

**Tax Division**  
**United States Department of Justice**

**FY 2014 Congressional Budget**





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## I. Overview

### A. Introduction

The Tax Division has one purpose: to enforce the nation's tax laws fully, fairly, and consistently, through both criminal and civil litigation. To accomplish this, the Tax Division requests a total of 623 permanent positions (370 attorneys), 519 full-time equivalent (FTE) work years and \$106,479,000 for FY 2014. Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.justice.gov/02organizations/bpp.htm>.

The United States engages with all Americans through our tax system. We ask our citizens, residents, and those who earn income in this country to report their confidential financial information annually and to self-assess and pay their tax liabilities. These tax collections then fund government services, from national defense to national parks. The United States, therefore, has an obligation to ensure fair and consistent enforcement of our tax laws. We owe each person and business complying with the tax laws a commitment to enforce the laws against those who do not comply. We also owe every taxpayer the assurance that our tax laws will be enforced on a consistent basis throughout the nation. Meeting these obligations is the Tax Division's central mission.

The Tax Division represents the United States in virtually all litigation – civil and criminal, trial and appellate – arising under the internal revenue laws, in all state and federal courts except the United States Tax Court. To assist the Internal Revenue Service in effectively enforcing the tax laws, Tax Division litigators must support the Service's investigations and determinations in civil cases and also prosecute criminal violations of the revenue laws. Tax Division civil litigators enforce the Service's requests for information in ongoing examinations, and collect and defend tax assessments when the Service's examinations are complete. The Civil sections of the Tax Division have, on average, nearly 6,000 civil cases in process annually. In any given year, the Tax Division's civil appellate attorneys handle about 700 civil appeals, about half of which are from decisions of the Tax Court, where IRS attorneys represent the Commissioner. To help achieve uniformity in nationwide standards for criminal tax prosecutions, the Tax Division's criminal prosecutors authorize almost all grand jury investigations and prosecutions involving violations of the internal revenue laws. Alone or in conjunction with Assistant United States Attorneys, Tax Division prosecutors investigate and prosecute these crimes. The Division authorizes between 1,300 and 1,800 criminal tax investigations annually.

The Tax Division's litigation activities are an indispensable part of our Nation's tax system. The Division contributes to tax enforcement in many ways: by the immediate and long-term financial impact of its cases; by the salutary effect our civil and criminal litigation has on voluntary compliance with the tax laws; by ensuring fair and uniform enforcement of the tax laws; by defending IRS employees against charges arising from the conduct of their official duties; and by lending the financial-crimes expertise of our tax prosecutors to the enforcement of other laws with financial aspects.

1. **Financial Impact: Immediate as well as Long-Term.** The Division's work has an immediate financial impact on the Federal Treasury. From FY 2008 - FY 2012, the Tax Division's investment in attorneys has yielded a 14:1 payoff for the Federal Treasury. That is, taking into account the tax dollars collected and the tax refunds not paid as a result of our tax litigation, the Division's trial attorneys have returned \$14 for each dollar invested.

## Return on Investment for Tax Division Attorneys

	2008	2009	2010	2011	2012
Collections in millions	\$179	\$261	\$566	\$112	\$292
Refund Suit Savings in millions*	\$803	\$668	\$714	\$440	\$1,139
Total in millions	\$982	\$929	\$1,280	\$552	\$1,431
Attorney FTE	336	349	394	389	373
Dollars collected, refunds saved per attorney FTE	\$ 2,922,619	\$ 2,661,891	\$ 3,248,731	\$ 1,419,023	\$ 3,836,461
Modular cost per attorney FTE	\$ 173,343	\$ 186,852	\$ 199,639	\$ 199,639	\$ 224,000
<b>Return on Investment per Attorney FTE</b>	<b>17:1</b>	<b>14:1</b>	<b>16:1</b>	<b>7:1</b>	<b>17:1</b>
<b>5 year Average</b>	<b>14:1</b>				
<b>4 year Average</b>	<b>14:1</b>				

\*Includes only amounts involved in litigation completed during each fiscal year

Yet, significant as these dollars are, they pale in comparison to the long-term financial impact of the Division's work. The Division is currently defending refund suits that collectively involve over \$9.6 billion dollars.<sup>1</sup> This amount measures only the amount involved in the lawsuits themselves. It does not include the amounts at issue with the same taxpayers for other years or the amounts at issue with other taxpayers who will be bound by the outcome of the litigation. Decisions in the Division's cases may reduce the need for future administrative and judicial tax proceedings, by creating binding precedents that settle questions of law that govern millions of taxpayers. Moreover, millions more dollars are saved each year because the Division successfully defends the Government against many other tax-related suits brought by taxpayers and third parties.

- Improving Voluntary Compliance.** The Tax Division's success rate in its litigation – more than 90% – has an enormous effect on voluntary tax compliance.<sup>2</sup> 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 wide media coverage, leading to a significant multiplier effect on voluntary compliance.<sup>3</sup> Efforts of the IRS and the Tax Division are having a positive effect on voluntary compliance. According to the most recent survey by the IRS Oversight Board, 87 percent of those

<sup>1</sup> See IRS Data Books 2011, <http://www.irs.gov/uac/SOI-Tax-Stats-2>, Table 27.

<sup>2</sup> 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 -- the results of which are not publicly disclosed -- have an indirect effect on revenue that is more than 10 times the adjustments proposed in those audits. Alan H. Plumley, *The Determinants of Individual Income Tax Compliance*, pp. 35, 40, Internal Revenue Service Publication 1916 (1996).

<sup>3</sup> “The IRS ... found that taxpayers who heard about IRS audit activity via the media [rather than through word of mouth] were less likely to cheat...” Leandra Lederman, *The Interplay Between Norms and Compliance*, 64 Ohio. St. L. J. 1453, 1494-95 (2003), quoting Robert M. Melia, *Is the Pen Mightier than the Audit?*, 34 Tax Notes 1309, 1310 (1987).

surveyed think it is “not at all” acceptable to cheat on taxes.<sup>4</sup> The public attitude that it is not at all acceptable to cheat on your income taxes increased between 2011 and 2012 from 84 percent to 87 percent, while tolerance for tax cheating dropped from 14 percent to 11 percent—one of its lowest levels ever recorded in the Board’s survey. Also, the Commissioner’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 38,000 since 2009 – attempting to “return to the fold” and paying back taxes, interest and penalties totaling over \$5.5 billion dollars. As an integral part of the IRS’s enforcement efforts, the Tax Division is partially responsible for the IRS’s ability to collect over \$2 trillion in taxes each year.<sup>5</sup>

3. ***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. Because the Division independently reviews the merits of each case the Internal Revenue Service requests be brought or defended, it is able to ensure that the Government’s litigating positions are consistent with applicable law and policy. An observation about the Division made nearly 70 years ago still rings true today: “[T]he Department of Justice, as the Government’s chief law office, is in a position to exercise a more judicial and judicious judgment...With taxes forming a heavy and constant burden it is essential that there be this leavening influence in tax litigation. Next to the constant availability of the courts, the existence of the Division is the greatest mainstay for the voluntary character of our tax system.”<sup>6</sup>
4. ***Defending IRS Officials and the United States against Damage Suits.*** The Tax Division effectively defends IRS agents and officers, and the Government itself, against unmeritorious damage suits. Absent representation of the quality provided by the Division, these suits could cripple or seriously impair effective tax collection and enforcement.
5. ***Expertise in Complex Financial Litigation.*** The Division’s investigations, prosecutions, and civil trials often involve complex financial transactions and large numbers of documents. The Division is able to use the unique expertise its attorneys have developed in litigating complex tax cases to assist in other important areas of law enforcement, including:
  - fighting terrorism as part of the Joint Terrorism Task Force, by investigating and prosecuting people and organizations that funnel money to terrorists;
  - combating financial fraud as part of the President’s Financial Fraud Enforcement Task Force;
  - stopping drug trafficking as part of the Organized Crime and Drug Enforcement Task Force (OCDETF); and investigating public corruption by working on prosecution teams with attorneys from various United States Attorney’s Offices and the Department’s Criminal Division.

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<sup>4</sup> See IRS Oversight Board 2012 Taxpayer Attitude Survey, February, 2013, <http://www.treas.gov/irsob/board-reports.shtml>.

<sup>5</sup> See Internal Revenue Service Data Book, 2011, Table 1, <http://www.irs.gov/uac/SOI-Tax-Stats-IRS-Data-Book>.

<sup>6</sup> Lucius A. Buck, *Federal Tax Litigation and the Tax Division of the Department of Justice*, 27 Va. L. Rev. 873, 888 (1940).

## ***B. Full Program Costs***

The FY 2014 budget request assumes 72% of the Division's budget and expenditures can be attributed to its Civil Tax Litigation and Appeals and 28% percent to 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.

## ***C. Environmental Accountability***

The Tax Division has in place existing policies to incorporate environmental accountability in its day-to-day operations. These include green purchasing policies such as: (i) mandating the purchase of recycled paper products (copier/printer paper, paper towels) and (ii) training and written guidance on green purchasing for those employees responsible for purchasing office supplies. In addition, Tax reduces waste and environmental impact by: (i) setting the default on printers to two-sided printing; (ii) placing recycling bins for paper, glass, aluminum, and plastic in central locations and providing paper recycling containers for individual employee use; (iii) recycling used printer cartridges; (iv) promoting distribution of documents in electronic format only; (v) promoting scanning instead of photocopying; and (vi) recycling Blackberries, cell phones, laptops, computers and computer battery packs. The Tax Division has an environmentally friendly sound destruction method in which sensitive materials that previously were burned are now shredded and recycled.

The Division continues to work to reduce the environmental impact of its buildings. The Division is working with each building's Property Manager as they pursue LEED Certifications for their facilities through the General Services Administration and U.S. Green Building Counsel. On May 25, 2012, the Patrick Henry Building earned a Prestigious "LEED Silver Certification. Tax-occupied space in the Judiciary Center Building has been retrofitted with energy-efficient light fixtures and light bulbs, and motion sensors have replaced light switches throughout the Patrick Henry Building. The Division works with construction and maintenance contractors to use green materials whenever possible.

## ***D. Performance Challenges***

The Tax Division faces two serious and immediate challenges to the accomplishment of its mission.

### **External – Reducing the Tax Gap amid Increasing Globalization**

The IRS collects more than \$2.27 trillion annually. More than \$2.21 trillion (or 97% of total collections) results from taxpayers' voluntary compliance with the tax law; the remainder, \$65 billion, comes from enforcement activity. The IRS estimates that the annual Tax Gap – the difference between taxes owed and taxes paid voluntarily and timely – is more than \$450 billion, an increase of \$105 billion over the last estimate. The new tax gap estimate represents the first full update of the report since the last review in 2007. The IRS Oversight Board cited "Reducing the Tax Gap" as the "most serious problem facing tax administration today."<sup>7</sup> This problem is exacerbated by the vast increase in financial globalization, which has expanded the opportunities for assets and income to be easily hidden offshore.

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<sup>7</sup> IRS Oversight Board, FY 2009 Budget Recommendation, Special Report, March 2008.



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 – Retaining an Experienced Workforce to Handle Complex Litigation**

The Tax Division's workload is directly related to IRS enforcement efforts. Historically, an increase in IRS enforcement activity leads to increased Division workload, with a lag time of about two years. Congress increased the IRS's enforcement budget by \$200 million from FY 2009 to FY 2012. Based on IRS enforcement numbers, the Division is projecting increasing workloads for at least fiscal years 2012 through 2014. Moreover, it is expected that the Division's case mix – both civil and criminal – will continue to become increasingly complex, as the IRS focuses its enforcement efforts on offshore issues and on taxpayer populations with more sophisticated tax issues, such as flow-through entities, high-income individuals, and corporations.<sup>8</sup>

It remains a significant challenge for the Tax Division to recruit, train and retain attorneys who can serve effectively as lead counsel in our most complex cases. The existing caseload, coupled with increased IRS enforcement, will likely lead to an increase in the numbers of these highly complex cases over the next three years.

## **II. Summary of Program Changes**

No program changes.

## **III. Appropriations Language and Analysis of Appropriations Language**

The Tax Division is not proposing new appropriations language for the FY 2014 President's Budget.

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<sup>8</sup> See IRS Strategic Plan 2009-2013 at 21-22, <http://www.irs.gov/pub/irs-pdf/p3744.pdf>.

#### IV. Decision Unit Justification

<i>Tax Division</i>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2012 Enacted	639	582	104,877,000
2012 Prior Year Balance Rescissions	0	0	0
2012 Enacted w/Rescissions	639	582	104,877,000
2013 President's Budget	623	572	105,519,000
Adjustments to Base and Technical Adjustments	0	0	960,000
2014 Current Services	623	519	106,479,000
2014 Program Increases	0	0	0
2014 Program Offsets	0	0	0
2014 Request	623	519	106,479,000
<b>Total Change 2013-2014</b>	0	-53	960,000

<i>Tax Division-Information Technology Breakout (of Decision Unit Total)</i>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2012 Enacted	16	16	7,309,934
2012 Prior Year Balance Rescissions	0	0	0
2012 Enacted w/Rescissions	16	16	7,309,934
2013 President's Budget	16	16	7,309,934
Adjustments to Base and Technical Adjustments	0	0	0
2014 Current Services	17	17	6,621,680
2014 Program Increases	0	0	0
2014 Program Offsets	0	0	0
2014 Request	17	17	6,621,680
<b>Total Change 2013-2014</b>	1	1	-688,254

## 1. PROGRAM DESCRIPTION

### a) CIVIL TAX LITIGATION

The Tax Division is responsible for litigating all matters arising under the internal revenue laws in all state and federal trial courts, except the Tax Court, and in appeals from all trial courts, including the Tax Court. Tax Division trial attorneys *defend* the United States in suits brought against it relating to the tax laws, including tax shelter cases, refund suits, 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.

#### **Halting the Spread of Tax Shelters**

The proliferation of abusive tax shelters is a significant problem confronting our tax system. Abusive tax shelters for large corporations and high-income individuals cost the government billions of dollars annually, according to Treasury Department estimates.

Tax shelter litigation is among the most sophisticated and important litigation handled by the Tax Division. Tax shelters are designed to generate large purported tax benefits using multiple entities and complex financial transactions that lack a real business purpose or any real economic substance. Shelter cases often involve well-disguised transactions and tax-indifferent parties located in other countries, making case development and document discovery difficult and expensive. Successfully defending in federal trial and appellate courts the IRS's disallowance of sham tax benefits is critical to the government's efforts to combat abusive tax shelters. Because tax shelters typically involve enormous sums of money and often attract significant media attention, a coordinated and effective effort is essential to prevent substantial losses to the Treasury and deter future use of such tax shelters by other taxpayers.

The Tax Division plays a critical role in the government's efforts to combat abusive tax shelters. Our defense of these cases involves more than a billion dollars in tax revenue, and affects billions more owed by other taxpayers. For example, in a case involving a transaction by a General Electric subsidiary, the taxpayer created a partnership known as Castle Harbour to create more than \$300 million in tax deductions. In 2012 the court of appeals for the Second Circuit struck down the tax benefits and held that penalties were appropriate. *TIFD III-E v. United States* (2d Cir. 2012). The Dow Chemical Company had engaged in a similar transaction, and it filed suit in a case in which it had claimed approximately \$1 billion in tax deductions that were generated by a partnership known as Chemtech. In that case Dow was seeking to obtain deductions for making royalty payments to itself, and depreciation deductions for a chemical plant that it had already depreciated. In February 2013, the district court in the Middle District of Louisiana determined that Dow's transactions lacked economic substance and that the Chemtech partnership should be disregarded because it had no purpose other than to create tax benefits. The court also imposed penalties. *Chemtech Royalty Assoc. LLP v. United States* (M.D. La. 2013).

The Tax Division prevailed in the first distressed asset/debt (DAD) shelter case to be tried, *Southgate Master Fund LLC v. United States* (N.D. Tex. 2009), *aff'd* (5th Cir. 2011), in which the

taxpayer's claimed losses exceeded \$1.1 billion.<sup>9</sup> Subsequently, the Division has prevailed in other DAD cases, and our efforts in pending DAD cases (over a dozen) have been aided by those victories.

In *Pritred I LLC v. United States* (S.D. Iowa 2011), the Division prevailed in the first foreign-tax-credit-generator shelter to proceed to trial, which involved Principal Life Insurance Company's claim for more than \$20 million in foreign tax credits based on a sham transaction. Several other foreign-tax-credit-generator cases currently are pending in federal courts with potentially billions of dollars at issue; in fact, Tax Division expects three multi-week trials in 2013 where more than a billion dollars will be at issue. Finally, the Tax Division prevailed in several cases involving "sale-in/lease-out" and "lease-in/lease-out" (SILO/LILO) tax shelters,<sup>10</sup> including *BB&T v. United States* (4th Cir. 2008), *Fifth Third Bank v. United States* (S.D. Ohio 2008), and *AWG Leasing Trust v. United States* (N.D. Ohio 2008). After those victories, the IRS announced a settlement initiative, with government-favorable terms, that resolved approximately 80% of the IRS's inventory of SILO/LILO cases. The Division has since continued to win cases involving taxpayers who chose not to settle, including *Wells Fargo v. United States* (Fed. Cir. 2011), *Altria Group v. United States* (2d Cir. 2011), *Consolidated Edison Co. v. United States* (Fed. Cir. 2013).

As of December 31, 2012, the Division had 71 groups of tax shelter cases.<sup>11</sup> The Tax Division anticipates that tax shelters will continue to be contested in the federal district courts and in the Court of Federal Claims over the next several years.

### **Shutting Down Tax Scams, Shelter Promoters, and Fraudulent Return Preparers**

The Tax Division has a highly successful injunction program that shuts down tax-fraud promoters and fraudulent tax-return preparers. Some of the cases involve parallel criminal proceedings. These promoters range from tax defiers selling frivolous packages that falsely promise to eliminate customers' income tax entirely, to lawyers and accountants selling sophisticated, complex tax shelters to wealthy business owners. Since the year 2000, the Tax Division has obtained injunctions against more than 500 tax-fraud promoters and unscrupulous tax-return preparers.

In October, 2012, an Ohio federal court issued a preliminary injunction against the parent company of "Instant Tax Service," the fourth-largest tax-preparation firm in the nation. This injunction will remain in force pending the May 2013 trial on our request to shut down the defendants' operations. In the meantime, we have obtained permanent injunctions against individual Instant Tax franchises in Illinois and Nevada, as well as injunctions against other return preparers in Louisiana, New York, Texas, Kansas, Virginia, and elsewhere – a total of 32 injunctions have issued just since October.

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<sup>9</sup> In distressed asset/debt (DAD) and distressed asset/trust (DAT) transactions, a built-in loss is shifted from a tax-indifferent party to a taxpayer that has not incurred the economic loss but that wants to shield a large taxable gain. Generally, the tax-indifferent party contributes the distressed assets (assets with a high basis and low fair market value) to an entity or series of entities in which the taxpayer acquires an interest.

<sup>10</sup> Sale-in/lease-out (SILO) and lease-in/lease-out (LILO) transactions involve either a lease or a sale of assets, and then a lease-back of those assets, from a tax-indifference entity (*e.g.*, a foreign entity or a U.S. non-profit) to a U.S. taxpayer, with no change in the use of the assets, but generating immediate tax benefits for the U.S. taxpayer.

<sup>11</sup> The Tax Division treats as one "group" two or more tax shelter cases that involve the same scheme and/or the same promoter, are handled by the same opposing lawyer(s), and are filed in the same judicial district, whether or not the cases have been consolidated by the court. For example, the 91 so-called Presidio cases pending in the Northern District of California, each involving a "Son of BOSS" tax shelter, facilitated by the same promoter, are treated as one group.

The schemes the Division has enjoined during the past ten years cost the Federal Treasury billions in lost revenues and placed an enormous administrative burden on the IRS. If permitted to continue unchecked, these schemes would undermine public confidence in the integrity of our tax system, and require the IRS to devote substantial resources to detecting, correcting, and collecting the resulting unpaid taxes.

The Tax Division continues to encourage the Internal Revenue Service to attack these schemes at their source, by targeting and investigating the promoters before they attract more customers and require more IRS examination and collection activity. Division employees have helped train hundreds of Internal Revenue Service agents and lawyers about developing injunction and penalty cases against tax scam promoters.

In addition to shutting down fraudulent return preparers and abusive tax scams, the Tax Division also brings injunction actions to stop employers who are “pyramiding” their federal employment tax liabilities. Employers are responsible for employment taxes, some of which are withheld from the employee’s wages and paid over to the government, and others that are the direct obligation of the employer to pay. When employers fail to pay over these employment taxes for many quarters, interest and penalties begin to accrue, which can result in “pyramiding” – tax liabilities accruing at a rate that make it unlikely that the employer will be able to bring its accounts current. The unpaid balance can reach several billion dollars. When the IRS is unable to bring compliance, the Tax Division brings injunction actions to compel employers to pay over employment taxes. Such actions help to keep employers on track with their tax obligations, and ensure that taxes withheld from employees’ wages make their way to the Treasury and are not diverted for other purposes.

### **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 asks the Tax Division to bring suit in federal court seeking a court order to compel compliance with the summons. These judicial proceedings afford the government the ability to obtain information, while also providing important procedural and substantive rights to those affected by the summons. As the IRS increases its audit activity and criminal investigations and seeks more information from individuals who might be part of the Tax Gap, the Division anticipates being asked to enforce more of the sensitive and complicated summons cases than it currently handles, including summonses related to offshore banking activities of U.S. taxpayers, as well as summonses made by foreign tax authorities pursuant to treaty-based information exchange agreements.

The IRS is increasingly attempting to obtain information about United States persons who maintain undeclared foreign accounts. The latest petition filed by the Division and approved by the court allowed the IRS to serve a John Doe summons on HSBC Bank USA, N.A., seeking information about U.S. residents who may be using HSBC India accounts to evade federal income taxes. ***In re Tax Liabilities of John Does Who from December 31, 2002 through December 21, 2010 had Interests in Financial Accounts Managed through HSBC India*** (N.D. Cal. 2011). Similarly, in 2013 the district court in the Southern District of New York authorized a John Doe summons aimed at identifying customers of Wegelin & Co. (“Wegelin”), the oldest bank in Switzerland, who had moved money in and out of the United States through Wegelin’s correspondent account it held at UBS AG. ***In re Tax Liabilities of John Does Who at any time during the years 2002 through 2011 directly or indirectly had interests in financial accounts at Wegelin & Co.*** (S.D. N.Y. 2013). These John Doe summonses, and the information they collect, have an immediate and direct effect in bringing taxpayers into compliance who were trying to evade taxation in the United States, as well as assure people who pay

their taxes that the government is pursuing those who do not.

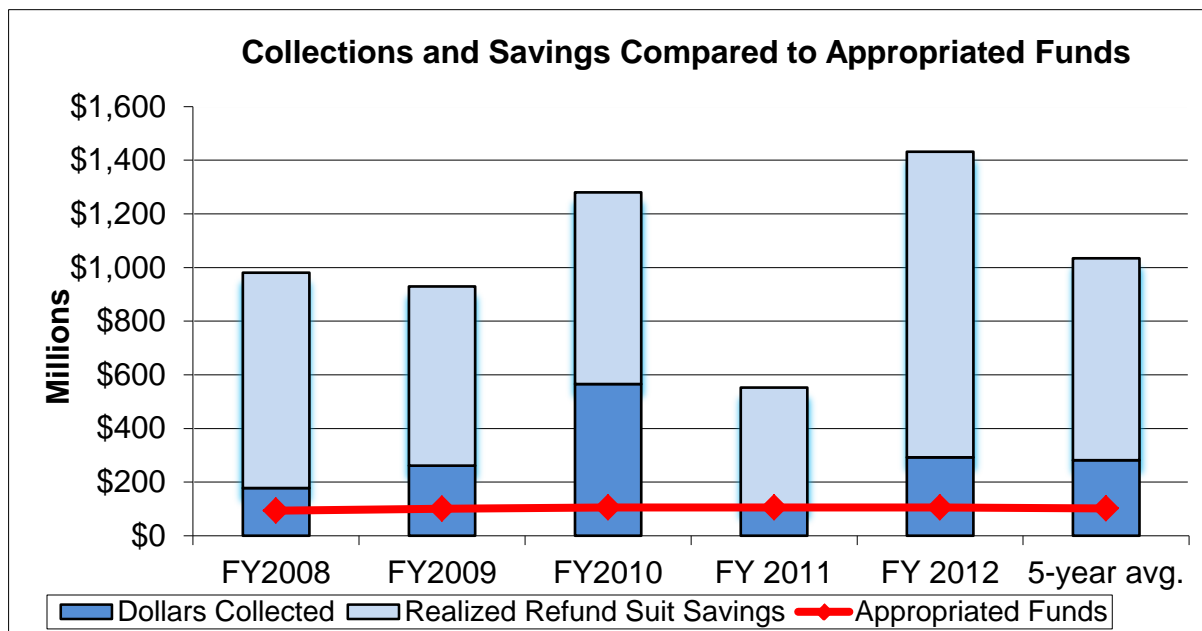
The John Doe summons procedure has also been utilized in other areas where the IRS has identified potential underreporting. When the IRS determined that a large number of taxpayers in California who transferred property to relatives for little or no consideration may have failed to comply with federal gift tax filing requirements, the Division filed suit requesting authorization for the IRS to issue a John Doe summons to the California State Board of Equalization for information on intrafamily property transfers, *In re Tax Liabilities of John Does Who from January 1, 2005 through December 31, 2010, Transferred Real Property in the State of California, 2011 WL 6302284, at \*2, Case No. 2:10-mc-00130 (E.D. Cal. Dec. 15, 2011)*.

The Tax Division's summons enforcement work in the past few years has been very effective. The Division enforced summonses aimed at identifying high-income taxpayers who were "playing the audit lottery." For example, when prominent law firms and public accounting firms began marketing tax shelters to corporations and wealthy individuals, the firms rebuffed the IRS's requests for information that the firms were required by law to maintain and provide, essentially stalling as the clock ran out on the IRS. Through summons enforcement actions, these stall tactics are brought to an end. By filing suit, the Tax Division is able to secure the information needed to conduct proper taxpayer examinations, and to defend IRS exam determinations in court proceedings. The Division's work in the area of summons enforcement is vital to tax compliance.

### **Collecting Unpaid Taxes**

The Tax Division contributes significantly to closing the Tax Gap through its civil litigation to collect tax debts. The focus and goal of this litigation is to enforce the tax laws and collect taxes that would otherwise go unpaid. Collection suits have a direct and positive effect on the Treasury. The Division typically collects more each year than its entire budget, as illustrated by the following chart. Given that the IRS only refers to the Tax Division tax debts that the IRS has been unable to collect through administrative means, for example, because ownership of assets has been transferred away from the taxpayer through fraudulent conveyances, title is clouded due to the presence of alter-ego or nominee title holders, or assets are subject to competing lien interests that present complex questions at the intersection of state and federal law, the Division's efforts are a tremendous return on investment in collecting the debts owed by the most recalcitrant taxpayers.

In addition to our collection cases, the Tax Division also brings affirmative litigation to challenge the discharge of tax debts in bankruptcy proceedings. The bankruptcy laws provide exceptions to discharge where a fraudulent return has been made or where a taxpayer has acted to evade or defeat the assessment or collection of tax. Where acts of fraud or evasion are present, the Division works to ensure that unscrupulous taxpayers will not be allowed to avoid their tax obligations through bankruptcy filings.



While the direct return alone is impressive, the Division’s collection litigation also brings substantial indirect benefits. It assures honest taxpayers that those who engage in illegal activity will suffer consequences, and boosts voluntary compliance by providing a deterrent to potential scofflaws.

### Defending the United States

Tax cases filed against the United States comprise nearly 70% of the Division’s caseload, both in the number of cases and the number of attorney work hours each year. The Tax Division has no choice but to defend these lawsuits, which include requests for refund of taxes, challenges to final partnership administrative adjustments (FPAAs) issued by the IRS, challenges to federal tax liens, petitions to quash summonses, objections to tax claims in bankruptcy, claims of unauthorized disclosure, and allegations of wrongdoing by IRS agents. The Division’s representation of the government saves the Treasury hundreds of millions of dollars annually by retaining money that taxpayers seek to have refunded and by ensuring that spurious damages claims are denied. As of September 30, 2011, the Division was defending tax refund cases worth approximately \$9.6 billion to the Federal Treasury.<sup>12</sup>

Many of these refund suits, like the sophisticated tax shelter cases described earlier, involve issues that affect many taxpayers and involve large sums. For example, the Tax Division has litigated the issue of whether universal service support payments received by taxpayers in the telecommunications industry are to be treated as taxable income, or may be treated as nontaxable contributions to capital. The United States has prevailed on this issue in *United States v. Coastal Utilities, Inc.* (11<sup>th</sup> Cir. 2008), *AT&T, Inc. v. United States* (5<sup>th</sup> Cir. 2011), and *Sprint Nextel Corp. v. United States* (D. Kan. 2011). Just over \$530 million was at stake in these three cases, but billions of tax dollars were at stake on this issue on an industry-wide basis, and the precedent resulting from these cases may have a broader impact, since the contrived interpretation of “capital contributions” advocated by the taxpayers is appearing in other industries as well. The IRS estimated that, if the Tax Division was not able to develop case law supporting the Government’s position on this issue, the Federal Treasury would have had to pay billions of dollars in refunds and would have ceased to collect billions more in

<sup>12</sup> See IRS Tax Stats – 2011 Data Book, <http://www.irs.gov/uac/SOI-Tax-Stats-2ok.html>, Table 27.

future years.

The Tax Division has also litigated the significant question of the tax impact of insurance company demutualization. Demutualization is a process by which a mutual insurance company converts to a stock company. In the late 90s and early 2000s, more than 30 mutual insurance companies converted into stock companies through demutualization, raising tax issues for their more than 30 million shareholders who faced the amount of gain they needed to recognize from the demutualization. The government did not prevail in the first case decided because the court applied the open transaction doctrine in *Fisher v. United States*, 82 Fed. Cl. 780 (Fed. Cl. 2008). And, after *Fisher* was decided, numerous taxpayers filed refund claims with untold millions at issue. Shortly thereafter, another taxpayer filed a refund action in the United States District Court for the District of Arizona related to taxes paid on the sale of stock received in the demutualization of five insurance companies, and in 2012 the United States District Court for the District of Arizona rejected the analysis of *Fisher* and held that the open-transaction doctrine did not apply to determine the basis of stock received by taxpayers in the demutualization of insurance companies (*Dorrance v. United States*, 2012 WL 2798649). Since then, the United States District Court for the Central District of California denied the plaintiff's motion for summary judgment and granted summary judgment in favor of the United States in *Reuben v. United States*, 2013 WL 656864 (C.D. Cal. Jan. 15, 2013) and found that the open transaction doctrine did not apply in determining the basis of stock received in an insurance company demutualization and that Plaintiff failed to meet his burden that insurance premium payments were attributable to membership rights. As a result, the Court determined that Plaintiff had zero basis in the shares. The insurance company demutualization litigation is an example of the Division's work to both make the law clear for taxpayers, as well as protect the fisc. Hundreds of millions of dollars have been protected through the Division's work.

### **Civil Appellate Cases**

The Tax Division's appellate attorneys represent the United States in all appeals involving federal tax statutes in the United States courts of appeals and their state government equivalents (except for appeals from the Southern District of New York). The Division's appellate attorneys also assist the Solicitor General of the United States by preparing initial drafts of pleadings and briefs in tax cases filed in the Supreme Court. The Division likewise closely reviews all adverse decisions entered by the lower courts in tax cases to determine whether the government should appeal, and prepares a recommendation to the Solicitor General. The appellate section generally recommends appeal only in those cases where there is a substantial likelihood the government will ultimately prevail or where an important principle is at stake. Careful review of these cases not only ensures that Department resources are spent wisely on only meritorious appeals, but also advances the Tax Division's mission of promoting the fair and correct development, and uniform enforcement of the federal tax laws.

From 2009 through 2012, the Division's Appellate Section won (in whole or in part) over 95% of taxpayer appeals. Some of the more important recent appellate victories have been in tax shelter cases. For example, in *TIFD III-E, Inc. v. United States* (2d Cir. 2012), the Government prevailed on appeal for the second time in a case involving GE Capital's attempt to shelter more than \$300 million in income from taxation through a lease-stripping arrangement. In *Bemont Investments LLC v. United States* (5th Cir. 2012), a suit involving the so-called "Son of BOSS" shelter, through which the taxpayer attempted to generate over \$200 million in phony tax losses, the court rejected a statute-of-limitations defense and upheld the IRS's imposition of a 20% negligence penalty.



## **CRIMINAL PROSECUTIONS AND APPEALS**

The Tax Division authorizes, and either conducts or supervises, almost all prosecutions arising under the federal tax laws.<sup>13</sup> The Division's twin goals are to prosecute criminal tax violations and to promote a uniform nationwide approach to criminal tax enforcement. In many cases, the Tax Division receives requests from the IRS to prosecute tax violations after the IRS has investigated them administratively. In other cases, the IRS asks the Tax Division to authorize grand jury investigations to determine whether prosecutable tax crimes have occurred. Tax Division prosecutors review, analyze, and evaluate these referrals to assure that uniform standards of prosecution are employed and that criminal tax violations warranting prosecution are prosecuted. After the Division authorizes tax charges, the cases are handled either by a United States Attorney's Office (USAO) or, in complex or multi-jurisdictional cases, or cases in which the USAO is recused or requests assistance, by the Tax Division's experienced prosecutors. In addition to their substantial litigation caseloads and review work, Tax Division prosecutors also conduct training seminars for IRS criminal investigators and Assistant U.S. Attorneys and often provide advice to other federal law enforcement personnel, including the DEA and FBI.

The Tax Division's criminal workload has grown and the sophistication of criminal cases has increased steadily over the past few years. A greater proportion of the cases involve high net-worth taxpayers and tax professionals who sell and implement complex tax products. During FY 2012, Division prosecutors obtained 127 indictments and 137 convictions.

The Tax Division's criminal trial attorneys investigate and prosecute individuals and corporations that attempt to evade taxes, willfully fail to file returns, submit false tax forms, or otherwise violate the federal tax laws. They also investigate and prosecute tax violations along with other associated criminal conduct including securities fraud, bankruptcy fraud, health care fraud, organized crime, public corruption, mortgage fraud, and narcotics trafficking. In addition, Tax Division attorneys investigate and prosecute domestic tax crimes involving international conduct, such as the illegal use of offshore trusts and foreign bank accounts to conceal taxable income and evade taxes. They also conduct terrorism-related and Organized Crime and Drug Enforcement Task Force (OCDETF) criminal investigations and prosecute organizers of internet scams.

The Tax Division's Criminal Appeals and Tax Enforcement Policy Section (CATEPS) conducts appeals in criminal tax cases prosecuted by Division attorneys and supervises appeals in matters tried by USAOs around the country. Similar to the initial review of tax cases by criminal trial attorneys, the appellate review plays a vital role in promoting the fair, correct, and uniform enforcement of the internal revenue laws. CATEPS also assists in negotiating international tax assistance treaties and in researching policy issues, such as the application of the sentencing guidelines.

### **Pure Tax Crimes**

The core of the Tax Division's criminal work involves so-called "legal source income" cases. These cases encompass tax crimes involving unpaid taxes on income earned legally (*e.g.*, a restaurateur who skims cash receipts or a doctor who inflates deductible expenses.) When these cases involve difficult issues of tax law or complex methods of proof, United States Attorneys' Offices often call upon

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<sup>13</sup> The Tax Division does not review or supervise most excise tax cases, which are the responsibility of the Criminal Division.

the special skills that Tax Division prosecutors bring to the Justice Department's goal of combating financial fraud and reducing white-collar crime.

Evasion of taxes on income from legal sources significantly erodes the federal tax base. The Division's enforcement activities are a strong counter to that erosion, providing a significant deterrent to those who contemplate shirking their tax responsibilities. These prosecutions often receive substantial local press and media coverage and assure law-abiding citizens who pay their taxes that tax cheats are not getting away with it. The government's failure to prosecute such cases effectively would undermine the confidence of law-abiding taxpayers and jeopardize the government's ability to operate a revenue collection system whose cornerstone is voluntary compliance.

### **Stolen Identity Refund Fraud**

The nationwide reach of the Tax Division's centralized criminal tax enforcement serves another important goal: it facilitates the Government's ability to respond efficiently and forcefully to often-changing patterns of wrongdoing. The recent explosion in the use of stolen social security numbers and other personal identification information to file false tax returns seeking fraudulent refunds is an example of this type of challenge.

Dubbed stolen identity refund fraud or SIRF, the crime may be simple to describe, but has proven complex both in its reach and in the extent of the criminal enterprises involved. The most vulnerable members of our communities—the elderly, the infirm, grieving families—have been the victims when social security numbers have been stolen or bought from institutions such as hospitals, nursing homes, and public death lists. In a very real sense, every taxpayer is a victim when the IRS issues a fraudulent refund to these thieves.

In recognition of the severity of the problem, the Tax Division, in conjunction with the IRS and United States Attorneys nationwide, has prioritized the investigation and prosecution of individuals who engage in SIRF. The Division is targeting individuals involved in all stages of these schemes, including those who illegally obtain the personal identifying information, those who file the false returns with the IRS, those who knowingly facilitate cashing the checks or otherwise obtaining the refunds, and those who mastermind or promote these scams. Depending on the facts of a particular case, the Government can bring a variety of charges, including aggravated identity theft and theft of government property, in addition to traditional tax charges such as filing false claims for refund and filing false tax returns. On January 31, 2012, the Justice Department and the IRS announced the results of a massive national sweep cracking down on suspected SIRF perpetrators. Taking place over the course of one week and across 23 states, the actions against 105 individuals included 80 complaints, informations, and indictments, 58 arrests, 19 search warrants, 10 guilty pleas, and 4 sentencing's. The sweep reflected the extensive and well-coordinated investigative and prosecution efforts of the Tax Division, many United States Attorneys' Offices, and the IRS.

We have also had success prosecuting perpetrators of identity theft. In May, 2011, an Alabama woman was sentenced to 27 years, 10 months in prison, while her co-conspirator was sentenced to 25 years, 10 months in prison, for their roles as leaders of a refund fraud ring using the stolen identities of Medicare beneficiaries. They were ordered to pay \$2.8 million in restitution. In November, 2012, a Barbados national was sentenced to 114 months in prison and ordered to pay \$1.7 million in restitution for a scheme in which he filed over 470 false returns in the names of deceased individuals claiming in excess of \$120 million in refunds (of which the IRS was able to stop all but \$10 million). In January, 2013, Antoinette Djonret was sentenced to 144 months in prison and ordered to pay \$1.3 million in restitution. Djonret and her co-conspirators filed over 1,000 false tax returns, establishing an elaborate

network for laundering the refund money, and recruiting a number of individuals to purchase prepaid debit cards for use in the scheme.

Many of the perpetrators of identity theft are themselves former return preparers. In November, 2012, a New Mexico return preparer was sentenced to 48 months in prison for his role in a stolen identity fraudulent refund scheme. In January, 2013, a Georgia return preparer was sentenced to 60 months in prison for a scheme in which he used many of his former clients' names and social security numbers to file wholly fraudulent refund claims. Also in January, 2013, a Los Angeles CPA pleaded guilty to conspiracy to defraud the United States for his role in a scheme in which he misappropriated employer identification numbers from his client files and provided information to co-conspirators who then filed over 250 fraudulent returns claiming more than \$2 million in refunds. The refunds were then taken overseas to be deposited in accounts in Pakistan and Armenia. His co-conspirators are currently serving 30- and 37-month prison terms, respectively. These are but a few examples of our efforts to root out and prosecute refund fraud wherever it may be found, and this will continue to be a major priority for the Division going forward.

### **Combating Offshore Tax Schemes**

The Tax Division continues to play a leading role in investigations and prosecutions involving the use of foreign tax havens. Increased technical sophistication of financial instruments and the widespread use of the internet have made it easy to move money around the world. Using tax havens facilitates evasion of U.S. taxes and the commission of related financial crimes. According to a 2008 Senate report, the use of secret offshore accounts to evade U.S. taxes costs the Treasury at least \$100 billion annually.

Offshore tax schemes are often difficult to detect and prosecute, so the IRS has allocated resources to target taxpayers who engage in offshore activity for the purpose of underreporting income. Income tax evaders and other criminals use banks located in countries that have strict bank secrecy laws and that will not, or cannot, provide assistance to investigators for the United States. Sophisticated criminals may also use non-traditional tax haven countries. Despite these difficulties, the Division has been successful in prosecuting these tax cheats.

In February 2009, in *United States v. UBS, AG* (S.D. Fla.), Switzerland's largest bank entered into a deferred prosecution agreement and admitted guilt on charges of conspiring to defraud the United States by impeding the IRS. As part of the agreement, UBS, based on an order by the Swiss Financial Markets Supervisory Authority, agreed to immediately provide the United States with the identities of, and account information for, a number of United States customers of UBS's cross-border business. Under the agreement, UBS exited the business of providing banking services to United States customers with undeclared accounts and paid \$780 million in fines, penalties, interest, and restitution.

As of March 20, 2013, in connection with the UBS investigation, six bankers, one attorney, and 48 UBS clients have been charged, and 42 clients have pleaded guilty. Investigations into numerous additional offshore banks located in Switzerland, India, Israel and elsewhere, have also been opened. In connection with those ongoing investigations of other banks, an additional 16 bankers, 7 independent investment advisers, one attorney, and 11 clients have been charged. Of the 11 clients, 3 HSBC clients have been convicted following trial.

In August 2009, in *United States v. Bradley Birkenfeld, et al.* (S.D. Fla.), Birkenfeld, a former UBS banker, was sentenced to 40 months in prison following his June 2008, guilty plea to conspiring with an American billionaire real estate developer, Swiss bankers, and his co-defendant, Mario Staggi, to help the developer evade paying \$7.2 million in taxes by assisting in concealing \$200 million of

assets in Switzerland and Liechtenstein. In his plea Birkenfeld admitted that between 2001 and 2006, while employed as a director in the private banking division of Swiss bank UBS, he routinely traveled to and had contacts within the United States to help wealthy Americans conceal their ownership in assets held offshore and evade paying taxes on the income generated from those assets.

The Division continues to prosecute UBS clients using information obtained through the deferred prosecution agreement. For example, in January 2013, in *United States v. Mary Estelle Curran* (S.D. Fla.), the defendant pleaded guilty to filing false tax return for 2006 and 2007 and admitted that she had maintained an undeclared account at UBS. The plea agreement included a penalty of over \$21.6 million for failing to file Reports of Foreign Bank and Financial Account (FBARs).

Prosecutions have not been limited to UBS customers. In February 2011, in *United States v. Mauricio Cohen-Assor, et al.* (S.D. Fla.), a court sentenced Mr. Cohen-Assor and his son, Leon Cohen-Levy, to 10 years imprisonment following their trial convictions for conspiring to defraud the United States. The defendants, who were developers and owners of several residential hotels, made extensive use of nominee entities formed in tax haven jurisdictions, including the Bahamas, the British Virgin Islands, Panama, Liechtenstein and Switzerland, and an account opened at a private bank affiliated with HSBC, a large international banking firm, all in order to defraud the United States concerning, among other things, taxes pertaining to \$33 million in capital gains. In August 2012, in *United States v. Arvind Ahuja* (E.D. Wisc.), the defendant, a neurosurgeon who maintained an undeclared account at HSBC India, was convicted following jury trial of filing a false 2009 income tax return and failing to file a Report of Foreign Bank and Financial Accounts (FBAR).

Indictments have also been returned against bankers, independent financial advisers and other professionals who have helped hide income in undeclared accounts. For example, in December 2010, in *United States v. Renzo Gadola* (S.D. Fla.), Gadola, a former UBS banker and independent financial adviser, pleaded guilty to conspiring to defraud the United States. According to the charging document, Gadola worked with another former UBS banker to manage undeclared accounts for U.S. clients. In November 2010, Gadola met in a Miami hotel with a Mississippi client of the former UBS banker. The client had an undeclared account at Basler Kantonbank, a regional bank in Switzerland. Gadola advised the client not to disclose his account at Basler Kantonbank to United States authorities, indicating that the likelihood that anyone would find out about the account was “practically zero percent” and that there was no “paper trail” associated with the account.

Also, in June, 2012, a superseding indictment was returned in *United States v. David Almog, et al.* (C.D. Cal.) charging Almog and David Kalai and Nadav Kalai with conspiracy. The indictment alleges, among other things, that the defendants were tax return preparers and helped U.S. clients hide assets in undeclared accounts in two Israeli banks. The case is awaiting trial.

Finally, in January 2013, after working with prosecutors from the United States Attorney’s Office in the Southern District of New York, Wegelin Bank, the oldest private bank in Switzerland, became the first foreign bank to plead guilty to felony tax charges. Appearing on behalf of the bank, managing partner Otto Bruderer admitted the bank had conspired to defraud the United States by helping U.S. clients hide assets from the IRS in undeclared accounts.

### **Prosecuting Abusive Promotions**

The Division is actively engaged in prosecuting the promotion or use of fraudulent tax shelters and other schemes to evade taxes and hide assets. The number of taxpayers who use these bogus schemes to improperly reduce, or totally evade, their federal income tax liabilities has increased significantly in recent years. 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.

### **Return-Preparer Fraud**

Corrupt accountants and unscrupulous tax return preparers present a serious law enforcement concern. Some accountants and return preparers dupe unwitting clients into filing fraudulent returns, while others serve as willing “enablers,” providing a veneer of legitimacy for clients predisposed to cheat. In either case, the professionals often commit a large number of frauds, and their status as professionals may be perceived as legitimizing tax evasion, thereby promoting disrespect for the law.

Tax’s civil injunction program is now over 10 years old, and continues to be an effective way to quickly shut down fraudulent return preparers and illegal tax-scheme promoters – especially during filing season – thereby reducing the harm to the public fisc while potential criminal investigations are ongoing. In October, 2012, an Ohio federal court issued a preliminary injunction against the parent company of “Instant Tax Service,” the fourth-largest tax-preparation firm in the nation. This injunction will remain in force pending the May 2013 trial on our request to shut down the defendants’ operations. In the meantime, we have obtained permanent injunctions against individual Instant Tax franchises in Illinois and Nevada, as well as injunctions against other return preparers in Louisiana, New York, Texas, Kansas, Virginia, and elsewhere – a total of 32 injunctions have issued just since October.

These after-the-fact remedies, however, do not prevent the harm caused by incompetent and unethical return preparers. As a result, the IRS recently implemented testing and continuing education requirements via regulations for certain tax return preparers. In January, 2013, the U.S. District Court for the District of Columbia struck down and permanently enjoined those regulations, finding that paid return preparers are not representatives who practice before the IRS and thus who would be subject to the IRS’s regulatory authority. On February 20, 2013, the Government filed a notice of appeal, pending the Solicitor General’s final authorization to pursue the appeal, and on February 25, 2013, we moved for a stay pending appeal of the district court’s injunction. Absent a stay, the court’s ruling will cause irreparable harm to tax administration. The Government will be irreparably harmed if that injunction remains in force, not only because the IRS will effectively be forced to abandon its implementation of the regulatory scheme until the 2015 tax-preparation season, but because of financial costs ranging from those associated with redesigning computer systems to renegotiation of vendor contracts.

### **National Tax Defier Initiative**

A certain segment of our citizenry flatly refuses to accept its tax obligations. These individuals manufacture frivolous arguments against the clear language of the law. They also frequently devise complicated schemes to mask their activities. Often, they are affiliated with sovereign citizen movements, who challenge the United States Government in numerous ways. Too often, they are prepared and willing to resort to violence.

Tax defiers have long been and will remain a priority of the Tax Division. Tax defiers, also known as illegal tax protesters, have long been a focus of the Tax Division’s investigative and prosecution efforts. For decades, tax defiers have advanced frivolous arguments and developed numerous schemes to evade their income taxes, assist others in evading their taxes, and frustrate the IRS, under the guise of 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. Schemes utilized include the use of fictitious financial instruments in purported payment of tax bills, as well as the filing of false liens and IRS reporting forms, such as Forms 1099, designed to harass and retaliate against government employees and judges. In the most extreme circumstances, tax defiers have resorted to threats and violence to advance their anti-government agenda.

Because of this risk of violence, it is essential that local law enforcement be prepared to respond rapidly to threats against agents, prosecutors, and judges. The Tax Division has thus implemented a comprehensive strategy, using both civil and criminal enforcement tools, to address the serious and corrosive effect of tax defier activity. The Division’s Tax Defier Initiative facilitates coordination among nationwide law enforcement efforts. This coordination allows new or recycled tax defier schemes and arguments to be quickly identified and a global, coordinated strategy to be developed.

For example, the “sovereign citizen” ideology overlaps with, and is often indistinguishable from, tax defier rhetoric and tactics. Through the Tax Defier Initiative, the Division has leveraged our expertise to develop a government-wide approach to monitoring and combating these crimes. As a result, our National Director for the Tax Defier Initiative, working with representatives of IRS Criminal Investigation, the Treasury Inspector General for Tax Administration, the FBI Domestic Terrorism Operations Unit, and the Department’s National Security Division, developed and implemented a national training program for prosecutors and investigators. The close working relationships fostered by our Initiative have enabled us to identify and respond more quickly and efficiently to such trends in the tax defier community.

In February 2013, in *United States v. Hopkins* (D. N.M.), after multiple hearings and evidentiary disputes over discovery matters involving two tax defiers imprisoned for tax evasion and conspiracy, the district court, in a 103-page opinion, granted in part the United States’ motion for summary judgment. The Hopkins continued this activity for over ten years until criminal convictions were secured and a \$1.7 million restitution order which were affirmed by the Tenth Circuit

### **War on Terrorism**

Tax Division attorneys play an important role in the fight against international terrorism. Tax Division attorneys lend their expertise to attorneys at the National Security Division and at U.S. Attorney’s Offices in prosecuting those who take advantage of the tax laws to fund terrorism, including through the use of tax-exempt organizations. A Tax Division Senior Litigation Counsel is responsible for managing matters associated with counter-terrorism and terrorist financing and leads teams of attorneys in investigating, developing, and prosecuting criminal tax cases with a nexus to counter-terrorism and terrorism financing.

### **Corporate Fraud and other Financial Crimes**

Through the President’s Financial Fraud Enforcement Task Force, the Tax Division investigates and prosecutes financial crimes such as corporate fraud and mortgage fraud. The Division also cooperates with other law enforcement components in formulating national policies, programs, strategies and procedures in a coordinated attack on financial crime.

## **International Cooperation to Investigate Evasion of U.S. Taxes**

The Tax Division regularly provides advice and assistance to United States Attorneys and IRS agents seeking extradition, information, and cooperation from other countries for both civil and criminal investigations and cases. Occasionally, the Tax Division provides assistance to attorneys from other agencies and offices of the United States government, including the Federal Bureau of Investigation, the Securities and Exchange Commission, and the Department of Homeland Security.

In addition, the Tax Division works to increase cooperation with foreign nations, recognizing that reciprocal engagements ultimately further the Division's mission. For example, the Division has participated in consultations both with France and Canada in an effort to improve the exchange of information under our income tax treaties with those countries. The Division periodically hosts visiting delegations of tax officials from countries interested in learning more about federal tax enforcement in the United States. The Division continues to work to increase cooperation between the United States and countries in Latin America and the Caribbean by providing instructors for the International Law Enforcement Academy in El Salvador.

The Tax Division is an important partner in the U.S. negotiating team for Double Taxation Conventions, Tax Information Exchange Agreements, and other international agreements concerning tax information. For example, the Tax Division participated in the historic negotiations that led to the signing of Tax Information Exchange Agreements with the Principality of Liechtenstein and with Gibraltar. Other negotiations are ongoing.

### **Civil/Criminal Coordination**

Finally, as part of its effort to stop abusive tax scheme promotions, the Division uses parallel civil and criminal proceedings to pursue both civil injunctions and criminal prosecutions against those who promote illegal schemes. To ensure that the IRS and Division attorneys make maximum use of all available legal remedies, the Division has created a Special Counsel for civil/criminal coordination. The Special Counsel provides agents and attorneys with one-on-one assistance in handling parallel civil and criminal proceedings, leads an IRS-DOJ working group formed to promote better coordination of parallel proceedings, conducts training for IRS and Division attorneys, and participates in various bar panels. The Division also maintains an online resource library on criminal tax prosecutions and parallel proceedings.

## 2. Performance Tables

### PERFORMANCE AND RESOURCES TABLE

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Decision Unit/Program: **GENERAL TAX MATTERS**

DOJ Strategic Goal II - Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law (Objective 2.6)

WORKLOAD/RESOURCES											
Workload:		Target		Actual		Projected		Changes		Requested (Total)	
		FY 2012		FY 2012		FY 2013 Current Rate		Current Services Adjustments and FY 2014 Program Changes		FY 2014 Request	
<b>CRIMINAL</b>	1. Number of Cases received from the IRS and USAO for authorization and review	n/a				n/a		0		n/a	
<b>CIVIL</b>	1. Average Number of Appellate Cases Received	200									
Total Costs and FTE's		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
(Brackets indicate reimbursement amount for OCDEF - not included in shown total)		582	\$104,877			519	\$104,877	0	\$1,602	519	\$106,479
		0	0			[0]	0	[0]	0	[0]	0
TYPE/Strategic Objective	PERFORMANCE/RESOURCES	FY 2012		FY 2012		FY 2013 Current Rate		Current Services Adjustments and FY 2014 Program Changes		FY 2014 Request	
<b>Program Activity</b>	<b>CRIMINAL PROSECUTION &amp; APPEALS - Total Costs &amp; FTE</b>	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		167	\$27,268			145	\$29,366	0	\$449	145	\$29,815
Output	1. Number of Investigations Authorized		n/a		938		n/a		n/a		n/a
Output	2. Number of Prosecutions Authorized		n/a		1,751		n/a		n/a		n/a
Outcome	3. Success Rate for Criminal Tax Cases Handled by the Division		95%		99%		95%		n/a		95%
<b>Program Activity</b>	<b>CIVIL LITIGATION &amp; APPEALS - Total Costs &amp; FTE</b>	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		415	\$77,609			374	\$75,511	0	\$1,153	374	\$76,664
Outcome	1. Civil Cases Successfully Litigated in the Trial Courts		90%		98%		90%		n/a		90%
Outcome	2. Civil Cases Successfully Litigated - Taxpayer Appeals		85%		96%		85%		n/a		85%
Outcome	3. Civil Cases Successfully Litigated - Government and Cross Appeals		60%		63%		60%		n/a		60%
Outcome	4. Tax Dollars Collected and Retained by Court Action and Settlement (\$ in millions)		n/a		\$1,431		n/a		n/a		n/a



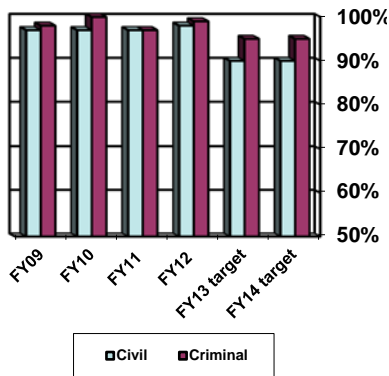
## Performance Measure Table

<b>Decision unit: GENERAL TAX MATTERS</b>											
Performance Report and Performance Plan Targets		FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012		FY 2013	FY2014
		Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Program Activity	<b>CRIMINAL PROSECUTION &amp; APPEALS</b>										
Output	1. Number of Investigations Authorized	664	757	693	751	883	850	n/a	938	n/a	n/a
Output	2. Number of Prosecutions Authorized	1,180	1,284	1,283	1,210	1,381	2,320	n/a	1751	n/a	n/a
Outcome	3. Success Rate for Criminal Tax Cases Handled by the Division	97%	100%	95%	98%	100%	97%	95%	99%	95%	95%
Program Activity	<b>CIVIL LITIGATION &amp; APPEALS</b>										
Outcome	1. Civil Cases Successfully Litigated in the Trial Courts	96%	96%	95%	95%	96%	97%	90%	98%	90%	90%
Outcome	2. Civil Cases Successfully Litigated - Taxpayer Appeals	97%	99%	97%	96%	85%	96%	85%	96%	85%	85%
Outcome	3. Civil Cases Successfully Litigated - Government and Cross Appeals	78%	56%	68%	72%	60%	59%	60%	63%	60%	60%
Outcome	4. Tax Dollars Collected and Retained by Court Action and Settlement (\$ in millions)	\$878.1	\$424.0	\$981.0	\$928.3	\$1,280.7	\$552.0	n/a	\$1,431.0	n/a	n/a

### 3. Performance, Resources, and Strategies

The General Tax Matters Decision Unit contributes to the Department’s Strategic Goal 2: Prevent Crime, Enforce Federal Laws, and Represent the Rights and Interests of the American People. Within this Goal, the Decision Unit’s resources specifically address Strategic Objective 2.7: Vigorously enforce and represent the interests of the United States in all matters over which the Department has jurisdiction.

**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.

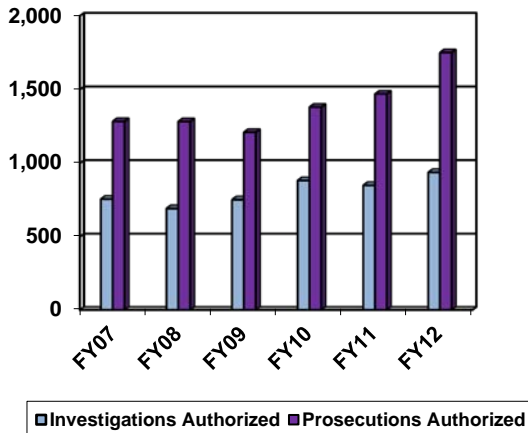
The goals of the Tax Division are to increase voluntary compliance, maintain public confidence in the integrity of the tax system, and promote the sound development of law.

**Performance Measure 1:** Percentage of Cases Favorably Resolved

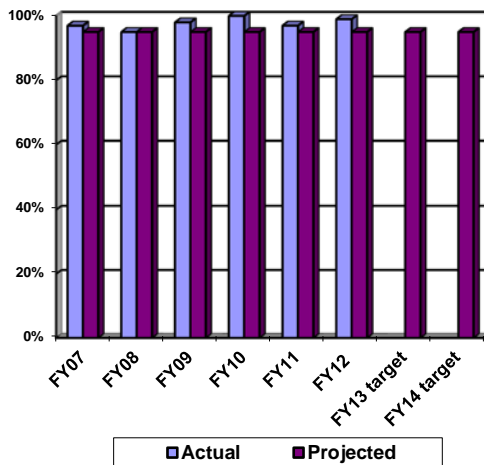
**FY 2012 Target:** 90% for Civil Trial and 95% for Criminal.

**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% of criminal cases favorably resolved Department-wide and 80% of civil cases favorably resolved. As illustrated in the chart “Cases Favorably Resolved (TAX),” the Tax Division has exceeded the Department’s goal for the last several years. In FY 2012, favorable outcomes were achieved in 98% of all civil and 99% of all criminal cases litigated by the Tax Division, including non-tax cases. To meet the targets for this measure, the Tax Division requires \$106,479 thousand. These resources are essential if we are to continue attaining the Department’s targets for this measure.

**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 2012 Target:** N/A

**Discussion:** The Tax Division also measures the number of authorized investigation and prosecution referrals in criminal cases. In FY 2012, the Division authorized 938 grand jury investigations and 1,751 prosecutions of individual defendants. Changes in the number of authorized investigations are largely proportional to the number of investigations initiated by the Internal Revenue Service.

Consistent with Department guidance, there is no FY 2012 or FY 2013 performance goal for authorized investigations and prosecutions.

**Performance Measure 3: Success Rate for Criminal Tax Cases**

**FY 2012 Target:** 95%

**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%. In FY 2012, the Division’s conviction rate was 98% in tax cases.

For FY 2012, FY 2013, and FY 2014, the Tax Division has established a conviction rate goal of 95%. While the Tax Division is very proud of its conviction rate, the emphasis is on uniform and fair enforcement of the tax laws.

**Performance Measure 4: Civil Cases Successfully Litigated**

**FY 2012 Target:** Trial Courts – 90%  
 Taxpayer Appeals – 85%  
 Government and Cross Appeals – 60%

**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.

We anticipate 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.

During FY 2012, the Division won the following percentages of cases decided:

Trial Courts – 98%  
 Taxpayer Appeals – 96%  
 Government and Cross Appeals – 63%

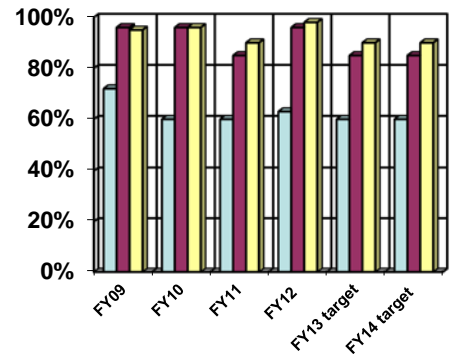
**Performance Measure 5: Tax Dollars Collected and Retained**

**FY 2012 Target:** N/A

**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 2012, the Division collected \$292 million and retained \$1,139 million.

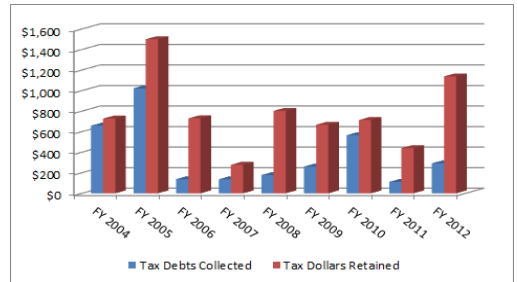
In addition to this measurable impact, the Division’s litigation affects the revenue at issue in many cases being handled administratively by the IRS, and determines tax liabilities of litigants for many tax years not in suit. Its litigation successes also foster overall compliance with the tax laws. This substantial financial impact is a consequence of the Division’s consistent and impartial enforcement of the tax laws. The Division does not measure these indirect effects of its litigation.

**Civil Cases Successfully Litigated [TAX]**



Legend:  
 ■ 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% 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.

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.

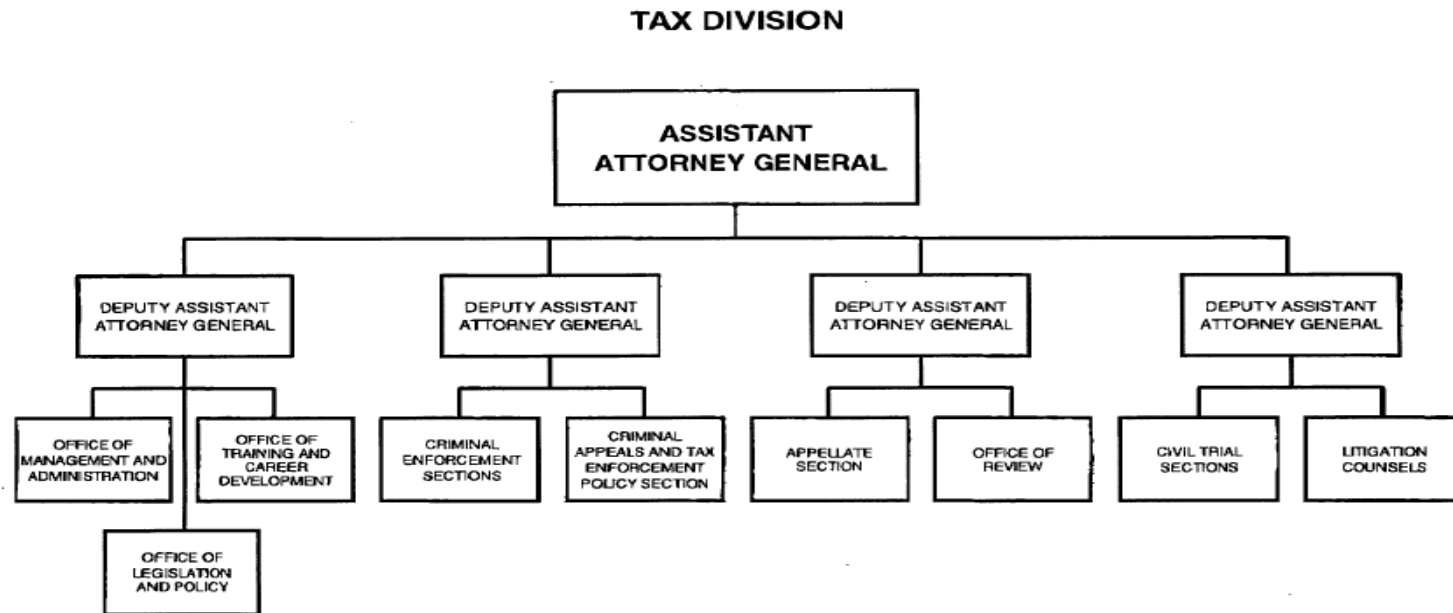
**a. Strategies to Achieve the FY 2014 Goals:**

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 we meet our obligations to our 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 the Administration's goal 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.

# A: Organizational Chart



Approved by:  Date: September 12, 2005

ALBERTO R. GONZALES  
Attorney General

**B. Summary of Requirements**

**Summary of Requirements**

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2014 Request		
	Direct Pos.	Estimate FTE	Amount
<b>2012 Enacted</b>	<b>639</b>	<b>582</b>	<b>104,877</b>
<b>Total 2012 Enacted (with Balance Rescission)</b>	<b>639</b>	<b>582</b>	<b>104,877</b>
<b>2013 Continuing Resolution</b>			
2013 CR 0.612% Increase			642
<b>Total 2013 Continuing Resolution (with Balance Rescission and Supplemental)</b>	<b>639</b>	<b>519</b>	<b>105,519</b>
<b>Technical Adjustments</b>			
Adjustment - 2013 CR 0.612%			-642
<b>Total Technical Adjustments</b>	<b>0</b>	<b>0</b>	<b>-642</b>
<b>Base Adjustments</b>			
Transfers:			
JCON and JCON S/TS	0	0	261
Office of Information Policy (OIP) - to GA	0	0	-31
Professional Responsibility Advisory Office (PRAO) - to WCF	0	0	-133
Pay and Benefits	0	0	860
Domestic Rent and Facilities	0	0	645
<b>Total Base Adjustments</b>	<b>0</b>	<b>0</b>	<b>1,602</b>
<b>Total Technical and Base Adjustments</b>	<b>0</b>	<b>0</b>	<b>960</b>
<b>2014 Current Services</b>	<b>639</b>	<b>519</b>	<b>106,479</b>
<b>Total Program Changes</b>	<b>0</b>	<b>0</b>	
<b>2014 Total Request</b>	<b>639</b>	<b>519</b>	<b>106,479</b>
2012 - 2014 Total Change	0	-63	1,602

Note: The FTE for FY 2012 is actual and for FY 2013 and FY 2014 are estimates.

**B. Summary of Requirements**

**Summary of Requirements**

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	2012 Appropriation Enacted			2013 Continuing Resolution *			2014 Technical and Base Adjustments			2014 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
General Tax Matters	639	527	104,877	639	519	105,519	0	0	960	639	519	106,479
<b>Total Direct</b>	<b>639</b>	<b>527</b>	<b>104,877</b>	<b>639</b>	<b>519</b>	<b>105,519</b>	<b>0</b>	<b>0</b>	<b>960</b>	<b>639</b>	<b>519</b>	<b>106,479</b>
Balance Rescission			0			0			0			0
Total Direct with Rescission			104,877			105,519			960			106,479
Reimbursable FTE		7			0			0			0	
Total Direct and Reimb. FTE		534			519			0			519	
Grand Total, FTE		534			519			0			519	

Program Activity	2014 Increases			2014 Offsets			2014 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
General Tax Matters	0	0	0	0	0	0	639	519	106,479
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>639</b>	<b>519</b>	<b>106,479</b>
Balance Rescission			0			0			0
Total Direct with Rescission			0			0			106,479
Reimbursable FTE		0			0			0	
Total Direct and Reimb. FTE		0			0			519	
Grand Total, FTE		0			0			519	

\*The 2013 Continuing Resolution includes the 0.612% funding provided by the Continuing Appropriations Resolution, 2013 (P.L. 112-175, Section 101(c)).



D. Resources by DOJ Strategic Goal and Strategic Objective

Resources by Department of Justice Strategic Goal/Objective

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	2012 Appropriation Enacted		2013 Continuing Resolution *		2014 Current Services		2014 Increases		2014 Offsets		2014 Total Request	
	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount
<b>Goal 2 Prevent Crime, Protect the Rights of the American People, and enforce Federal Law</b>												
2.6 Protect the federal fisc and defend the interests of the United State	582	104,877	519	105,519	519	106,479	0	0	0	0	519	106,479
<b>Subtotal, Goal 2</b>	<b>582</b>	<b>104,877</b>	<b>519</b>	<b>105,519</b>	<b>519</b>	<b>106,479</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>519</b>	<b>106,479</b>
<b>TOTAL</b>												

**Note:** Excludes Balance Rescission and/or Supplemental Appropriations.

\*The 2013 Continuing Resolution includes the 0.612% funding provided by the Continuing Appropriations Resolution, 2013 (P.L. 112-175, Section 101 (c)).

E. Justification for Technical and Base Adjustments

Justifications for Technical and Base Adjustments

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Technical Adjustments</b>			
1 <u>Adjustment - 2013 CR 0.612%:</u> PL 112-175 section 101 (c) provided 0.612% across the board increase above the current rate for the 2013 CR funding level. This adjustment reverses this increase.	0	0	-642
<b>Subtotal, Technical Adjustments</b>	<b>0</b>	<b>0</b>	<b>-642</b>
<b>Transfers</b>			
1 <u>JCON and JCON S/TS:</u> A transfer of \$261,000 is included in support of the Department's Justice Consolidated Office Network (JCON) and JCON S/TS programs which will be moved to the Working Capital Fund and provided as a billable service in FY 2014.	0	0	261
2 <u>Office of Information Policy:</u> The component transfer (\$31,000) for the Office of Information Policy (OIP) into the General Administration appropriation will centralize appropriated funding and eliminate the current reimbursable financing process. The centralization of the funding is administratively advantageous because it eliminates the paper-intensive reimbursement process.	0	0	-31
3 <u>Professional Responsibility Advisory Office:</u> The component transfer (\$133,000) for the Professional Responsibility Advisory Office (PRAO) into the General Administration appropriation will centralize appropriated funding and eliminate the current reimbursable financing process. The centralization of the funding is administratively advantageous because it eliminates the paper-intensive reimbursement process.			-133
<b>Subtotal, Transfers</b>	<b>0</b>	<b>0</b>	<b>97</b>
<b>Pay and Benefits</b>			
1 <u>2014 Pay Raise:</u> This request provides for a proposed 1 percent pay raise to be effective in January of 2014. The amount request, \$569,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$466,000 for pay and \$103,000 for benefits.)			569
2 <u>Annualization of 2013 Pay Raise:</u> This pay annualization represents first quarter amounts (October through December) of the 2013 pay increase of 0.5% included in the 2013 President's Budget. The amount requested \$100,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$82,000 for pay and \$18,000 for benefits).			100
5 <u>Employee Compensation Fund:</u> The (\$59,000) request reflects anticipated changes in payments to the Department of Labor for injury benefits under the Federal Employee Compensation Act.			-59
6 <u>Health Insurance:</u> Effective January 2014, the component's contribution to Federal employees' health insurance increases by 5.0 percent. Applied against the 2013 estimate of \$3,731,000, the additional amount required is \$187,000.			187
7 <u>Retirement:</u> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 1.3 percent per year. The requested increase of \$63,000 is necessary to meet our increased retirement obligations as a result of this conversion.			63
<b>Subtotal, Pay and Benefits</b>	<b>0</b>	<b>0</b>	<b>860</b>
<b>Domestic Rent and Facilities</b>			
1 <u>General Services Administration (GSA) Rent:</u> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$368,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2014 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied. GSA provides data on the rate increases.			368
2 <u>Guard Services:</u> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of (\$16,000) is required to meet these commitments.			-16
<b>Subtotal, Domestic Rent and Facilities</b>	<b>0</b>	<b>0</b>	<b>352</b>
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	<b>0</b>	<b>0</b>	<b>667</b>

F. Crosswalk of 2012 Availability

**Crosswalk of 2012 Availability**

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	2012 Appropriation Enacted w/o Balance Rescission			Balance Rescission			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	2012 Actual		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount	Amount	Direct Pos.	Actual FTE	Amount
General Tax Matters	639	527	104,877	0	0	0	0	0	0	564	68	639	527	105,509
<b>Total Direct</b>	<b>639</b>	<b>527</b>	<b>104,877</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>564</b>	<b>68</b>	<b>639</b>	<b>527</b>	<b>105,509</b>
Reimbursable FTE		0			0			0					0	
Total Direct and Reimb. FTE		527			0			0					527	
Grand Total, FTE		527			0			0					527	

**Carryover:** Funds were carried over from FY 2011 from ALS. The Tax Division brought forward \$564,000 from funds provided in FY 2011 from ALS.

**Recoveries/Refunds:** Funding included \$68,000 in recoveries from ALS.

G. Crosswalk of 2013 Availability

**Crosswalk of 2013 Availability**  
 Tax Division  
 Salaries and Expenses  
 (Dollars in Thousands)

Program Activity	FY 2013 Continuing Resolution			Supplemental Appropriation Amount	Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	2013 Availability		
	Direct Pos.	Estim. FTE	Amount		Direct Pos.	Estim. FTE	Amount			Direct Pos.	Estim. FTE	Amount
General Tax Matters	639	519	105,519	0	0	0	11	369	639	519	105,899	
<b>Total Direct</b>	<b>639</b>	<b>519</b>	<b>105,519</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>369</b>	<b>639</b>	<b>519</b>	<b>105,899</b>	
Balance Rescission			0								0	
Total Direct with Rescission			105,519								105,899	
Reimbursable FTE		0			0		0			0		
Total Direct and Reimb. FTE		519			0		0			519		
Grand Total, FTE		519			0		0			519		

**Carryover:** Funds were carried over from FY 2012 from ALS. The Tax Division brought forward \$11,000 from funds provided in FY 2011 from ALS.

**Recoveries/Refunds:** Funding included \$369,000 in recoveries from ALS.

\*The 2013 Continuing Resolution includes the 0.612% funding provided by the Continuing Appropriation Resolution, 2013 (P.L. 112-175, Section 101 (c)).

H. Summary of Reimbursable Resources

**Summary of Reimbursable Resources**

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Collections by Source	2012 Actual			2013 Planned			2014 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Internal Revenue Service	0	0	2,165	0	0	42	0	0	0	0	0	-42
Debt Collection (3% Fund)	0	0	5,219	0	0	5,684	0	0	0	0	0	-5,684
Treasury	0	0	181	0	0	183	0	0	0	0	0	-183
DOJ - EOUSA	0	0	3,643	0	0	157	0	0	0	0	0	-157
<b>Budgetary Resources</b>	<b>0</b>	<b>0</b>	<b>11,208</b>	<b>0</b>	<b>0</b>	<b>6,066</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>-6,066</b>

Obligations by Program Activity	2012 Actual			2013 Planned			2014 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Internal Revenue Service	0	0	2,165	0	0	42	0	0	0	0	0	-42
Debt Collection (3% Fund)	0	0	5,219	0	0	5,684	0	0	0	0	0	-5,684
Treasury	0	0	181	0	0	183	0	0	0	0	0	-183
DOJ - EOUSA	0	0	3,643	0	0	157	0	0	0	0	0	-157
<b>Budgetary Resources</b>	<b>0</b>	<b>0</b>	<b>11,208</b>	<b>0</b>	<b>0</b>	<b>6,066</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>-6,066</b>

I. Detail of Permanent Positions by Category

**Detail of Permanent Positions by Category**

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Category	2012 Appropriation Enacted		2013 Continuing Resolution		2014 Request				
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.	ATBs	Program Increases	Program Offsets	Total Direct Pos.	Total Reimb. Pos.
Personnel Management (200-299)	8	0	8	0	0	0	0	8	0
Clerical and Office Services (300-399)	108	0	108	0	0	0	0	108	0
Accounting and Budget (500-599)	9	0	9	0	0	0	0	9	0
Attorneys (905)	370	7	377	0	0	0	0	377	0
Paralegals / Other Law (900-998)	125	0	125	0	0	0	0	125	0
Library (1400-1499)	1	0	1	0	0	0	0	1	0
Information Technology Mgmt (2210)	11	0	11	0	0	0	0	11	0
<b>Total</b>	<b>632</b>	<b>7</b>	<b>639</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>639</b>	<b>0</b>
Headquarters (Washington, D.C.)	611	0	611	0	0	0	0	611	0
U.S. Field	28	0	28	0	0	0	0	28	0
Foreign Field	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>639</b>	<b>0</b>	<b>639</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>639</b>	<b>0</b>

**K. Summary of Requirements by Grade**

**Summary of Requirements by Grade**

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Grades and Salary Ranges				2012 Enacted		2013 Continuing Resolution		2014 Request		Increase/Decrease	
				Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
EX	\$	145,700	- 199,700	1	0	1	0	1	0	0	0
SES/SL	\$	119,554	- 179,700	32	0	32	0	32	0	0	0
GS-15	\$	123,758	- 155,500	270	0	284	0	284	0	0	0
GS-14	\$	105,211	- 136,771	83	0	83	0	83	0	0	0
GS-13	\$	89,033	- 115,742	49	0	49	0	49	0	0	0
GS-12	\$	74,872	- 97,333	20	0	20	0	20	0	0	0
GS-11	\$	62,467	- 81,204	38	0	38	0	38	0	0	0
GS-10	\$	56,857	- 73,917	12	0	12	0	12	0	0	0
GS-9	\$	51,630	- 67,114	48	0	48	0	48	0	0	0
GS-8	\$	46,745	- 60,765	44	0	44	0	44	0	0	0
GS-7	\$	42,209	- 54,875	21	0	9	0	9	0	0	0
GS-6	\$	37,983	- 49,375	3	0	3	0	3	0	0	0
GS-5	\$	37,075	- 44,293	6	0	8	0	8	0	0	0
GS-4	\$	30,456	- 39,590	5	0	6	0	6	0	0	0
GS-3	\$	27,130	- 35,269	5	0	2	0	2	0	0	0
GS-2	\$	24,865	- 31,292	2	0	0	0	0	0	0	0
GS-1	\$	22,115	- 27,663	0	0	0	0	0	0	0	0
<b>Total, Appropriated Positions</b>				<b>639</b>	<b>0</b>	<b>639</b>	<b>0</b>	<b>639</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Average SES Salary</b>					<b>177,396</b>		<b>186,266</b>		<b>177,292</b>		
<b>Average GS Salary</b>					<b>107,384</b>		<b>112,753</b>		<b>116,884</b>		
<b>Average GS Grade</b>					<b>13</b>		<b>13</b>		<b>13</b>		

L. Summary of Requirements by Object Class

Summary of Requirements by Object Class

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Object Class	2012 Actual		2013 Availability *		2014 Request		Increase/Decrease	
	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 Full-Time Permanent	499	56,300	493	58,480	493	58,979	0	499
11.3 Other than Full-Time Permanent	26	2,152	26	2,222	26	2,297	0	75
11.5 Other Personnel Compensation	0	867	0	236	0	250	0	14
<i>Overtime</i>	0	54	0	50	0	50	0	0
<i>Other Compensation</i>	0	813	0	186	0	200	0	14
11.8 Special Personal Services Payments	0	0	0	0	0	0	0	0
<b>Total</b>	<b>525</b>	<b>59,319</b>	<b>519</b>	<b>60,938</b>	<b>519</b>	<b>61,526</b>	<b>0</b>	<b>588</b>
<b>Other Object Classes</b>								
12.0 Personnel Benefits		15,894		15,783		15,932		149
13.0 Benefits for former personnel		81		0		0		0
21.0 Travel and Transportation of Persons		2,199		2,951		2,975		24
22.0 Transportation of Things		938		899		905		6
23.1 Rental Payments to GSA		13,371		12,692		13,060		368
23.2 Rental Payments to Others		0		0		0		0
23.3 Communications, Utilities, and Miscellaneous Charges		1,498		1,044		1,065		21
24.0 Printing and Reproduction		68		75		75		0
25.1 Advisory and Assistance Services		0		0		0		0
25.2 Other Services from Non-Federal Sources		7,347		7,736		7,478		-258
25.3 Other Goods and Services from Federal Sources		0		2,966		2,638		-328
25.4 Operation and Maintenance of Facilities		0		0		0		0
25.5 Research and Development Contracts		0		0		0		0
25.6 Medical Care		0		0		0		0
25.7 Operation and Maintenance of Equipment		0		0		0		0
25.8 Subsistence and Support of Persons		0		0		0		0
26.0 Supplies and Materials		761		472		475		3
31.0 Equipment		852		343		350		7
<b>Total Obligations</b>		<b>102,328</b>		<b>105,899</b>		<b>106,479</b>		<b>580</b>
Subtract - Unobligated Balance, Start-of-Year		-564		-11		0		11
Subtract - Transfers/Reprogramming		0		0		0		0
Subtract - Recoveries/Refunds		-68		-369		0		369
Add - Unobligated End-of-Year, Available		11		0		0		0
Add - Unobligated End-of-Year, Expiring		3,170		0		0		0
<b>Total Direct Requirements</b>	<b>0</b>	<b>104,877</b>	<b>0</b>	<b>105,519</b>	<b>0</b>	<b>106,479</b>	<b>0</b>	<b>960</b>
Reimbursable FTE								
Full-Time Permanent	0	0	0	0	0	0	0	0
23.1 Rental Payments to GSA (Reimbursable)		0		0		0		0
25.3 Other Goods and Services from Federal Sources - DHS Security (Reimbursable)		0		0		0		0

\*The 2013 Availability includes the 0.612% funding provided by the Continuing Appropriations Resolution, 2013 (P.L. 112-175, Section 101 (c)).