130
 - Ne exeat republica, 6-5.112
 - Prior approval requirements, 6-2.000
- TAX DIVISION**
 - Appellate section, 6-3.700
 - Transfer of cases following decisions favorable to government, 6-5.712
 - Assistant attorney general, 6-3.100
 - Final authority for prosecutions, 6-4.218
 - Attorneys fees, manual concerning award, 6-1.110
 - Authorizing prosecution, criminal cases, 6-1.100
 - Central region, civil trial section, 6-3.510
 - Special interest cases, 6-3.540, 6-5.000
 - Civil case procedures, 6-5.000 et seq.
 - Civil litigation, 6-3.500 et seq.
 - Civil trial sections, 6-3.510, 6-5.000
 - Claims court section, 6-3.520
 - Collection of tax judgments manual, 6-1.110
 - Compromise and settlement, supervision, 6-3.300
 - Conduct of litigation responsibilities, 6-1.100
 - Cooperation between division and United States attorneys offices, 6-1.100
 - Criminal proceedings, 6-4.000 et seq.
 - Criminal section, 6-3.600
 - Criminal tax manual, 6-1.110, 6-4.020
 - Delegation directives, deputy assistants, 6-3.200
 - Deputy assistant attorneys general, 6-3.200
 - Guidelines, award of attorneys fees and related expenses, 6-5.725
 - Institute on criminal tax trials, 6-4.020
 - Jurisdiction, claims court, 6-3.520
 - Legislation and policy, office of, 6-3.400
 - Litigation, civil litigation, 6-3.500 et seq.
 - Litigation assistance, 6-1.100
 - Manuals,
 - Collection of tax judgments, 6-6.550, 6-8.000
 - Furnished United States attorneys, 6-1.110
 - Memoranda, office of review, 6-3.300
 - Northern region,
 - Civil trial sections, 6-3.510
 - Criminal section, 6-3.600
 - Office chiefs, supervision, 6-3.200
 - Offices,
 - Legislation and policy, 6-3.400
 - Policy and tax enforcement analysis, criminal section, 6-3.600
 - Review, 6-3.300
 - Special litigation office, 6-3.530, 6-5.000
 - Supervision, 6-3.200
 - Organization of division, 6-3.000 et seq.
 - Organized crime drug enforcement task forces, criminal section liaison, 6-3.540
 - Policy, 6-1.100
 - Policy and tax enforcement office, criminal section, 6-3.600
 - Post-judgment collection procedures, responsibilities, 6-8.100
 - Post-litigation unit, 6-7.000 et seq.
 - Proposed settlements and concessions, exceeding delegated authority, review, 6-3.300

INDEX

TAX DIVISION—Cont'd

Reports, office of legislation and policy, 6-3.400
Responsibilities, 6-1.100
Review, office of, 6-3.300
Section chiefs, supervision, 6-3.200
Sections,
 Civil trial section, 6-3.510
 Claims court section, 6-3.520
Southern region,
 Civil trial sections, 6-3.510
 Criminal section, 6-3.600
Special interest cases, 6-3.540
Special litigation, office of, 6-3.530, 6-5.000
State courts, appellate section, 6-3.700
Supervision, 6-1.100
Trial attorneys staff, providing assistance, 6-1.100
United States claims court, claims court section,
 6-3.520
Western region,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

TAX EXEMPT ORGANIZATIONS

Search warrants, officials, 6-4.130

TAX PREPARERS

Criminal prosecutions, direct referrals to United
 States attorneys, 6-4.243

TAX PROTESTERS

Case lists, Juris, 6-4.030

TAX SHELTERS

Office of special litigation, 6-5.000

TEMPORARY RESTRAINING ORDERS

Tax cases, suits against United States, 6-5.310,
 6-5.330

TENNESSEE

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

TEXAS

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

TITLE TO PROPERTY

Tax cases, quiet title actions, suits against United
 States, 6-5.320 et seq.

TRAINING

Tax cases, summary litigation, 6-5.230

TRIAL

Tax Cases, this index

TRUST FUNDS

Tax cases, prosecution, direct referrals to United
 States attorney, 6-4.243

UTAH

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

VALUATION

Tax cases, refunds, 6-5.641

VERDICTS

Tax cases, United States attorney status reports,
 6-4.248

VERMONT

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

VETERANS ADMINISTRATION

Tax cases,
 Redemption rights, release, 6-6.800
 Releasing rights of redemption, redelegation of a-
 thority, limits on market value, 6-6.140

VIRGIN ISLANDS

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

VIRGINIA

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

WAIVER

Tax cases
 Sovereign immunity, federal liens, 6-5.321
 Tax attributes, proposed settlement based on col-
 ligibility, 6-6.530

WARRANTS

Tax cases,
 Search warrants, 6-4.130
 Seizure of property, 6-5.130

WASHINGTON

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

WEST VIRGINIA

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

WESTERN REGION, CIVIL TRIAL SECTION

Tax division, 6-3.510

WESTERN REGION, CRIMINAL SECTION

Tax division, 6-3.600

WISCONSIN

Tax division,
 Civil trial section, 6-3.510
 Criminal section, 6-3.600

WRITS

Tax Cases, this index

WYOMING

Tax division, civil trial section, 6-3.510