

Tax Division
United States Department of Justice

FY 2024 Budget



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I. Overview for Tax Division

Introduction – Revitalize Tax Enforcement

The United States Government engages with every American, and all those who benefit from the nation, through our tax system. Tax collections fund most Federal Government services, from national defense to national parks. Because the Government lacks the resources to directly assess and audit each individual taxpayer, it asks its citizens, residents, and those who earn income in this country to report their confidential financial information annually, and to self-assess and pay their tax liabilities. In the United States, citizens file almost 168 million tax returns each year¹ and pay almost \$1.3 trillion,² representing approximately 44 percent of Net Collections. Full collection of tax liabilities and a consistently high voluntary compliance rate depend on the Internal Revenue Service (IRS) and the Tax Division maintaining an active and effective criminal and civil enforcement program.

Over the past decade, IRS budget cuts have eroded the agency's enforcement capabilities, decreasing collection and voluntary compliance. In recognition of this trend, Congress, President Biden, and Attorney General Garland identified revitalizing tax enforcement as critical to guaranteeing that our country has a fair, effective, and credible tax system. In August 2022, President Biden signed into law the Inflation Reduction Act (the Act), which included \$80 billion in additional IRS funding. This new funding will assist the IRS in achieving the administration's goals of strengthening tax collection and the enforcement of corporations and high net worth individuals, while relieving low-income taxpayers of often cumbersome audits. The Tax Division is a critical partner in the success of this endeavor through its work prosecuting tax crimes, litigating civil enforcement actions, and defending against unwarranted claims against the fisc.

To keep pace with the increased efforts by the IRS and to continue to build on the investments made in FY 2023, the Tax Division needs additional funding to ensure that the goal of revitalized tax collection and enforcement is met.³ Therefore, the Tax Division is seeking a budget increase in enhancements of \$1.3 million and 10 positions (10 attorneys) and 5 Full Time Equivalent (FTE) to allow the Tax Division to work with the IRS in increasing tax enforcement. With these additional resources, the Tax Division's FY 2024 budget request is for \$130,332,000, including 533 permanent positions (405 attorneys), and 480 FTE.

¹ Internal Revenue Service Data Book, 2021 page 4, Table 2. Number of Returns and Other Forms Filed, by Type, Fiscal Years 2020 and 2021.

² Internal Revenue Service Data Book, 2021 page 3, Table 1. Collections and Refunds, by Type of Tax, Fiscal Years 2020 and 2021.

³ To prepare for the anticipated increase in IRS activities, in FY 2023 the Tax Division requested and received a budget increase of \$4.3 million. The request included \$2.048 million for 20 positions (14 attorneys), 10 FTE and \$2.244 million to build a modern Automated Litigation Support program. The Tax Division's total request was for 519 positions and \$121.3 million.

To implement the Act, the IRS has launched a targeted nationwide hiring initiative.⁴ Most significantly, the IRS is hiring 470 revenue agents who will specialize in examining individual and business taxpayers, with a particular focus on transactions involving potential fraud, tax schemes, and abusive tax shelters. Following the IRS's recent hiring of 200 new agency attorneys dedicated to combatting tax schemes being aggressively marketed by tax shelter promoters,⁵ the IRS recently announced new attorney positions to help the agency address high-end, complex noncompliance.⁶ Likewise, IRS-Criminal Investigation plans to hire an additional 350 special agents and another 150 of additional personnel.

The IRS's important work in increasing tax compliance and in identifying and pursuing tax evasion and underpayments is only part of the equation. The Tax Division, in partnership with the United States Attorney's Offices (USAO), ensures that IRS investigations, audits, and cases reach a prompt and successful resolution – by conducting grand juries, prosecuting criminal violations, pursuing civil enforcement actions, and defending claims against the fisc through the courts. To achieve the Act's objective of expanding and enhancing tax enforcement – especially the goal of achieving greater accountability for corporations and high net worth individuals willfully evading their tax obligations – will require the Tax Division's robust participation.

The requested increase will assist the Tax Division in reaching the Administration's goal of reducing the tax gap through fair and equitable tax enforcement. The enhancement requested (\$1.3 million, 10 attorney positions and 5 FTE) would be deployed to dovetail with the IRS's stated priority for its new resources: examinations of high-income and global high net worth individuals as well as complex structures, such as partnerships, multi-tier pass-through entities, and multinational corporations. In the Tax Division's experience these matters often involve issues with evidence and assets held offshore or, increasingly, transactions in cryptocurrencies that are not as transparent as traditional banking. Moreover, the increased focus on corporations and high net worth individuals will lead to an increased likelihood of challenges to IRS actions and an overall increase in referrals to the Tax Division of complex matters. Thus, the Tax Division anticipates using the new resources to enhance its cadre of attorneys and staff with expertise to successfully litigate the more complex matters and the increased workload from the IRS. Additional funding for the Tax Division will also permit earlier intervention and immediate

⁴ IRS quickly moves forward with taxpayer service improvements; 4,000 hired to provide more help to people during 2023 tax season on phones, IR 2022-191 (October 2022) <https://www.irs.gov/newsroom/irs-quickly-moves-forward-with-taxpayer-service-improvements-4000-hired-to-provide-more-help-to-people-during-2023-tax-season-on-phones>; IRS announces job openings to hire over 700 new employees across the country to help taxpayers in person, IR 2022-197 (November 2022) <https://www.irs.gov/newsroom/irs-announces-job-openings-to-hire-over-700-new-employees-across-the-country-to-help-taxpayers-in-person>.

⁵ IRS Chief Counsel looking for 200 experienced attorneys to focus on abusive tax deals; job openings posted, IR-2022-17 (January 2022) <https://www.irs.gov/newsroom/irs-chief-counsel-looking-for-200-experienced-attorneys-to-focus-on-abusive-tax-deals-job-openings-posted>.

⁶ IRS Chief Counsel is hiring attorneys; multiple job openings posted to help enhance the taxpayer experience and address high-end noncompliance, IR-2023-21 (February 2023) <https://www.irs.gov/newsroom/irs-chief-counsel-is-hiring-attorneys-multiple-job-openings-posted-to-help-enhance-the-taxpayer-experience-and-address-high-end-noncompliance>.

engagement with the IRS on various matters that are routinely referred to the Tax Division during the examination process. The new funding also will help the Tax Division continue to implement the sophisticated litigation support applications and data analysis needed to make sense of the voluminous and disparate evidence that will be gathered, to reshape the Tax Division's infrastructure to fully support these priority cases.

With greater resources, the Tax Division will be well positioned to help achieve the goal of increased tax enforcement, particularly against sophisticated tax evaders, both by working independently and in collaboration with the IRS. For example, in FY 2022 Tax Division attorneys collected \$247,200,000 in taxes, interest, and penalties from unpaid taxes the IRS referred to DOJ after it was unable to collect the debt using its administrative authorities. This amount represents a return of over three times the Tax Division's appropriated funding. High-profile Tax Division cases of the type envisioned by the revitalization efforts greatly enhance the effect of IRS administrative enforcement actions. The joint effort of IRS and the Tax Division to combat offshore noncompliance provides a classic example of comprehensive and effective tax enforcement. The IRS's Offshore Voluntary Disclosure Program, brought more than 56,000 taxpayers into compliance and the Treasury recouped more than \$11.1 billion in back taxes, interest, and penalties.⁷ At the same time, the Tax Division's highly visible enforcement actions prompted taxpayers to comply with their obligations before the Tax Division and the IRS identified them and sought even greater civil and criminal penalties. The Tax Division has recently used similar strategies to target employment tax evasion, syndicated conservation easements, and traditional tax crimes such as evasion. Against this backdrop of successful recent collaboration with the IRS on many priorities, the Tax Division – with the requested new resources – will be well positioned to build on its current staffing to successfully take on the work generated by substantial increases in the IRS enforcement funding.

The Tax Division's Primary Responsibilities

As previously noted, the IRS's efforts to revitalize tax enforcement and the emphasis on high-wealth taxpayers and abusive transactions will result in an increase to the Tax Division's already substantial and varied workload. Tax Division litigators are charged with effectively enforcing federal tax laws by evaluating and supporting the IRS's investigations and determinations in civil cases and prosecuting criminal violations of the revenue laws. On average, Tax Division civil litigators have nearly 4,800 civil cases in process annually, in which they seek to enforce the IRS's requests for information in ongoing examinations, and to collect and defend tax assessments when the IRS's examinations are complete. The Tax Division's civil appellate attorneys handle about 430 appeals annually, about half of which are from decisions of the Tax Court, where IRS attorneys represent the Commissioner. In criminal matters, Tax Division prosecutors authorize almost all grand jury investigations and prosecutions involving violations of the internal revenue laws, furthering uniformity in nationwide standards for such prosecutions. Between FY 2018 and FY 2022, the Division authorized over 1,300 criminal tax

⁷ IRS To End Offshore Voluntary Disclosure Program; Taxpayers With Undisclosed Foreign Assets Urged To Come Forward Now, IR-2018-52, (March 13, 2018). (<https://www.irs.gov/newsroom/irs-to-end-offshore-voluntary-disclosure-program-taxpayers-with-undisclosed-foreign-assets-urged-to-come-forward-now>).

investigations annually. Tax Division prosecutors investigate and prosecute these crimes either alone or alongside the USAOs.

Improving Voluntary Compliance. The Tax Division’s high litigation success rate (higher than 90 percent) has an enormous effect on voluntary tax compliance. By law, the IRS cannot make public the fact of an IRS audit, or its result. By contrast, the Tax Division’s important tax litigation victories receive widespread media coverage, leading to a significant multiplier effect on voluntary compliance. A widely regarded study concluded that the marginal indirect revenue-to-cost ratio of a criminal conviction is more than 16 to 1.⁸ While no comparable study of civil litigation exists, the same research suggests that IRS civil audits have an indirect effect on revenue that is more than 10 times the adjustments proposed in those audits. Another predicts that an additional dollar allocated to civil audits would return \$67 in general deterrence, while an additional dollar allocated to criminal investigation results in \$55 of deterrence.⁹ The positive effects of the IRS and the Tax Division’s efforts on this front are seen in public opinion about voluntary compliance. According to a survey by the IRS oversight board, the public takes a very negative view of cheating on one’s taxes, with 86 percent of the respondents indicating that it is never acceptable.

The Tax Division’s criminal litigators, and their partners at the IRS and the USAOs, work tirelessly to hold wrongdoers accountable and signal to the nation’s taxpayers following the law that those who cheat will be held accountable. For example:

- In January 2023, Jason Cory was sentenced to 32 months in prison for willfully attempting to evade the assessment of his federal income taxes by using his positions as manager and CEO of two IT consulting services companies to cause more than \$1.5 million to be deposited into the bank accounts of a nominee entity he controlled. He was also ordered to pay \$606,195 in restitution.
- In January 2023, Sergio Sosa was sentenced to 37 months in prison for conspiring with his children to evade the payment of more than \$1 million in individual income taxes he owed for decades as the owner of a tax preparation business. He was also ordered to pay \$1,104,737 in restitution.
- In November 2022, Larry Dayton was sentenced to 36 months in prison for conspiring to defraud the IRS in connection with his ownership and operation of illegal gambling businesses in the Canton, Ohio area. He was also ordered to pay \$938,000 in restitution.

⁸ Alan H. Plumley, *The Determinants of Individual Income Tax Compliance*, pp. 35, 40, Internal Revenue Service Publication 1916 (1996). “For 2015, the IRS estimated that the cost of enforcement activities, combining enforcement and the relevant part of operations support, was \$5.6 billion, while the revenue generated was \$54.2 billion, for a return on investment of \$9.60 for every \$1 spent.”

⁹ Jeffrey A. Dubin, *The Causes and Consequences of Income Tax Noncompliance* 256 (2012).

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

- In January 2023, one of the defendants in a suit seeking to stop several individuals from organizing, promoting, or selling an allegedly unlawful tax scheme involving the use of Charitable Remainder Annuity Trusts (CRATs) entered into a stipulated injunction in the case that bars him from participating in or facilitating such schemes in the future. The complaint, filed in February 2022, targeted activities which the IRS has listed on its [Dirty Dozen tax scams](#) that taxpayers should avoid. This case is continuing and plays a key role in the IRS's efforts to end abusive tax arrangements.
- Following the April 2021, stipulated injunction against one of the defendants in a suit seeking to stop several individuals from organizing, promoting, or selling an allegedly abusive conservation easement syndication tax scheme, the Government has continued its efforts to enjoin the remaining promoters and plays a key role in the IRS's efforts in the area of abusive syndicated conservation easements. The complaint, filed in December 2018, targeted activities that yielded over \$2 billion of tax deductions from overvalued and improper qualified conservation contributions resulting in hundreds of millions of dollars of tax harm.
- In December 2022, a district court in Georgia enforced four IRS summonses seeking testimony from the organizer of syndicated conservation easement transactions as part of an examination of four entities involved in the transactions. The organizer played a key role in the transactions at issue, which attempted to grossly inflate property valuations in excess of six times their recent purchase price.
- In November 2022, the Tenth Circuit Court of Appeals affirmed the Tax Court's favorable decision in a case arising from an abusive tax-shelter scheme centered on purported solar energy technology. In an earlier case out of the Tenth Circuit, the United States successfully enjoined the promoters of the scheme and obtained a \$50 million disgorgement judgment against them. Subsequently, the Tenth Circuit affirmed the disallowance of the scheme's purported tax benefits against the participants. This case is effectively the test case for approximately 200 other pending Tax Court cases brought by participants in the same scheme.

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

Protecting the Public Fisc. The Tax Division is one of the principal guardians of public funds, and the resources committed to it pay substantial dividends. The Division's affirmative civil litigation typically brings in more each year than the Division's entire budget, averaging \$247.7 million from FY 2018 to FY 2022. The significant amounts obtained by the Division through affirmative litigation are nonetheless dwarfed by the public funds that the Division safeguards through its defensive civil litigation. The Division is currently defending refund suits

that collectively involve over \$10 billion. While these figures represent amounts directly at issue, they cannot fully capture the strong indirect effects of the Tax Division's affirmative and defensive litigation. Decisions in the Division's cases often reduce the need for future administrative and judicial tax proceedings by settling questions of law for millions of taxpayers. For example:

- In September 2022, the Fifth Circuit Court of Appeals denied Exxon Mobil Corp.'s petition for rehearing en banc as to refund claims totaling more than \$1.3 billion in a \$1.3 billion refund suit. The Court's August 2022 ruling rejected Exxon's attempts to deduct fuel excise taxes that had been offset by its receipt of alcohol fuel credits (as discussed below) and to recharacterize its oil and gas contracts in Qatar and Malaysia as sales rather than leases.
- In June 2021, the Seventh Circuit Court of Appeals affirmed the position of the United States that butane is not an alternative fuel for purposes of the alternative fuel mixture credit and rejected claims by U.S. Venture Inc. that its gasoline-butane mixtures qualified for such credits. In 2022, the Fifth Circuit Court of Appeals held likewise as to similar claims by Vitol, Inc., and a similar refund suit filed by Philadelphia Energy Solutions Refining & Marketing, Inc., is currently pending in the Federal Circuit. The Joint Committee on Taxation estimated that more than \$49.9 billion is at stake because of other taxpayers with the same issue.
- In September 2022, the Fifth Circuit Court of Appeals joined the Tenth Circuit's prior decision, as well as district courts in Illinois and Colorado rejecting constitutional challenges to a provision of the tax code that allows the State Department to revoke the passports of taxpayers that the IRS certifies to have "seriously delinquent tax debts." Taxpayers challenged, without success, the passport revocation statute as violating their fundamental right to international travel. Prior to passage of the passport revocation statute in 2015, a GAO Report stated that, as of September 2008, passports had been issued to over 225,000 individuals collectively owing over \$5.8 billion in federal taxes. More recent figures from the IRS indicated that 436,400 taxpayers qualified for passport revocation as of April 2018. The potential for the non-issuance or revocation of a passport as a result of outstanding tax debts aims to boost taxpayer compliance with federal tax laws.
- In 2022, the Fifth and Sixth Circuit Courts of Appeal affirmed judgments for the United States on refund claims brought by Exxon Mobil, Sunoco, and Delek totaling more than \$480 million, rejecting their position that they were entitled to deduct as "costs" on their income taxes not only the fuel-excise taxes they actually incurred, but also the excise taxes they would have owed if they had not claimed "alcohol fuel mixture" credits against those taxes. Those results followed a November 2018 decision of the Federal Circuit Court of Appeals rejecting the same position as to Sunoco's separate claim for a refund of more than \$300 million for other tax years. This issue has a potential industry-wide economic effect of \$8 billion.

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

Domestic and Counter Terrorism. Tax Division attorneys play an important role in the fight against international and domestic terrorism. Tax Division attorneys lend their expertise to attorneys at the National Security Division (NSD) and at USAOs in prosecuting those who take advantage of the tax laws to fund terrorism through the use of tax-exempt organizations. A Tax Division Senior Litigation Counsel manages this effort. In the last several years, the Division has worked with Assistant U.S. Attorneys (AUSA) and Joint Terrorism Task Forces to authorize tax charges when other criminal violations were not available and currently are reviewing and approving several terrorist financing investigations. On the domestic front, the Division's Tax Defier Initiative is designed to investigate, pursue and, where appropriate, prosecute those who take concrete action to defy the fundamental validity of the tax laws. To accomplish this goal, the Division works closely with IRS-Criminal Investigators, Treasury Inspector General for Tax Administration, the Federal Bureau of Investigation (FBI), and the DOJ's NSD to develop a coordinated approach to litigating – civilly and criminally – those involved in the sovereign citizen/redemption scheme cases across the country.

Full Program Costs

In the FY 2024 budget request, approximately 72 percent of the Division's resources are for Civil Tax Litigation and Appeals, and 28 percent for Criminal Tax Prosecution and Appeals. This budget request incorporates all costs, including mission costs related to cases and matters, mission costs related to oversight and policy, and overhead.

External and Internal Performance Challenges

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

External

Reducing the Tax Gap. The IRS collected just over \$4.0 trillion in 2021.¹⁰ Enforcement actions brought in more than \$59 billion for FY 2021.¹¹ The Department of the Treasury reports that the tax gap totaled nearly \$600 billion in 2019 and will rise to about \$7 trillion over the course of the next decade if left unaddressed – roughly equal to 15 percent of all taxes owed. The problem is exacerbated by the vast increase in financial globalization, which has expanded the opportunities for assets and income to be easily hidden offshore, and by the rise of cryptocurrencies that can be used to evade tax laws. As noted by the IRS Oversight Board, enforcement programs allow the IRS to further voluntary compliance, help reduce the tax gap, and provide much needed dollars to the federal purse.¹² Improving compliance is the number one priority in the IRS Strategic Plan and an integral part of President Biden’s American Family Plan. It is why revitalizing tax enforcement is an explicit goal for the Department.

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

Internal

The Tax Division’s vigorous civil and criminal enforcement program enhances deterrence and compliance, leads to the recovery of substantial funds, and more than pays for itself. The Division collects through criminal and civil affirmative enforcement more than the annual cost of its budget.

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

¹⁰ Internal Revenue Service Data Book, 2021 page 1.

¹¹ Internal Revenue Service Data Book, 2021 page 57. In Fiscal Year (FY) 2021, the IRS collected more than \$92.6 billion in unpaid assessments on returns filed with additional tax due, netting more than \$59.5 billion after credit transfers.

¹² IRS Oversight Board, FY 2015 Budget Recommendation, Special Report, May 2014.

these suits are reactive in nature, the Tax Division has little control over its defensive docket and must allocate the necessary attorney and staff resources required to defend these cases.

II. Summary of Program Changes

Tax Enforcement

The Tax Division is seeking a budget increase for \$1.303 million, 10 positions (10 attorneys) and 5 FTE to keep pace with the increase in workload proposed for FY 2024. The Tax Division’s total request is 533 Positions, 480 FTE and \$130.332 million.

III. Appropriations Language and Analysis of Appropriations Language

No substantive changes proposed. The Tax Division’s appropriations language is included in the GLA rollup.

IV. Program Activity Justification

A. General Tax Matters

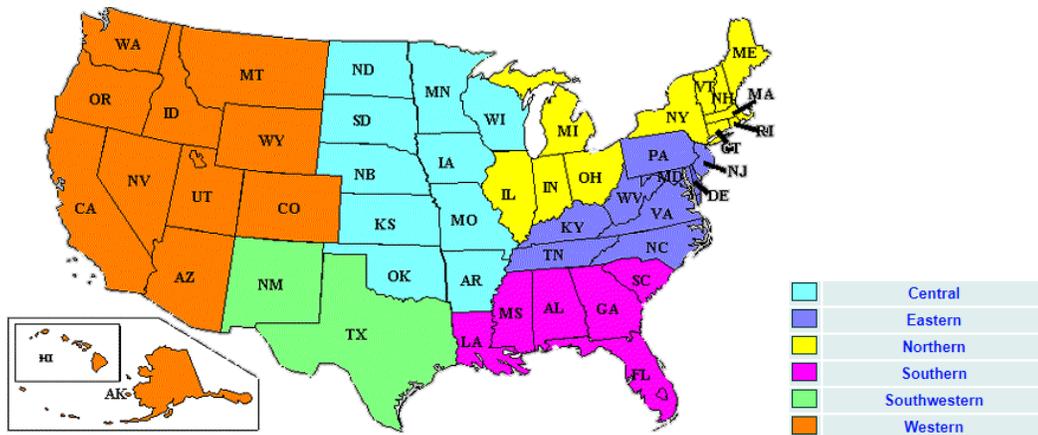
<i>General Tax Matters</i>	Direct Pos.	Estimate FTE	Amount (\$000)
2022 Enacted	499	432	\$116,169
2023 Enacted	523	465	\$122,148
Adjustments to Base and Technical Adjustments	0	10	\$6,881
2024 Current Services	523	475	\$129,029
2024 Program Increases	10	5	\$1,303
2024 Program Offsets	0	0	\$0
2024 Request	533	480	\$130,332
Total Change 2023-2024	10	15	\$8,184

<i>General Tax Matters-Information Technology Breakout (of Decision Unit Total)</i>	Direct Pos.	Estimate FTE	Amount (\$000)
2022 Enacted	12	12	\$14,919
2023 Enacted	14	10	\$10,957
Adjustments to Base and Technical Adjustments	0	0	\$130
2024 Current Services	14	14	\$11,087
2024 Program Increases	0	0	\$0
2024 Program Offsets	0	0	\$0
2024 Request	14	14	\$11,087
Total Change 2023-2024	0	0	\$930

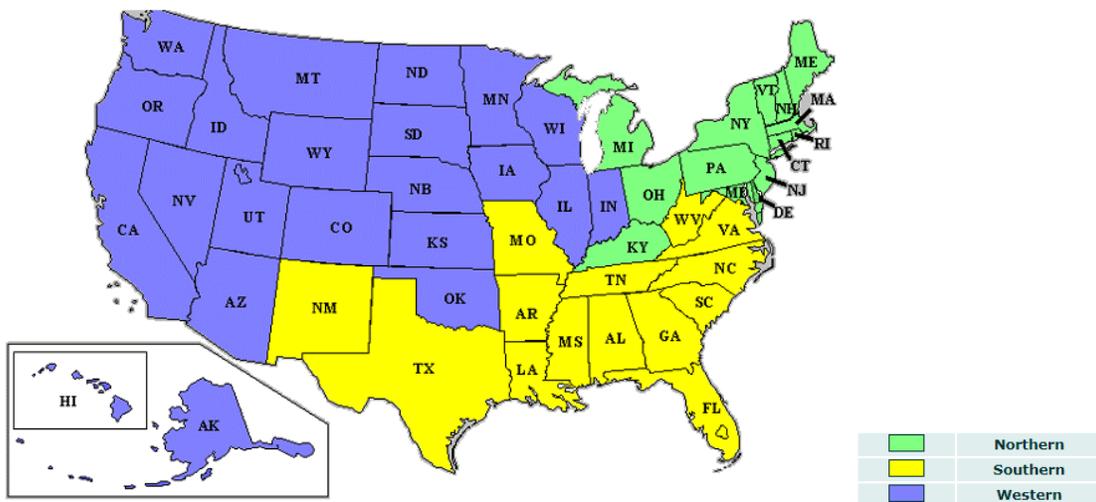
1. Program Description

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

Civil Trial Sections



Criminal Enforcement Sections



Civil Trial and Appellate Sections

Tax Division civil sections litigate all matters arising under the internal revenue laws in all state and federal trial courts, (with the exception of the United States Tax Court), and in appeals from all trial courts, including the Tax Court. Tax Division civil attorneys defend the United States in suits relating to the tax laws, including refund suits, tax shelter cases, and other

suits seeking monetary or other relief. Tax Division trial attorneys also bring suits that the IRS has requested, including suits to stop tax scam promoters and preparers, suits to collect unpaid taxes, and suits to allow the IRS to obtain information needed for tax enforcement. Tax Division civil appellate attorneys represent the United States in all appeals from trial court decisions.

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

For example, in October 2022, the District Court for the Eastern District of Wisconsin granted summary judgment against plaintiffs’ challenge to domestic production activities income (§ 199), which, prior to its repeal, allowed a deduction for “domestic production activities” against revenue from goods sold or licensed in the United States. The court adopted the Government’s argument that the taxpayer’s revenues from creating and managing custom online marketplaces were a service instead of creating and selling software. The IRS estimates that more than \$20 billion in similar refund claims are pending.

In November 2022, the Ninth Circuit Court of Appeals denied taxpayers’ petition for rehearing en banc (over a dissent) in a constitutional challenge to the “transition tax” on untaxed foreign earnings of certain foreign corporations (§ 965). In a June 2022 decision, the Ninth Circuit rejected taxpayers’ claims and held that the one-time “transition tax” is a constitutional exercise of the taxing power and that it is not impermissibly retroactive. Based on estimates by the Joint Committee on Taxation, revenue raised by the transition tax on earnings accumulated abroad was estimated at \$340 billion over the 10 years from 2018 to 2027.¹³ Also, in October 2022, a corporate taxpayer appealed to the First Circuit Court of Appeals a Tax Court decision that determined an income tax deficiency of \$505 million based on a corporate merger that preceded (and anticipated) a post-acquisition restructuring known as an outbound “F reorganization” (§ 368(a)(1)(F)). This complex merger consisted of a series of transfers involving various domestic and foreign entities. The main dispute concerns the application of rules related to the transfer of intangible assets (§ 367(d)); under this section, a U.S. person who transfers intangible property to a foreign corporation may have to recognize gain for tax purposes even if no such recognition would have been necessary if the transfer had been to a domestic corporation. The Tax Court agreed with the Commissioner that the corporate taxpayer must recognize immediate gain based on the acquisition; secondarily, the Tax Court determined that the value of the certain transferred trademarks should be determined based on their useful life rather than a period capped at 20 years.

¹³ Joint Committee on Taxation, General Explanation of Public Law 115-97, JCS-1-18 at 440 (Estimated Budget Effects..., Subtitle D, Part I, Subpart A, at (C) “Treatment of Deferred Foreign Income....”)

Shutting Down Tax-Fraud Schemes and Fraudulent Return Preparers. Since 2000, Tax Division attorneys have obtained injunctions against more than 500 tax-fraud promoters and return preparers. This number represents a dramatic increase over the 1990s, when the total number of promoters and preparers enjoined barely reached 25 for the entire decade. The schemes the Division has enjoined during the past several years had cost the Federal Treasury more than \$2.0 billion and placed an enormous administrative burden on the IRS. For example, in February 2022, the Seventh Circuit sanctioned a well-known promoter of tax shelters for bringing a frivolous appeal in a case in which the taxpayers failed to report nearly \$15 million of income arising from assets sheltered in an offshore life insurance policy held by a sham trust. In April 2020, the court entered an order against two enjoined return preparers for over \$120,000 in civil contempt sanctions for violating the permanent injunction prohibiting them from preparing and filing tax returns. If permitted to continue unchecked, these schemes would undermine public confidence in the integrity of our tax system and require both the IRS and the Tax Division to devote tremendous resources to detecting, correcting, and collecting the resulting unpaid taxes.

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

In addition, a series of wins at the circuit court level have anchored the timing requirements under § 6751(b)(1) for supervisory approval of penalties despite persistent subjectivity and lack of uniformity in Tax Court decisions on this issue, which in turn has encouraged taxpayers to cling to § 6751(b) timing issues as a means to avoid penalties they would have otherwise faced. Most recently, in January 2023, the Tenth Circuit Court of Appeals reversed an unfavorable decision of the Tax Court and held that the supervisory approval of penalties required by § 6751(b)(1) is timely if obtained before or on the date of the issuance of a notice of deficiency. Joining the Second, Ninth, and Eleventh Circuit Courts of Appeal, the Tenth Circuit rejected the Tax Court's formal-communication test—which requires supervisory approval before any proposed civil fraud penalty is communicated to the taxpayer—finding that such interpretation of the statute is in conflict with its plain language.

Moreover, the Division on behalf of the Commissioner successfully litigated a § 6751 challenge by a taxpayer to dispute her liability for the 10 percent tax imposed for her early withdrawal from her qualified retirement plan. In August 2022, the Second Circuit Court of Appeals affirmed the Tax Court's decision and held that the 10 percent exaction in § 72(t) assessed on early withdrawals from qualified retirement plans is a tax, not a penalty, and therefore exempt from the supervisory-approval requirement of § 6751(b)(1). Such a decision has significant implications to inhibit taxpayers' ability to challenge the assessment of the 10 percent early-withdrawal tax based on supervisory approval.

Enforcing penalties for failing to report foreign accounts. The Division brings suit to collect penalties owed by taxpayers with unreported foreign bank accounts abroad and who did not come into compliance with their reporting obligations through the IRS's Offshore Voluntary Disclosure programs. For instance, in May 2022, the Government filed a claim seeking over \$11 million in failure to Report of Foreign Bank and Financial Accounts (FBAR) penalties from the owner of a Japanese clothing business. The Division has also obtained pre-judgment relief to prevent the dissipation of assets while a case is ongoing. In March 2022, a Texas district court issued writs of garnishment on the U.S.-based investment accounts of a married couple who owed in excess of \$4 million in FBAR penalties arising from their failure to report a network of foreign bank accounts and who moved money through accounts in multiple countries using foreign passports in an apparent attempt to avoid detection. The Division has also obtained relief to avoid a fraudulent transfer of property to avoid paying their FBAR debts. In January 2022, a Virginia district court entered judgment in favor of the United States to enforce its FBAR liens against property that the court found to be fraudulently transferred to a relative.

The Division's suits concerning civil penalties for failure to report foreign accounts have gained traction before the Supreme Court. Currently pending before the Supreme Court is an appeal from a Fifth Circuit decision agreeing with the Government that the \$10,000 penalty for a non-willful failure to disclose foreign bank accounts on the proper form should apply to each unreported account, rather than just once per unsubmitted or incomplete reporting form. The IRS advises that nationwide, this issue affects over 200 debtors who collectively owe more than \$30 million.

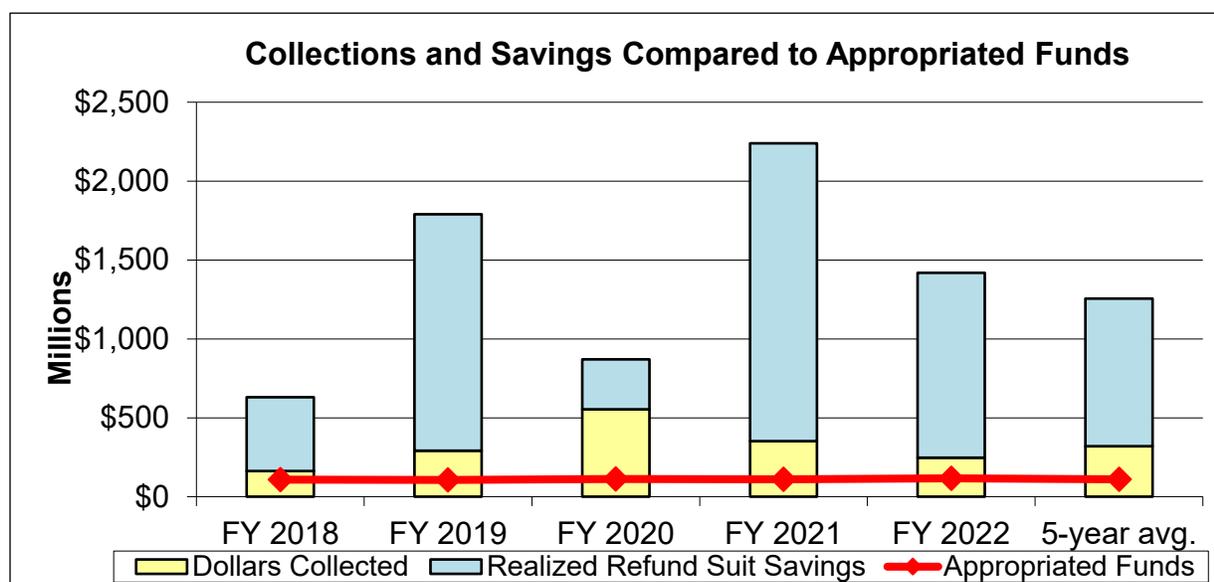
In April 2022, the First Circuit Court of Appeals upheld a \$2.1 million penalty against taxpayer for willfully failing to file an FBAR disclosing her Swiss bank account. The court affirmed the IRS's imposition of the maximum statutory penalty of 50 percent of the amount in the account. Among other things, the court concluded that the civil willful FBAR penalty is not a "punishment" subject to the Excessive Fines Clause of the Eighth Amendment, and that conclusion was the sole focus of taxpayer's petition. In addition, in January 2023, the Supreme Court denied certiorari (over a dissent) in a suit in which the taxpayer sought to challenge the willful FBAR penalty assessed against her as an "excessive fine" under the Eight Amendment.

In the case of another certiorari petition, the Supreme Court's denial of certiorari left in place a string of favorable victories. In October 2021, the Supreme Court denied certiorari in a taxpayer's appeal from a Federal Circuit Court of Appeals decision sustaining a \$700,000 civil willful FBAR penalty. The penalty amount constituted the statutory maximum of 50 percent of the account value, which the Federal Circuit held was within the statutory authorization of 31 U.S.C. § 5321(a)(5)(C). The Federal Circuit found the willfulness element satisfied because the taxpayer had a secret foreign account, had constructive knowledge of the requirement to disclose the account, and falsely represented that she had no such accounts.

Since late 2020, the First, Fourth, Eleventh, and Federal Circuits have each agreed with the Government that a 1987 regulation setting a maximum penalty of \$100,000 for willful violations of the foreign bank account disclosure requirements, which was at that time the statutory maximum, had been superseded in 2004 when Congress increased the statutory

maximum for willful violations to the greater of \$100,000 or 50 percent of the balance in the foreign account at the time of the violation.

Collecting Unpaid Taxes. The Division collects unpaid tax liabilities, including income tax, employment tax, and a variety of penalties, by bringing affirmative civil litigation against delinquent taxpayers. Most of the affirmative collection suits that the Division handles are factually complex and time-consuming – debts that the IRS has been unable to collect administratively and that frequently involve fraudulent transfers of property or other unlawful attempts by taxpayers to conceal their income or assets or to delay the proceedings. Despite these difficulties, Tax Division attorneys collected over **\$247.2 million** in taxes, interest, and penalties in FY 2022. Indeed, the Division’s affirmative litigation typically brings in more each year than the Division’s entire budget, as illustrated by the following chart below and has averaged \$319.2 million from FY 2018 to FY 2022.



The Division’s recent collection cases are aligned with the administration’s priorities of ensuring compliance by corporations and high net worth individuals. In September 2022, a Texas district court rejected Robert Brockman’s challenge to an expedited tax assessment of \$1.4 billion against him. Successfully defending the expedited assessment improves the prospect of eventually collecting the tax debt. In October 2022, the Tax Division filed suit seeking to recover \$284 million in taxes and penalties from Liberty Global for a transaction the Division contended served no meaningful purpose and attempted to exploit what it perceived to be a loophole in the international tax provisions of the 2017 Tax Cuts and Jobs Act that would purportedly allow a taxpayers to avoid paying U.S. tax on income that Congress had intended to be taxed. Liberty Global also filed suit seeking a refund of an alleged overpayment of taxes stemming from the same transaction at issue in the Division’s collection suit.

Civil Appellate Cases. Tax Division’s civil appellate attorneys represent the interests of the United States in all civil tax cases held in federal and state courts of appeals. During FY 2021, the Appellate Section litigated approximately 163 tax appeals, and won (in whole or in

part) over 92 percent of taxpayer appeals and 71 percent of Government appeals. In addition to preparing briefs and presenting oral arguments in courts of appeal, Appellate Section attorneys assist the Office of the Solicitor General in preparing briefs in the United States Supreme Court and prepare recommendations to the Solicitor General on whether to file an appeal. When the United States is not a party in cases that may affect the interest of the United States on tax-related issues, Appellate Section attorneys prepare amicus curiae briefs setting forth the Government's position on those issues.

Criminal Prosecutions and Appeals

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

During FY 2022, Division prosecutors obtained 104 indictments and information and 97 convictions and guilty pleas (not including the additional criminal tax prosecutions handled exclusively by USAOs). The conviction rate for cases brought by Tax Division prosecutors for FY 2022 was 95 percent. Vigorous enforcement punishes violators, deters future violations, and reassures honest taxpayers that they will not bear an undue share of the federal tax burden.

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

Through the Swiss Bank Program, the Department has entered into 80 Non-Prosecution Agreements (NPA) with 81 banks that collectively paid more than \$1.6 billion in penalties and are providing valuable leads concerning U.S. taxpayers maintaining secret accounts.¹⁴ The

¹⁴ These banks are referred to as "Category 2" banks. The Program established four categories of banks. The Program expressly excluded the fourteen banks, referred to in the Program as "Category 1 banks," that were

(continued...)

Program encouraged Swiss banks, about which the Department had little or no information, to come forward, disclose conduct and account information related to U.S. offshore accounts, and to cooperate with ongoing offshore enforcement efforts to target U.S. accountholders and the bankers and advisers who facilitated them. The Program continues to generate investigative leads and information helpful to ongoing cases.

Notable offshore tax evasion cases include:

- In March 2021, Rahn+Bodmer, Zurich’s oldest private bank, entered into a Deferred Prosecution Agreement (DPA) and agreed to pay \$22 million in restitution, forfeiture, and penalties, and will cooperate with the DOJ and the IRS.
- In April 2020, Bank Hapoalim (Switzerland) Ltd. pleaded guilty and Bank Hapoalim B.M., Israel’s largest bank, entered into a DPA for conspiring with U.S. taxpayers and others to hide more than \$7.6 billion in more than 5,500 secret Swiss and Israeli bank accounts and the income generated in these accounts. As part of the resolution, Bank Hapoalim B.M. and Bank Hapoalim (Switzerland) Ltd. (BHS) agreed to pay approximately \$874.27 million to the U.S. Treasury, the Federal Reserve, and the New York State Department of Financial Services.
- In August 2019, LLB Verwaltung (Switzerland), a Swiss-based private bank formerly known as “Liechtensteinische Landesbank (Schweiz) AG,” entered into an NPA with the Department and paid a \$10.6 million penalty for assisting U.S. taxpayers to commit tax evasion. In 2013, LLB-Switzerland was closed, and its banking license returned to the Swiss Financial Market Supervisory Authority.

The Tax Division’s efforts extend beyond banks. In April 2021, one of Switzerland’s largest insurance companies, Swiss Life Holding AG, and subsidiaries in Liechtenstein, Switzerland, and Singapore, entered into a DPA with the Department of Justice and paid \$77.7 million pursuant to the agreement. In April 2019, Zurich Life Insurance Company Ltd. and Zurich International Life Limited entered into a NPA with the Department of Justice and paid \$5.1 million pursuant to the Agreement. The companies used insurance products, sold to U.S. taxpayers, that enabled those taxpayers to commit tax fraud.

The investigation and prosecution of professionals, including lawyers, financial advisors, and return preparers, who facilitate offshore tax evasion is an essential part of the Tax Division’s efforts in this area. The Department has publicly charged approximately 42 bankers and advisors

authorized for investigation in connection with their Swiss banking activity related to U.S. account holders before the Program was announced. Category 2 banks are Swiss banks that were not under investigation as of the date the Program was announced but believed they had committed tax-related offenses. Category 2 banks were required to provide detailed information regarding their cross-border activities, employees and representatives, and U.S.-related accounts, and were required to pay a penalty that could be mitigated if the bank established that a particular account was declared or came into compliance through the IRS offshore voluntary disclosure programs. Category 3 and 4 banks are Swiss banks that did not commit any violations of U.S. law but sought a non-target letter after providing information required under the Program.

with violations arising from offshore banking activities; many remain fugitives. Furthermore, over 120 accountholders have pleaded guilty or been convicted at trial.

- In March 2022, a former defense contractor from Colorado Springs pleaded guilty to evading more than \$1.5 million in federal income taxes from 2012 to 2019. James Robar failed to report approximately \$5.5 million in compensation and attempted to hide his employer's bonus payments in an offshore corporate bank account.
- In May 2021, a Florida man who owned an agriculture machinery business was sentenced to 24 months in prison for evading more than \$2.7 million in income taxes by keeping nearly \$7.7 million in unreported compensation at financial institutions in Croatia, Germany, Serbia, and Switzerland. He was also ordered to pay \$2,789,538 in restitution.

The high-profile prosecutions of financial institutions, facilitators, and accountholders created pressure on non-compliant taxpayers to correct their tax returns to report previously undisclosed accounts. According to the IRS, since the inception of the investigation against UBS, over 55,800 taxpayers have reported previously secret accounts through the IRS's offshore voluntary disclosure programs, and an additional 48,000 have made use of separate streamlined procedures to correct prior non-willful omissions. In total, the IRS has collected more than \$11 billion in back taxes, interest, and penalties through these programs. These enforcement efforts not only remedy past wrongdoing, but also bring into the system tax revenue from taxpayers who become compliant going forward. Through the voluntary disclosure programs, taxpayers are required to cooperate, providing leads on banks and facilitators.

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

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

- In July 2022, Sezgin Baran Korkmaz, a Turkish businessman, was extradited from Austria and returned to the District of Utah on an indictment from April 2021 charging him with laundering more than \$133 million in illegal proceeds in connection with a scheme to defraud the U.S. Treasury by filing false claims for more than \$1 billion in tax credits for the production and sale of biodiesel.
- In August 2021, the owner of a biodiesel fuel company was sentenced to 30 months in prison for filing false income tax returns. Chandra Yarlagadda substantially overstated expenses associated with the purchase of renewable identification numbers on his income tax returns claiming more than \$14 million in false deductions. He was ordered to pay \$3,285,303 in restitution.

Employment Tax Crimes. The Tax Division, working in close partnership with CI, continues to focus on employers who willfully fail to collect, truthfully account for, and pay over employment taxes to the IRS. Employers have a legal obligation to withhold federal income, Social Security, and Medicare taxes from their employees' wages, hold these funds in trust, and then pay them over, along with a matching amount of Social Security and Medicare tax, to the IRS. Employment and income tax withheld comprised 67.9 percent of the total revenues collected by the IRS in 2021,¹⁵ and nearly \$50 billion of employment tax reported on quarterly employment tax returns remained unpaid.¹⁶ The Division has handled several notable employment tax cases this year. For example:

- In January 2023, Frank Stevens of Colorado was convicted of evading the payment of more than \$730,000 in employment taxes he withheld from workers' wages but did not pay over to the IRS.
- In December 2022, Jonas Purisch was sentenced to 36 months in prison for failing to pay over more than \$2 million in taxes withheld from the wages of employees that worked for two staffing companies he owned. He was also ordered to pay approximately \$3.4 million in restitution.
- In November 2022, Yigal Ziv, the owner of a software development company in Walled Lake, Michigan, pleaded guilty to willfully failing to pay over nearly \$700,000 in employment taxes withheld from his employees' paychecks.
- In November 2022, as the owner of a Sergeant Bluff, Iowa construction firm, Kevin Alexander pleaded guilty to a multi-year employment tax scheme. From 2014 to 2017, the defendant paid approximately \$3.8 million in wages to his employees and willfully failed to pay over to the IRS nearly \$1 million in taxes withheld from their paychecks.

¹⁵ [Internal Revenue Service 2021 Data Book](#), Table 1 Collections and Refunds by Type of Tax, Fiscal Years 2020 and 2021.

¹⁶ [Tax Gap Estimates for Tax Years 2014-2016](#): Attachment 1, Tax Gap Map \$5 billion annual underpayment times 10 years with the statute of limitations.

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

- In January 2023, Ralph Anderson, a Florida CPA, pleaded guilty to promoting a syndicated conservation easement tax scheme involving approximately \$3.5 million in fraudulent charitable deductions. He is currently awaiting sentence.
- In October 2022, a Dallas man was charged for promoting a tax shelter that allowed high-income clients to claim fraudulent tax deductions by allegedly directing them to transfer a total of approximately \$1 billion into shell companies and then returning the money back to them untaxed for their personal use, causing a tax loss of more than \$200 million. The defendant and others allegedly commissioned fictitious business valuation reports, created invoices for fake business expenses, and drafted sham contractual agreements to conceal the circular flow of the funds.
- In March 2022, seven individuals were charged with conspiring to defraud the United States for promoting fraudulent tax shelters involving syndicated conservation easements dating back nearly two decades. Through their scheme they are alleged to have sold over \$1.3 billion in false and fraudulent deductions.

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

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

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

- In August 2022, Afolabi Ajelero, a tax return preparer from Springfield Gardens, New York, was sentenced for 5 years in prison for his role in conspiring with others to prepare and file tax returns seeking fraudulent refunds in the names of individuals whose identities had been acquired unlawfully. He was also ordered to pay \$45,000 in restitution.
- In August 2022, Wilmer Alexander Garcia Meza, a Chicago-area man, was sentenced to 29 months in prison for using the personal identifying information of others to fraudulently obtain Individual Taxpayer Identification Numbers and then file tax returns in the names of these stolen identities, claiming more than \$220,000 in fraudulent refunds.

Return-Preparer Fraud. Corrupt accountants and tax return preparers continue to present a serious law enforcement concern. Some accountants and return preparers deceive unwitting clients into filing false and fraudulent returns, while others serve as willing “enablers,” providing a veneer of legitimacy for clients predisposed to cheat. In addition to the significant adverse impact these individuals have on the U.S. Treasury, their status as professionals may be perceived as legitimizing tax evasion, thereby promoting disrespect for the law. Tax Division prosecutors have prosecuted a number of return preparer cases during the past year, including:

- In January 2023, Betty Hawkins and Phyllis Ricks were sentenced to 24 months and 36 months in prison, respectively, for their role in conspiring to file false income tax returns on behalf of clients of the tax return preparation business where they worked. They were ordered to pay approximately \$5.2 million in restitution.
- In December 2022, Eunice Salley was sentenced to 7 years in prison for filing false income tax returns on behalf of her tax preparation clients seeking more than \$1 million in fraudulent refunds. She also failed to report the income received from cashing dozens of pension checks sent to her deceased grandmother. Salley was also ordered to pay \$558,396 in restitution.
- In December 2022, King Isaac Umoren, a Las Vegas return preparer, was sentenced to 13 years and three months for, among others, preparing and filing with the IRS tax returns for clients that included false deductions and fictitious businesses in an effort to generate larger refunds than the clients were entitled to receive. He was also ordered to pay \$9,699,887 in restitution to the United States and other victims of his fraud.
- In March 2022, Fred Pickett, Jr., a Florida tax return preparer, was sentenced to 97 months in prison for preparing returns on behalf of clients claiming they owned fictitious

businesses that lost tens of thousands of dollars each year. He was also ordered to pay approximately \$169,639 in restitution.

National Tax Defier Initiative. Tax defiers, also known as illegal tax protesters, have long been a focus of the Tax Division’s investigative and prosecution efforts. Tax defiers advance frivolous arguments and develop a wide variety of schemes to evade their income taxes, assist others in evading their taxes, and frustrate the IRS, all under the guise of constitutional and other meritless objections to the tax laws. Frivolous arguments used by tax defiers include, for example, spurious claims that an individual is a “sovereign citizen” not subject to the laws of the United States, that the federal income tax is unconstitutional, and that wages are not income. Because a segment of the tax defier community may and has resorted to violence to advance their cause, it is essential that law enforcement be prepared to respond rapidly to threats against agents, prosecutors, and judges. The Tax Division implemented a comprehensive strategy using both civil and criminal enforcement tools to address the serious and corrosive effect of tax defier and sovereign citizen activity. Led by a National Director, the Tax Division’s Tax Defier Initiative facilitates coordination with representatives of IRS Criminal Investigations, Treasury Inspector General for Tax Administration, the FBI Domestic Terrorism Operations Unit, and the Department’s NSD to attack this problem. Division prosecutors have been leaders in developing and implementing a national training program for prosecutors and investigators.

As in other areas, the Tax Division has made important strides in combating tax defier activity.

- In June 2022, Derald Wilford Geddes, a Utah dentist, was sentenced to 5 years in prison and ordered to pay more than \$1.8 million in restitution for refusing to pay his income taxes and for decades obstructing IRS efforts to collect by placing false liens on his home and other real property and filing fraudulent bonds and other frivolous documents with the IRS.
- In July 2022, Yomarie Febres, of Covington, Georgia, was sentenced to 25 ½ years in prison for conspiring to defraud the United States by promoting a nationwide tax fraud scheme involving more than 200 participants in at least 19 states. She prepared 77 false income tax returns that collectively sought more than \$23.8 million in tax refunds. Between 2014 and 2016, Febres’s coconspirators held seminars throughout the country to promote the scheme and recruited clients to file false tax returns with the IRS, telling them that their mortgages and other debts entitled them to refunds.

2. Performance Tables

Performance and Resource Table

PERFORMANCE AND RESOURCES TABLE												
Decision Unit: General Tax Matters												
RESOURCES												
			Target		Actual		Target		Changes		Requested (Total)	
			FY 2022		FY 2022		FY 2023		Current Services Adjustments and FY 2024 Program Changes		FY 2024 Request	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
						451	\$116,169	451	\$116,169	465	\$122,148	15
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2022		FY 2022		FY 2023		Current Services Adjustments and FY 2024 Program Changes		FY 2024 Request	
			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Program Activity: Criminal Prosecution & Appeals			127	\$32,760	127	\$32,760	131	\$34,446	0	\$2,308	135	\$36,754
Performance Measure: Output	1.1	Number of Investigations Authorized	n/a		514		n/a		n/a		n/a	
Performance Measure: Output	1.1	Number of Prosecutions Authorized	n/a		610		n/a		n/a		na/	
Performance Measure: Outcome	1.1	Success Rate for Criminal Tax Cases Handled by the Division	90%		98%		90%		n/a		90%	
Program Activity: Civil Litigation & Appeals			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			324	\$83,409	324	\$83,409	334	\$87,702	15	\$5,876	345	\$93,578
Performance Measure: Outcome	1.1	Civil Cases Successfully Litigated in the Trial Courts	80%		97%		80%		n/a		80%	
Performance Measure: Outcome	1.1	Civil Cases Successfully Litigated - Taxpayer Appeals	85%		92%		85%		n/a		85%	
Performance Measure: Outcome	1.1	Civil Cases Successfully Litigated - Government and Cross Appeals	60%		56%		60%		n/a		60%	
Performance Measure: Outcome	1.1	Tax Dollars Collected and Retained by Court Action and Settlement (\$ in millions)	n/a		1,419		n/a		n/a		n/a	

Data Collection & Storage: The data sources for all performance data is TaxDoc, the Tax Division's automated case management system.
Data Validation and Verification: The Tax Division has established procedures to collect and record reliable and relevant data in TaxDoc.
Data Limitations: Some activities that are tracked in TaxDoc lack historical data. Dollars Collected and Retained fluctuates due to the type and stage of litigation resolved during the year.

Performance Measure Table

PERFORMANCE MEASURE TABLE										
Decision Unit: General Tax Matters										
Strategic Objective	Performance Report and Performance Plan Targets		FY 2018	FY 2019	FY 2020	FY 2021	FY 2022		FY 2023	FY 2024
			Actual	Actual	Actual	Actual	Target	Actual	Target	Target
			1.1	Performance Measure	Number of Criminal Investigations Authorized	543	542	588	462	n/a
1.1	Performance Measure	Number of Criminal Prosecutions Authorized	584	815	815	604	n/a	610	n/a	n/a
1.1	Outcome Measure	Success Rate for Criminal Tax Cases Handled by the Division	100%	97%	100%	100%	90%	98%	90%	90%
1.1	Outcome Measure	Civil Cases Successfully Litigated in the Trial Courts	98%	98%	98%	98%	80%	97%	80%	80%
1.1	Outcome Measure	Civil Cases Successfully Litigated - Taxpayer Appeals	97%	94%	97%	92%	85%	92%	85%	85%
1.1	Outcome Measure	Civil Cases Successfully Litigated - Government and Cross Appeals	82%	60%	78%	71%	60%	56%	60%	60%
1.1	Outcome Measure	Tax Dollars Collected and Retained by Court Action and Settlement (\$ in millions)	\$630.1	\$1,792.0	\$870.0	\$2,239.3	n/a	\$1,418.2	n/a	n/a

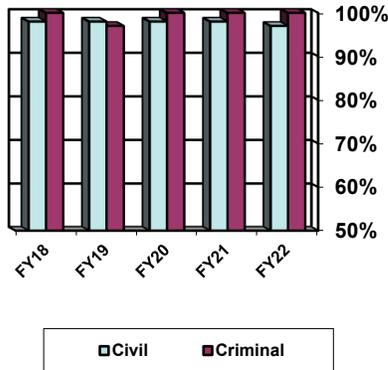
n/a = In accordance with Department guidance, there is no target for this measure.

3. Performance, Resources, and Strategies

a. Performance Plan and Report for Outcomes

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

Cases Favorably Resolved (TAX)



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

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

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

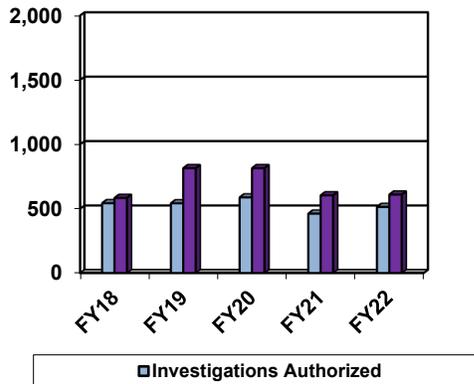
Data Limitations: The Tax Division lacks historical data on some activities that are now tracked in the case management system. The information system may cause variations in the way some statistics are presented.

Performance Measure 1: Percentage of Cases Favorably Resolved

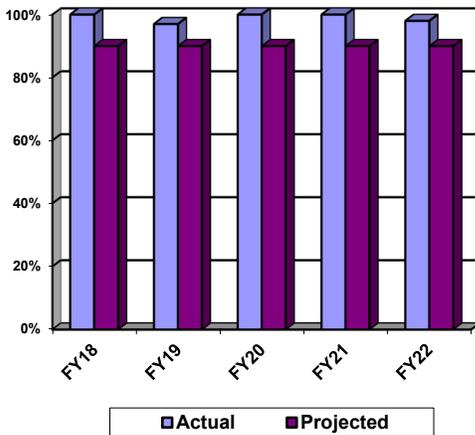
FY 2022 Actual: 97 percent for Civil Trial and 98 percent for Criminal.

Discussion: The outcome measure for this decision unit is favorable resolution of all cases. The Department of Justice Strategic Plan sets Department-wide goals for the litigating components: 90 percent of criminal cases favorably resolved Department-wide, and 80 percent of civil cases favorably resolved. As illustrated in the chart “Cases Favorably Resolved (TAX),” Tax Division has exceeded the Department’s goal for the last several years. In FY 2022, favorable outcomes were achieved in 97 percent of all civil and 98 percent of all criminal cases litigated by Tax Division, including non-tax cases.

Investigation and Prosecution Referrals Authorized



Success Rate for Criminal Tax Cases



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

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

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

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

Performance Measure 2: Criminal Investigation and Prosecution Referrals Authorized

FY 2022 Actual: 514 Grand Jury Investigations and 610 Prosecutions

Discussion: The Tax Division also measures the number of authorized investigation and prosecution referrals in criminal cases. In FY 2022, the Division authorized 514 grand jury investigations and 610 prosecutions of individual defendants. Changes in the number of authorized investigations are largely proportional to the number of investigations initiated by the IRS.

Consistent with Department guidance, there is no FY 2023 or FY 2024 performance goal for authorized investigations and prosecutions.

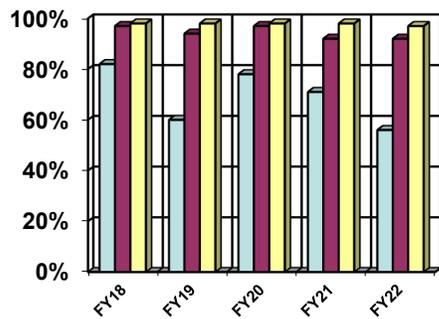
Performance Measure 3: Success Rate for Criminal Tax Cases

FY 2022 Actual: 98 percent

Discussion: The Tax Division’s Criminal Trial Sections assume responsibility for some cases at the request of the USAOs, generally multi-jurisdictional investigations and prosecutions, and cases with significant regional or national importance. Although many of these cases are difficult to prosecute, the Division has maintained a conviction rate at or greater than 95 percent. In FY 2022, the Division’s conviction rate was 98 percent in tax cases.

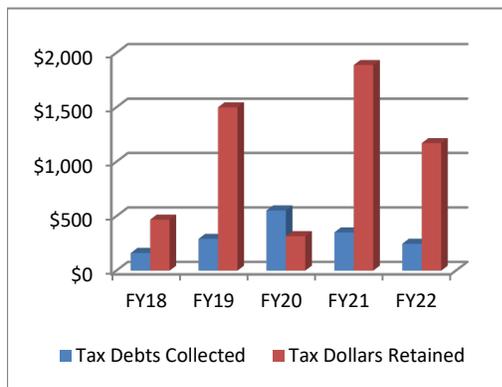
For FY 2023 and FY 2024, the Tax Division has established a conviction rate goal of 90 percent. While the Tax Division is very proud of its conviction rate, its emphasis is on uniform and fair enforcement of the tax laws, and not on meeting numeric targets.

Civil Cases Successfully Litigated [TAX]



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

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



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

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

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

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

Performance Measure 4: Civil Cases Successfully Litigated

FY 2022 Actual:

Trial Courts – 97 percent

Taxpayer Appeals – 92 percent

Government and Cross Appeals – 56 percent

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

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

Performance Measure 5: Tax Dollars Collected and Retained

FY 2022 Actual: \$247.2 Million Collected and \$1,171.0 Million Retained

Discussion: The Tax Division collects substantial amounts for the Federal Government in affirmative litigation and retains even more substantial amounts in defensive tax refund and other litigation. For FY 2022, the Division collected \$247.2 million and retained \$1,171.0 million.

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

b. Strategies to Accomplish Outcomes

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

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

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

c. Agency Priority Goals (APGs/Priority Goals)

The Tax Division's activities fall under the Department's priority goal of Promote Trust and Accountability of Law Enforcement.

Improved tax enforcement assures Promote Trust and Accountability in Law Enforcement and improves the voluntary compliance rate for taxpayers. By law, the IRS cannot make public the fact of an IRS audit, or its result. By contrast, the Tax Division's important tax litigation victories receive widespread media coverage, leading to a significant multiplier effect on voluntary compliance. A widely regarded study concluded that the marginal indirect revenue-

to-cost ratio of a criminal conviction is more than 16 to 1. While no comparable study of civil litigation exists, the same research suggests that IRS civil audits have an indirect effect on revenue that is more than 10 times the adjustments proposed in those audits. Another predicts that an additional dollar allocated to civil audits would return \$67 in general deterrence, while an additional dollar allocated to criminal investigation results in \$55 of deterrence. The positive effects of the IRS and the Tax Division's efforts on this front are seen in public opinion regarding voluntary compliance. According to a survey by the IRS oversight board, the public takes a very negative view of cheating on one's taxes, with 86 percent of the respondents indicating that it is never acceptable. Also, the IRS's Offshore Voluntary Disclosure Initiatives, operating alongside the Division's ongoing criminal and civil enforcement actions concerning unreported offshore accounts, have resulted in an unprecedented number of taxpayers – over 55,800 since 2009 – attempting to “return to the fold” by paying back taxes, interest and penalties totaling over \$11 billion.

V. Program Increase by Item

Item Name: Increased Tax Enforcement

Budget Decision Unit(s): Tax Division

Organizational Program: Division-Wide

Program Increase: Positions: 10 Attorneys: 10 FTE: 5 Dollars: \$1.303 million

Description of Item

The Tax Division is seeking a budget increase of \$1.303 million and 10 positions and 5 FTE to assist with the administration's initiative to revitalize tax enforcement.

Justification

In 2022, Congress, President Biden, and Attorney General Garland identified revitalizing tax enforcement as critical to guaranteeing that our country has a fair, effective, and credible tax system. Treasury Secretary Yellen recently noted that expanded IRS enforcement efforts will "focus on high-end noncompliance" from large corporations, high-net-worth individuals, and complex large pass throughs.

The IRS devoted increased resources to enforcement in FY 2022. Using these resources, the IRS has launched a targeted nationwide hiring initiative, including 470 revenue agents who will specialize in examining individual and business taxpayers and seeking potential fraud, tax schemes, and abusive tax shelters, 350 criminal investigative agents, and new attorney positions to help the agency address high-end, complex noncompliance.

As the IRS ramps up efforts to combat sophisticated tax evasion, the Tax Division expects a proportional increase in work referred to it by the IRS. The IRS depends on the Tax Division to support its efforts. In addition, for example, the IRS relies on the Tax Division to issue John Doe summonses, including recent petitions to cryptocurrency exchanges Coinbase, Circle, and Kraken. The Tax Division's ability to gather information about targeted taxpayers' possible failure to comply with tax laws provides the IRS with the ability to take administrative actions seeking voluntary compliance with the tax laws. Based on information obtained from the summons to Coinbase, the IRS sent 10,000 letters to taxpayers regarding their obligation to report gains from virtual currency. These "reminder letters" lead to \$15 million in assessed tax liabilities without a single audit. A petition to enforce a summons issued to Kraken is currently pending, and if granted, is likely to result in similar "reminder letters" with the potential for additional tax compliance and collections. The IRS's focus on these areas will only succeed if the Tax Division has sufficient resources to litigate when these matters reach federal district court.

Total Positive Income Population Ranges	Tax Year 2019 Audit Rate in Data Book: 9/30/2021	Tax Year 2019 Audit Rate as of 5/1/2022
Returns with EITC	0.80%	0.80%
No total positive income	0.80%	1.10%
TPI \$1 - \$25,000	0.40%	0.40%
TPI \$25,000 - \$50,000	0.20%	0.20%
TPI \$50,000 - \$75,000	0.10%	0.20%
TPI \$75,000 - \$100,000	0.10%	0.20%
TPI \$100,000 - \$200,000	0.10%	0.20%
TPI \$200,000 - \$500,000	0.10%	0.20%
TPI \$500,000 - \$1 Million	0.30%	0.60%
TPI \$1 Million - \$5 Million	0.60%	1.30%
TPI \$5 Million - \$10 Million	1.00%	2.00%
TPI >\$10 Million	2.00%	8.70%

Funding

Base Funding

FY 2022 Enacted				FY 2023 Enacted				FY 2024 Current Services			
Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)
499	377	451	116,169	523	395	465	122,148	523	395	475	129,029

Personnel Increase Cost Summary

Type of Position/Series	FY 2024 Request (\$000)	Positions Requested	Full Year Modular Cost per Position (\$000)	Annualizations (\$000)			
				2 nd Year	3 rd Year	FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Attorneys (0905)	\$1,303	10	\$246	\$134	\$1	\$1,339	\$4
Total Personnel	\$1,303	10	\$246	\$134	\$1	\$1,339	\$4

Non-Personnel Increase/Reduction Cost Summary

Not applicable

Justification for Non-Personnel Annualizations

Not applicable

Total Request for this Item

Category	Positions			Amount Requested (\$000)			Annualizations (\$000)	
	Count	Agt/Atty	FTE	Personnel	Non-Personnel	Total	FY 2025 (net change from 2024)	FY 2026 (net change from 2025)
Current Services	523	395	475	96,144	32,885	129,029	6,881	0
Increases	10	10	5	1,303	0	1,303	1,303	0
Grand Total	533	405	480	97,447	32,885	130,332	8,184	0

Affected Crosscuts

Transnational Crime
National Security

VI. Program Offsets by Item

Not applicable.

VII. Exhibits