

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

**FY 2025 Budget**



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## I. OVERVIEW OF THE TAX DIVISION

### *The Mission and Work of the Tax Division*

The United States Government engages with every American, and all those who benefit from the nation, through our tax system. Tax collections fund most Federal Government services, from national defense to national parks. Because the Government lacks the resources to directly assess and audit each individual taxpayer, it asks its citizens, residents, and those who earn income in this country to report their confidential financial information annually, and to self-assess and pay their tax liabilities. The Internal Revenue Service (IRS) processes over 260 million tax returns annually<sup>1</sup> and collects over \$4 trillion<sup>2</sup> in taxes via this system of voluntary compliance.

Nevertheless, there remains a tax gap—the annual difference between taxes due and taxes paid—of nearly half a trillion dollars.<sup>3</sup> The work of the Tax Division helps to reduce that gap. Full collection of tax liabilities and a consistently high voluntary compliance rate depend on taxpayers’ confidence that our tax laws are being applied fairly and uniformly. This is accomplished by the IRS and the Tax Division maintaining active and effective criminal and civil enforcement of those laws.

#### *Mission Statement*

The Tax Division’s mission is to enforce the nation’s tax laws fully, fairly, and consistently, through both criminal and civil litigation, in order to promote a voluntary compliance with the tax laws, maintain public confidence in the integrity of the tax system, and promote the sound development of the law.

The Tax Division is charged with working to achieve Department of Justice (DOJ) Objective 1.1, Strategy 4: “The Department will use all available tools to ensure strong, consistent, and uniform enforcement of the internal revenue laws to help ensure that everyone pays what they owe. Honest taxpayers must be able to trust that they will not bear an undue share of the federal tax burden.”<sup>4</sup>

The Tax Division employs more than 350 attorneys who are divided into civil trial sections, civil appeals, criminal enforcement sections, and criminal appeals and tax policy. The civil trial sections and the criminal enforcement sections are divided into geographic regions. The civil trial attorneys represent the United States in both affirmative and defensive litigation in the federal district, bankruptcy, and state courts within their assigned geographic regions, as well as the Court of Federal Claims. The criminal enforcement attorneys conduct criminal tax investigations and represent the United States through all phases of criminal prosecution in federal district courts, in addition to assisting and advising Assistant United States Attorneys

<sup>1</sup> Internal Revenue Service Data Book 2022, p. 4, Table 2, Number of Returns and Other Forms Filed, by Type, Fiscal Years 2021 and 2022.

<sup>2</sup> Internal Revenue Service Data Book 2022, p. 3, Table 1, Collections and Refunds, by Type of Tax, Fiscal Years 2021 and 2022.

<sup>3</sup> Internal Revenue Service Inflation Reduction Act Strategic Operating Plan FY2023 – 2031, p. 7.

<sup>4</sup> [Department of Justice | Objective 1.1: Protect Our Democratic Institutions | United States Department of Justice](#)

(AUSAs) on criminal tax matters within their assigned geographic regions. Civil appellate attorneys handle all appeals from federal district courts, the Court of Federal Claims, and the United States Tax Court (where civil tax litigation is handled by the Division's partners at the IRS Office of Chief Counsel), and criminal appellate attorneys handle all appeals in connection with the criminal cases brought by the Tax Division.

Tax Division litigators are charged with enforcing federal tax laws by evaluating and supporting the IRS' investigations and determinations in civil cases and prosecuting criminal violations of the internal revenue laws. Tax Division civil litigators have over 4,900 civil cases in process annually, in which they seek to enforce the IRS' requests for information in ongoing examinations and to collect and defend tax assessments when the IRS' examinations are complete. The Tax Division's civil appellate attorneys handle over 500 appeals annually. In criminal matters, Tax Division prosecutors authorize almost all grand jury investigations and prosecutions involving violations of the internal revenue laws, furthering uniformity in nationwide standards for such prosecutions. Between FY 2018 and FY 2022, the Division authorized over 1,300 criminal tax investigations annually. Tax Division prosecutors investigate and prosecute these crimes either alone or alongside the United States Attorneys' Offices (USAOs).

### *Budget Request at a Glance*

In order to maintain and improve the vital work the Tax Division performs, for FY 2025 the Division must address an anticipated caseload that is increasingly sophisticated and greater in volume. Therefore, the Division budget request for FY 2025 is for \$129,254,000, including 511 permanent positions (388 attorneys), and 463 FTEs.<sup>5</sup>

Because the Tax Division partners with the IRS in the enforcement of tax laws, the Tax Division's budget request takes into consideration recent enhancements to the IRS' operations. Following enactment of the Inflation Reduction Act (IRA) in August 2022, the IRS unveiled its Strategic Operating Plan<sup>6</sup> in April 2023, outlining its plans to implement a historic transformation of tax administration in light of the IRA's increased funding of the IRS. This transformation focuses on the tax gap, which was most recently estimated at \$496 billion annually, and includes hiring additional employees and updating technology.<sup>7</sup> In particular, a major objective of the Strategic Operating Plan is to expand enforcement activities and focus on taxpayers with complex tax filings and high-dollar noncompliance issues. This objective includes initiatives to expand enforcement for large corporations, large partnerships, high-income and high-wealth individuals, and complex, high-risk, and novel emerging issues such as digital assets, abusive transactions to avoid tax, and certain international issues.<sup>8</sup> The IRS, however, cannot achieve all of those goals itself. The Tax Division is a critical partner in the success of this endeavor through its work litigating civil enforcement actions, defending against unwarranted claims, and prosecuting tax crimes.

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<sup>5</sup> Amounts included herein referring to the FY 2024 Continuing Resolution reflect an Annualized Continuing Resolution level.

<sup>6</sup> <https://www.irs.gov/about-irs/irs-inflation-reduction-act-strategic-operating-plan>

<sup>7</sup> Internal Revenue Service Inflation Reduction Act Strategic Operating Plan, FY2023 – 2031, p. 7.

<sup>8</sup> Internal Revenue Service Inflation Reduction Act Strategic Operating Plan, FY2023 – 2031, pp. 62 – 79.

Tax enforcement is a combination of the IRS' administrative work and the Tax Division's work in the federal courts. For example, the Tax Division prosecutes individuals and entities whom the IRS has investigated and referred for prosecution. The Division's attorneys handle active prosecutions and provide litigation assistance to our USAO partners seeking subject matter expertise to facilitate criminal investigations, obtain indictments, and conduct trials to punish and deter those looking to avoid having to pay their fair share. The ultimate success of the IRS' increased efforts on tax enforcement requires the Tax Division to be ready to handle the increase in more complex cases referred to the Division. The Tax Division needs sufficient funding to keep pace with the increased enforcement work of the IRS and to continue to build on the investments made in previous years.<sup>9</sup>

This budget request incorporates all costs, including mission costs related to cases and matters, mission costs related to oversight and policy, and overhead.

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: <https://www.justice.gov/doj/budget-and-performance>.

### *The Tax Division's Primary Responsibilities*

The Tax Division maintains a varied workload, aimed at promoting voluntary compliance with the tax laws, protecting the public fisc, and fully, fairly, and uniformly enforcing the tax laws. As noted above, the IRS' efforts to expand tax enforcement and focus on high-wealth taxpayers and complex, novel, and abusive transactions will increase the Tax Division's already substantial workload.

***Promoting Voluntary Compliance.*** The integrity of our tax system is vital to maintaining public confidence and requires ensuring that all taxes that are owed are paid. Honest taxpayers must be able to trust that they will not bear an undue share of the federal tax burden. The Tax Division's high success rate (higher than 90 percent) in both civil litigation and criminal prosecution has an enormous effect on voluntary tax compliance.

By law, the IRS cannot make public the fact of an IRS audit, or its result. By contrast, the Tax Division's important tax litigation victories and successful criminal prosecutions receive widespread media coverage, leading to a significant multiplier effect on voluntary compliance. A widely regarded study concluded that the marginal indirect revenue-to-cost ratio of a criminal conviction is more than 16 to 1.<sup>10</sup> While no comparable study of civil litigation exists, the same research suggests that IRS civil audits have an indirect effect on revenue that is more than 10

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<sup>9</sup> To prepare for the anticipated increase in IRS activities, in FY23 the Tax Division requested and received a budget increase of \$4.3 million. The request included 20 positions (14 attorneys), 10 FTE and \$2.244 million to build a modern Automated Litigation Support program. The Tax Division's total request was for 519 Positions and \$121.3 million. The FY24 budget request included \$1.3m for an additional 10 positions (10 attorneys) and five FTEs to continue ramping up to support the IRS increased tax enforcement team.

<sup>10</sup> Alan H. Plumley, *The Determinants of Individual Income Tax Compliance*, pp. 35, 40, Internal Revenue Service Publication 1916 (1996).

times the adjustments proposed in those audits.<sup>11</sup> Another predicts that an additional dollar allocated to civil audits would return \$67 in general deterrence, while an additional dollar allocated to criminal investigation results in \$55 of deterrence.<sup>12</sup> The positive effects of the IRS and the Tax Division's efforts on this front are seen in public opinion about voluntary compliance. According to the most recent Comprehensive Taxpayer Attitude Survey, the public takes a very negative view of cheating on one's taxes, with 84 percent of the respondents indicating that it is never acceptable.<sup>13</sup>

The highly successful public-facing work of Tax Division attorneys, carried out in open court, promotes voluntary compliance with the tax laws in a way that the confidential work of the IRS cannot. The Tax Division's civil litigators and criminal prosecutors are on the forefront of abusive transactions and take considered litigation efforts to not only end abusive practices, but to force promoters to cease engaging in fraudulent schemes. In addition, the Tax Division's criminal litigators, and their partners at the IRS and the USAOs, work tirelessly to hold wrongdoers accountable and signal to the nation's taxpayers following the law that those who cheat will be held accountable.

***Protecting the Public Fisc.*** The Tax Division is one of the principal guardians of public funds, and the resources committed to it pay substantial dividends. The Division's civil trial attorneys protect the fisc through affirmative litigation, bringing suits to collect outstanding tax liabilities, and defensive litigation, defending against tax refund suits filed by taxpayers. The Division's affirmative civil litigation typically brings in 3 times more each year than the Division's entire budget, averaging \$319 million per year from FY 2018 to FY 2022. The significant amounts obtained by the Division through affirmative litigation are dwarfed by the public funds that the Division safeguards through its defensive civil litigation, which is typically 8.5 times its budget. In FY 2023, the Division closed cases having successfully defended against over \$1.0 billion in refund claims. The Division is currently defending refund suits that collectively involve over \$10 billion. In sum, the Division's affirmative and defensive civil litigation returns over 10 times its average budget to the Treasury. While these figures represent amounts directly at issue, they cannot fully capture the strong indirect effects of the Tax Division's affirmative and defensive litigation. Decisions in the Division's cases often reduce the need for future administrative and judicial tax proceedings by settling questions of law for millions of taxpayers. Further, the benefit to tax administration, voluntary compliance, and public confidence in our tax system provided by the Division's numerous other civil and criminal litigation activities cannot be readily quantified.

***Partnering with other DOJ Components to Combat Domestic and Counter Terrorism.*** In addition to regular tax administration duties, Tax Division attorneys also play an important role in the Department's fight against international and domestic terrorism. Tax Division attorneys lend their expertise to attorneys at the National Security Division (NSD) and at USAOs in prosecuting those who take advantage of the tax laws to fund terrorism through the use of tax-

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<sup>11</sup> *Id.* at p. 1. In addition, for FY 2022, the IRS estimated that the cost of enforcement activities, combining enforcement and the relevant part of operations support, was \$5.9 billion, while the revenue generated was \$72.4 billion, for a return on investment of \$12 for every \$1 spent. IRS Fiscal Year 2024 Congressional Budget Justification & Annual Performance Report and Plan, p. IRS-86.

<sup>12</sup> Jeffrey A. Dubin, *The Causes and Consequences of Income Tax Noncompliance*, p. 256 (2012).

<sup>13</sup> Internal Revenue Service Data Book 2022, p. viii.

exempt organizations. A Tax Division Senior Litigation Counsel manages this effort. In the last several years, the Division has worked with AUSAs and Joint Terrorism Task Forces to authorize tax charges when other criminal violations were not available and currently are reviewing and approving a number of terrorist financing investigations. The Tax Division also fulfills a critical role in countering domestic terrorism. Some antigovernment violent extremists who are engaged in or support domestic terrorism also refuse to pay taxes. The Division's Tax Defier Initiative is designed to investigate, pursue and, where appropriate, prosecute those who take concrete action to defy the fundamental validity of the tax laws. To accomplish this goal, the Division works closely with IRS-Criminal Investigation (CI), Treasury Inspector General for Tax Administration, the Federal Bureau of Investigation (FBI), and NSD to develop a coordinated approach to litigating – civilly and criminally – those involved in the sovereign citizen/redemption scheme cases across the country.

### *External and Internal Performance Challenges*

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

#### **External**

*Reducing the Tax Gap.* As noted above, the IRS collected over \$4 trillion in 2022 through voluntary compliance with the tax laws.<sup>14</sup> Enforcement actions brought in an additional \$61 billion for FY 2022.<sup>15</sup> The Department of the Treasury reports that the tax gap will rise to about \$7 trillion over the course of the next decade if left unaddressed—roughly equal to 15 percent of all taxes owed.<sup>16</sup> The problem is exacerbated by the vast increase in financial globalization, which has expanded the opportunities for assets and income to be easily hidden offshore, and by the rise of cryptocurrencies that can be used to evade tax laws. As noted by the IRS Oversight Board, Enforcement programs allow the IRS to further voluntary compliance, help reduce the tax gap, and provide much needed dollars to the federal purse.<sup>17</sup> Improving compliance is a priority in the IRS Strategic Operating Plan and an integral part of President Biden's American Families Plan. It is why revitalizing tax enforcement is an explicit goal for the Department.

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

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<sup>14</sup> Internal Revenue Service Data Book 2022, p. 3, Table 1, Collections and Refunds, by Type of Tax, Fiscal Years 2021 and 2022.

<sup>15</sup> Internal Revenue Service Data Book 2022, p. 59. In FY 2022, the IRS collected more than \$98 billion in unpaid assessments on returns filed with additional tax due, netting more than \$58 billion after credit transfers. In addition, the IRS collected more than \$2 billion in unpaid assessments on delinquent returns.

<sup>16</sup> <https://home.treasury.gov/news/featured-stories/the-case-for-a-robust-attack-on-the-tax-gap>. See also, "Shrinking the Tax Gap: Approaches and Revenue Potential," Natasha Sarin and Lawrence H. Summers, Tax Notes, November 18, 2019 ("Over the course of the next decade, barring changes in tax administration efforts, we can expect to lose an estimated \$7.5 trillion, or around 3 percent of GDP, annually that our existing law should allow us to collect.").

<sup>17</sup> IRS Oversight Board, FY 2015 Budget Recommendation, Special Report, May 2014. See also, "A Closer Look: Impacting the Tax Gap," IRS Commissioner Charles Rettig, CL-21-13, April 23, 2021, available online at <https://www.irs.gov/pub/foia/ig/cl/tax-gap-for-web.pdf>.



## Internal

The Tax Division's vigorous civil and criminal enforcement programs enhance deterrence and compliance, lead to the recovery of substantial funds, and more than pay for themselves. The Division collects through criminal and civil affirmative enforcement more than the annual cost of its budget.

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

Further, as noted earlier, the IRS has recently been allocated mandatory funding through the Inflation Reduction Act to address these issues and they propose to allocate over \$45 billion on enforcement efforts.<sup>18</sup> Without commensurate assurance of resources to match the increased level of work the IRS will forward to the Tax Division, it will be increasingly challenging to maintain and manage caseloads in a timely manner.

*Expanded Need for Filter Teams and e-Litigation Resources.* With increased enforcement, and a focus on high-net-worth taxpayers and complex, abusive tax avoidance transactions, the Tax Division faces ever more novel and complicated privilege issues and needs electronic data resources and analytic capabilities that can keep pace with the vital work the Division's attorneys perform. In recent years, the trend in discovery has shifted away from paper files and toward electronic documents. The result of increased electronic discovery is the need for staff and technology to process and maintain the data and support the Division's attorneys in their use of the discovery materials. In FY 2022, the Tax Division received more than 45 terabytes (TB) of data, which equates to billions of pages of documents. The volume of electronic data that the Tax Division receives has grown approximately 25% annually—a trend that has continued year over year with only a temporary dip during the pandemic. This information must be processed, loaded to a search platform, searched, and hosted, which requires sophisticated software and a highly skilled support staff. The Tax Division currently maintains over 260 TB of active storage with as much as 60-70 TB more in archive. As a consequence, it is imperative that the Tax Division establish a filter team to aid in the review of information for

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<sup>18</sup> Internal Revenue Service Inflation Reduction Act Strategic Operating Plan, FY2023 – 2031, p. 129.

potential privilege and fully fund an eLitigation support program to meet increasing demands for electronic support and data analysis in Tax Division cases.

## II. Summary of Program Changes

No program changes requested at this time.

## III. Appropriations Language and Analysis of Appropriations Language

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

## IV. Program Activity Justification

### A. General Tax Matters

<i>General Tax Matters</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount (\$000)</b>
2023 Enacted	523	433	122,148
2024 Annualized Continuing Resolution	511	463	122,148
Adjustments to Base and Technical Adjustments	0	0	7,106
2025 Current Services	511	463	129,254
2025 Program Increases	0	0	0
2025 Program Offsets	0	0	0
2025 Request	511	463	129,254
<b>Total Change 2024-2025</b>	<b>0</b>	<b>0</b>	<b>\$7,106</b>

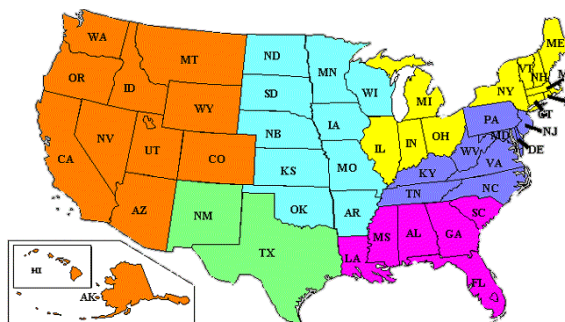
<i>General Tax Matters-Information Technology Breakout (of Decision Unit Total)</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount (\$000)</b>
2023 Enacted	14	13	12,125
2024 Annualized Continuing Resolution	14	14	11,718
Adjustments to Base and Technical Adjustments	0	0	100
2025 Current Services	14	14	11,818
2025 Program Increases	0	0	0
2025 Program Offsets	0	0	0
2025 Request	14	14	11,818
<b>Total Change 2024-2025</b>	<b>0</b>	<b>0</b>	<b>\$100</b>

## 1. Program Description

The Tax Division represents the United States in both civil and criminal tax litigation. The Division consists of twelve litigating sections based in Washington D.C. and Dallas, Texas. There are seven civil trial sections, three criminal enforcement sections and two appellate sections.

### *Civil Trial and Appellate Sections*

Tax Division's civil sections litigate all matters arising under the internal revenue laws in all state and federal trial courts, except the United States Tax Court. For example, civil trial attorneys defend the United States in suits involving claims for tax refunds, challenges to federal tax laws and regulations under the Administrative Procedure Act, damage claims for unauthorized collection or disclosure of confidential tax information, and other suits seeking monetary or other relief. Civil trial attorneys also bring affirmative suits on behalf of the IRS to collect unpaid taxes and foreign bank account reporting penalties; to enforce IRS summonses for information needed to complete civil and criminal investigations; and to enjoin promoters of tax scams, fraudulent tax return preparers, and pyramiding of payroll taxes. The Division's civil appellate attorneys represent the United States in all tax related appeals from trial court decisions, including cases handled at the trial level by IRS attorneys in the United States Tax Court. Appellate Section attorneys also assist the Office of the Solicitor General in preparing appeal recommendations and briefs in the United States Supreme Court.

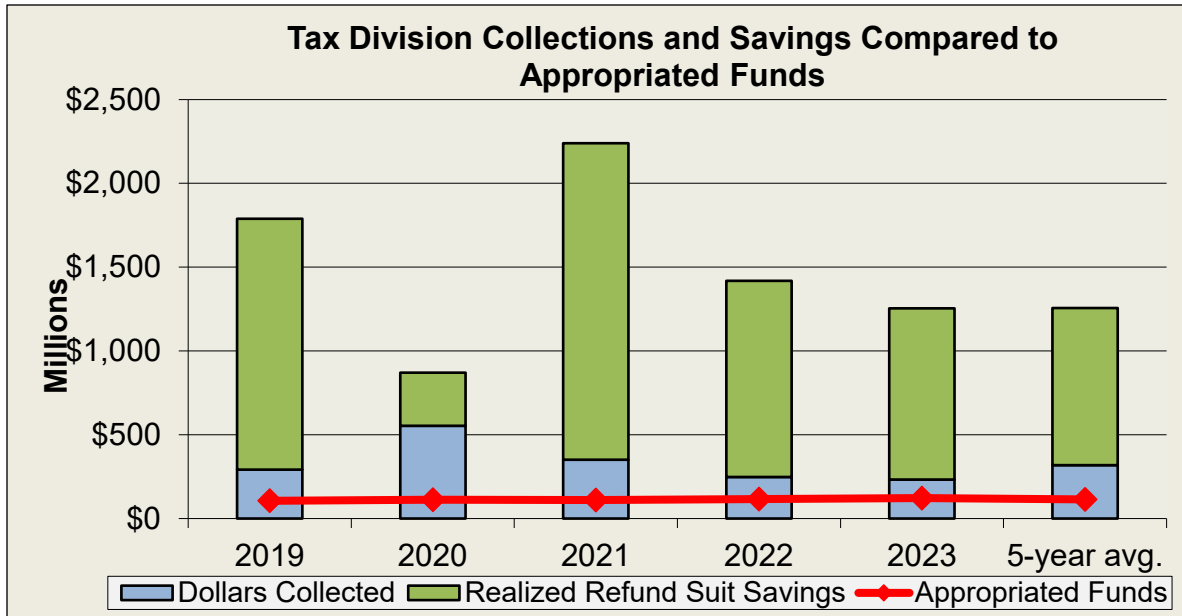


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*Total Return on Investment:  
Over 12 times annual budget*

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The Tax Division's representation of the Government in defensive suits saves the Treasury hundreds of millions of dollars annually, both by retaining money that taxpayers inappropriately sought to recover and by fending off unjustified damage claims. In FY 2022, for example, the Division saved the Government over \$1.1 billion in refund claims. These **savings are a return of more than 10 times** the Division's annual budget. Through affirmative litigation work, Tax Division attorneys collected more than \$247 million in FY 2022. These **collections return almost 2 times** the Division's average annual budget. Beyond the direct financial savings to the Treasury, the Division's civil and criminal litigation efforts ensure fair administration of our tax laws and public confidence in our tax system, which, in turn, has indirect financial benefits in increased voluntary compliance.



Described below are the major civil litigation activities of the Tax Division.

**Collection of Unpaid Taxes.** Most of the affirmative collection suits handled by the Division are factually complex and time-consuming. They are often for debts that the IRS has been unable to collect administratively. Frequently, these cases involve fraudulent transfers of property or other unlawful attempts by taxpayers to conceal their income or assets through domestic and offshore trusts, nominees or alter egos. These cases often require extensive discovery and document review by the Tax Division’s attorneys. The Tax Division’s attorneys file and litigate hundreds of new collection cases each year.

*Collection Suit Highlights*

- In October 2022, the Tax Division filed suit to collect \$284 million in taxes and penalties from Liberty Global for a transaction that served no meaningful purpose and attempted to exploit a perceived loophole in the international tax provisions of the 2017 Tax Cuts and Jobs Act.
- In February 2023, a Florida district court ruled for the Government in a collection suit seeking more than \$10 million in outstanding employment taxes. The court found that multiple trusts and business entities used by the taxpayers to evade collection were alter egos of the taxpayers. Evidence presented by the Tax Division attorneys at trial proved the taxpayers repeatedly attempted to frustrate creditors “by a history of nimble and bold but thoroughly devious improvisations.”

**Refund Litigation.** One avenue for a taxpayer to challenge a tax assessment is to pay the tax and file a refund suit in the Court of Federal Claims or in one of the federal district courts. The Division’s civil trial and appellate attorneys defend hundreds of these refund suits each year—some of which involve billions of dollars, novel legal theories, and constitutional

challenges to tax laws. The stakes can be exponentially high in the impact to the public fisc if the Government were to lose and other taxpayers brought similar refund claims.

### *Refund Suit Highlights*

- In October 2022, the Tax Division prevailed in a district court refund suit involving a challenge to domestic production activities income. The court adopted the Government’s argument that the taxpayer’s revenues from creating and managing custom online marketplaces were a service rather than creating and selling software.
  - The IRS estimated more than \$20 billion in similar refund claims were pending.
- In November 2022, the Ninth Circuit considered a constitutional challenge to the 2017 Tax Cuts and Jobs Act “transition tax” (a/k/a mandatory repatriation tax) on untaxed foreign earnings of certain foreign corporations. The court rejected taxpayers’ claims and held that the one-time “transition tax” is a constitutional exercise of the taxing power and that it is not impermissibly retroactive.
  - The Joint Committee on Taxation estimated that revenue raised by the transition tax would be \$340 billion over 10 years from 2018 to 2027.
  - The Supreme Court recently granted certiorari on this case.

***Enforcement of FBAR penalties.*** The Bank Secrecy Act requires U.S. persons to report to the IRS certain interests in foreign bank accounts on an annual form, known as the FBAR. The Act also provides for the imposition of civil penalties for failure to comply. Suits to enforce FBAR penalties arise as both defensive matters (claims for refund) and affirmative matters (suits to collect unpaid penalties). In cases where the penalty is keyed to the balance in the foreign account, the amounts at issue often reach into the millions of dollars. Where the Government is able to establish liability, collection efforts present unique challenges because there is no mechanism for the IRS to administratively collect these penalties, and taxpayers often hold their assets offshore — making them difficult to reach.

### *FBAR Enforcement Highlights*

- In March 2022, a Texas district court issued writs of garnishment on the U.S.-based investment accounts of a married couple who owed more than \$4 million in FBAR penalties for failure to report a network of foreign bank accounts and who moved money through accounts in multiple countries using foreign passports to avoid detection.
- In April 2022, the First Circuit upheld a \$2.1 million penalty against a taxpayer for willfully failing to file an FBAR disclosing her Swiss bank account. The court held that the willful FBAR penalty is not a “punishment” subject to the Excessive Fines Clause of the Eighth Amendment.

***Assisting IRS in Obtaining Information for Investigations.*** 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 often asks the Tax Division to bring suit in federal court for an order to compel compliance with the summons. In other cases, the Division’s attorneys respond to petitions filed by taxpayers to quash IRS summonses. These judicial proceedings enable the Government to obtain needed information to complete civil examinations or to investigate abusive tax avoidance schemes, while also providing important procedural and substantive rights to those affected by the summons. The Division has recently been successful in enforcing summonses to aid in the investigation of abusive syndicated conservation easement and micro-captive insurance scams.

Tax Division attorneys also secure district court approval for the IRS to issue “John Doe” summonses seeking information for the IRS’ investigations of unknown taxpayers that the IRS has reasonable basis to believe may have failed to comply with internal revenue laws. A John Doe summons is a powerful tool to identify taxpayers who may be violating the law and was most recently to support the Government’s efforts to combat tax avoidance from using digital currency.

### *Summons Enforcement Highlights*

- In April 2023, the Tax Division prevailed in the Third Circuit to enforce a summons to the Delaware Department of Insurance for information on 225 potential abusive micro-captive insurance schemes (e.g., schemes in which the taxpayer inappropriately seeks to shield income from taxation through sham insurance companies).
- In June 2023, the Tax Division prevailed in a California district court to enforce a John Doe summons issued to a digital currency exchange, requiring the exchange to provide certain identity and transactional information with respect to over 59,000 accounts.

***Shutting Down Tax-Fraud Schemes and Fraudulent Return Preparers.*** Since 2000, Tax Division attorneys have obtained injunctions against more than 500 tax-fraud promoters and return preparers. This number represents a dramatic increase over the 1990s, when the number of

promoters and preparers enjoined barely reached 25 for the entire decade. The schemes the Division has enjoined during the past several years had cost the Treasury more than \$2 billion and placed an enormous administrative burden on the IRS.

#### *Injunction Highlights*

- In February 2022, the Seventh Circuit sanctioned a well-known promoter of tax shelters for bringing a frivolous appeal in a case where taxpayers failed to report nearly \$15 million of income arising from assets sheltered in an offshore life insurance policy held by a sham trust.

If permitted to continue unchecked, these schemes would undermine public confidence in the integrity of our tax system and require both the IRS and the Tax Division to devote significant resources to detecting, correcting, and collecting the resulting unpaid taxes. These fraudulent return preparers also create a competitive disadvantage for honest tax return preparers, and harm individual taxpayers. Customers of these fraudulent return preparers are typically economically disadvantaged and often unaware that their tax refunds were fraudulent.

***Enjoining Payroll Tax Pyramiding.*** The Tax Division’s civil attorneys file not only affirmative collection suits for unpaid payroll taxes, but they also bring suits seeking to enjoin certain employers from operating without paying their payroll taxes on a going forward basis. “Pyramiding” is a term the IRS uses to describe the situation where a business owner willfully fails to pay over the taxes withheld from employees’ wages and allows the liability to accrue. The business owner will then shut down said business and immediately start up under a new name at the same location providing the same service or product, hoping for a clean slate and continued use of the withholdings as business capital and/or income. Although pyramiding can occur with any type of tax, it frequently occurs with respect to payroll taxes.

#### *Payroll Tax Pyramiding Highlights*

- In February 2022, a Texas district court entered a \$1.5 million judgment against a dentist for 12 years of unpaid income tax liabilities and 19 quarters of unpaid payroll taxes. The judgment includes a three-year injunction preventing the dentist from operating his business without paying payroll and income taxes on a going forward basis.

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*Payroll tax compliance is a top priority for the IRS and the Tax Division*

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Promoting payroll tax compliance is a top priority for the IRS and the Tax Division as two thirds of federal taxes are collected through the payroll tax system. Unpaid payroll taxes make up approximately 20 percent of the Tax Gap.<sup>19</sup> Preventing that number from growing is important to the fisc and to competing businesses who pay their taxes. Payroll

<sup>19</sup> Federal Tax Compliance Research: *Tax Gap Estimates for Tax Years 2014-2016*, pp. 8 and 28, IRS Publication 1415 (Rev. 10-2022)

taxes that are withheld by an employer from its employee's wages are called the trust fund taxes and are especially important because they include employees' income tax withholding. Employees are given credit for those withheld income taxes on their personal returns even if the employer never pays them to the Government. To stop this pyramiding, the Tax Division's civil attorneys obtain injunctions that require a company and its principals to make timely tax deposits, to pay all withheld employment taxes, and to timely file all employment tax returns.

Similarly, the Division's civil attorneys appear in bankruptcy cases to prevent delinquent employers from running up new payroll tax liabilities while operating under the protection of bankruptcy.

***Defending Jeopardy Assessments and Levies.*** In certain egregious cases where it appears that collection may be rendered ineffective or "jeopardized" if delayed, the IRS can bypass normal assessment and collection procedures and make an immediate assessment of the tax, demand payment, and issue levies for the taxpayer's property. Tax Division attorneys defend the IRS' jeopardy determination if the taxpayer files suit in the district court seeking immediate judicial review of the IRS' action. While the court's review does not establish the taxpayer's ultimate liability for the taxes at issue, the successful defense of these cases provides significant assistance in the IRS' collection efforts.

#### ***Jeopardy Assessment Highlights***

- In September 2022, the Tax Division prevailed in a taxpayer challenge to a jeopardy determination in the Southern District of Texas. The IRS made a jeopardy assessment of more than \$1.4 billion in income taxes arising out of a labyrinthine web of nominees, offshore entities, foreign bank accounts, and encrypted communications to mask his assets and avoid reporting billions of dollars in income. This included purchasing and concealing personal assets like Colorado vacation properties under the control of an alleged Bermuda charitable trust and a luxury yacht in an alleged Cayman Island research foundation. Through the Division's efforts, including finding new evidence of ongoing efforts to liquidate and transfer domestic assets offshore, the court rejected the taxpayer's challenge to the jeopardy determination and the IRS was able to continue its immediate collection efforts.





self-employed individual who hides taxable income or inflates deductible expenses to reduce the amount of tax due and owing; or, an individual who, although aware of the duty to file a return, knowingly and intentionally refuses to do so. The focus on legal-source income cases is important because tax crimes of this type significantly erode the tax base and, when such conduct is left unaddressed, have the potential to encourage tax cheating by otherwise law-abiding citizens. Prosecutions in these cases often receive substantial local media coverage, and convictions assure law-abiding citizens who pay their taxes that those who cheat are punished. During the past year, Tax Division attorneys investigated and prosecuted cases involving tax crimes committed by individuals from all walks of life. Included in these prosecutions, and of special significance to the Tax Division, are emerging fraud schemes in the biofuel tax credit area.

*Offshore Tax Evasion.* One of the Division's top criminal litigation priorities is identifying, investigating, and holding accountable U.S. taxpayers who conceal foreign financial accounts to evade U.S. reporting and tax obligations. Use of foreign tax havens by U.S. taxpayers has been on the rise, aided by increasingly sophisticated financial instruments and the ease of moving money around the globe, irrespective of national borders. While the Division's enforcement focused initially on cross-border activities in Switzerland,<sup>20</sup> it has expanded to include wrongdoing by U.S. accountholders, financial institutions, and other facilitators globally, including publicly disclosed enforcement concerning banking activities in India, Israel, Liechtenstein, Luxembourg, Belize, Hong Kong, and the Caribbean.

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

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

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<sup>20</sup> Through the Swiss Bank Program, the Department entered into 80 Non-Prosecution Agreements (NPAs) with 81 banks that collectively paid more than \$1.6 billion in penalties and provided valuable leads concerning U.S. taxpayers maintaining secret accounts. The program continues to generate investigative leads and information helpful to ongoing cases.

### *Offshore Evasion Highlights*

- In March 2023, a CPA and former CFO of a Russian natural gas company was convicted at trial of failing to file FBARs disclosing his control over two Swiss bank accounts having aggregate balances of nearly \$93 million.
- In March 2023, a Houston attorney pleaded guilty to conspiring with a former client to repatriate more than \$18 million in untaxed income from the Isle of Man and concealing the funds from the IRS by disguising the transfers as fictitious stock purchases.

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

***Employment Tax Crimes.*** The Tax Division, working in close partnership with CI, continues to focus on employers who willfully fail to collect, truthfully account for, and pay over employment taxes to the IRS. Employers have a legal obligation to withhold federal income,

### *Employment Tax Crime Highlights*

- In June 2023, a Maryland restaurant owner pleaded guilty for failing to pay over more than \$2.8 million in federal withholdings for over a decade.
- In June 2023, a Minnesota business owner pleaded guilty for failing to pay over more than \$1.2 million in taxes withheld from his employees' wages from 2015 to 2018.
- In June 2023, the CFO of a Mississippi construction company pleaded guilty for failing to pay over more than \$6 million in withholdings between 2012 and 2018.

Social Security, and Medicare taxes from their employees' wages, hold these funds in trust, and then pay them over, along with a matching amount of Social Security and Medicare taxes, to the IRS. Employment taxes and income taxes withheld comprised 64.9 percent of the total revenues collected by the IRS in FY 2022,<sup>21</sup> and the IRS estimates that between 2014 and 2016 nearly \$87 billion in employment tax went uncollected.<sup>22</sup> The Division continues its efforts to prosecute the willful failure to pay over employment taxes withheld from employees' wages.

***Abusive Tax Shelter Schemes.*** The Department continues to actively target those who promote the use of fraudulent tax shelters and other schemes to evade taxes and hide assets. Some schemes use domestic or foreign trusts to evade taxes. Promoters of these schemes often use the internet to aggressively market these trusts to the public, and rely upon strained, if not

<sup>21</sup> [Internal Revenue Service 2022 Data Book](#), Table 1 Collections and Refunds by Type of Tax, Fiscal Years 2021 and 2022.

<sup>22</sup> [Tax Gap Estimates for Tax Years 2014-2016](#), Figure 1, TY 2014-2016 Tax Gap Map.

demonstrably false, interpretations of the tax laws. Another common scheme is the use of syndicated conservation easements. In this type of tax shelter scheme, individuals place land into a conservation easement, which then allows them to take a tax deduction. However, as part of the scheme, they obtain a fraudulent, inflated appraisal value in order to take similarly inflated charitable contribution deductions. The Tax Division vigorously employs a range of criminal and civil tools, including injunctive relief, to address these abusive activities.

#### *Abusive Tax Shelter Highlights*

- In May 2023, a North Carolina land appraiser pleaded guilty for his role in a scheme to fraudulently inflate the value of the conservation easements resulting in more than \$1.3 billion in claimed charitable contribution tax deductions.
- In May 2023, a New Jersey CPA pleaded guilty for his role in promoting a tax shelter scheme for his high-income clients involving falsely inflated land appraisals of syndicated conservation easements that resulted in a tax loss of nearly \$2.5 million.

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

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

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

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

#### ***Return Preparer Fraud Highlights***

- In June 2023, a former Chicago-area tax return preparer pleaded guilty for her role in the preparation and filing of returns that falsely claimed the Earned Income Tax Credit and other education-related credits to which she knew her clients were not entitled.
- In January 2023, two North Carolina return preparers were sentenced to 24 months and 36 months in prison for their role in conspiring to file false income tax returns on behalf of clients of the tax return preparation business where they worked. They were ordered to pay approximately \$5.2 million in restitution.

***National Tax Defier Initiative.*** Tax defiers, also known as illegal tax protesters, have long been a focus of the Tax Division’s investigative and prosecution efforts. Tax defiers advance frivolous arguments and develop a wide variety of schemes to evade their income taxes, assist others in evading their taxes, and frustrate the IRS, all under the guise of constitutional and other meritless objections to the tax laws. Frivolous arguments used by tax defiers include, for example, spurious claims that an individual is a “sovereign citizen” not subject to the laws of the United States, that the federal income tax is unconstitutional, and that wages are not income. Because a segment of the tax defier community may and has resorted to violence to advance their cause, it is essential that law enforcement be prepared to respond rapidly to threats against agents, prosecutors, and judges. The Tax Division implemented a comprehensive strategy using

#### ***Tax Defier Highlights***

- In May 2023, Darren Lee Joy of North Carolina was sentenced to 36 months in prison after pleading guilty in July 2022 to tax evasion. Joy submitted false Forms W-4 to his employer in an attempt to evade more than \$1.8 million in income taxes due on his wages. Joy also failed to file tax returns for most of the past two decades.

both civil and criminal enforcement tools to address the serious and corrosive effect of tax defier and sovereign citizen activity. Led by a National Director, the Tax Division’s Tax Defier Initiative facilitates coordination with representatives of IRS Criminal Investigations, Treasury Inspector General for Tax Administration, the FBI Domestic Terrorism Operations Unit, and NSD to attack this problem. Division prosecutors have been leaders in developing and implementing a national training program for prosecutors and investigators. As in other areas, the Tax Division has made important strides in combating tax defier activity.

## 2. Performance Tables

### Performance and Resource Table

PERFORMANCE AND RESOURCES TABLE												
Decision Unit: General Tax Matters												
RESOURCES												
			Target		Actual		Target		Changes		Requested (Total)	
			FY 2023		FY 2023		FY 2024		Current Services Adjustments and FY 2025 Program Changes		FY 2025 Request	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			465	\$122,148	433	\$122,148	463	\$122,148	0	\$7,106	463	\$129,254
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2023		FY 2023		FY 2024		Current Services Adjustments and FY 2025 Program Changes		FY 2025 Request	
			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Program Activity: Criminal Prosecution & Appeals			131	\$34,446	122	\$34,446	131	\$34,446	5	\$2,004	131	\$36,450
Performance Measure: Output	1.1	Number of Investigations Authorized	n/a		462		n/a		n/a		n/a	
Performance Measure: Output	1.1	Number of Prosecutions Authorized	n/a		604		n/a		n/a		na/	
Performance Measure: Outcome	1.1	Success Rate for Criminal Tax Cases Handled by the Division	90%		95%		90%		n/a		90%	
Program Activity: Civil Litigation & Appeals			334	\$87,702	311	\$87,702	332	\$87,702	-5	\$5,102	332	\$92,804
Performance Measure: Outcome	1.1	Civil Cases Successfully Litigated in the Trial Courts	80%		98%		80%		n/a		80%	
Performance Measure: Outcome	1.1	Civil Cases Successfully Litigated - Taxpayer Appeals	85%		95%		85%		n/a		85%	
Performance Measure: Outcome	1.1	Civil Cases Successfully Litigated - Government and Cross Appeals	60%		75%		60%		n/a		60%	
Performance Measure: Outcome	1.1	Tax Dollars Collected and Retained by Court Action and Settlement (\$ in millions)	n/a		1,255		n/a		n/a		n/a	

**Data Collection & Storage:** The data sources for all performance data is TaxDoc, the Tax Division's automated case management system.

**Data Validation and Verification:** The Tax Division has established procedures to collect and record reliable and relevant data in TaxDoc.

**Data Limitations:** Some activities that are tracked in TaxDoc lack historical data. Dollars Collected and Retained fluctuates due to the type and stage of litigation resolved during the year.

### Performance Measure Table

PERFORMANCE MEASURE TABLE									
Decision Unit: General Tax Matters									
Strategic Objective	Performance Report and Performance Plan Targets		FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
			Actual	Actual	Actual	Actual	Actual	Target	Target
1.1	Performance Measure	Number of Criminal Investigations Authorized	542	588	462	514	462	n/a	n/a
1.1	Performance Measure	Number of Criminal Prosecutions Authorized	815	815	604	610	604	n/a	n/a
1.1	Outcome Measure	Success Rate for Criminal Tax Cases Handled by the Division	97%	100%	100%	98%	95%	90%	90%
1.1	Outcome Measure	Civil Cases Successfully Litigated in the Trial Courts	98%	98%	98%	97%	98%	80%	80%
1.1	Outcome Measure	Civil Cases Successfully Litigated - Taxpayer Appeals	94%	97%	92%	92%	95%	85%	85%
1.1	Outcome Measure	Civil Cases Successfully Litigated - Government and Cross Appeals	60%	78%	71%	56%	75%	60%	60%
1.1	Outcome Measure	Tax Dollars Collected and Retained by Court Action and Settlement (\$ in millions)	\$1,792.0	\$870.0	\$2,239.3	\$1,418.2	\$1,255.1	n/a	n/a

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

### 3. Performance, Resources, and Strategies

#### a. Performance Plan and Report for Outcomes

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

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

**FY 2023 Actual:** 98% 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 percent of criminal cases favorably resolved Department-wide, and 80 percent of civil cases favorably resolved. Tax Division has exceeded the Department’s goal for the last several years. In FY 2022, favorable outcomes were achieved in 97 percent of all civil and 95 percent of all criminal cases litigated by Tax Division, including non-tax cases.<sup>23</sup>

##### *Performance Measure 2:* Criminal Investigation and Prosecution Referrals Authorized

**FY 2023 Actual:** 462 Grand Jury Investigations and 604 Prosecutions

**Discussion:** The Tax Division also measures the number of authorized investigation and prosecution referrals in criminal cases. In FY 2022, the Division authorized 514 grand jury investigations and 610 prosecutions of individual defendants. Changes in the number of authorized investigations are largely proportional to the number of investigations initiated by the Internal Revenue Service.<sup>24</sup>

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<sup>23</sup> *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.

<sup>24</sup> *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.

Consistent with Department guidance, there is no FY 2024 or FY 2025 performance goal for authorized investigations and prosecutions.

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

***FY 2023 Actual:*** 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 percent. In FY 2022, the Division’s conviction rate was 95 percent in tax cases.

For FY 2024 and FY 2025, the Tax Division has established a conviction rate goal of 90 percent. While the Tax Division is very proud of its conviction rate, the emphasis is on uniform and fair enforcement of the tax laws, and not on meeting numeric targets.<sup>25</sup>

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

***FY 2023 Actual:***

Trial Courts – 98%

Taxpayer Appeals – 95%

Government and Cross Appeals – 75%

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

The Tax Division anticipates that maintaining this level of success will result in legal precedent that provides taxpayers, including individuals, businesses, and industries, with guidance regarding their tax obligations; the collection of significant tax revenues; and the protection of the Government against unfounded taxpayer claims. Many of the Government appeals (and cross-appeals) during the reporting period involve the same (or similar) issues, so that a loss in a single case affects the outcome of multiple appeals.<sup>26</sup>

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<sup>25</sup> *Ibid.*

<sup>26</sup> *Data Definition:* A decision is the resolution of a claim through judgment or other court order. Each decision is classified as a government win, partial win, or taxpayer win; for this report, success occurs if the Government wins in whole or in part. Appellate cases are classified as Taxpayer Appeals, Government Appeals, or Cross Appeals. The number of Government or Cross Appeals is generally less than 10% of the number of taxpayer appeals. Tax Debts Collected represents dollars collected on pending civil cases and outstanding judgments. Tax Dollars Retained represents the difference between claim amount sought and received by opposing parties in refund suits closed during the period.

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

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

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



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

**FY 2023 Actual:** \$232.0 Million Collected and \$1,023.1 Million Retained

**Discussion:** The Tax Division collects substantial amounts for the Federal Government in affirmative litigation and retains even more substantial amounts in defensive tax refund and other litigation. For FY 2022, the Division collected \$247.2 million and retained \$1,171.0 million.<sup>27</sup>

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

### **b. Strategies to Accomplish Outcomes**

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

The Tax Division's primary civil strategy to achieve its goals is to litigate federal civil tax cases filed by and against taxpayers in the federal courts. Through this litigation, the Division ensures the tax laws are properly enforced, by targeting particularly acute tax enforcement problems that threaten tax administration. In carrying out its mission, the Tax Division conducts in each civil tax case an independent review of the IRS' 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.

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<sup>27</sup> *Ibid*

## **V. Program Increase by Item**

Not applicable.

## **VI. Program Offsets by Item**

Not applicable.

## **VII. Exhibits**