

**CONGRESSIONAL SUBMISSION**

**FY 2008 PERFORMANCE BUDGET**

**TAX DIVISION**

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## I. Overview

### A. *Mission and Critical Functions*

The Tax Division requests a total of 666 permanent positions, 583 full-time equivalent (FTE) work years, and \$94,678,000 for FY 2008. This request represents an increase for the Tax Division of \$12,057,000 over the President's FY 2007 budget request. As discussed in Section IV – Decision Unit Justification, the Division seeks this additional funding to support the priority placed by the President on increased and more effective tax law enforcement.

The indispensable role it plays in the federal tax system makes the Tax Division unique among Department of Justice components. Its primary mission is to enforce the nation's tax laws fully, fairly, and consistently. The Division's activities help close the Tax Gap – the difference between taxes owed and taxes collected - estimated to be more than \$345 billion every year. Both the President and the Congress have recognized the enormous importance of closing the Tax Gap, and added \$442 million in new funding for Internal Revenue Service (IRS) tax enforcement efforts in FY 2006 and have requested \$137 million for FY 2007. The work of the Division is directly related to, and lags about two years behind, the increased level of IRS enforcement activity:

- The Tax Division represents the United States in all civil trial and appellate litigation arising from the internal revenue laws, in all state and federal courts, except the United States Tax Court.
- The Tax Division enforces the nation's criminal tax laws. It authorizes all grand jury investigations and prosecutions involving violations of the Internal Revenue Code and, in conjunction with the United States Attorneys Offices (USAOs), prosecutes criminal tax cases in the federal courts, and represents the United States in criminal appeals.

The Tax Division's work on this mission has an immediate payoff: the Division saves the government from paying unjustified claims; it defeated \$729.6 million in such claims in FY 2006, \$1.02 billion in FY 2005, and \$659 million in FY 2004. In addition, the Division collected an annual average of \$231.6 million during the last three fiscal years. In FY 2005 alone, the Division collected \$477 million. In FY 2006, the Tax Division collected \$148.4 million.

Significant as these dollars are, they are but a fraction of taxes taxpayers voluntarily pay because of the precedents the Division's cases set, and because of the resulting trust in the integrity of the tax system. Thus, the effects of the Division's litigation on tax administration extend well beyond the cases that it handles. Decisions in the Division's cases settle questions of law that frequently govern millions of taxpayers. One favorable decision can resonate far beyond the parties directly involved and lead to billions of dollars in additional tax collections. Similarly, as discussed in more detail later, criminal prosecutions authorized by the Division deter many taxpayers who might consider evading taxes in ways large and small.

Additionally, the Division's independent review of the merits of tax cases to be brought or defended provides the necessary consistency of the government's position with applicable law and policy. The Division's combination of independent judgment and determined litigation encourages people and businesses to pay the taxes the law requires.

In order to achieve the Department's performance goals, the Tax Division is heavily dependent on having a solid infrastructure. Specifically, this includes office automation support operations, Justice Consolidated Office Network (JCONIA) system within the Division, access to adequate litigation support, including courtroom presentation technologies, and the organizational and technical

infrastructure to support the use of emerging technologies and automated tools for trial preparation, electronic filing, and courtroom presentation. No IT enhancements are requested for FY 2008.

The Tax Division, along with the Department's other litigating components, underwent a Program Assessment Rating (PART) review by the Office of Management and Budget (OMB) in FY 2005. The Division received a score of 85, which is deemed "effective" and is the highest level awarded by OMB (see page 31 for details).

### ***B. Cross-Cutting Activities***

The Tax Division's expertise in complex civil trials and in the prosecution of sophisticated financial crimes makes it a valuable contributor to important government initiatives that cut across organizational lines. More fundamentally, though, all Tax Division activities are cross-cutting in that the activities of the Tax Division follow through on activities initiated by the Internal Revenue Service and others to administer and enforce the federal tax laws.

#### **Criminal Law Enforcement**

Generally speaking, crime does pay, at least in the short run. Criminals usually do not report illegal source income on their tax returns. The crime of tax evasion is often easier to prove in a court of law than the crime that gave rise to the illegal source income. For this reason, Tax Division prosecutors are valuable members of teams investigating and developing prosecution strategies for other financial crimes, giving the Division a particularly vital role in the following cross-cutting activities:

##### **Fighting Terrorism**

Tax Division prosecutors, experts in following the money, trace the flow of money to investigate and prosecute people who funnel money to terrorists and organizations that fund terrorist activities.

##### **Punishing Corporate Fraud**

As part of the President's Corporate Fraud Task Force, the Tax Division works with the U.S. Attorneys' Offices, the FBI, and the Criminal Division to investigate and prosecute tax evasion, money-laundering, or bank fraud committed by corporate executives. The Division played an important role in securing the convictions of former ENRON CFO Andrew S. Fastow and his wife, Lea Fastow, on tax and related charges and continues to provide key support for other ongoing corporate-fraud prosecutions.

##### **Stopping Drug Trafficking**

Together with other members of the Organized Crime and Drug Enforcement Task Force (OCDETF), as well as the Washington Agency Representative Group that sets OCDETF policy, and regional task forces, Tax Division prosecutors investigate and prosecute, and have recently scored important successes in drug cases.

##### **Public Corruption**

Tax Division attorneys work on prosecution teams with attorneys from various United States Attorney's Offices and the Criminal Division to combat public corruption. The Division played an important role in securing the conviction of Jack Abramoff, a high-profile Washington, D.C. lobbyist, and continues to conduct and provide support for other ongoing public corruption investigations and prosecutions.

## **Civil Tax Enforcement**

The Tax Division's civil trial and appellate attorneys follow through on the work the IRS begins in areas critical to tax administration and enforcement. For example:

### **Combating Abusive Tax Shelters**

Tax Division civil trial and appellate attorneys bring and defend the court actions that are necessary to back up the IRS's efforts to challenge complex and abusive tax shelters that cost the Treasury an estimated \$10 billion annually. Using information obtained by the Tax Division from suits to enforce IRS summonses against tax shelter promoters, the IRS was able to identify tax shelters and their users, resulting in the collection of billions in tax revenues that would otherwise have been lost.

### **Tracking Down Tax Cheats Who Use Offshore Accounts**

The Division has investigated offshore tax evasion through suits to enforce summonses against credit card issuers and other information sources, yielding hundreds of thousands of documents and identifying thousands of people the IRS is now investigating for unreported and unpaid federal income taxes. Tax Division civil and criminal attorneys work with the IRS through its steering committee for the offshore tax enforcement initiative to target U.S. persons who commit tax evasion using offshore tax havens.

### **Shutting Down Tax Scams**

Through injunction suits the Tax Division has shut down more than 215 promoters (including preparers) of tax scams involving in the aggregate hundreds of thousands of customers and over \$2.5 billion dollars in taxes. The efforts have been amplified by criminal prosecution of the scam promoters and sometimes their customers.

## **Civil and Criminal Tax Enforcement Law and Regulations**

The Tax Division brings its unique civil trial and criminal prosecution perspectives to bear in the assistance it provides the Internal Revenue Service, the Treasury Department, and other federal agencies on proposed legislation, administrative regulations, or other guidance that will affect substantive tax laws and tax administration and enforcement. The Division's independence frequently enables it to identify problem areas and propose changes that can forestall future litigation. In addition to this advisory role, the Division cooperates with other agencies and DOJ components to pursue key Government initiatives through litigation.

### ***C. Program Performance/Goals and Objectives***

Strategic Objectives: The Division's work—both civil and criminal, and at trial and on appeal—supports Department of Justice Strategic Objective 2.5 (Enforce federal statutes, uphold the rule of law, and vigorously represent the interests of the United States in all matters for which the Department has jurisdiction).

Each year, noncompliance with the federal tax laws costs the government hundreds of billions of dollars. The Division, either on its own or in concert with the U.S. Attorneys Offices (USAOs), prosecutes a wide variety of tax crimes, often committed through ever evolving schemes and methods. These tax crimes include: tax evasion on income earned through legal sources; the use of domestic trusts and other abusive tax shelters to hide income and assets; promotion and use of frivolous "tax protest"

theories and abusive tactics to defraud and impede the IRS; secreting assets in foreign countries to evade tax liability; and tax violations with respect to proceeds of drug violations or other kinds of fraud.

The Division's criminal enforcement objective is to vigorously and consistently enforce the criminal tax laws in order to punish offenders, deter future violations and reassure honest taxpayers that they will not bear an undue share of the federal tax burden. The Division accomplishes this by authorizing criminal tax prosecutions and by assisting the USAOs and the IRS in the investigation and prosecution of alleged violations of federal tax laws. The Division also provides assistance in treaty negotiations and foreign evidence gathering in criminal tax matters.

The Tax Division's civil enforcement objectives are two-fold. First, the Division defends the United States in lawsuits, including: tax refund suits seeking to recover payments made toward contested federal tax liabilities, such as liabilities resulting from misuse of tax shelters; suits filed in bankruptcy courts challenging the validity, dischargeability and priority of federal tax claims, and the feasibility of business reorganizations; "collection due process" suits challenging IRS assessment and collection determinations; and damage suits alleging improper investigatory, assessment or collection activity by IRS and other government officials. Defensive litigation has averaged, since FY 2001, 73% (by hours) and 80% (by cases received), respectively, of the Tax Division's civil caseload.

Second, the Division prosecutes a broad range of affirmative litigation aimed at solving specific law-enforcement problems or collecting revenue. For example, some suits pursue the assets of tax cheats who have fraudulently conveyed property to sham entities or family members; others seek to stop tax-scam promoters from selling scams on the Internet; yet others force taxpayers to turn over documents the IRS needs for its investigations. All of this litigation, both defensive and affirmative, promotes compliance with the nation's tax laws and protects the Treasury.

Monitoring Performance: In recent years, the Tax Division's conviction rate has been 95% or higher. The virtual certainty that a tax cheat, if caught and prosecuted, will be convicted and face jail time, deters others who might be inclined to cheat. While the Division's overriding purpose in civil tax enforcement is the uniform and fair enforcement of the tax laws, the Division usually collects more revenue for the Treasury through direct collection lawsuits than it receives in budget appropriations. The Division reports its actual results and statistics at the end of each fiscal year as part of the Department's Performance Plan and Report.

The criminal, appellate, and civil functions of the Tax Division have the following broad goals:

### **Criminal Prosecution and Appeals**

Goal: The Tax Division promotes voluntary compliance with the tax code, imposes uniform enforcement of the criminal tax laws by the Department of Justice, and deters tax evasion and punishes those who defraud other honest citizens. The Division supervises all federal criminal tax prosecutions and, through its review, analysis, and commentary on proposed prosecutions, helps the IRS focus its investigative resources on appropriate cases. Tax Division prosecutors evaluate the evidence and legal theories supporting proposed tax grand jury investigations and prosecutions and using their experience with tax prosecutions across the country, they make recommendations concerning the best charges to bring based on the evidence presented, on additional evidence that should be gathered to support the charges, methods by which that evidence might be gathered, the best combination of charges given the facts and circumstances, and more. They also work with IRS agents and Assistant United States Attorneys to conduct grand jury investigations, prosecute accused tax criminals, litigate appeals in criminal tax cases, gather evidence from foreign countries, and develop criminal tax enforcement policies. In FY 2006, the Tax Division prosecutors authorized 664 grand jury investigations of 1,123

targets, authorized 906 prosecutions involving 1,180 individual defendants, and personally prosecuted dozens of defendants in the federal district courts.

### **Appeals in Civil Tax Matters**

Goal: The Tax Division protects the federal Treasury and achieves fair results through just and effective advocacy in the appellate courts. Attorneys in the Division's civil appellate section represent the federal government in all civil tax cases in federal and state appellate courts. About 770 civil appeals are in process at any time, with about 500 new ones received annually. The precedents created in cases decided in various federal courts of appeals provide important guidance for taxpayers and result in enhanced revenue collection.

### **Civil Litigation**

Goal: The Tax Division protects and collects tax revenues while ensuring the fair and consistent treatment of taxpayers nationwide. Through its civil litigation, the Tax Division brings in substantial revenue for the Treasury, wards off unjustified claims that would otherwise deplete the Treasury, creates precedent affecting tax administration, and deters illegal tax activity. The civil trial sections have approximately 7,000 cases in process at any time, and about 4,000 new cases are received each year. In FY 2006, the Tax Division's success rates in the civil trial courts, taxpayer appeals and government appeals were 96%, 97% and 78%, respectively. Tax Division civil trial attorneys also work closely with the IRS to coordinate civil tax litigation with IRS activities and enforcement policies to optimize the results.

## II. Summary of Program Changes

| Item Name           | Description                        | Pos. | FTE | Dollars     | Page |
|---------------------|------------------------------------|------|-----|-------------|------|
| General Tax Matters | Operation Continued Follow-Through | 71   | 36  | \$5,187,000 | 33   |



**III. Appropriations Language and Analysis of Appropriations Language**  
**Not applicable (Part of General Litigating Activities).**

#### IV. Decision Unit Justification

##### *A. General Tax Matters*

| <b>General Tax Matters - Total</b>              | <b>Perm.<br/>Pos.</b> | <b>FTE</b> | <b>Amount</b> |
|---|-----------------------|------------|---------------|
| 2006 Enacted with Rescissions and Supplementals | 566                   | 518        | 80,507        |
| 2007 Estimate                                   | 595                   | 531        | 82,621        |
| Adjustments to Base and Technical Adjustments   | ....                  | 16         | 6,870         |
| 2008 Current Services                           | 595                   | 547        | 89,491        |
| 2008 Program Increases                          | 71                    | 36         | 5,187         |
| 2008 Offsets                                    | ....                  | ....       | ....          |
| 2008 Request                                    | 666                   | 583        | 94,678        |
| <b>Total Change 2007 - 2008</b>                 | <b>71</b>             | <b>52</b>  | <b>12,057</b> |

## 1. Program Description

### a) CIVIL TAX LITIGATION

The Tax Division's civil trial work covers a broad spectrum of litigation in the United States district courts, the United States Court of Federal Claims, United States bankruptcy courts, and state courts. The Division's civil litigation has both a direct and an indirect impact on federal tax laws. In cases the Tax Division handles, billions of dollars are directly at stake, either defending against unjustified refund claims taxpayers have filed against the United States Treasury or through affirmative litigation that seeks to collect revenue to satisfy unpaid tax debts. Equally important, the Tax Division's civil trial and appellate litigation results in precedents that control the disposition of thousands of cases pending administratively with the IRS, thus giving the Division's work an even more significant, indirect impact on tax administration.

### SIGNIFICANT LAW ENFORCEMENT EFFORTS

The Tax Division's litigation is helping to reduce the Tax Gap. The Tax Gap is the difference between the amount of tax owed by taxpayers for a given year and the amount that is paid voluntarily and timely. The IRS estimates (based on most recent data available) that the annual Tax Gap, before enforcement activity, is at least **\$345 billion**.

Both the President and the Congress have recognized the huge importance of closing the Tax Gap, adding \$442 million in new funding for IRS tax enforcement efforts in FY 2006, and requesting \$137 million for FY 2007. The work of the Tax Division has been and will continue to be, directly and significantly impacted by the increased level of IRS enforcement activity.

Revenue from audits of corporations and individuals was \$17.2 billion in 2006 compared to \$10.7 billion in 2003. In all, from 2004 to 2006, collection from heightened enforcement efforts rose 13%, from \$43.1 billion to \$48.7 billion. [From "IRS FY 2006 Enforcement and Service Results", November 20, 2006.]

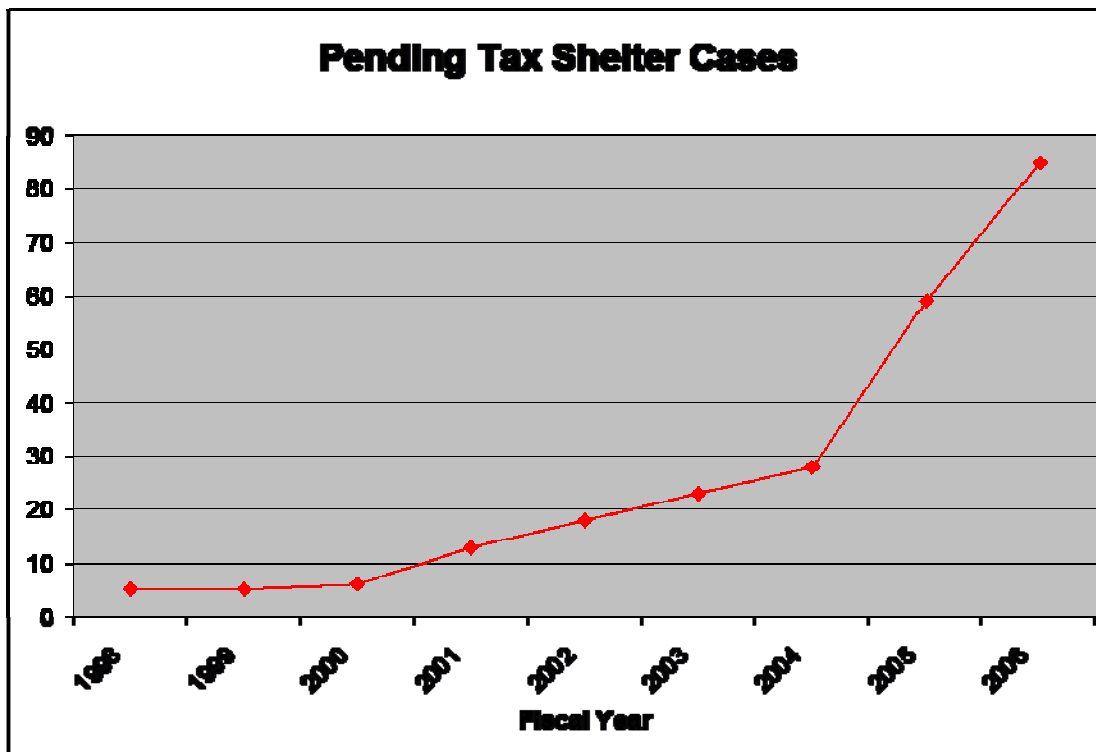
Because the Tax Division represents the United States in all state and federal courts (except the Tax Court) on matters arising under the internal revenue laws, the Division is a key player in efforts to close the Tax Gap. In addition to its work collecting taxes for the government, a significant portion of the Division's time and resources is directed to stopping the spread of abusive tax shelters, shutting down promoters of tax schemes and scams, and assisting the IRS in collecting the information necessary to identify persons marketing and using tax avoidance packages.

#### Stopping the Spread of Tax Shelters

Abusive tax shelters for large corporations and high-income individuals cost the government at least \$10 billion annually, according to Treasury Department estimates. But Treasury Department officials believe that this estimate "is just the tip of the iceberg" and that the actual amount may be many times larger. The IRS says that tax shelter proliferation is one of the most significant problems confronting our tax system. A February 2005 GAO report concluded that 207 Fortune 500 companies engaged in tax shelter transactions, costing the Federal Treasury as much as \$56 billion. Sophisticated tax professionals promote these complicated transactions to corporations and wealthy individuals. Tax shelters typically involve multiple, complex, and sometimes well disguised transactions that have been

structured to provide substantial tax benefits that were not intended by Congress, or that otherwise lack economic substance independent of those tax benefits. Because these cases 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 to 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 by defending in the federal district and appellate courts the IRS's denial of the tax benefits supposedly created by the tax shelter. The cases the Division defends involve millions of dollars in tax revenue, and affect potentially billions of dollars of tax revenue owed by other taxpayers.



Halfway through the fiscal year, the Division projected that it would have a total of 76 groups of tax shelter cases by the end of the fiscal year. As of the end of FY 2006, however, it had 85 groups of cases, 12% higher than projected. Despite victories in significant cases, the number of tax shelter cases being handled by the Tax Division continues to increase substantially. The IRS' activities are a multi-year effort, and our litigation activity lags about 2 years behind the IRS activity. With the influx of resources provided to the IRS in FY 2006, the IRS' front-line enforcement efforts have already begun to increase, and will continue to increase into FY 2008.

The Tax Division anticipates that over the next several years, tax shelters will continue to be hotly contested in the federal district courts and in the Court of Federal Claims. The IRS has estimated that at least 25 other tax shelter cases are headed for litigation in the near future (some of these abusive transactions coming to the Tax Division involve complex leasing arrangements, known as "LILO" and "SILO" transactions, and were addressed in part on a prospective basis by Congress in 2004). The 10- year revenue estimate provided for the legislative amendments was \$26.56 billion [Staff of the Joint Committee on Taxation, "Estimated Budget Effects Of The Conference Agreement For H.R. 4520, The 'American Jobs Creation Act Of 2004,'" October 7, 2004].

## Stopping the Promoters of Schemes and Scams

In addition to the complex and technical abusive tax shelters used by corporations and wealthy persons, there are a multitude of less sophisticated tax schemes and scams. Other recent schemes have included:

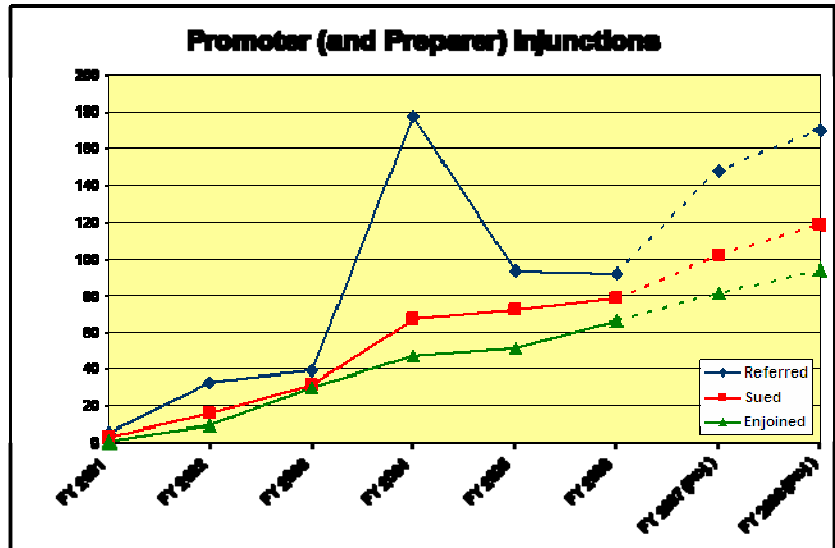
1. Claims that people are not required to pay taxes for frivolous reasons, such as that Section 861 of the Internal Revenue Code exempts U.S. citizens from paying taxes on income received in the U.S.; or that one can expatriate oneself from the tax system without leaving the U.S.
2. Filing large refund requests through the amended returns process to avoid extensive scrutiny.
3. Schemes setting up sham trusts to allow taxpayers to deduct personal expenses.
4. “Warehouse banks” to commingle and conceal assets.
5. Schemes advocating filing tax returns falsely reporting “zero” income.
6. Urging employers to fail to withhold, report or pay payroll and income taxes.

Typically marketed by persons who purport to be tax experts, these scams in reality are nothing more than false and fraudulent “do-it-yourself” tax-relief packages sold to individuals who are uninformed or willfully naïve. Schemes the Tax Division have enjoined cost the Federal Treasury almost two billion dollars and place an enormous burden on the IRS. Substantial audit, collection, and administrative resources must be devoted to detect, correct, and collect unpaid taxes that result from improper filings by purchasers of these illicit arrangements. The schemes undermine public confidence in the integrity of our tax system if honest taxpayers see tax fraud scams being aggressively marketed and going unchallenged.

The Division has encouraged the Internal Revenue Service to target these schemes at their source, *i.e.*, the promoters, so they can be shut down before they result in the need for more IRS examination and collection activity. The Tax Division has developed an expedited referral process so that the cases are quickly and properly investigated. Division employees have helped to train hundreds of Internal Revenue Service agents and lawyers about developing injunction and penalty cases against tax scam promoters.

Since FY 2001, the Division’s efforts have resulted in injunctions against over 215 promoters and tax return preparers connected to tax-fraud schemes, barring these defendants from continuing to market their products and services. The following chart shows the increasing number of successful injunction suits brought by the Division. The Division has recently obtained several notable victories in this area. In April 2006, a federal judge granted the Division’s request to permanently enjoin a large organization, ostensibly a charitable one, from falsely advising that its program of providing down payment assistance by home sellers gave rise to a charitable deduction. The IRS estimated that tens of millions of dollars in improper deductions had been claimed by taxpayers based on this erroneous advice. In September 2005, a court in Florida ordered an individual to stop promoting a variety of tax fraud schemes that had cost the Treasury nearly \$18 million, and ordered the production of the addresses

of hundreds of customers who were involved in filing these false returns. Another example is an injunction obtained in May 2005 against a New York man who was promoting a tax plan that allegedly permitted employers to deduct contributions to certain employee benefit plans. The court found that the plans were schemes designed to enable employers to deduct non-deductible deferred compensation for select high-high level employees by disguising the deferred compensation as employee benefits.



Note: The spike in FY 2004 reflects a single case involving 45 promoters. Referrals of tax scam promoters for injunction litigation are expected to continue at a high rate.

The Division expects the increase in injunction cases to continue. For FY 2006 the Division filed suit against 78 promoters and preparers, and there are many more suits being prepared. The IRS has nearly 1,100 promoters under examination, and each of those examinations can potentially result in a lawsuit.

### Assisting with IRS Information Collection and Examinations

Individual or business taxpayers sometimes do not comply with IRS requests for information. In some cases, the summoned party may simply be reluctant to turn over information without a court order. As IRS summonses are not self-executing, the IRS will refer the matter to the Tax Division and ask that we bring suit to enforce the summons. These judicial proceedings not only afford the government the ability to obtain the information in appropriate cases, but also afford important procedural and substantive rights to those affected by the summons.

The IRS identified thousands of tax shelter participants only after the Tax Division brought numerous suits to enforce IRS summonses against those who promoted tax shelters. When prominent law firms and public accounting firms began marketing tax shelters to corporations and wealthy individuals, the IRS asked for information the firms were required by law to maintain and provide, and the requests were rebuffed. Subsequently, through suits it brought against some of the nation's largest accounting and law firms, the Division obtained judicial enforcement of IRS summonses issued to Jenkens & Gilchrist, Sidley Austin Brown & Wood, KPMG, BDO Seidman, and Arthur Andersen. The government's victories in these highly-publicized cases will help to stem the promotion of abusive tax shelters and will help avert the continued erosion of public confidence in the integrity of our tax system.

The Division is also helping the IRS investigate taxpayers who may be using accounts in offshore financial institutions to avoid their tax liabilities. The IRS estimates that the government has lost billions of dollars of revenue through the use of offshore accounts. To learn the identities of individuals illegally hiding assets and income in offshore accounts, the Tax Division sought and won judicial approval to gather information from credit card companies, credit card processors, and merchants where the cards were used. With this information, the IRS is identifying thousands of

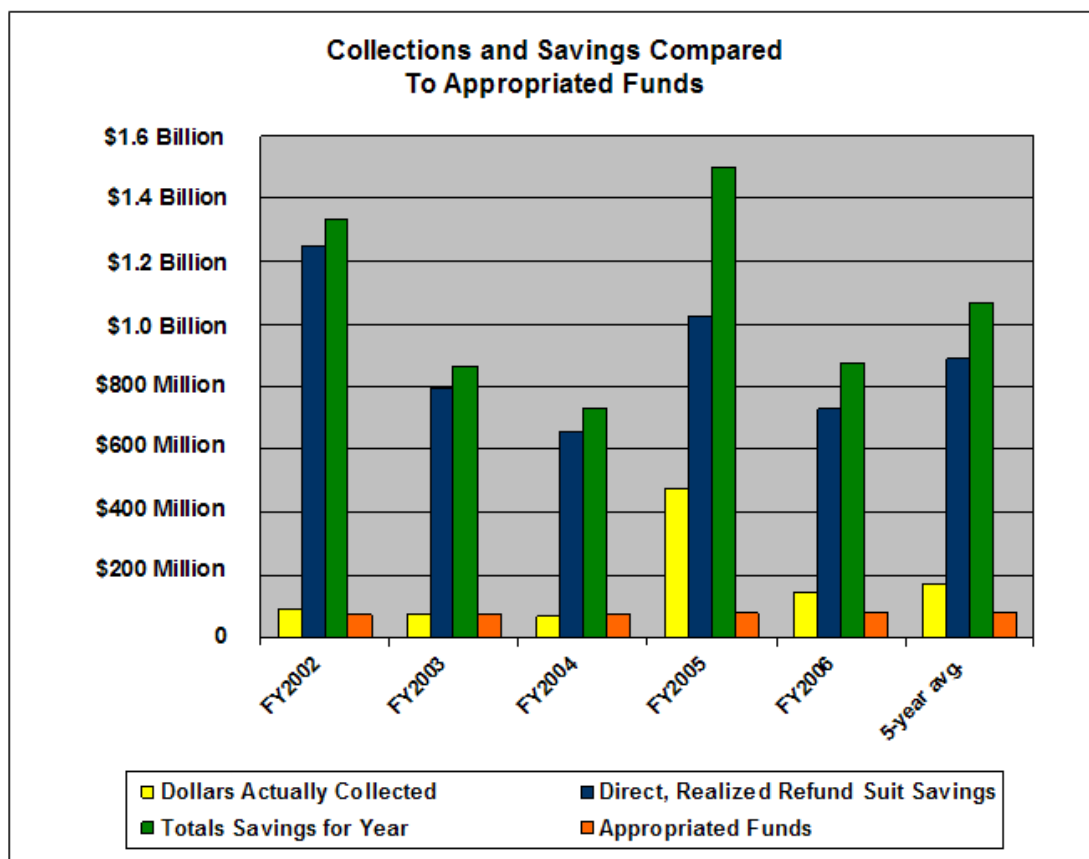
persons with credit cards or debit cards issued by or paid through banks in various foreign tax haven countries, including Antigua and Barbados, the Bahamas, and the Cayman Islands. Just recently, the Tax Division obtained approval for the IRS to seek such information from PayPal, a large Internet purchase payment company. Through these summonses, the IRS expects to obtain information concerning hundreds, if not thousands, of taxpayers who are attempting to hide assets in offshore tax havens.

So far, the IRS has opened investigations of more than 2,200 taxpayers as a result of these information gathering efforts, and over 1,650 have settled their resulting tax liabilities with the IRS. The Division has been called upon to enforce compliance with administrative summonses issued in furtherance of some of these taxpayer examinations, and expects to bring many more of these actions.

### Collection of Unpaid Taxes

The Division initiates litigation to collect taxes that would otherwise remain unpaid. This litigation includes: (1) seeking judgments to enforce IRS assessments against taxpayers, (2) dealing with fraudulent transfers made by delinquent taxpayers attempting to place their assets out of the reach of the IRS, and (3) the enforcement and foreclosure of federal tax liens.

The focus and goal of this litigation is to enforce the tax laws, and collection suits have a direct, and positive, effect on the Treasury. The Division typically collects more each year than its entire budget, as the following chart illustrates.



The Division's defense of federal tax claims in bankruptcy proceedings also has a direct impact on the Treasury. The tax issues in the Division's bankruptcy docket are complex, and many cases also have significant collection potential. In *G-I Holdings, Inc.* (Bankr D.N.J.) for example, the Tax Division is defending IRS claims for more than one-half billion dollars in federal taxes.

### **Defending the United States**

Suits brought against the United States comprise the majority of the Division's caseload (73% by hours and 80% by cases received). The Division defends these lawsuits, which include requests for refund of taxes, challenges to federal tax liens, and allegations of wrongdoing by IRS agents. The Division's representation of the government in refund litigation saves the Treasury many hundreds of millions of dollars annually. The direct savings to the government totaled \$1.02 billion in FY 2005 and \$729.6 million in FY 2006.

The Treasury also realizes enormous additional savings through the *indirect* effect these cases have on other tax years of the same taxpayer and on other taxpayers. The Tax Division litigates many cases that have significant impact on the taxation of whole industries and otherwise have an enormous impact on federal tax revenues. Generally, the Division's successes in these cases will generate billions of dollars in additional revenue for the Federal Treasury.

### **b) CRIMINAL PROSECUTIONS AND APPEALS**

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. Criminal trial attorneys investigate and prosecute tax violations committed with other criminal conduct, such as narcotics trafficking, securities fraud, bankruptcy fraud, healthcare fraud, organized crime, and public corruption. 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 Organized Crime and Drug Enforcement Task Force (OCDETF) and terrorism-related criminal investigations, and prosecute organizers of Internet scams.

The Tax Division authorizes, and either conducts or supervises, all prosecutions under the federal tax laws. The Division's two-pronged mission is to: prosecute criminal tax violations; and 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 open grand jury investigations to determine whether prosecutable tax crimes have occurred. Tax Division lawyers review 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 the respective United States Attorney's Office or, in complex cases or cases in which the USAO is recused or requests assistance, by the Tax Division's own experienced prosecutors. Tax Division prosecutors 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 Appeals and Tax Enforcement Policy Section (CATEPS) conducts appeals in criminal tax cases prosecuted by Division attorneys, and supervises appeals in matters tried by the 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 the negotiation of international tax assistance treaties and policy issues, such as the application of the sentencing guidelines.

### **Prosecutions of "Pure Tax Crimes"**

Many of the cases reviewed, investigated and prosecuted by the Tax Division involve so-called "legal source income." As the name implies, these cases encompass tax crimes involving unpaid taxes on income earned legally (*e.g.*, a restaurateur who skims cash receipts or a dentist who inflates deductible expenses.) The Division also prosecutes many return preparers who fraudulently inflate deductions or underreport income to obtain unwarranted refunds for their customers. The predominant share of the Division's criminal docket includes cases that involve only criminal tax violations. The defendants frequently include return preparers, non-filers and individuals engaging in illegal protest activities.

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. Failure of the government to vigorously prosecute such cases would undermine the confidence of law-abiding taxpayers and jeopardize the government's ability to operate a revenue collection system that depends upon voluntary compliance.

Legal source income tax cases are the core of the Tax Division's criminal work. When these cases involve difficult issues of tax law or complex methods of proof, USAOs often call upon the special skills that Tax Division prosecutors bring to the Justice Department's goal of reducing white-collar crime. These prosecutions often receive substantial local press and media coverage, and assure law abiding citizens who pay their taxes, that those who don't are not getting away with it. During the past year, Division attorneys investigated and/or prosecuted cases involving tax crimes committed by individuals from all walks of life, including corporate executives, business owners, attorneys, doctors, dentists, an artist and others. A few examples:

On August 11, 2006, in *United States v. Roy Albert Lewis* (N.D. Cal.), a jury convicted the defendant, a dentist, of conspiring to defraud the United States and evading his income taxes for 1998 through 2001. Lewis used a tax evasion scheme promoted by a Denver-based organization called Tower Executive Resources that involved the use of false invoices to generate bogus deductions for his medical practice. Over a ten year period, the defendant sent \$300,000 to an offshore bank account in the guise of business deductions. Lewis will be sentenced in February 2007.

On September 8, 2006, in *United States v. Walter Anderson* (D.D.C.), the defendant, a telecommunications entrepreneur, pleaded guilty to two counts of federal income tax evasion and one count of defrauding the District of Columbia for failing to report approximately \$365 million in income he earned from various business ventures between 1995 and 1999. Anderson crafted an elaborate scheme using offshore corporations and bank accounts in tax haven jurisdictions to conceal his income. Anderson faces a maximum of ten years in prison. Anderson is in custody pending sentencing, which is set for March 2007.

On September 25, 2006, in *United States v. Denny Patridge* (C.D. Ill.), a federal judge sentenced an insurance businessman to 60 months in prison and ordered him to pay a fine of \$100,000 for attempting to evade approximately \$260,000 in income tax. In 2005, a jury found Patridge guilty of tax evasion. The evidence at trial showed that Patridge attempted to conceal his assets from the IRS by transferring them to a trust, filing a false lien on his home, using nominee bank accounts, and transferring funds to offshore accounts in Antigua and Belize.

On October 25, 2006, in *United States v. Robert W. Hallock* (N.D. Ill.), a federal judge convicted a former Kirkland & Ellis, LLP partner of tax evasion. Hallock attempted to evade income tax on more than \$1 million he received when he sold fraudulent certificates of deposit in 1997. Hallock used the funds for personal expenditures, which included \$150,000 in checks payable to his girlfriend and her parents, and a \$100,000 honeymoon aboard a private yacht. The court will sentence Hallock in February 2007.

### **Return-Preparer Fraud**

Corrupt accountants and unscrupulous tax return preparers are pin-hole leaks in the flow of revenues to the Federal Treasury. They are a law enforcement concern to the Tax Division and to the IRS. Some accountants and return preparers financially benefit by duping unwitting clients into filing fraudulent returns and then take a significant portion of the unwarranted refund as a fee. Other corrupt accountants and unscrupulous return preparers serve as willing “enablers,” providing a veneer of legitimacy for clients predisposed to cheat. In either kind of 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 rule of law. Tax Division attorneys continue to investigate aggressively and prosecute such cases, including:

On September 13, 2006, in *United States v. Karen Berry, et al.* (C.D. Cal.), a federal grand jury in Los Angeles indicted five people for orchestrating a \$14 million tax fraud scheme. The indictment alleges that the defendants operated the scheme simultaneously on three tracks by: preparing thousands of fraudulent tax returns, creating false documents to use in IRS audits, and failing to report to the IRS more than \$1.5 million earned from promoting the scheme. According to the indictment, the defendants prepared more than 6,000 fraudulent income tax returns in 2003. Trial is scheduled to begin in June 2007.

On October 5, 2006, in *United States v. Susan O’Brien, et al.* (S.D. Cal.), a federal judge sentenced professional tax return preparer, Susan O’Brien, to 125 months in prison, and her two associates, Robert Richard Evans and William Dean Cook, to 78 months and 24 months in prison, respectively, for tax fraud. In May 2006, a federal jury convicted the defendants in connection with promoting a \$1 million tax evasion scheme involving sham trusts and the preparation of false income tax returns. Five other defendants pleaded guilty to felony tax charges before the trial of these defendants.

In *United States v. Michael Craig Cooper, et al.* (D. Kan.), three individuals and the organization, “Renaissance, the Tax People, Inc.,” are charged with conspiracy to defraud the United States, mail fraud and wire fraud in connection with an \$84 million tax scheme. From June 1997 through April 2002, the defendants marketed a fraudulent home-based “tax relief system,” which purportedly offered legitimate tax return preparation, tax advice and audit protections. On October 10, 2006, co-

defendant Daniel Joel Gleason pleaded guilty to a conspiracy charge and to preparing 56 false tax returns. Trial of the remaining defendants is scheduled to begin in April 2007.

### **Illegal Tax Protest**

Another Tax Division initiative focuses on illegal tax protest activities. Tax schemes in this category include among other claims, that an individual is a “sovereign citizen” not subject to U.S. laws, and the U.S. income tax is unconstitutional. Other related conduct may include taxpayers taking sham “vows of poverty” and harassing government employees and judges.

On October 17, 2006, in *United States v. Wesley Trent Snipes, et al.* (M.D. Fla.), the court unsealed an indictment charging movie actor Wesley Trent Snipes with six counts of failing to file income tax returns for 1999 through 2004. Snipes and two other defendants are also charged with conspiracy to defraud the United States and presenting false claims for refund. Eddie Ray Kahn and Douglas Rosile, a former CPA, operated a tax scheme through American Rights Litigators, a tax protestor organization. The scheme is based on a specious interpretation of Section 861 of the Internal Revenue Code, claiming that domestically earned income is not taxable. As part of the scheme, the defendants prepared and filed two amended federal income tax returns for Snipes, fraudulently claiming refunds of almost \$12 million in income taxes.

On December 15, 2006, in *United States v. Charles Thomas Clayton* (W.D. Tex.), a federal judge sentenced the defendant, a radiologist and proponent of the so-called 861 argument, to 60 months in prison for filing false tax returns and failing to file tax returns. The court also fined Clayton \$50,000. In August, a jury convicted Clayton of filing fraudulent claims for refund of more than \$160,000 in taxes. Clayton also failed to file federal income tax returns for five years, despite receiving at least \$1.3 million in gross income during the period.

On December 18, 2006, in *United States v. Thomas Miller, et al.* (C.D. Cal.), a federal judge sentenced Thomas Miller to 44 months in prison for conspiring to defraud the United States in connection with a “pure trust” tax fraud scheme. Miller operated Freedom Education Center, a business that sold anti-tax literature and helped people create bogus trusts. In September 2006, Miller pleaded guilty to conspiring with four First Mountain Bank employees to defraud the United States. The bank employees allowed customers of Freedom Education Center to open trust bank accounts without providing tax identification numbers. The court will sentence the remaining defendants in late January 2007.

### **Abusive Promotions**

The Division also prosecutes persons who promote or use fraudulent tax shelters and other schemes to evade taxes and hide assets. The number of taxpayers who use these schemes to improperly reduce, or totally evade, their federal income tax liabilities has increased significantly in recent years. One type of scheme involves the use of domestic or foreign trusts to evade taxes. Promoters of these schemes, often using the Internet, aggressively market trusts by employing 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 creditors, including the IRS), these promoters are in fact helping taxpayers to fraudulently assign income and conceal their ownership of income-producing assets in order to evade paying taxes.

In *United States v. Jeffrey Stein, et al.* (S.D.N.Y.), eighteen former officers and associates of the Big-Four accounting firm KPMG and a former tax partner of a national law firm are charged with conspiracy to defraud the United States, tax evasion and obstruction of the internal revenue laws arising out of illegal tax shelters that KPMG and others designed, marketed and implemented. The shelters allegedly generated at least \$11 billion in fraudulent tax losses and resulted in at least \$2.5 billion in tax evaded by wealthy individuals. In late March 2006, former KPMG partner David Rivkin pleaded guilty to conspiracy and tax evasion charges. On December 21, 2006, Utah businessman Chandler S. Moisen pleaded guilty to conspiracy and wire fraud charges in connection with this case. Trial is scheduled to begin in September 2007.

In *United States v. Michael A. Vallone, et al.* (N.D. Ill.), nine defendants are charged with participating in a nearly decade long conspiracy to market and sell sham domestic and foreign trusts through "The Aegis Company." The defendants marketed the scheme to more than 600 wealthy taxpayer clients throughout the United States to hide hundreds of millions of dollars in income, resulting in a tax loss to the United States of at least \$68 million. Trial is scheduled to begin in February 2007.

In *United States v. Mitchell R. Graham, et al.* (S.D. Ohio), six defendants are charged with promoting sham Aegis Company trusts to 220 clients that resulted in a \$20 million tax loss to the federal Treasury. During the course of the scheme, the defendants prepared fraudulent tax returns that concealed clients' income from the IRS. Trial is expected to begin in late 2007.

### **Tax Charges Arising from Illegal Source Income**

Tax Division attorneys also play significant roles in investigating and prosecuting tax violations committed in the course of other criminal conduct. Where the tax charges arise from the evasion of taxes on income from illegal sources, tax charges provide a valuable complement to charges for the underlying criminal activity. One area where this frequently occurs is narcotics trafficking cases generated by the Organized Crime and Drug Enforcement Task Force (OCDETF) program, which the Tax Division continues to actively support. Tax Division attorneys also fight against international terrorism, and actively litigate tax charges related to health care fraud, securities fraud, public corruption and money laundering.

In *United States v. Frank Aaron Adams, et al.* (N.D. Ohio), a federal judge sentenced seven defendants in a massive narcotics distribution ring to prison terms ranging from 36 months to 324 months. Earlier, the government secured a 42-count indictment and guilty pleas from the defendants who participated in a large-scale drug conspiracy that involved the distribution of more than 150 kilograms of powder cocaine in the Cleveland area.

In *United States v. Ira W. Gentry, Jr., et al.* (D. Ariz.), a federal grand jury in Phoenix returned a 59-count indictment charging Ira W. Gentry, Jr. and Randy W. Jenkins with conspiracy, securities fraud, tax evasion, wire fraud and money laundering. The charges stem from an elaborate scheme to defraud UniDyn Corporation's investors, the Securities and Exchange Commission and the IRS that took place from December 1997 through April 2003. Gentry is the former CEO of UniDyn and Jenkins is a disbarred attorney. Together, the defendants conspired to secretly acquire approximately 20 million shares of UniDyn stock and then artificially inflated the value of the stock through false SEC filings, the

filing of false corporate income tax returns, and issuing false and misleading press releases. The defendants allegedly sold stock for over \$8 million. Trial is scheduled to begin in June 2007.

In *United States v. John Lipton, et al.* (C.D. Cal.), nine people are charged with conspiracy, fraud, money-laundering and tax charges in connection with an \$80 million offshore investment scheme. The defendants promoted a Ponzi scheme inducing hundreds of victims to invest millions of dollars in a fraudulent offshore fund that claimed to invest money in highly profitable foreign currency trading. Trial is scheduled to begin in June 2007.

### **Enforcing the United States' Tax Laws in Today's Global Economy**

Americans' abuse of foreign tax havens is on the rise. Increased technical sophistication of financial instruments and the widespread use of the Internet have made it easy to instantly move money in and out of the United States, around the world, irrespective of national borders. Usage of tax havens facilitates evasion of U.S. taxes and the commission of related financial crimes.

Offshore tax schemes are often difficult to detect and prosecute. The countries whose banks are used in such schemes usually have strict bank secrecy laws and will not, or cannot, provide assistance to investigators for the United States. Sophisticated criminals may also use non-traditional tax haven countries, such as Latvia or Germany, attempting to confuse the U.S. government and hide their crimes.

On December 14, 2006, in *United States v. Robert Bedford* (D. Colo.), a jury convicted the defendant for conspiring to defraud the United States in connection with a tax fraud scheme he promoted with Paul Harris and Lester Retherford through an organization they called Tower Executive Resources. In 2005, a federal jury convicted Harris and Retherford of conspiring to defraud the United States, but deadlocked as to Bedford. The evidence at the re-trial showed that Bedford provided legal and tax advice to his co-conspirators on how to circumvent IRS regulations and how to create false documents designed to conceal the transfer of approximately \$4 million of unreported income into secret offshore accounts. Harris and Retherford are currently serving prison terms of 66 months and 48 months, respectively.

In *United States v. Daniel P. Andersen, et al.* (W.D. Wash.), five defendants are charged with operating a multi-level marketing program through an entity named "The Institute for Global Prosperity" that promoted tax evasion schemes to thousands of customers through audio tapes and offshore seminars. The defendants concealed more than \$40 million in revenue from the scheme using offshore nominee entities and offshore bank accounts. Four defendants have pleaded guilty to felony tax charges, including the two co-founders of Global Prosperity. The remaining defendant in this case, Global Prosperity co-founder David Struckman, fled to Panama. In early 2006, after months of searching, Panamanian officials arrested Struckman, expelled him from Panama, and accompanied him to the United States. Struckman is being detained pending trial, which is scheduled to begin in March 2007.

In *United States v. Evanson, et al.* (D. Utah), six professionals (two attorneys, two CPAs, an accountant and an investment broker) are charged with conspiracy, fraud and tax charges in connection with promoting a tax fraud scheme that cost the federal Treasury over \$20 million in taxes. The defendants' scheme used, among other things, offshore entities, offshore bank accounts and the services

of offshore nominees to create bogus expense and capital loss deductions for their clients. Trial is scheduled to begin in April 2007.

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

The Tax Division provides advice and assistance to United States attorneys and IRS agents seeking information and assistance from other countries for both civil and criminal investigations and cases. Recently, the Division provided advice and assistance to attorneys and agents seeking information from numerous countries, including Finland, Sweden, Germany, Israel, Canada, the Cayman Islands, the Netherlands Antilles, Brazil, Panama, Venezuela, the United Kingdom, Ireland, and Switzerland.

The Tax Division also works to increase cooperation with foreign nations, recognizing that reciprocal engagements ultimately further the Division's mission. For example, the Division recently met with representatives of the Australian Federal Police to respond to their request for advice and assistance in conducting multi-agency investigations into numerous tax avoidance and money-laundering schemes, some of which may prove of interest to U.S. law enforcement. The Division has also responded to inquiries from the Embassy of Japan concerning various aspects of our income tax laws.

The Division is assisting the Treasury Department to set its priorities with regard to Tax Information Exchange Agreements (TIEA) and Double Taxation Conventions. The Division assisted the Treasury Department with the negotiation of a TIEA with Brazil. The Division also helped the Treasury Department in its negotiations on tax treaties with Malta, Belgium, and Bulgaria and will soon assist Treasury in its negotiations on a tax treaty with Poland. The Division is assisting the Internal Revenue Service and the Treasury Department in developing a new model TIEA. The Division also participated in informal discussions about a TIEA with Liechtenstein and a tax treaty with Singapore. Notably, after years of negotiations in which the Tax Division assisted, important TIEAs with tax haven countries finally went into effect in the Cayman Islands, Jersey, Guernsey, the Isle of Man, and the British Virgin Islands. The Division helped the Internal Revenue Service with the drafting of an administrative agreement to implement the terms of the TIEA that recently went into effect with the Cayman Islands.

The Division also provides active assistance to the Financial Action Task Force (FATF) and the Forum on Harmful Tax Practices sponsored by the Organization for Economic Cooperation and Development (OECD) to combat money laundering, the financing of terrorism, and international tax evasion. The Division provided significant assistance to the interagency group tasked with responding to the FATF evaluation of the United States' anti-money laundering and counter terrorist financing regime. The Division is currently participating in an interagency task force created to address the issues raised by the increased use of Limited Liability Companies (LLCs) formed in the United States to commit serious financial crimes. The Tax Division also helps teach international training programs to improve other countries' tax administration and enforcement programs, and seeks to foster international cooperation in tax, money laundering, and counter terrorist financing matters. For example, the Division participated in the recent Symposium on International Economic Crime at Cambridge University and has become a regular participant in the International Law Enforcement Academy for Latin America.

## c) CIVIL TAX APPEALS

The Tax Division represents the United States in all appeals involving federal tax statutes in the United States circuit courts and their state government equivalents (except for appeals from the Southern District of New York). The Division's appellate section 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, and by preparing drafts of *amicus curiae* briefs when the Supreme Court has called for the Government's views in tax-related cases in which the United States is not a party. The Division also 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. Vigorous review of these cases not only ensures that Department resources are spent wisely on only the most 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.

The Tax Division has established an impressive record in the appellate courts. For FY 2006, the Tax Division prevailed, in whole or in part, in 97% of the appeals in which it was defending a favorable lower court decision, and in 78% of the appeals in which it was urging reversal.

The following cases illustrate the Division's recent appellate work:

### **Court rejects tax shelter involving foreign banks – TIFD III-E, Inc. (Castle Harbour) v. United States (Second Circuit)**

Reversing an adverse district court judgment, the Second Circuit held that the IRS properly imposed \$62 million in additional income taxes against a subsidiary of General Electric Capital Corporation, which had entered into a questionable partnership agreement with two Dutch banks. The court determined that the foreign banks were lenders, rather than equity partners, and that the partnership's income should be allocated to the U.S. taxpayer.

### **Adverse judgment reversed in significant “contingent liability” tax shelter case – Coltec Industries, Inc. v. United States (Federal Circuit)**

The Federal Circuit rejected the taxpayer's attempt to create a \$375 million tax loss via a property-for-stock exchange with one of its subsidiaries. Reaffirming the principle that transactions that lack economic substance will be disregarded for tax purposes, the court of appeals held that the taxpayer's transaction with its subsidiary served no useful economic purpose other than tax avoidance.

### **Adverse judgment reversed in “corporate owned life insurance” tax shelter case – Dow Chemical Co. v. United States (Sixth Circuit)**

Dow Chemical purchased life insurance policies on the lives of many of its employees, and it paid for the premiums, to a large extent, by borrowing from the insurers and using the cash value of the policies as collateral. For the years 1989 to 1991, Dow Chemical claimed tax deductions of more than \$33 million for interest on the loans. The Sixth Circuit disallowed the deductions, determining that the

life insurance plans were economic shams because without the benefit of the claimed interest deductions the plans would generate negative cash flows.

**Courts affirm injunctions and enforce summonses against tax-scam promoters –*U.S. v. Saladino* (Ninth Circuit); *Schulz v. United States* (Second Circuit)**

The Ninth Circuit affirmed a lower court injunction against tax avoidance scheme promoter Joseph Saladino, who had his clients drop out of the tax system by becoming private churches or by invoking fictitious constitutional and common-law rights to exclude their compensation from income. The Second Circuit affirmed a decision dismissing the petition by tax scam promoter Robert Schulz to quash IRS summonses issued to gather information about Schulz and his organization, We the People. Among other things, Schulz promotes a “de-taxation package” that promises to “remove individuals from the Federal tax system.”

**Government wins significant accounting method case – *JP Morgan Chase & Co. v. Commissioner* (Seventh Circuit)**

In the first appellate decision concerning the “mark-to-market” rules of § 475 of the Internal Revenue Code, the Seventh Circuit held that the Tax Court had properly rejected the taxpayer’s valuation of its financial derivatives, but remanded the case because the Tax Court had failed to give sufficient deference to the Commissioner’s valuation.

**Family Limited Partnership cannot be established merely to reduce estate tax – *Korby v. Commissioner* (Eighth Circuit)**

The Eighth Circuit held that a family limited partnership that served no substantial non-tax purpose did reduce the value of an estate for tax purposes.

**Taxpayer recognized gain when he exercised high-tech stock options in 1999, not when stock was later sold at much lower price – *United States v. Tuff* (Ninth Circuit)**

Tuff, an employee of a high-tech company, exercised several stock options during 1999 using funds borrowed from his stockbroker, who ultimately sold the stock at a lower price. The Ninth Circuit rejected Tuff’s argument that because he had exercised the options using borrowed funds, he should recognize income when the stock was sold (at a low price), rather than when the option was exercised (at a much higher price).



## 2. Performance Tables

| PERFORMANCE AND RESOURCES TABLE  |   |                       |          |                    |          |          |          |  |          |  |          |
|--|---|-----------------------|----------|--------------------|----------|----------|----------|--|----------|--|----------|
| Tax Division   |   |                       |          |                    |          |          |          |  |          |  |          |
| Salaries and Expenses  |   |                       |          |                    |          |          |          |  |          |  |          |
| (Dollars in Thousands)   |   |                       |          |                    |          |          |          |  |          |  |          |
| Decision Unit/Program: GENERAL TAX MATTERS   |   |                       |          |                    |          |          |          |  |          |  |          |
| DOJ Strategic Goal/Objective: Objective 2.5: Enforce Federal Statutes, Uphold the Rule of Law, and Vigorously Represent the Interest of the United States in all Matters for which the Department has Jurisdiction.  |   |                       |          |                    |          |          |          |  |          |  |          |
| WORKLOAD/RESOURCES   |   |                       |          |                    |          |          |          |  |          |  |          |
|  |   | Final Target          |          | Actual Obligations |          | Estimate |          | Changes  |          | Requested (Total)  |          |
| Workload:  |   | FY 2006               |          | FY 2006            |          | FY 2007  |          | Current Services Adjustments and FY 2008 Program Changes |          | FY 2008 Request  |          |
| CRIMINAL   | 1. Number of Cases received from the IRS and USAO for authorization and review                      |                       | 1,074    |                    | 1,074    |          | 1,074    |  |          |  | 1,247    |
| Average Number of Significant Litigation Activities per Attorney-Work Year   |   |                       |          |                    |          |          |          |  |          |  |          |
| CIVIL  | 1. Average Number of Briefs, Written Pleadings, etc.  |                       | 96       |                    | 108.2    |          | 96       |  | 0        |  | 96       |
|  | 2. Average Number of Trials, Arguments, other Hearings per Atty. Work Year                          |                       | 15       |                    | 15.5     |          | 15       |  | 0        |  | 15       |
|  | 3. Average Number of Appellate Cases Received   |                       | 500      |                    | 482      |          | 500      |  | 0        |  | 500      |
| Total Costs & FTE's *  |   | FTE                   | \$000    | FTE                | \$000    | FTE      | \$000    | FTE  | \$000    | FTE  | \$000    |
| [Brackets indicate reimbursement amount for OCDEF - not included in shown total]   |   | 526                   | \$80,507 | 481                | \$79,878 | 531      | \$82,621 | 52   | \$12,057 | 583  | \$94,678 |
|  |   | [8]                   | [\$971]  | [4]                | [\$717]  | [8]      | [\$621]  |  | [\$362]  | [8]  | [\$983]  |
| TYPE/ Strategic Objective  |   | PERFORMANCE/RESOURCES |          | FY 2006            |          | FY 2006  |          | FY 2007  |          | Current Services Adjustments and FY 2008 Program Changes |          |
| Program Activity   | CRIMINAL PROSECUTION & APPEALS - Total Costs & FTE  | FTE                   | \$000    | FTE                | \$000    | FTE      | \$000    | FTE  | \$000    | FTE  | \$000    |
|  |   | 148                   | \$20,997 | 121                | \$19,782 | 146      | \$21,519 | 13   | \$3,343  | 159  | \$24,862 |
| Output   | 1. Number of Investigations Authorized  |                       | n/a      |                    | 664      |          | n/a      |  | n/a      |  | n/a      |
| Output   | 2. Number of Prosecutions Authorized  |                       | n/a      |                    | 1,180    |          | n/a      |  | n/a      |  | n/a      |
| Outcome  | 3. Success Rate for Criminal Tax Cases Handled by the Division                                      |                       | 95%      |                    | 97%      |          | 97%      |  | 0%       |  | 97%      |
| Program Activity   | CIVIL LITIGATION & APPEALS - Total Costs & FTE  | FTE                   | \$000    | FTE                | \$000    | FTE      | \$000    | FTE  | \$000    | FTE  | \$000    |
| Outcome  | 1. Civil Cases Successfully Litigated in the Trial Courts   |                       | 90%      |                    | 97%      |          | 90%      |  | 0%       |  | 90%      |
| Outcome  | 2. Civil Cases Successfully Litigated - Taxpayer Appeals  |                       | 85%      |                    | 97%      |          | 85%      |  | 0%       |  | 85%      |
| Outcome  | 3. Civil Cases Successfully Litigated - Government and Cross Appeals                                |                       | 60%      |                    | 78%      |          | 60%      |  | 0%       |  | 60%      |
| Outcome  | 4. Tax Dollars Collected and Retained by Court Action and Settlement (\$ in millions) **            |                       | n/a      |                    | 878,066  |          | n/a      |  | n/a      |  | n/a      |
| EFFICIENCY MEASURE   |   |                       |          |                    |          |          |          |  |          |  |          |
|  | 1. Increase the average # of significant civil litigation activities per one civil attorney FTE *** |                       | Target   |                    | Target   |          | Target   |  |          |  | Target   |
|  |   |                       | 113.29   |                    | 123.66   |          | 114.29   |  |          |  | 114.29   |
| Data Definition, Validation, Verification, and Limitations:  |   |                       |          |                    |          |          |          |  |          |  |          |
| * Consolidated decision units (from 4 decision units to 1), with 2 program activities criminal and civil that each include appellate functions and a proration of M&A.   |   |                       |          |                    |          |          |          |  |          |  |          |
| ** Actuals based on activities through September 30, 2006; excludes IRS cases not yet referred, deterrent effect on other taxpayers, and amounts subsequently collected by the IRS administratively.   |   |                       |          |                    |          |          |          |  |          |  |          |
| *** Tax will realize an efficiency when more activities are completed compared to the number of FTE it takes to perform the activities. "Significant Activities" are actions taken by attorneys to advance the litigation of a particular case, including court filings, trials, hearings, memoranda, depositions, written discovery, court-ordered conferences, and alternative dispute resolution. |   |                       |          |                    |          |          |          |  |          |  |          |

## Performance Tables

| Tax Division                                    |   |         |         |           |         |         |           |         |         |         |
|---|---|---------|---------|-----------|---------|---------|-----------|---------|---------|---------|
| PERFORMANCE MEASURE TABLE                       |   |         |         |           |         |         |           |         |         |         |
| Decision Unit: GENERAL TAX MATTERS              |   |         |         |           |         |         |           |         |         |         |
| Performance Report and Performance Plan Targets |   | FY 2000 | FY 2001 | FY 2002   | FY 2003 | FY 2004 | FY 2005   | FY 2006 | FY 2007 | FY 2008 |
|   |   | Actual  | Actual  | Actual    | Actual  | Actual  | Actual    | Actual  | Target  | Target  |
| Program Activity                                | <b>CRIMINAL PROSECUTION &amp; APPEALS</b>   |         |         |           |         |         |           |         |         |         |
| Output  | 1. Number of Investigations Authorized  | 523     | 489     | 628       | 655     | 568     | 628       | 664     | n/a     | n/a     |
| Output  | 2. Number of Prosecutions Authorized  | 881     | 877     | 967       | 1,130   | 1,381   | 1,274     | 1,180   | n/a     | n/a     |
| Outcome   | 3. Success Rate for Criminal Tax Cases Handled by the Division                                  | 97%     | 98%     | 99%       | 96%     | 95%     | 98%       | 97%     | 97%     | 97%     |
| Program Activity                                | <b>CIVIL LITIGATION &amp; APPEALS</b>   |         |         |           |         |         |           |         |         |         |
| Outcome   | 1. Civil Cases Successfully Litigated in the Trial Courts                                       | 96%     | 96%     | 96%       | 95%     | 95%     | 96%       | 96%     | 90%     | 90%     |
| Outcome   | 2. Civil Cases Successfully Litigated - Taxpayer Appeals  | 64%     | 89%     | 97%       | 93%     | 97%     | 95%       | 97%     | 85%     | 85%     |
| Outcome   | 3. Civil Cases Successfully Litigated - Government and Cross Appeals                            | 66%     | 66%     | 72%       | 67%     | 78%     | 70%       | 78%     | 60%     | 60%     |
| Outcome   | 4. Tax Dollars Collected and Retained by Court Action and Settlement (\$ in millions)           | \$221.1 | \$815.2 | \$1,335.5 | \$866.2 | \$728.0 | \$1,500.0 | \$878.1 | n/a     | n/a     |
| <b>EFFICIENCY MEASURE</b>                       |   |         |         |           |         |         |           |         |         |         |
|   | 1. Increase the average # of significant civil litigation activities per one civil attorney FTE |         |         |           |         | 111.29  | 116.68    | 123.66  | 114.29  | 114.29  |

### 3. Performance, Resources, and Strategies

**Strategic Objective 2.5: Enforce Federal Statutes, Uphold the Rule of Law, and Vigorously Represent the Interests of the United States in all Matters for which the Department Has Jurisdiction**

#### Resources by Strategic Goal/Objective

##### **Background/Program Objectives**

The Department strives to enforce the federal tax laws consistently and impartially, and to assure that taxpayers are treated fairly. The Department's Tax Division works closely with the Internal Revenue Service, which is responsible for 95% of the revenue collected by the federal government annually. In one way or another, almost all of the Tax Division's activities are designed to help close the yearly Tax Gap—the difference between tax owed and tax collected, estimated at over \$345 billion per year. Those activities consist principally of: enforcement of the nation's criminal tax laws; representation of the United States in federal civil tax litigation in all state and federal trial courts (except the United States Tax Court); and representation of the United States in all federal civil tax litigation in the federal circuit courts of appeals and in the state appellate courts.

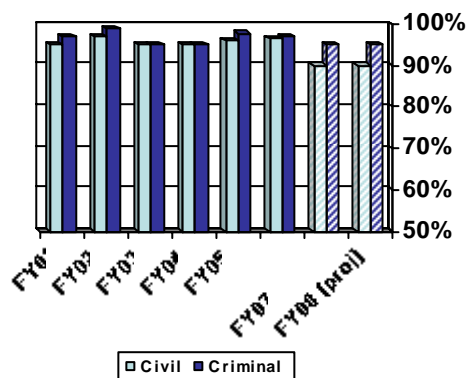
The Tax Division's criminal enforcement objective is to vigorously and consistently enforce the criminal tax laws in order to punish offenders, deter future violations and reassure honest taxpayers that they will not bear an undue share of the federal tax burden. Each year, noncompliance with the federal tax laws costs the government hundreds of billions of dollars. The Tax Division, either on its own or in concert with USAOs, prosecutes a wide variety of tax crimes, including: tax evasion on income earned through legal sources; tax evasion using domestic trusts and other abusive tax shelters; defrauding the IRS by promoting frivolous "tax protest" theories; secreting assets in foreign countries to evade tax liability; and tax violations with respect to proceeds of drug violations or fraud. The Tax Division accomplishes this goal by evaluating the evidence and legal theories of proposed criminal tax prosecutions and by assisting the USAOs and the IRS in the investigation and prosecution of criminal tax cases. In addition, the Tax Division provides assistance in treaty negotiations and foreign evidence gathering in criminal tax matters.

The Tax Division's evaluation of the evidence and legal theories of criminal prosecution referrals ensures that they comply with federal criminal tax enforcement standards, and that those standards are enforced uniformly across the country. The Division reviews criminal charges found in the Internal Revenue Code as well as applicable offenses found in Titles 18, 21, and 31 of the United States Code. Additionally, the examination enables the Division to provide critical guidance to the USAOs about complex substantive and procedural federal tax issues, challenges presented by the use of indirect methods of proof, and unique evidentiary and sentencing issues that arise in criminal tax cases. The number of prosecutions authorized by the Tax Division continues to rise after a decade of decline, and the rate of convictions in criminal tax trials remains high, advancing the Tax Division's goal of fostering general deterrence.

The Tax Division also takes primary responsibility for a substantial number of criminal tax investigations and prosecutions, generally at the request of USAOs. The USAOs request assistance for a variety of reasons including lack of expertise required to prosecute a particular case. The Tax

Division also directly litigates cases with significant regional or national significance. The cases range from illegal tax scams to complex white collar fraud cases. Some cases involve illegal international business transactions, complex tax issues, and foreign evidence-gathering problems. The Tax Division focuses its efforts on the prosecution of legal source income cases, wherein the violation involves income that is legally earned, as opposed to income derived from illegal conduct. Legal source income prosecutions have a significant deterrent impact, because most taxpayers earn their income from legal sources. Tax charges also may be used in prosecutions related to corporate fraud, terrorist financing, drug enforcement, and public corruption.

### Cases Favorably Resolved (TAX)



FY07 and FY08 data are projected.

**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 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 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 Tax Division's civil trial work covers a broad spectrum of litigation in the federal district and bankruptcy courts, the United States Court of Federal Claims, and the state courts. This work has profound effects on tax administration. Decisions in the Tax Division's civil cases create precedents that can govern millions of taxpayers. One favorable decision can resonate far beyond the parties directly involved, and lead to billions of dollars in additional tax collections.

Much of the Division's civil caseload involves defending the United States in litigation brought by others, including: tax refund suits challenging the IRS's determination of federal tax liabilities; bankruptcy litigation raising issues concerning the validity, dischargeability, and priority of federal tax claims and the feasibility of business reorganizations; damages suits stemming from tax assessment or collection activity by IRS and other Government officials; and suits against the IRS under the Freedom of Information and Privacy Acts.

The Tax Division also represents the United States as plaintiff in a panoply of actions vital to efficient tax administration and effective tax enforcement, including: suits to collect unpaid taxes; suits to enforce IRS administrative summonses seeking information essential to determine and collect federal tax liabilities; suits to enforce tax liens and IRS levies,

including suits to set aside fraudulent conveyances and to enforce tax liens on assets held by nominees or alter egos; and suits to establish the immunity of the federal government and its instrumentalities from state and local taxes.

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

**FY 2006 Target:** 90% for Civil Trial and 95% for Criminal.

**FY 2006 Actual:** 97% for Civil Trial and 97% for Criminal.

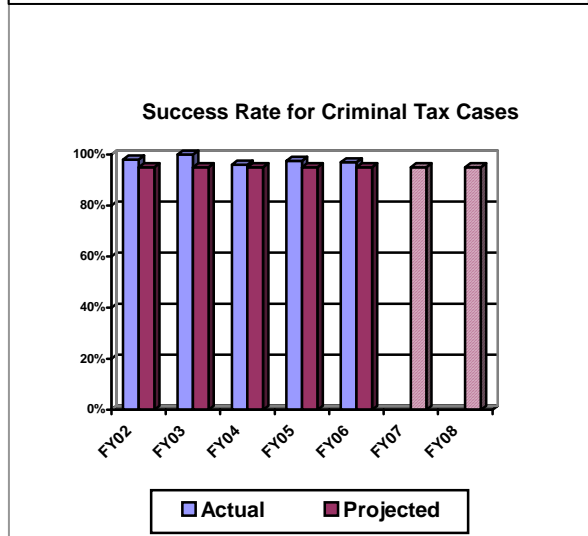
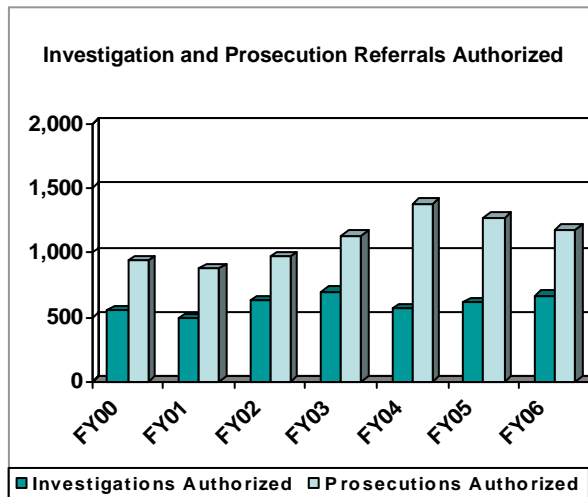
**Discussion of Accomplishments:**

As illustrated in the Performance and Resources Table (page 23), the overarching performance measure for this decision unit is favorable resolution of all cases. The Department of Justice strategic plan sets goals for the litigating components: 90% of criminal cases favorably resolved Department-wide and 80% of civil cases favorably resolved Department-wide. 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 2006, the Tax Division won favorable outcomes in 96% of all civil and 97% of all criminal cases litigated by the Tax Division, including non-tax cases.

The Tax Division also measures the number of authorized investigation and prosecution referrals in criminal cases; and the collection and retention of tax moneys. The Department did not establish a target level in FY 2006 for the number of authorized investigations and prosecution referrals in criminal cases. However, in FY 2006, the Division authorized 664 grand jury investigations and 1,180 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 2007 or FY 2008 performance goal for authorized investigations and prosecutions.

As noted above, the Tax Division assumes responsibility for some cases at the request of the USAOs, multi-jurisdictional investigations and prosecutions, and cases with significant regional or national importance. Although many such cases are difficult to prosecute, the Division has maintained a conviction rate at or greater than 95%. In FY 2006, the Division’s conviction rate was 97% in tax cases.

During FY 2006, the conviction rate was 97%. For FY 2007 and FY 2008, the Tax Division has established a goal of 95%. While the Tax Division is very proud of its conviction rate, the



**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 recently revised the complement of indicators that are tracked.

**Data Validation and Verification:** There are new procedures to collect and record pertinent data, enabling Section Chiefs to make projections and set goals based on complete, accurate and relevant statistics. On a quarterly basis, the GPRC Committee reviews all the statistics.

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

emphasis is on uniform and fair enforcement of the tax laws.

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. In FY 2006, the Division won the following percentages of cases decided:

- Trial Courts – 96%
- Taxpayer Appeals – 97%
- Government and Cross Appeals - 78%

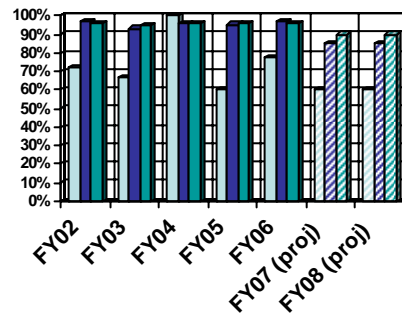
We anticipate that maintaining this level of success will result in legal precedent that provides taxpayers, including individuals, businesses and industries, with guidance regarding their tax obligations; the collection of significant tax revenues; and the protection of the government against unfounded taxpayer claims.

For FY 2007 and FY 2008, the Tax Division anticipates successful outcomes in the following percentages of cases handled:

- Trial Courts – 90%
- Taxpayer Appeals – 85%
- Government and Cross Appeals – 60%

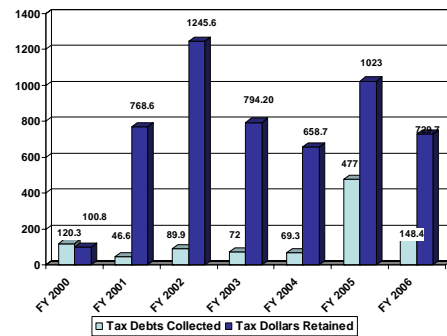
The Tax Division collects substantial amounts for the federal government in affirmative litigation and retains even more substantial amounts in defensive tax refund and other litigation. For FY 2006, the Division collected \$148.4 million and retained \$729.7 million. In addition, its litigation affects the revenue at issue in many cases being handled administratively by the IRS. This substantial financial impact is a consequence of the Division’s consistent and impartial enforcement of the tax laws. In accordance with Department guidance, targeted levels of performance are not projected for this indicator. The Department does not measure the revenue effect of its litigation on IRS cases or its effect on fostering overall compliance with the tax laws.

### Civil Cases Successfully Litigated [TAX]



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

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



**Data Definition:** A **decision** is the resolution of a claim through judgment or other court order. Each decision is classified as a Government win, partial win, or taxpayer win; for this report, success occurs if the Government wins in whole or in part. Appellate cases are classified as Taxpayer Appeals, Government Appeals, or Cross Appeals. The number of Government or Cross Appeals is generally less than 10% of the number of taxpayer appeals. **Tax Debts Collected** represents dollars collected by the Tax Division and by the Internal Revenue Service 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.

## **Strategies to Achieve the FY 2007/FY 2008 Goal:**

In addition to its continuing work enforcing civil tax laws and prosecuting a wide variety of tax crimes, the Division has launched a series of new initiatives to deter noncompliance and reassure law-abiding taxpayers who pay the taxes the law requires of them. With its existing resources and the new resources requested for FY 2007 and FY 2008, the Division will concentrate on curtailing the activity of promoters, enablers and tax professionals (including return preparers, accountants and lawyers) who help others to avoid taxes illegally by (1) promoting tax fraud schemes; (2) devising and promoting abusive tax shelters for corporations and wealthy individuals; and/or (3) publicly advocating defiance of the tax laws on frivolous or false grounds.

### **Civil Litigation**

The Tax Division's primary civil strategy to reduce the Tax Gap is to litigate, both defensively and affirmatively, federal civil tax cases filed by and against taxpayers in the federal courts. Through this litigation, the Division sees that the tax laws are properly enforced, often targeting particularly acute tax enforcement problems that threaten to seriously undermine tax administration.

The Tax Division defends the Federal Treasury against tax refund claims arising from the complex and abusive corporate and individual tax shelters that are estimated to cost the Treasury \$10 billion or more annually. Each of these cases generally involve millions of dollars, and their outcomes affect similarly situated taxpayers with amounts at issue totaling billions of dollars.

The IRS received significant additional funding for enforcement efforts in FY 2005 and FY 2006, a large portion of which is dedicated to challenging abusive tax shelters. In addition to stepping up audits and investigations, the IRS is increasing its use of "settlement initiatives," under which the IRS publicly states the terms to which it would agree to resolve disputes concerning the taxes (and penalties and interest) owing as a result of specific abusive transactions. Tax Division litigation directly supports the effectiveness of IRS settlement initiatives. Its summons enforcement litigation has required shelter promoters to turn over customer lists and transaction documents, permitting the IRS to identify shelter participants who otherwise might evade detection. In addition, the Division's litigation challenging the merits of abusive tax shelters allows the IRS to assert the credible threat that shelter participants will lose in court, which encourages them to settle.

The Division also has renewed efforts to target fraudulent tax schemes and those who create and promote them. The Division has obtained numerous injunctions against promoters of such schemes and has obtained enforcement of IRS administrative summonses seeking information and documents about the schemes, their promoters and participants. During the last several years, the Division sued to enjoin dozens of tax-scheme promoters—who cost the Treasury billions of dollars each year by pushing bogus tax advice (*e.g.*, tax credits for slavery reparations; claims that income earned within the United States was not subject to federal taxation) over the Internet and in the media—and has obtained court orders shutting down several multimillion-dollar schemes.

The Tax Division also deals with the fallout from abusive promotions, defending the Government in the hundreds of new cases brought each year that involve frivolous tax-protest claims—many of them the same claims targeted through the Division's injunction suits. Vigorous and successful defense of these cases is essential to preserve public confidence in the tax system



and to assure that honest taxpayers are not discouraged from voluntarily paying their taxes by the perception that those who engage in illegal tax-protest activity have “gotten away with it.” The Division works closely with the IRS to identify holders of bank accounts in offshore, tax haven countries that are used to evade taxes, thus facilitating the prosecution of account-holders who have committed U.S. tax law violations. As part of an IRS initiative, the Tax Division has obtained court orders allowing the IRS to identify U.S. taxpayers who use credit cards issued by offshore banks in tax haven countries by obtaining data from major credit card companies, companies that process credit card transactions and merchants and retailers where the credit cards were used. The Division is also handling collection and other enforcement actions against taxpayers identified through the initiative.

The Tax Division frequently files suits to collect revenue, deter illegal activity, and address systematic non-compliance with the tax laws, including suits: (1) to reduce to judgment tax, penalty, and interest assessments made by the IRS; (2) to void fraudulent transfers made by delinquent taxpayers to place their assets out of the reach of the IRS; and (3) to enforce federal tax liens on these and other assets. The Division also represents the Government in more complex, tax-related bankruptcy matters, many of which have significant collection potential.

The Tax Division also conducts defensive litigation vital to the protection of the IRS agents and officers engaged in tax assessment and collection activity. Specifically, the Division vigorously defends these agents and officers, and the government itself, against spurious damages suits arising out of that activity. Absent representation of the quality provided by the Division, these suits could cripple or seriously impair effective tax collection and enforcement.

As part of its representation of the government in the courts, 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.

### **Criminal Enforcement**

The Division’s criminal prosecution activity has matched the vigor of its civil litigation efforts, with a similar increased focus on abusive tax schemes and their promoters. The Division has obtained numerous convictions of promoters of large and complex schemes that were widely marketed. Several recent indictments of promoters illustrate the continuing commitment to resolving this growing problem. The schemes identified in these cases involve a variety of illegal practices, including the use of offshore accounts to evade taxes, the refusal by employers to pay withholding taxes on employee wages, bogus trust arrangements, and abusive tax shelters. Additionally, the Tax Division has redoubled its efforts to prosecute tax crime involving income from a legal source—such as the consultant who reports only part of his income, the restaurant owner who skims from the cash register, or the doctor who keeps two sets of bookkeeping records. The IRS estimates that hundreds of millions in tax revenue is lost yearly through the evasion of taxes on income from legal sources.

The Division also concentrates on several other areas of noncompliance. Every year, the Division prosecutes a number of illegal tax protestors who engage in tax evasion schemes and who harass IRS employees. It also investigates and prosecutes tax violations occurring in the course of



other criminal conduct, such as narcotics trafficking (supporting the Organized Crime and Drug Enforcement Task Force (OCDETF)), corporate fraud, securities fraud, bankruptcy fraud, health care fraud, organized crime, public corruption and terrorism. Representatives of the Tax Division are also liaison attorneys with the various regions of OCDETF, and are formal members of its policy-formation body.

### **Inter-Agency Cooperation**

The Tax Division contributes to the war on terrorism as a member of several task forces in conjunction with the Criminal Division and other Department components. In addition, through the President's Corporate Fraud Task Force chaired by the Deputy Attorney General, the Tax Division investigates and prosecutes corporate fraud. The Division also helps formulate national policies, programs, strategies and procedures in cooperation with other law enforcement components in a coordinated attack on financial crime.

In addition to providing tax advice to other Divisions and agencies, the Tax Division and IRS frequently consult on new and sensitive tax issues and litigation. For example, Tax Division attorneys regularly give training presentations to IRS revenue agents and other IRS personnel across the country to educate them on how to develop evidence that will support a suit to shut down a promotion at its source—the promoters and salesmen. These presentations have led to an increase in injunction suits filed by the Department to halt fraudulent tax promotions.

Finally, as part of its effort to stop abusive tax scheme promotions, the Division uses parallel civil and criminal proceedings. Select Tax Division personnel, through a joint IRS/DOJ task force, have explored the coordinated use of both civil and criminal tools to stop tax fraud. The task force prepared an extensive report and recommendation on this topic for the Tax Division's Assistant Attorney General and the Commissioner of Internal Revenue; the Division has already employed many of the techniques recommended.

### **Program Assessment Rating Tool (PART)**

The Division received a FY 2005 PART score of 85, which is deemed "effective" and is the highest level awarded by OMB. The Tax Division and other litigating components are taking three follow-up actions:

- (1) In FY 2006, the Department's Justice Management Division (JMD) offered a proposal to the Management and Planning Staff (MPS) and Office of the Inspector General (OIG) to perform an independent evaluation of the GLA components (GLAs). The proposal recommended that MPS perform initial background interviews in a manner consistent with OIG yellow book regulations. MPS would later hand off their preliminary research to OIG to review and offer their findings and recommendations. However, OIG was unable to include the GLA evaluation in its FY 2007 docket, and as a result, JMD and the GLAs are currently exploring other options to meet the PART follow-up action of "Performing an independent evaluation of the GLAs."
- (2) They are establishing leadership training and a mentoring program to continue improving the quality of program management. The Tax Division provides mentoring support to all new attorneys. Five Division employees participated in the Department's SES Career Development Program, which involved extensive training and mentoring by current SES employees. Of the five candidates, four completed the program and were certified in May 2006 as SES eligible (the fifth was selected for an SES position while in the program). The Division assessed leadership

competencies of all Division managers (through the 2006 skills assessment survey) and will be using that data to assess developmental needs and means of closing any skill gaps in those leadership competencies.

- (3) They are working jointly on a project led by JMD to develop a Case Management System with the objective of providing an efficient/effective means to track litigation handled by the Department. A contract was awarded in June 2006 and the project is in the planning and design phase. The Tax Division is actively participating in the requirements definition system design, and build phases for the Consolidated Debt Collection System, for which it is scheduled to be a pilot in the summer of 2007.

**Item Name: Operation Continued Follow-Through**

Budget Decision Unit: Tax Division

Strategic Goal & Objective: 2.5 Enforce federal statutes, uphold the rule of law, and vigorously represent the interests of the United States in all matters for which the Department has jurisdiction

Organizational Program: Tax Division

Program Increase: Positions - **71** FTE - **36** Dollars - **\$5,187,000**

**Description**

The Tax Division is requesting additional resources in support of “Operation Continued Follow-Through,” which seeks to carry on the tax enforcement efforts described in last year’s budget initiative termed “Operation Follow-Through.” The goal of Operation Continued Follow-Through is to provide additional resources for increased and more effective tax law enforcement, an established priority of this Administration and the Congress.

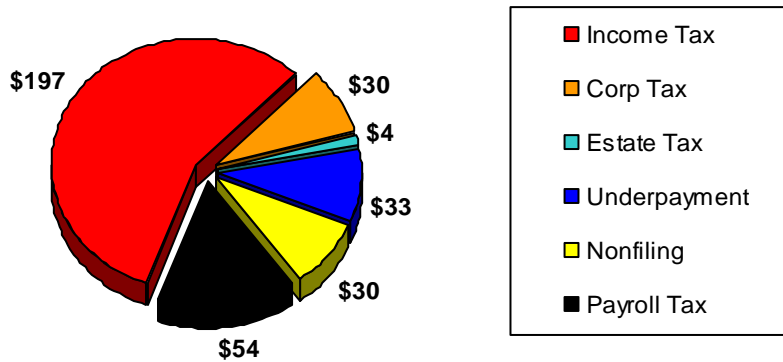
The Division’s activities help close the gap between taxes owed and taxes collected, estimated to be more than \$345 billion every year. Both the President and the Congress have recognized the huge importance of closing the Tax Gap by requesting and enacting, respectively, \$442 million in new funding for IRS tax enforcement efforts in FY 2006 and requesting \$137 million for FY 2007. These increases are producing and will continue to produce, significantly increased workload for the Tax Division. The accompanying charts and graphs were originally developed in the FY 2007 budget, and were intended to demonstrate that the Division was already feeling the workload pressure from the increased IRS enforcement efforts. The updated numbers in those charts and graphs one year later demonstrate their accuracy, and provide additional support and justification for the resources being requested in FY 2008.

The Division can provide justification for 103 attorneys and 39 support staff in support of this additional workload. Due to competing priorities within the Department, however, the Division is asking only for 52 attorneys and 19 support staff in FY 2008 to continue to follow through on the Administration’s priority commitment to increased tax enforcement and to help ensure that taxpayers pay the taxes the law requires.

Operation Continued Follow-Through seeks to handle the large influx of litigation resulting from the IRS’s significant expansion of enforcement activity and its efforts focusing on tax kingpins—those who promote or enable the illegal tax avoidance of others, including scam artists and unscrupulous accountants, lawyers and tax preparers.

The Division also seeks to advance the Administration’s goal of closing the Tax Gap. The Tax Gap is the difference between the amount of tax imposed on taxpayers for a given year and the amount that is paid voluntarily and timely. The IRS estimates (based on most recent data available), that the annual Tax Gap, before enforcement activity is at least **\$345 billion**.

## Gross Tax Gap ~ \$345 Billion



Part of the reason the Tax Gap exists is a decline during the 1990's in voluntary compliance with the tax laws. The IRS collects over \$2 trillion annually; only \$47 billion of this comes from enforcement activity. The balance, over \$1.96 trillion (or 98% of total collections) results from taxpayers' voluntary compliance with the tax law. Efforts of the IRS and the Tax Division over the last four years are beginning to have an effect on voluntary compliance. According to an annual survey commissioned by the IRS Oversight Board, nearly nine out of ten Americans (88%) feel that it is "not at all" acceptable to cheat on your income taxes, the highest level recorded since tracking began in 1999 and up two points from 2004. *See*, IRS Oversight Board, February 21, 2006, <http://www.treas.gov/irsob/releases/index.shtml>.

This renewed willingness to adhere to the tax laws results in part from the President's renewed focus on tax enforcement and additional resources already provided by Congress. In FY 2006, the IRS received an additional \$442 million for enforcement efforts. President Bush's FY 2007 budget request sought an additional \$137.3 million for IRS enforcement activities. A significant portion (\$264.6 million and 1,672 FTE) of the FY 2006 increase sought by the IRS was devoted to closing the Tax Gap through targeted enforcement efforts:

| IRS' Enforcement Budget Enhancements         | FY 2006 Enacted * |              | FY 2007 Requested** | Total Resources Enacted/Requested |              |
|--|-------------------|--------------|---------------------|-----------------------------------|--------------|
|  | \$(000's)         | FTE          | \$(000's)           | \$(000's)                         | FTE          |
| Corrosive Non-Compliance Driving the Tax Gap | \$148,211         | 920          | ---                 | \$148,211                         | 920          |
| Increase Individual Tax Payer Compliance     | \$37,523          | 417          | ---                 | \$37,523                          | 417          |
| Corrosive Corporate Non-Compliance           | \$51,285          | 236          | ---                 | \$51,285                          | 236          |
| Abusive Transactions                         | \$14,316          | 77           | ---                 | \$14,316                          | 77           |
| Fraudulent Refund Crimes                     | \$10,665          | 22           | ---                 | \$10,665                          | 22           |
| Pay & Non-Pay Inflationary Costs             | \$180,000         | ---          | \$137,275           | \$317,275                         | ---          |
| <b>Total Enhancements Enacted/Requested</b>  | <b>\$442,000</b>  | <b>1,672</b> | <b>\$137,275</b>    | <b>\$579,275</b>                  | <b>1,672</b> |

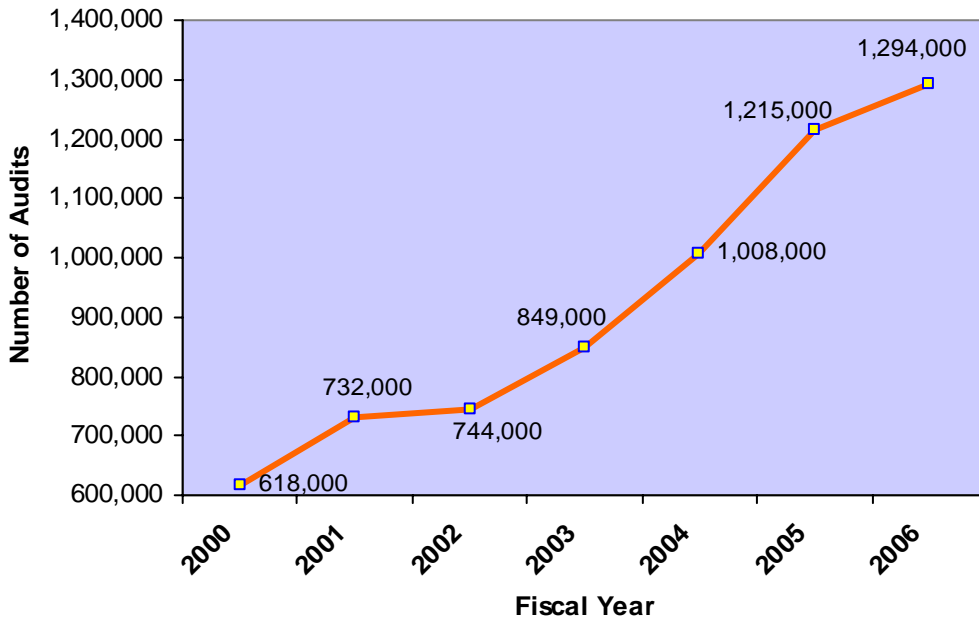
\* Source: IRS web-site - FY06 data was taken from the FY06 Budget in Brief. \*\* FY07 Enforcement Request is proposed by the Administration as a "Program Integrity Cap Adjustment"...IRS' tax enforcement program is one of four eligible programs under the cap adjustment exemption.

Commissioner Mark Everson, in testimony before the House Appropriations Committee's Subcommittee on Transportation, Treasury, and Housing and Urban Development, and the District of Columbia on March 29, 2006, spoke about how the IRS has made significant progress towards achieving its enforcement-related goals in FY 2005, demonstrating increases in every major area. The IRS has:

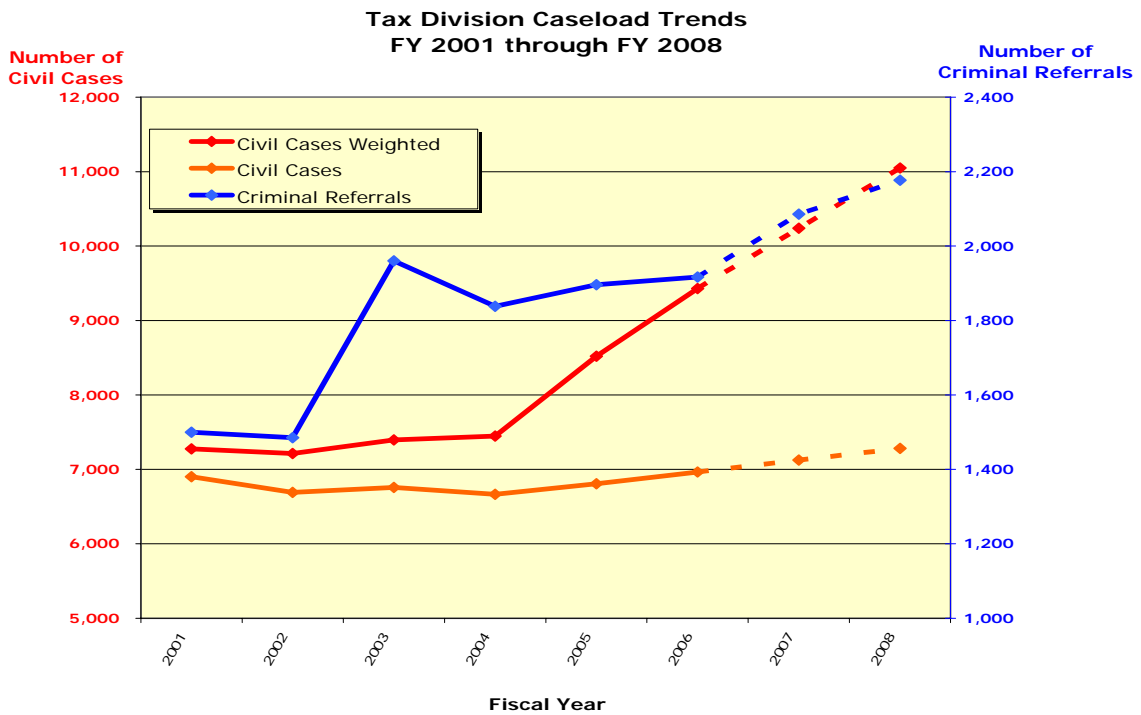
- Audited nearly 220,000 high income taxpayers, more than double the number audited in FY 2000;
- Audited 1.2 million individuals, a 20% increase over FY 2004;
- Audited nearly 5,000 businesses with assets over \$250 million, an increase of 11% over FY 2004.

The first chart (below) depicts the IRS's workload growth through FY 2006. The IRS received full funding support of its FY 2006 budget request, which focuses primarily on enforcement initiatives. The Tax Division is an integral part of the Administration's increased tax enforcement initiatives, resulting in ever-increasing workloads for the Division's attorneys. However, the additional resources in the IRS's FY 2006 and FY 2007 budget will have a direct impact on the Tax Division's workload in FY 2008 and thereafter, as additional cases and investigations are identified and readied for civil and criminal litigation and then referred to the Division. To handle this expected influx and properly support the Administration's priority on enhanced tax enforcement, funding the Tax Division's FY 2008 budget request is imperative. The second chart (below) depicts the climbing caseloads that the Tax Division must be prepared to handle.

## Internal Revenue Service increase in enforcement...



## ...driving Tax Division caseloads higher

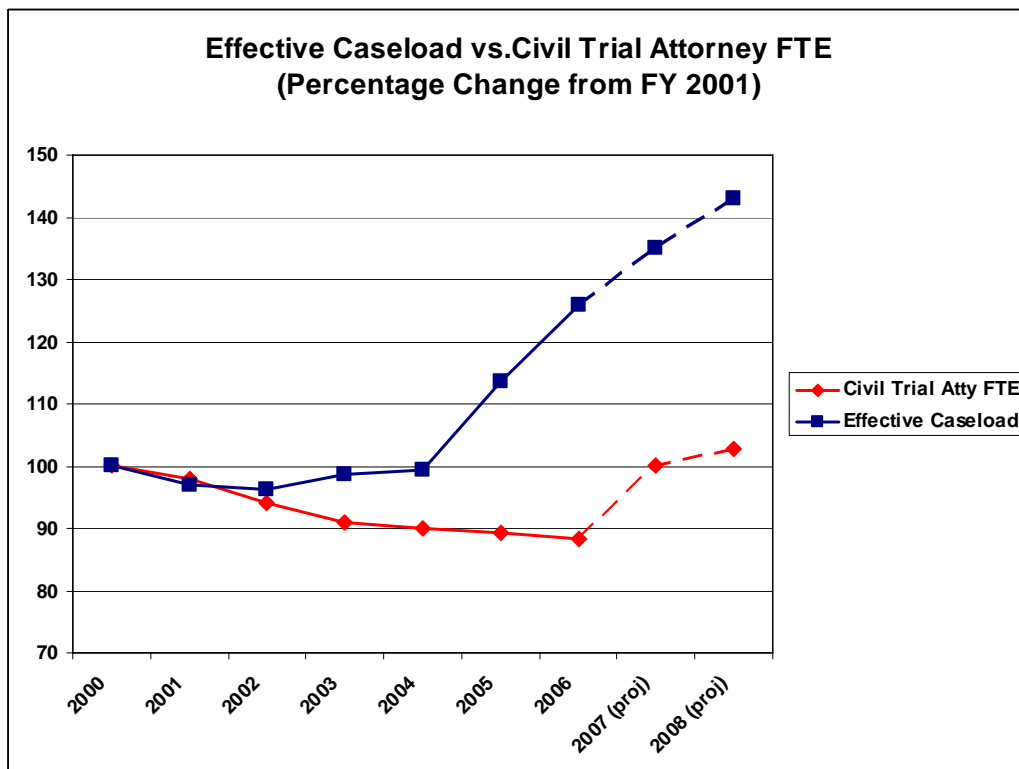


The Administration and Congress strongly supported the IRS's enforcement-based resource requests for FY 2006 and FY 2007. The Tax Division is the final piece of the equation to reduce the Tax Gap, enforce the nation's tax laws, and decrease fraud and abuse. If no additional resources are provided to the Tax Division to continue the IRS's enforcement strategies, the results would be devastating to the Treasury. Inevitably, the influx of cases would result in decreased effectiveness on the litigation front because the cases would not be given the attention they warrant; less revenue would be collected on behalf of the United States Treasury; fewer litigation victories in large corporate tax shelter cases and refund suits would set the wrong precedent, causing a flood of filings from undeserved claimants; delayed authorization of criminal prosecutions would undermine the IRS's enforcement efforts; and ultimately, there would be further erosion in the general public's compliance with the tax laws.

The Tax Division received the highest score given by OMB on the PART, and has consistently demonstrated that it is a solid return on investment. By providing minimal resources to the Tax Division, the Department of Justice will be advancing the goals of the Administration and the honest taxpayer, while returning money to the Treasury at a higher rate than the initial investment.

### Calculation of FTE Needed

#### *Civil Trial*



As the graph illustrates and as discussed below, the Tax Division is experiencing the flood of complex civil litigation it anticipated, and the number of attorneys available to handle that caseload is not keeping pace with the workload. The Division similarly expects to face significant increases in complex criminal litigation as the IRS expands its criminal enforcement activities.

The Division calculates its FTE request based on projected caseload for FY 2008 and the average hours per case needed to handle that caseload, calculated separately for civil matters and criminal matters.

The Division projects having 11,049 civil trial matters (adjusted for the complexity of tax shelter cases, as described at pages 46-47), and therefore requiring 112 attorneys more than the number expected to be on board as a result of the President's Budget Request for FY 2007. The Division calculates that it spends an average of 43.9 hours per case per year in civil matters. Accordingly, the total hours needed (and the corresponding attorney FTE needed, assuming 1,800 case hours per attorney FTE) for the projected caseload is calculated:

|       | Average Hours/Case | FY 2008 Caseload Projection | Projected Caseload in Hours | FTE Needed (@1800 hours/FTE) | Baseline FY 2008 FTE | FTE Difference |
|-------|--------------------|-----------------------------|-----------------------------|------------------------------|----------------------|----------------|
| Civil | 43.9               | 11,049                      | 485,051.1                   | 269.47                       | 157                  | 112.47         |

### **Criminal Prosecution**

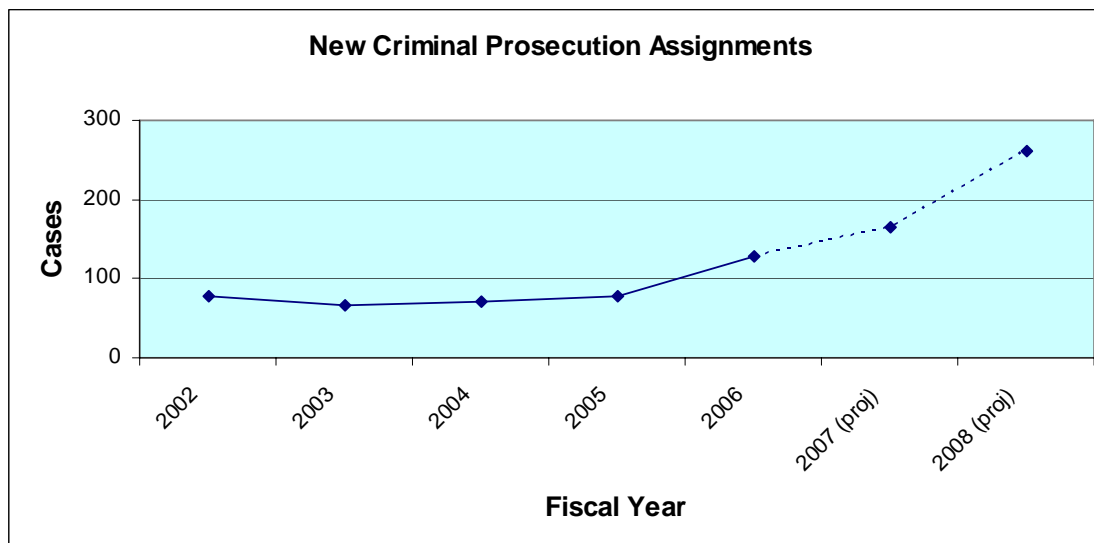
For criminal matters, the Division projects receiving 1,226 criminal case referrals involving 2,208 targets (see page 46). The Tax Division decides which referrals are approved for prosecution. Following Division evaluation and authorization, cases are either tried by Division prosecutors or by U.S. Attorneys' Offices. Those litigated by the Division generally require tax expertise not available in the districts. Litigated matters require far more Division time and resources. For the last five years, the average number of hours worked, per case, per year is 372.7 hours for tried cases and 28.2 hours for non-litigated cases.

|                     | Average Hours Per Case Per Year* |      |      |      |      | Average |
|---------------------|----------------------------------|------|------|------|------|---------|
|                     | 2002                             | 2003 | 2004 | 2005 | 2006 |         |
| Litigated Cases     | 350                              | 358  | 410  | 308  | 438  | 372.7   |
| Non-Litigated Cases | 32                               | 28   | 29   | 28   | 24   | 28.2    |

\*Litigated cases are assumed to be handled over 2 years

A recent analysis suggests that the criminal cases the IRS is referring are getting more complex, and the Division has been accepting more prosecution assignments over the last few years, as the U.S. Attorneys' Offices reallocate their resources to other criminal priorities. During FY 2006, Tax Division criminal prosecutors undertook 128 cases, compared to 79 in FY 2005. The Division anticipates the percentage of cases tried by Tax Division prosecutors instead of by Assistant United States Attorneys eventually doubling, from 10% in FY 2005 to 20% by FY 2008.





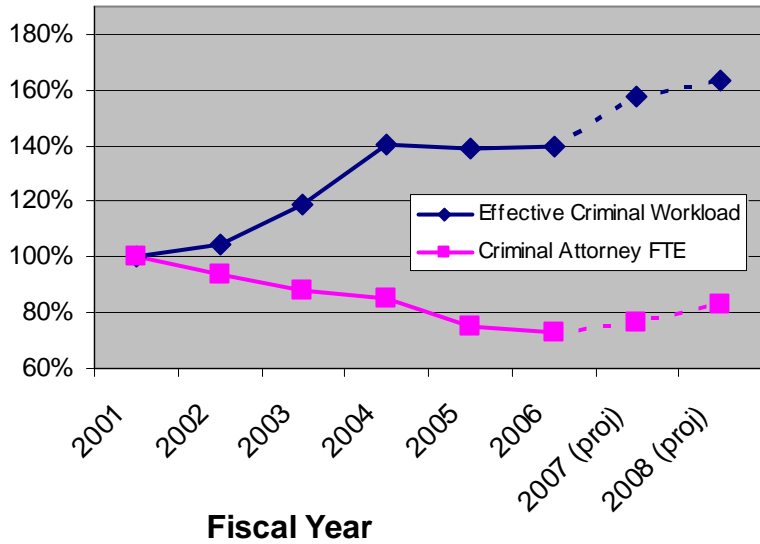
In addition, complex litigated matters take almost three times as many attorney hours per year than other cases. As a result, the Division calculates a separate average for complex litigated criminal matters. For example, the average hours per case per year, over the last several years, for the most complex litigated cases being handled by the Division is 1,286 hours.

Applying these averages to the expected number of general and complex litigated cases (including those which would otherwise be handled by the US Attorneys' Offices) and other prosecution reviews in FY 2008 yields the caseload in hours and the FTE needed (assuming 1,800 case hours/FTE)<sup>1</sup>:

|                         | Average Hours/Case | 2008 Caseload Projection | Projected Caseload in Hours | FTE Needed (@1800 hours/FTE) | Baseline FY 2008 FTE | FTE Requested (Difference) |
|-------------------------|--------------------|--------------------------|-----------------------------|------------------------------|----------------------|----------------------------|
| General Litigation      | 340                | 262                      | 89,185                      | 50                           |                      |                            |
| Complex Litigation      | 1,286              | 50                       | 64,280                      | 36                           |                      |                            |
| Review of IRS Referrals | 30                 | 914                      | 26,963                      | 15                           |                      |                            |
| <b>TOTALS</b>           |                    | <b>1,246</b>             | <b>187,228</b>              | <b>104</b>                   | <b>87</b>            | <b>17</b>                  |

<sup>1</sup> As explained earlier, the Division reviews all IRS requests to initiate grand jury investigations and prosecution recommendations. The reviews frequently result in changes to the type and number of charges or the number of defendants. In some instances, the cases are returned to the IRS for additional investigation, referred to the United States Attorneys' offices for investigation, or prosecution is declined.

**Trends in Caseload vs. Criminal Trial Attorney FTE  
(Percentage of Caseload and FTE Change from FY 2001)**



### Total Staffing Request

Although these analyses show that the caseload facing the Division justifies a position/FTE increase of 125 attorneys (108 civil, 17 criminal), the Tax Division is only requesting a modest program enhancement of 51 attorney positions and associated support at this time for “Operation Continued Follow Through.”

|                           |    |
|---------------------------|----|
| Civil Attorneys           | 43 |
| Criminal Attorneys        | 8  |
| Total Attorneys Requested | 51 |

|                       | Ratio of Staff to Attorneys | Attorneys Requested | Support Staff Requested |
|-----------------------|-----------------------------|---------------------|-------------------------|
| Paralegals            | 1 to 8                      | 51                  | 7                       |
| Litigation Assistants | 1 to 4                      | 51                  | 13                      |
| Total                 |                             |                     | 20                      |

## Return on Investment

Not only are additional resources for tax litigation imperative to support the President's and Congress's priorities, they are also an excellent investment. Over the last five years, Tax Division attorneys on average have returned 24 dollars to the Treasury for every dollar they cost to employ:

### Return on Investment for Tax Division Attorneys

|   | 2002         | 2003         | 2004         | 2005         | 2006         |
|---|--------------|--------------|--------------|--------------|--------------|
| Collections in millions                       | \$90         | \$72         | \$69         | \$477        | \$148        |
| Refund Suit Savings in millions*              | \$1,246      | \$794        | \$659        | \$1,023      | \$730        |
| Total in millions                             | \$1,336      | \$866        | \$728        | \$1,500      | \$878        |
| Attorney FTE                                  | 326          | 322          | 314          | 298          | 294          |
| Dollars collected, refunds saved per attorney | \$ 4,098,160 | \$ 2,689,441 | \$ 2,318,471 | \$ 5,033,557 | \$ 2,986,395 |
| Modular cost per attorney                     | \$ 134,280   | \$ 137,340   | \$ 141,000   | \$ 154,054   | \$ 157,498   |
| <b>Return on Investment per Attorney</b>      | <b>31:1</b>  | <b>20:1</b>  | <b>16:1</b>  | <b>33:1</b>  | <b>19:1</b>  |
| <b>Average</b>                                |              |              |              |              | <b>24:1</b>  |

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

In addition, these returns on investment are based on only the *direct* effect of the Tax Division's work. The cases the Division brings and wins, the precedents that the Division establishes, and the convictions that the Division obtains profoundly affect taxpayer behavior, making the *indirect* effect of the Tax Division's work many billions of dollars more. Accordingly, the resources given to the Tax Division are returned many times over in enhancement to collected revenues to the Federal Treasury.

### Justification for Operation Continued Follow-Through

The Tax Division proposes "Operation Continued Follow-Through" to enable it to handle the increased litigation resulting from the IRS's additional enforcement efforts. Unlike many program initiatives, the additional work covered by this proposal is not discretionary. If the Tax Division is not able to bring the suits requested by the IRS, or defend the refund and other tax suits brought against the United States, cases will go undefended or priority enforcement initiatives will be thwarted. The Division has prioritized and can prioritize its work, in tandem with the IRS, to focus on cases that return maximum enforcement effect for each dollar spent. Accordingly, the Division has focused, and will continue to focus, a large share of its resources on curtailing the activity of promoters, enablers and tax professionals (including return preparers, accountants and lawyers) who help others to avoid taxes illegally—the tax-avoidance kingpins.

Tax kingpins enable illegal tax avoidance by:

- **Promoting tax fraud schemes**
- **Devising and promoting abusive tax shelters for corporations and wealthy individuals**

- **Publicly advocating defiance of the tax laws on frivolous or false grounds**

Some tax kingpins make considerable sums charging clients for advice or tax-avoidance packages. Others are motivated by ideological resistance to taxes or to legitimate governmental authority in general.

Like drug kingpins, tax kingpins are the vector of illegal activity, enabling and encouraging their customers—hundreds and sometimes thousands of them—to break the law, usually for their own enrichment. Those who are tempted to avoid taxes through illegal means rely on them for assistance. And honest taxpayers can be led astray and engage in improper transactions or file fraudulent tax returns based upon the advice of the tax kingpins.

Focusing our finite resources on tax kingpins gives each dollar of enforcement effort a multiplier, or a “ripple effect,” extending the power of enforcement resources to hundreds of thousands of people. By taking tax kingpins out of the equation, tax evaders lose the help of willing accomplices.

Moreover, public enforcement efforts against tax kingpins reinforce an ethic of respect for law, showing the taxpaying public that the tax laws are being fairly enforced, reassuring honest taxpayers that they are not “chumps” for paying their taxes, and encouraging honest businesses that they do not face a competitive disadvantage when they meet their tax obligations.

## **Main Components of Operation Continued Follow-Through**

### ***Challenging and closing down abusive tax shelters for corporations and the wealthy***

A prime feature of Operation Continued Follow-Through is litigation seeking to shut down complex tax shelters. In these cases, the Division challenges, on the merits, the legitimacy of sophisticated financial transactions that the IRS believes are engaged in solely or primarily to avoid taxes rather than for any business purpose. The transactions at issue often are devised, packaged and sold by large accounting firms or law firms. Shelter cases typically require extensive discovery, briefing, depositions, expert witness preparation and trial time, consuming thousands of hours of attorney time. The Tax Division must devote an increasingly large portion of its resources to complex tax shelter litigation to handle the cases successfully.

### ***Opening the books and customer lists of tax shelter promoters to IRS inspection, through enforcement of IRS summonses***

Tax kingpins instruct their clients on how to evade detection on their tax returns. Consequently, the IRS is frequently unable to identify, based on returns alone, which taxpayers have used sophisticated transactions to manipulate their income and deductions to reduce tax. One of the main tools provided by statute to assist the IRS with investigation of suspected illegal tax avoidance is the administrative summons, which the IRS can issue to taxpayers or third parties to obtain documents and other records. Since IRS summonses can only be enforced by court order, the Tax Division plays an integral role in obtaining judicial enforcement of summonses. Successful enforcement often involves overcoming defenses to disclosure such as attorney-client privilege. The documents and customer lists produced allow the IRS to focus its investigations and identify potentially abusive transactions.

### ***Obtaining injunctions that shut down the promotion of fraudulent tax schemes***

Promoters of tax scams are the ultimate “tax kingpins.” Like drug dealers, they sell false hope to individuals, who are often in difficult circumstances. They prey on taxpayers on the low end of the tax-avoidance spectrum, seeking to sell “do-it-yourself” tax-relief packages to individuals (some who know better, some who are misled into illegal tax avoidance), using schemes and scams that are false and fraudulent. Many of these promotions grew to involve huge numbers of taxpayers, using the Internet to market their schemes to large audiences who were previously unreachable or using sophisticated “boiler-room” telemarketing techniques. The Tax Division has met head-on the onslaught of tax-scam promotions. Prior to or along with any criminal investigation, the Division uses civil enforcement remedies, primarily civil injunctions, to halt the promotion of fraud and to require production of customer lists and documents. Division attorneys spend many hours preparing cases and collecting evidence, since obtaining an injunction virtually always requires proving the merits of the government’s case at a preliminary stage, in advance of discovery.

### ***Winning criminal sanctions against illegal tax protesters, public tax scofflaws and prominent tax evaders***

Along with its other criminal enforcement work, the Tax Division concentrates its resources on high-profile tax criminals who illegally encourage others to evade taxes. This includes those who advocate disobedience of the tax laws, those who publicize their refusal to comply with the law, and those who seek to garner a competitive advantage through tax evasion or who otherwise violate the law with impunity.

### ***Finding and bringing to justice those who promote or use offshore bank accounts for illegal tax avoidance***

As the Department’s Strategic Plan acknowledges, “In a society that has become globalized and more technologically advanced, the opportunities for criminals to exploit have grown exponentially.”<sup>2</sup> One of these opportunities has been the increased use of accounts in offshore “tax haven” countries, made more accessible through advances in the financial industry and the Internet. The Tax Division is working closely with the IRS to identify holders of offshore accounts through civil actions seeking records from financial institutions and credit-card companies and to prosecute those account-holders who have committed U.S. tax violations.

## **Successes Related to Operation Follow-Through**

### ***Tax Shelter Litigation***

Tax Division victories in United States Courts of Appeals have established precedent that effectively shut down technical tax shelters estimated to have cost the Federal Treasury \$11 billion. For example, in September 2005 the Second Circuit affirmed a \$16 million penalty against Long Term Capital Holdings, a once-prominent hedge fund, which engaged in a series of abusive transactions designed to inflate the tax basis of certain stock to one hundred times its fair market value. The court upheld the district court’s use of the “economic substance” and “step transaction” doctrines to disregard the abusive transactions for tax purposes. Similarly, the Court of Appeals for the Federal Circuit, in July 2006, rejected Coltec Industries, Inc.’s claims that it lost \$375 million in a so-called contingent liability tax shelter, adopting the Tax Division’s arguments that the transactions in issue lacked economic substance. These results provide the government with strong weapons in the battle against abusive tax shelters. In February, 2006, the 4<sup>th</sup> Circuit remanded a

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<sup>2</sup> Strategic Plan, Section 1.6.

\$230 million tax shelter case involving an attempt by Black & Decker to deduct a contingent liability as a business loss. The court stated that the Tax Division had introduced “ample evidence” from which a reasonable trier of fact could conclude that the deductions were not authorized. In March, 2006, the 6<sup>th</sup> Circuit reversed an unfavorable district court ruling and directed judgment for the United States in a \$22 million tax shelter case involving Dow Chemical. In August, the Tax Division achieved a tax shelter victory in the Second Circuit, when that court ruled that a subsidiary of General Electric Capital Corporation was not entitled to the \$62 million tax refund it claimed in connection with a popular tax shelter. At the trial level a District Court in Texas found in favor of the government in a \$4.1 million tax shelter case involving the improper deduction of expenses connected with leases.

### ***Summons Enforcement Litigation***

Tax Division victories in summons enforcement litigation—in which courts uniformly have rejected claims of privilege as unfounded—have required accounting firms, law firms, and financial institutions involved in the promotion of tax shelters to turn their tax shelter files and customer lists over to the IRS.

### ***Tax Scam Injunctions***

The Tax Division has obtained more than 215 injunctions against tax scam promoters and fraudulent tax return preparers, shutting down scams involving over 500,000 taxpayers and over 2.5 billion dollars.

### ***Tax Convictions***

Tax prosecutions have resulted in convictions of those who engage in or promote tax fraud:

- **Walter Anderson** – Anderson pleaded guilty to tax evasion and defrauding the District of Columbia government, by failing to pay well in excess of \$200 million in taxes. He awaits sentencing.
- **Irwin Schiff (sentenced to more than 12 years)** – nationally recognized tax protest organizer who was convicted of promoting a scheme that encouraged taxpayers to file tax returns with zeroes on each income and expense line, resulting in fraudulent claims for refunds of taxes paid. As a result of the heavily-marketed scheme, taxpayers filed nearly 5,000 fraudulent “zero returns” with the IRS.
- **David Stephenson and Michael Shanahan (Stephenson sentenced to 8 years)** – defendants promoted a “pure trust” tax fraud scheme through a Tacoma, Washington-based organization they called American Business Estate and Tax Planning. The defendants falsely advised more than 400 clients that they could avoid paying income tax if the clients placed their income and assets in “pure equity trusts,” despite the clients continuing to maintain control over such income and assets.
- **Anderson’s Ark defendants (sentences of up to 20 years)** – long-running promotion that facilitated, through offshore accounts, evasion of taxes on more than \$120 million in taxable income.
- **David J. Orr (Edward Woodger sentenced to 5 years)** – the investigation has resulted in eleven convictions, which include four attorneys, a CPA, and a former IRS agent, for promoting a trust scheme that defrauded the Treasury of \$5 million in tax revenue. Orr and two other remaining defendants are scheduled for sentencing in late January 2007.

- **Paul Harris (sentenced to over six years)** – the defendants operated Tower Executive Resources which aided the preparation of false income tax returns and the concealment of income with the use of abusive trusts, offshore debit cards, false documents, and offshore accounts. A co-defendant, Lester Retherford, was sentenced to four years in prison.

***Tax Prosecutions***

The Tax Division, as co-counsel with the United States Attorneys’ Offices, has also secured indictments against the following defendants:

- **KPMG defendants** – eighteen former officers and associates of the Big-Four accounting firm KPMG and a former tax partner of a national law firm were charged with conspiracy to defraud the IRS, tax evasion and obstruction of the internal revenue laws arising out of allegedly illegal tax shelters that KPMG and others designed, marketed and implemented. The shelters allegedly generated at least \$11 billion in fraudulent tax losses and resulted in at least \$2.5 billion in tax evaded by wealthy individuals.
- **The Aegis Company defendants** – Indictment charges nine defendants with a nearly decade-long conspiracy to market and sell sham domestic and foreign trusts through The Aegis Company to some 650 wealthy taxpayer clients throughout the United States in order to hide hundreds of millions of dollars in income, causing a tax loss to the United States of at least \$68 million. Additional indictments in multiple jurisdictions charged certified public accountants and others with conspiracy and aiding and assisting the preparation and filing of false tax returns by Aegis trust clients.

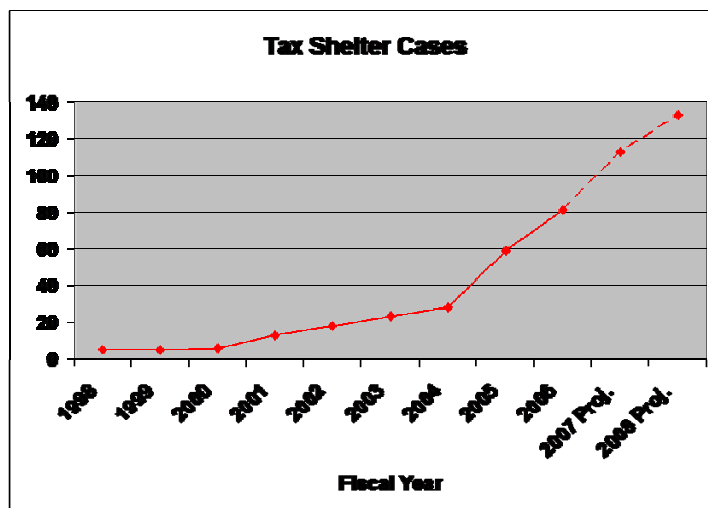
***Offshore Accounts***

The Division’s use of civil and criminal remedies to attack abuse of offshore accounts has resulted in the production of hundreds of thousands of bank records, identification of hundreds of potential violators and convictions of many users of offshore entities and bank accounts.

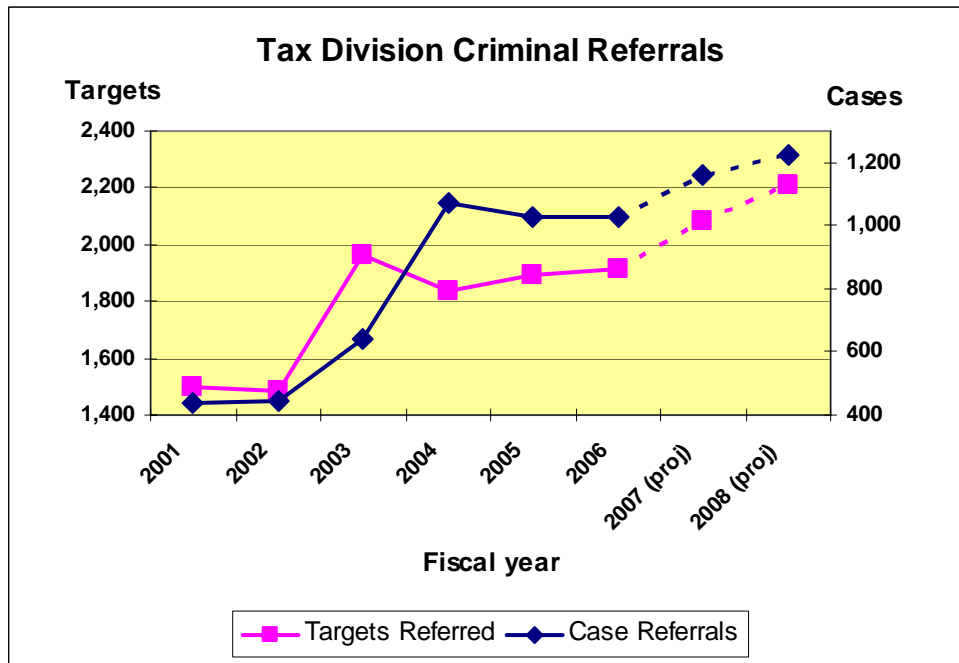
**Growth in Division’s Workload**

**Litigation targeting tax kingpins is growing significantly**

From FY 2001 to FY 2004, tax shelter cases handled in the Division grew from 13 to 27, a 208% increase. The number of shelter cases skyrocketed in fiscal years 2005 and 2006, and as of the end of the FY 2006 stood at 85, a 654% increase from FY 2001.



Tax Division prosecutors evaluate the evidence and legal theories supporting proposed tax grand jury investigations and prosecutions to determine whether the Department of Justice should pursue the prosecution of subject taxpayers. As demonstrated below, the number of case referrals – like the number of criminal referrals (targets) – is growing dramatically, as a result of an increased number of IRS agents. Based on current trends, the Division predicts receiving 2,208 criminal matter referrals (targets) in FY 2008.



**The Division’s workload is growing in other ways beyond an increasing number of cases--**

*As measured by increases in complex civil litigation and trials*

Tax shelter litigation constitutes perhaps the most complex civil litigation and trials in courts today. The cases involve sophisticated, complex transactions devised by financial experts (a couple have been Nobel laureates in economics), executed in elaborate structures that seek to take advantage of perceived loopholes in the tax code. The litigation frequently entails hundreds of thousands of documents, multiple parties and witnesses, multiple jurisdictions, novel issues and well-financed opposition.

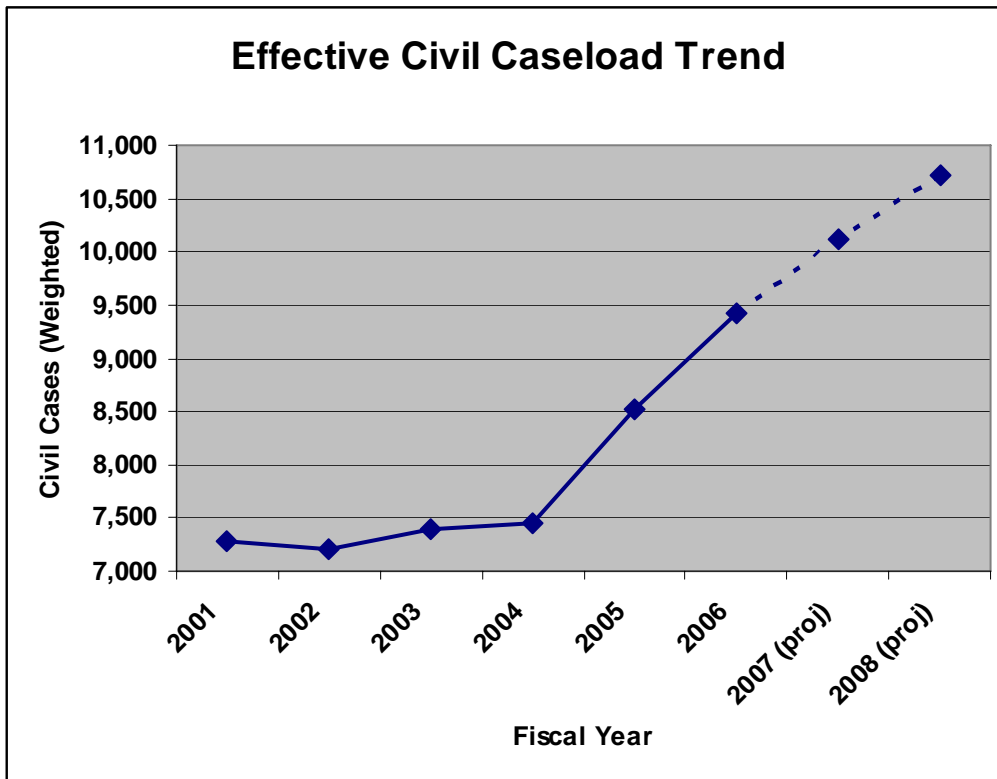
As illustrated by the chart on page 45, the number of tax shelter cases being litigated by the Tax Division has grown rapidly. Moreover, the number of hours that must be devoted to tax shelter cases far outstrips the hours devoted to other kinds of civil cases handled by the Division. Analysis of 19 tax shelter cases handled to closure by the Division in recent years, or whose activity is substantially complete, shows that on average a tax shelter case consumes between 5,000 and 6,000 attorney hours to completion, over a span of 4 to 5 years. Assuming an average case takes 5,000 hours over a four-year period, the average annual attorney time needed for each shelter case is 1,250 hours. This is 30 times the average hours per case for other kinds of cases (44.2 hours per case), handled over that time period:



Hours Charged to All Types of Civil Tax Cases (excludes Immigration Appeals)

|               | 2001       | 2002       | 2003       | 2004       | 2005       | 2006       |
|---------------|------------|------------|------------|------------|------------|------------|
| Pending Suits | 6,900.00   | 6,690.00   | 6,758.00   | 6,663.00   | 6,808.00   | 6,965.00   |
| Total Hours   | 312,574.00 | 312,991.00 | 308,952.00 | 257,018.00 | 293,448.00 | 305,945.50 |
| Hours/Suit    | 45.30      | 46.80      | 45.70      | 38.60      | 43.10      | 43.93      |
|               |            |            |            |            | Average    | 43.90      |

Accordingly, each new shelter case is the equivalent of 30 new non-shelter cases handled by the Division. Because the number of new shelter cases is growing substantially, it is appropriate to analyze the current and projected civil workload of the Division in terms of number of shelter cases and number of non-shelter cases, and to treat the shelter cases as counting as 30 non-shelter cases, due to the additional time they take and the additional resource demands they create. This yields an “effective civil caseload” that provides a more accurate picture of resource demands than treating all cases as being equal. The chart below indicates that the Division’s effective civil caseload has been growing. IRS enforcement activity suggests that current trends will continue, and the Division’s effective caseload in FY 2008 will be more than 50% larger than its FY 2002 nadir.



| Pending            | 2001  | 2002  | 2003  | 2004  | 2005  | 2006  | 2007 (proj) | 2008 (proj) |
|--------------------|-------|-------|-------|-------|-------|-------|-------------|-------------|
| All Cases          | 6,900 | 6,690 | 6,758 | 6,663 | 6,808 | 6,965 | 6,849       | 6,865       |
| Shelter            | 13    | 18    | 22    | 27    | 59    | 85    | 113         | 133         |
| Non-shelter        | 6,887 | 6,672 | 6,736 | 6,636 | 6,749 | 6,880 | 6,736       | 6,732       |
| Shelter x 30       | 390   | 540   | 660   | 810   | 1770  | 2550  | 3390        | 3990        |
| Effective Caseload | 7,277 | 7,212 | 7,396 | 7,446 | 8,519 | 9,430 | 10,126      | 10,722      |

## **Criminal Caseloads**

The USAOs prosecute the vast majority of cases authorized for prosecution by the Tax Division. Given the redirection of United States Attorneys' resources to other criminal matters, however, the Tax Division's criminal prosecutors are increasingly called upon to investigate and prosecute tax crimes that, until recently, United States Attorneys would have prosecuted. It takes an average of 12 times more manpower to prosecute a case than to evaluate and authorize its prosecution. Without additional resources in the Tax Division to prosecute the tax crimes USAOs are unable to, more tax crimes will go unpunished.

There are several reasons that Division attorneys are being asked to assume litigation of criminal tax cases:

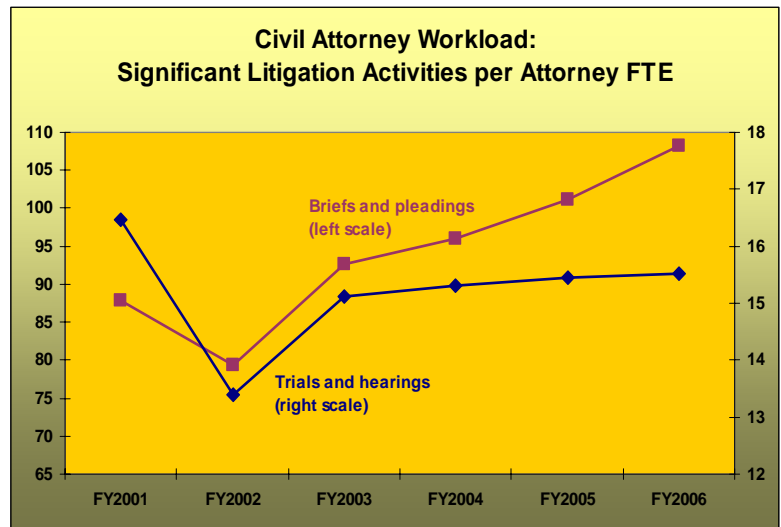
- United States Attorney's Offices are increasingly called upon to dedicate their resources to prosecute counter-terrorism, illegal narcotics, and other non-tax crimes.
- As global business has become commonplace, tax cheats have learned to use offshore accounts and transactions to conceal their domestic tax evasion schemes. Previously, these elaborate concealment plans were utilized by only a few wealthy and sophisticated businessmen. Today, such schemes have become widely marketed through use of the Internet and seminars and, more frequently than ever before, average businessmen and tax protestors alike find such avenues of concealment open to them. Unless quickly detected and successfully prosecuted, these offshore concealment plans present a potential for a serious erosion of the nation's voluntary tax system. As these offshore evasion schemes become common forms of tax cheating, the work of both IRS criminal investigators and federal prosecutors will become far more demanding and resource intensive.
- Litigation assignments often require investigative work and potentially consecutive trials in numerous judicial venues. USAOs find such multi-jurisdictional litigation difficult to staff as they generally are not budgeted for frequent and lengthy travel by AUSAs. Accordingly, the Tax Division's assistance is regularly sought to handle various aspects of the case even though the USAO may remain involved in the prosecution of any targets in its home jurisdiction.
- Many cases that Tax Division attorneys litigate are becoming increasingly complex, and require the expertise of attorneys who are familiar with the tax laws and understand the complexities of the charges in a specific case. One explanation for that trend can be found within the IRS, where Criminal Investigation Division (CID) agents hired pursuant to increased enforcement budgets and who initially pursued simpler cases have become more experienced, and have as a consequence begun to refer a greater percentage of more complex tax cases to the Division. Since FY 2004, the Tax Division has seen an increase in case referrals which require more attorney involvement because they involve taxpayers who have filed fraudulent returns which are very detailed and intricate. The complex structure of the return is designed only to obscure the false claims contained within the return.

As the case evaluation workload has increased, so, too, has the trial workload, but to an even greater degree. From FY 2004 to FY 2006, the average number of trial assignments per attorney increased by almost 17 percent. For FY 2006, the combined workload, which consists of case evaluations and cases litigated by the Division's prosecutors, averaged 2,066 hours (not including time attributable to leave, federal holidays, training, etc.). This is well in excess of the standard 1,800 hours, which is the average number of hours attorneys are able to work on cases, based upon 2,080 hours being the total available hours in one year, less official holidays (10 holidays), vacation (2 weeks), annual leave (5 days), sick leave (5 days), and work devoted to non-case activity (training, administrative tasks, etc.). Eighteen hundred hours is also the standard figure used by the legal profession as an attorney's full-time schedule available for work.

**Tax Division Attorney Workload**

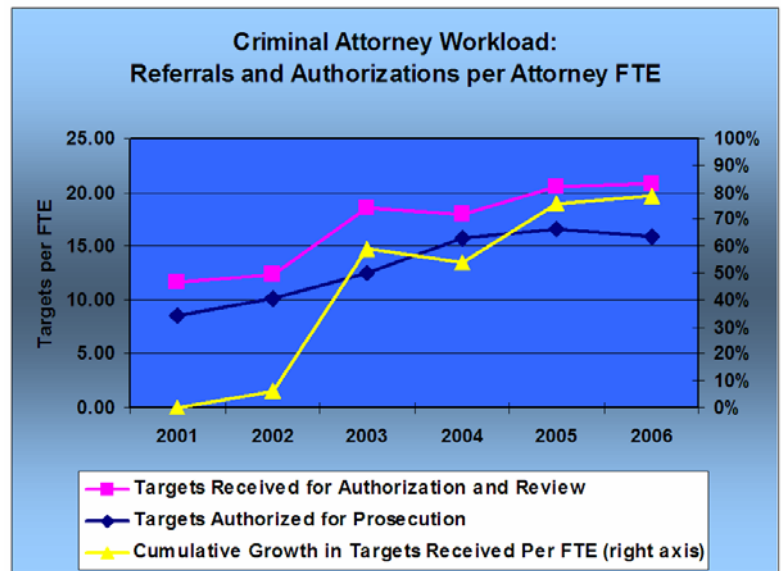
**As measured by significant trial activities per civil attorney FTE**

The Division tracks the number of significant trial activities performed by each attorney, both by the number of briefs, pleadings or other court documents prepared and by the number of trials or court hearings attended. As the Division's workload has increased, Division attorneys have been working harder to complete more significant trial activities per year, as the graph illustrates.

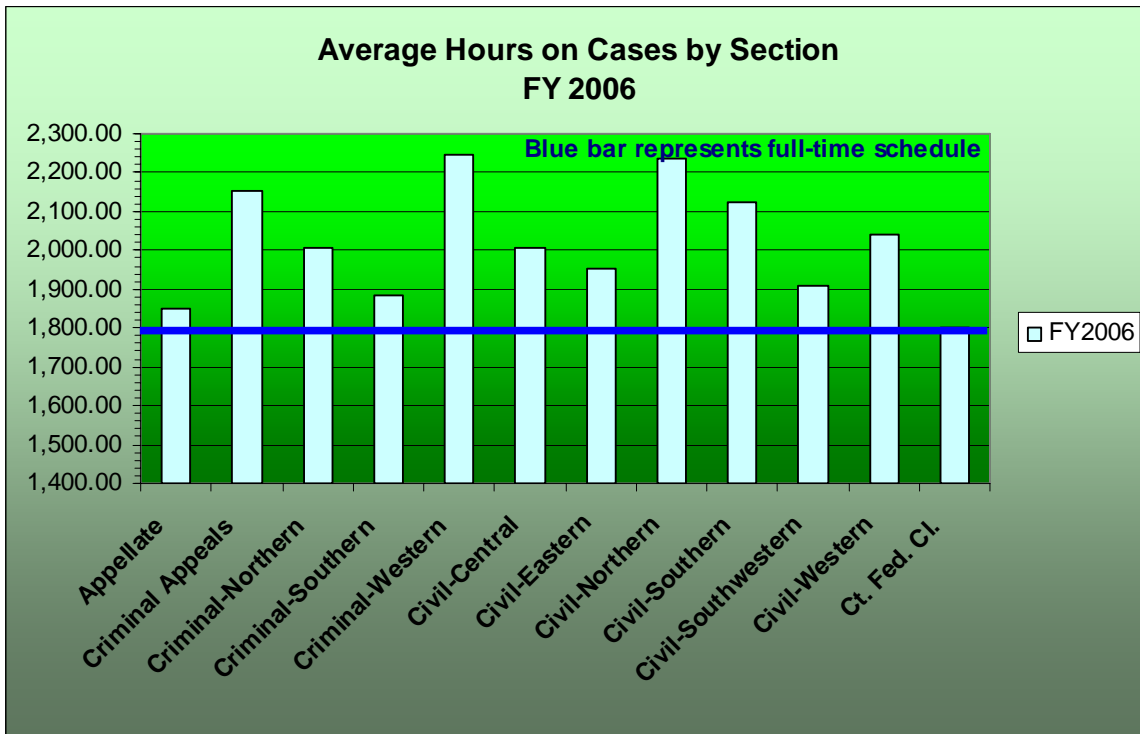


**As measured by criminal referrals and authorized prosecutions per criminal attorney FTE**

Similarly, on the criminal side, the Division tracks the number of criminal referrals (targets) made to the Division, per attorney FTE, and the number of prosecutions authorized. The number of criminal referrals received per attorney FTE in FY 2006 was 85% higher than that received in FY 2001. As workload has increased, Division attorneys have become more efficient, doubling the number of prosecutions authorized per attorney FTE by FY 2004. Further efficiency gains are not possible.

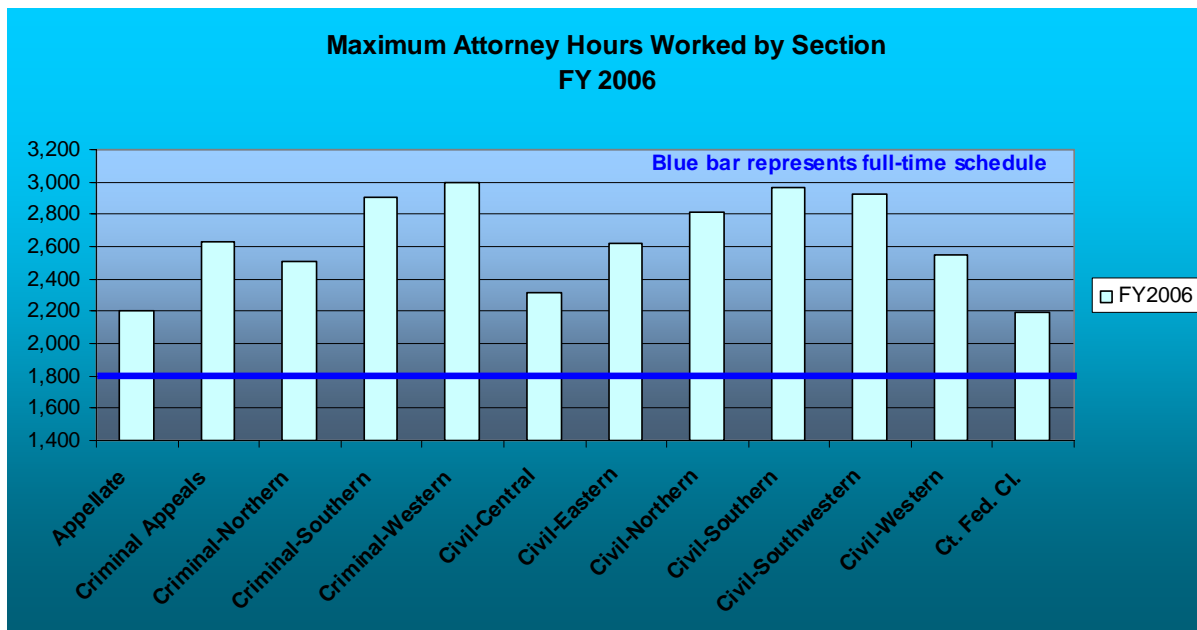


**The capacity of attorneys to absorb additional growth is at its limit –**



Division attorneys worked an annual average of 1,988 hours in FY 2006. This average yearly schedule is the equivalent of working more than a whole extra month per year above a full-time schedule of 1,800 hours. The chart above shows the average hours worked in FY 2006 per each of the Division’s sections.

Many attorneys put in many more hours than the average, working more than 2,500 to 3,000 hours per year (3,120 hours per year is the equivalent of 10 hours per day, 6 days per week, 52 weeks per year).

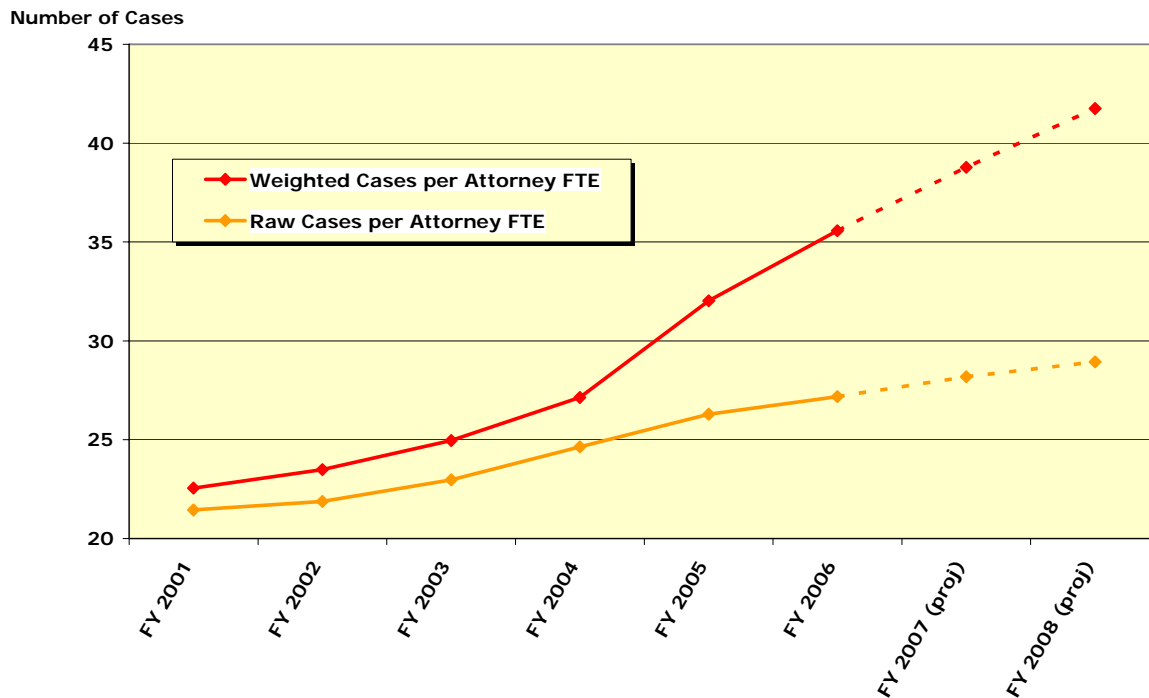


Tax Division attorneys are working to capacity, and can absorb no additional workload. The Division is losing many talented attorneys to the private sector and other government offices. Because of the high quality of its work, service in the Tax Division is perceived by many as a valuable training experience. Tax Division attorneys are in high demand in the private sector and in other government offices. Tax Division attorneys entering private practice can more than double their government salaries. At present, approximately 73 former Tax Division attorneys are now serving as AUSAs around the country. Since the beginning of FY 2001, the Division has lost nearly 216 trial attorneys to law firms, U.S. Attorneys' offices and other agencies. However, budget and other constraints have permitted the Division to replace only 186 of these departures through law school recruitment and lateral hiring.

Of the attorneys lost since the beginning of FY 2001, 30 prosecutors from the Division's criminal enforcement sections and five civil attorneys have transferred to 19 U.S. Attorney's Offices. In addition, in FY 2004, prior to their entry on duty, the Department reassigned to U.S. Attorney's Offices three Honors Program hires designated for the Tax Division. While these 38 transfers have enhanced the strength of U.S. Attorney's Offices, they have severely diminished the strength of the Tax Division. Overall, Tax Division attorney staff has declined over 13% since FY 2001.

The following graphs depict the percentage reduction in civil and criminal trial attorney FTE to the percentage growth in the respective civil and criminal trial effective caseloads, compared with FY 2001 levels:

**Tax Division Cases (Civil and Criminal) per Attorney FTE  
FY 2001 through FY 2008**



## **Projected New Cases**

In addition to the caseload the Division is attempting to manage with declining resources, the Division has already begun to receive dozens of new complex cases, the first of a significant number it anticipates receiving for the next several years, requiring additional attorney and support staff.

### **IRS's enhanced enforcement activity is spawning hundreds of new cases**

The IRS has made a priority of combating corrosive activity by corporations, high-income individuals and other contributors to the Tax Gap. In addition to stepping up audits, the IRS is making increasing use of "settlement initiatives," under which the IRS publicly states the terms to which it would agree to resolve disputes concerning the taxes (and penalties and interest) owing as a result of specific abusive transactions. Settlement initiatives are a useful enforcement tool, bringing in billions of dollars of unpaid taxes, interest and penalties and resolving hundreds of cases. The terms of recent IRS settlement initiatives have been very tough, requiring settling taxpayers to concede 100% of the taxes owing plus a portion of applicable penalties and interest. Nonetheless, thousands of taxpayers are accepting the terms proposed and paying billions of dollars.

Tax Division litigation directly supports the effectiveness of IRS settlement initiatives. Its summons enforcement litigation has required shelter promoters to turn over customer lists and transaction documents, permitting the IRS to identify shelter participants who otherwise might evade detection. Further, the Division's litigation challenging the merits of abusive tax shelters allows the IRS to assert the credible threat that shelter participants will lose in court, which encourages them to settle.

For example, in May 2004, the IRS made a settlement offer regarding the Son of Boss tax shelter, which wealthy individuals had used to avoid taxes on billions of dollars in taxable income. As a condition of participating in the settlement program, the IRS required a total concession by the taxpayer of artificial losses claimed. The IRS also required the payment of penalties in most cases. Over 1,100 taxpayers (of the over 1,800 believed to have employed the Son of Boss technique) participated in the settlement initiative, yielding more than \$3.2 billion in taxes, interest, and penalties to date.

Significantly, however, more than 600 of the 1,800 identified Son-of-Boss users did *not* participate in the settlement initiative. The IRS estimates that cases involving as many as 250 taxpayers may be litigated, and more than half of these are likely to be handled by the Tax Division (as taxpayers will be more likely to file suit in district court or the Court of Federal Claims, courts in which the Tax Division represents the United States, than in the Tax Court). In FY 2006, 17 cases were filed in addition to the 28 cases filed in FY 2005 -all of which are being litigated by the Tax Division. There are currently 46 Son of Boss cases being litigated by the Tax Division, involving over 100 taxpayers.

The IRS has offered additional settlement initiatives. In February 2005, the IRS implemented a new settlement initiative relating to an illegal tax shelter transaction under which taxpayers transferred executive stock options or restricted stock to family-controlled entities, sometimes at the expense of public shareholders. The settlement offer required full payment of taxes owed plus a penalty. It also announced an omnibus settlement initiative in FY 2005, covering many types of transactions it had listed as abusive. The IRS is still tallying the results of these initiatives – i.e., the number of taxpayers, shelters, and tax dollars involved – and estimates that at

least 25 other tax shelter cases were headed for trial, along with 33 other large cases that are important to tax administration.

### **New injunction cases**

As of the end of FY 2005, the number of tax scam promoters being investigated by the IRS Lead Development Center had climbed to 1,072, up significantly from the beginning of the fiscal year and nearly double the number pending at the beginning of FY 2004. Significant numbers of these cases are likely to be referred to the Division for civil injunction and/or prosecution. These new cases would come on top of the significant injunction work the Division is already handling.

### **Outgrowth of offshore work**

As summarized below, as of the end of FY 2006, the IRS estimated that thousands of taxpayers identified through the Tax Division's offshore enforcement litigation (seeking permission to serve, and then enforcing IRS summonses on credit-card issuers and processors to obtain information regarding U.S. holders of accounts in tax-haven countries) were in examination, or would be shortly. Hundreds of these cases are likely to be referred to the Division for litigation or prosecution.

- 1,803 returns are currently under examination, or are in a post-examination, pre-assessment status.
- 724 cases have been selected for examination, but are waiting to be classified before they are sent to the field.
- 658 cases have been selected for examination and sent to the field, but have not been assigned to an agent.
- Of the cases under examination, nearly half have either been referred to IRS Criminal Investigation Division (CI) or CI has accepted the case. This is an exceptionally high percentage of referrals.

Without a substantially fortified attorney workforce, the Tax Division will be unable to properly represent the United States in cases currently pending, much less the hundreds of new cases expected to be filed in FY 2007 and FY 2008.

## **Impact on Performance (Relationship of Increase to Strategic Goals)**

Tax Division's enhancement will directly support the ability of the Department to "get to green" on Strategic Goal 2.5 (Enforce federal statutes, uphold the rule of law, and vigorously represent the interests of the United States in all matters for which the Department has jurisdiction). The foregoing justification makes clear that without additional attorney and support staff to handle the increasing caseload that is already inundating the Division, by FY 2008 the Division will fall well below target levels to successfully enforce federal laws, leaving important Administration tax enforcement initiatives unsupported and adversely affecting the Federal Treasury's tax receipts. Without additional resources for Tax Division litigation, hundreds of millions of dollars in additional resources already appropriated and to be appropriated for enhanced IRS enforcement activity will be wasted.

The Tax Division will continue to shift resources internally to cover the highest priorities, but it could be at the expense of affirmative litigation - suits the IRS asks us to bring. If the Division has insufficient funding to defend cases that should be defended, the Division could be

forced into settlements that are more favorable to the opposing party, thereby costing the Treasury in unjustified payouts, and setting the stage for additional suits by those who want to take advantage of the Tax Division's weakened ability to defend against unjustified refund claims or to bring collection or other affirmative suits. If the Tax Division failed to aggressively defend refund actions, taxpayers would quickly learn to file a lawsuit (frivolous as it may be) to defeat legitimate administrative collection by the IRS. Failure on the part of the Tax Division to keep up with the external demands (from the IRS and the U.S. Attorneys' Offices seeking policy guidance) would also result in a reduction of the overall tax revenues, and an increase in the Tax Gap despite the budgetary increase provided in FY 2006 and requested for FY 2007.



# TAX DIVISION

**ASSISTANT  
ATTORNEY GENERAL**

**DEPUTY ASSISTANT  
ATTORNEY GENERAL**

**DEPUTY ASSISTANT  
ATTORNEY GENERAL**

**DEPUTY ASSISTANT  
ATTORNEY GENERAL**

**DEPUTY ASSISTANT  
ATTORNEY GENERAL**

**OFFICE OF  
MANAGEMENT AND  
ADMINISTRATION**

**OFFICE OF  
TRAINING AND  
CAREER  
DEVELOPMENT**

**OFFICE OF  
LEGISLATION  
AND POLICY**

**CRIMINAL  
ENFORCEMENT  
SECTIONS**

**CRIMINAL  
APPEALS AND TAX  
ENFORCEMENT  
POLICY SECTION**

**APPELLATE  
SECTION**

**OFFICE OF  
REVIEW**

**CIVIL TRIAL  
SECTIONS**

**LITIGATION  
COUNSELS**

Approved by:



**ALBERTO R. GONZALES**  
Attorney General

Date: September 12, 2005

**B: Summary of Requirements**

**Summary of Requirements**  
 Tax Division  
 Salaries and Expenses  
 (Dollars in Thousands)

|  | FY 2008 Pres. Budget |            |               |
|--|----------------------|------------|---------------|
|  | Perm. Pos.           | FTE        | Amount        |
| <b>2006 Enacted (with Rescissions, direct only)</b>  | 566                  | 518        | \$80,507      |
| 2006 Supplementals   | ....                 | ....       | ....          |
| <b>Total 2006 Enacted (with Rescissions and Supplementals)</b>                                   | 566                  | 518        | 80,507        |
| 2007 President's Budget (Information Only)   | 595                  | 531        | 87,691        |
| 2007 Continuing Resolution Level (as reflected in the 2008 President's Budget; Information Only) | 566                  | 531        | 80,507        |
| <b>2007 Estimate (direct only)*</b>  | 595                  | 531        | 82,621        |
| 2007 Rescission Against Balances   | ....                 | ....       | ....          |
| <b>2007 Estimate (with Rescissions)</b>  | 595                  | 531        | 82,621        |
| Technical Adjustments  |                      |            | 478           |
| Restoration of 2007 Rescission Against Balances  | ....                 | ....       | ....          |
| <b>Total Technical Adjustments</b>   | ....                 | ....       | 478           |
| Adjustments to Base  |                      |            |               |
| Increases:   |                      |            |               |
| 2008 pay raise (3.0%)  |                      |            | 1,350         |
| 2007 pay raise annualization (2.2%)  |                      |            | 546           |
| Annualization of 2007 positions (FTE)  |                      | 16         | 1,747         |
| Annualization of 2007 positions (dollars)  |                      |            | ....          |
| Changes in Compensable Days  |                      |            | 449           |
| Thrift Savings Plan  |                      |            | 132           |
| Health Insurance   |                      |            | 129           |
| Employees Compensation Fund  |                      |            | (22)          |
| GSA Rent   |                      |            | 2,038         |
| DHS Security Charge  |                      |            | 4             |
| Security Investigations  |                      |            | 19            |
| Subtotal Increases   | ....                 | 16         | 6,392         |
| Decreases:   |                      |            |               |
| Unfunded Position and FTE Reduction  |                      |            |               |
| Non-recurrents [list all]  |                      |            |               |
| Subtotal Decreases   | ....                 | ....       | ....          |
| <b>Total Adjustments to Base</b>   | ....                 | 16         | 6,392         |
| <b>Total Adjustments to Base and Technical Adjustments</b>                                       | ....                 | 16         | 6,870         |
| <b>2008 Current Services</b>   | <b>595</b>           | <b>547</b> | <b>89,491</b> |
| Program Changes  |                      |            |               |
| Increases [list all]   |                      |            |               |
| Operation Continued Follow-Through   | 71                   | 36         | 5,187         |
| Subtotal Increases   | 71                   | 36         | 5,187         |
| Offsets  |                      |            |               |
| Offset   | ....                 | ....       | ....          |
| Subtotal Offsets   | ....                 | ....       | ....          |
| <b>Total Program Changes</b>   | 71                   | 36         | 5,187         |
| <b>2008 Total Request</b>  | <b>666</b>           | <b>583</b> | <b>94,678</b> |
| 2007 - 2008 Total Change   | 71                   | 52         | \$12,057      |
| 2008 Rescissions from Balances   |                      |            |               |

\* The Department of Justice 2008 budget request was built on a starting point that recognized progress in enacting the FY 2007 appropriation. The starting point used (referred to throughout this document as the "Estimate") is the average of the Senate Committee and House passed marks, less one percent, unless noted otherwise.

**Summary of Requirements**  
 Tax Division  
 Salaries and Expenses  
 (Dollars in Thousands)

| Estimates by budget activity | 2006 Enacted<br>w/Rescissions and<br>Supplementals |            |               | 2007<br>Estimate |            |               | 2008<br>and Technical<br>Adjustments |           |              | 2008<br>Current Services |            |               | 2008<br>Increases |           |              | 2008<br>Offsets |             |             | 2008<br>Request |            |               |
|------------------------------|--|------------|---------------|------------------|------------|---------------|--------------------------------------|-----------|--------------|--------------------------|------------|---------------|-------------------|-----------|--------------|-----------------|-------------|-------------|-----------------|------------|---------------|
|                              | Pos.   | FTE        | Amount        | Pos.             | FTE        | Amount        | Pos.                                 | FTE       | Amount       | Pos.                     | FTE        | Amount        | Pos.              | FTE       | Amount       | Pos.            | FTE         | Amount      | Pos.            | FTE        | Amount        |
| General Tax Matters          | 566  | 518        | \$80,507      | 595              | 531        | \$82,621      | ....                                 | 16        | \$6,870      | 595                      | 547        | 89,491        | 71                | 36        | \$5,187      | ....            | ....        | \$0         | 666             | 583        | \$94,678      |
| <b>Total</b>                 | <b>566</b>   | <b>518</b> | <b>80,507</b> | <b>595</b>       | <b>531</b> | <b>82,621</b> | <b>....</b>                          | <b>16</b> | <b>6,870</b> | <b>595</b>               | <b>547</b> | <b>89,491</b> | <b>71</b>         | <b>36</b> | <b>5,187</b> | <b>....</b>     | <b>....</b> | <b>....</b> | <b>666</b>      | <b>583</b> | <b>94,678</b> |
| Reimbursable FTE             |  | 8          |               |                  | 8          |               |                                      |           |              |                          | 8          |               |                   |           |              |                 |             |             |                 |            | 8             |
| Total FTE                    |  | 526        |               |                  | 539        |               |                                      | 16        |              |                          | 555        |               |                   | 36        |              |                 | ....        |             |                 |            | 591           |
| Other FTE:                   |  |            |               |                  |            |               |                                      |           |              |                          |            |               |                   |           |              |                 |             |             |                 |            |               |
| LEAP                         |  |            |               |                  |            |               |                                      | ....      |              |                          |            |               |                   | ....      |              |                 | ....        |             |                 |            |               |
| Overtime                     |  | 2          |               |                  | 2          |               |                                      | ....      |              |                          | ....       |               |                   | ....      |              |                 | ....        |             |                 |            | 2             |
| Total Comp. FTE              |  | 528        |               |                  | 541        |               |                                      | 16        |              |                          | 555        |               |                   | 36        |              |                 | ....        |             |                 |            | 593           |

**C: Program Increases/Offsets By Decision Unit**

**FY 2008 Program Increases/Offsets By Decision Unit**

Tax Division  
(Dollars in Thousands)

| Program Increases              | Location of Description<br>by Decision Unit | Decision Unit 1 |            |           |                | Total<br>Increases |
|--------------------------------|---|-----------------|------------|-----------|----------------|--------------------|
|                                |   | Pos.            | Agt./Atty. | FTE       | Amount         |                    |
| General Tax Matters            | Operation Continued Follow-Through          | 71              | 51         | 36        | 5,187          | 5,187              |
|                                |   | ....            | ....       | ....      | ....           | ....               |
| <b>Total Program Increases</b> |   | <b>71</b>       | <b>51</b>  | <b>36</b> | <b>\$5,187</b> | <b>\$5,187</b>     |
| Program Offsets                | Location of Description<br>by Decision Unit | Decision Unit 1 |            |           |                | Total<br>Offsets   |
|                                |   | Pos.            | Agt./Atty. | FTE       | Amount         |                    |
| General Tax Matters            | No Offsets Available                        | ....            | ....       | ....      | ....           | ....               |
|                                |   | ....            | ....       | ....      | ....           | ....               |
| <b>Total Offsets</b>           |   | <b>0</b>        | <b>0</b>   | <b>0</b>  | <b>\$0</b>     | <b>\$0</b>         |

D: Resources by DOJ Strategic Goal and Strategic Objective

**Resources by Department of Justice Strategic Goal/Objective**  
**Tax Division**  
(Dollars in Thousands)

| Strategic Goal and Strategic Objective  | 2006 Enacted                    |                      | 2007                     |                      | 2008                     |                      | 2008                     |                      | 2008                     |                      |                          |                      |
|---|---------------------------------|----------------------|--------------------------|----------------------|--------------------------|----------------------|--------------------------|----------------------|--------------------------|----------------------|--------------------------|----------------------|
|   | w/Rescissions and Supplementals |                      | Estimate                 |                      | Current Services         |                      | Increases                |                      | Offsets                  |                      | Request                  |                      |
|   | Direct, Reimb. Other FTE        | Direct Amount \$000s | Direct, Reimb. Other FTE | Direct Amount \$000s | Direct, Reimb. Other FTE | Direct Amount \$000s | Direct, Reimb. Other FTE | Direct Amount \$000s | Direct, Reimb. Other FTE | Direct Amount \$000s | Direct, Reimb. Other FTE | Direct Amount \$000s |
| <b>Goal 2: Enforce Federal Laws and Represent the Rights and Interests of the American People</b> |                                 |                      |                          |                      |                          |                      |                          |                      |                          |                      |                          |                      |
| 2.5 Criminal Prosecution and Appeals  | 148                             | \$20,997             | 154                      | \$21,519             | 158                      | \$23,511             | 9                        | \$1,351              | -                        | -                    | 167                      | \$24,862             |
| 2.5: Civil Litigation and Appeals   | 378                             | \$9,510              | 385                      | \$61,102             | 397                      | \$65,980             | 27                       | \$3,836              | -                        | -                    | 424                      | \$69,816             |
| <b>Subtotal, Goal 2</b>   | <b>526</b>                      | <b>\$80,507</b>      | <b>539</b>               | <b>\$82,621</b>      | <b>555</b>               | <b>\$89,491</b>      | <b>36</b>                | <b>\$5,187</b>       | <b>-</b>                 | <b>-</b>             | <b>591</b>               | <b>\$94,678</b>      |
| <b>GRAND TOTAL</b>  | <b>526</b>                      | <b>\$80,507</b>      | <b>539</b>               | <b>\$82,621</b>      | <b>555</b>               | <b>\$89,491</b>      | <b>36</b>                | <b>\$5,187</b>       | <b>-</b>                 | <b>\$ -</b>          | <b>591</b>               | <b>\$94,678</b>      |

**E. Justification for Base Adjustments**

**Justification for Base Adjustments**

**Tax Division**

Increases

2008 pay raise. This request provides for a proposed 3.0 percent pay raise to be effective in January of 2008. (This percentage is likely to change as the budget formulation process progresses.) This increase includes locality pay adjustments as well as the general pay raise. The amount requested, \$1,350,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$951,000 for pay and \$399,000 for benefits).

Annualization of 2007 pay raise. This pay annualization represents first quarter amounts (October through December) of the 2007 pay increase of 2.2 percent included. The amount requested \$546,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$385,000 for pay and \$161,000 for benefits).

Annualization of additional positions approved in 2006 and 2007. This provides for the annualization of no additional positions appropriated in 2006 and 32 additional positions requested in the 2007 President's budget. Annualization of new positions extends to 3 years to provide for entry level funding in the first year with a 2-year progression to the journeyman level. For 2006 increases, this request includes an increase of \$0 for full-year payroll costs associated with these additional positions. For 2007, this request includes a decrease of \$0 for one-time items associated with the increased positions, and an increase of \$1,747,000 for full-year costs associated with these additional positions, for a net increase of \$1,747,000.

|  | 2006 Increases<br>(\$000) | Annualization<br>Required for 2008<br>(\$000) | 2007 Increases<br>(\$000) | Annualization<br>Required for 2008<br>(\$000) |
|--|---------------------------|---|---------------------------|---|
| Annual salary rate of 32 new positions                     |                           |   | 2,530                     | 2,530   |
| Less lapse (50 %)  |                           |   | 1,265                     | 1,265   |
| Net Compensation   | 0                         | 0   | 1,265                     | 1,265   |
| Associated employee benefits                               |                           |   | 304                       | 304   |
| Travel   |                           |   | 101                       | 101   |
| Transportation of Things                                   |                           |   | 22                        | 22  |
| Communications/Utilities                                   |                           |   | 34                        | 0   |
| Printing/Reproduction                                      |                           |   | 55                        | 0   |
| Other Contractual Services:                                |                           |   | 56                        | 0   |
| 25.2 Other Services  |                           |   |                           | 55  |
| 25.3 Purchase of Goods and Services from Government Accts. |                           |   |                           | 0   |
| 25.4 Operation and Maintenance of Facilities               |                           |   | 115                       | 0   |
| 25.6 Medical Care  |                           |   |                           | 0   |
| Supplies and Materials                                     |                           |   | 17                        | 0   |
| Equipment  |                           |   | 32                        | 0   |
| <b>TOTAL COSTS SUBJECT TO ANNUALIZATION</b>                | <b>0</b>                  | <b>0</b>                                      | <b>2,000</b>              | <b>1,747</b>                                  |



**F: Crosswalk of 2006 Availability**

**Crosswalk of 2006 Availability**

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

| Decision Unit         | FY 2006 Enacted Without Rescissions |            |                 | Rescissions |             |                  | Reprogrammings / Transfers |             |                | Reallocations |             |                | Carryover/ Recoveries |             |              | 2006 Availability |            |                 |
|-----------------------|-------------------------------------|------------|-----------------|-------------|-------------|------------------|----------------------------|-------------|----------------|---------------|-------------|----------------|-----------------------|-------------|--------------|-------------------|------------|-----------------|
|                       | Pos.                                | FTE        | Amount          | Pos.        | FTE         | Amount           | Pos.                       | FTE         | Amount         | Pos.          | FTE         | Amount         | Pos.                  | FTE         | Amount       | Pos.              | FTE        | Amount          |
| General Tax Matters   | 566                                 | 518        | \$81,548        | ....        | ....        | (\$1,042)        | ....                       | ....        | (\$332)        | ....          | ....        | \$1,265        | ....                  | ....        | \$674        | 566               | 518        | \$82,113        |
| <b>TOTAL</b>          | <b>566</b>                          | <b>518</b> | <b>\$81,548</b> | <b>....</b> | <b>....</b> | <b>(\$1,042)</b> | <b>....</b>                | <b>....</b> | <b>(\$332)</b> | <b>....</b>   | <b>....</b> | <b>\$1,265</b> | <b>....</b>           | <b>....</b> | <b>\$674</b> | <b>566</b>        | <b>518</b> | <b>\$82,113</b> |
| Reimbursable FTE      |                                     | 8          |                 |             |             |                  |                            |             |                |               |             |                |                       |             |              |                   | 8          |                 |
| Total FTE             |                                     | 526        |                 |             | ....        |                  |                            | ....        |                |               | ....        |                |                       | ....        |              |                   | 526        |                 |
| Other FTE             |                                     |            |                 |             |             |                  |                            |             |                |               |             |                |                       |             |              |                   |            |                 |
| LEAP                  |                                     |            |                 |             |             |                  |                            |             |                |               |             |                |                       |             |              |                   |            | ....            |
| Overtime              |                                     |            |                 |             |             |                  |                            |             |                |               |             |                |                       |             |              |                   |            | ....            |
| Total Compensable FTE |                                     | 526        |                 |             | ....        |                  |                            | ....        |                |               | ....        |                |                       | ....        |              |                   | 526        |                 |

Enacted Rescissions. Funds rescinded as required by the Department of Justice Appropriations Act, 2006 (P.L. 109-108) and the Department of Defense Appropriations Act, 2006 (P.L. 109-148).

Transfers. The Attorney General authorized the transfer of \$332,000 from Tax Division's account to provide funds needed for U.S. Attorney's, reprogramming approved by Congress in FY 2005.

Reallocations: Funds distributed from GLA's ALS account to Tax Division's ALS account

Unobligated Balances. Funds were carried over from FY 2005 from the ALS no year account. The Tax Division brought forward \$674,000 from funds provided in 2005 for ALS.



## G: Crosswalk of 2007 Availability

### Crosswalk of 2007 Availability

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

| Decision Unit         | 2007 Estimate |            |                 | Rescissions |             |            | Reprogrammings / Transfers |             |            | Unobligated Balances Carried Forward /Recoveries |             |              | 2007 Availability |            |                 |
|-----------------------|---------------|------------|-----------------|-------------|-------------|------------|----------------------------|-------------|------------|--|-------------|--------------|-------------------|------------|-----------------|
|                       | Pos.          | FTE        | Amount          | Pos.        | FTE         | Amount     | Pos.                       | FTE         | Amount     | Pos.   | FTE         | Amount       | Pos.              | FTE        | Amount          |
| General Tax Matters   | 595           | 531        | 82,621          | ....        | ....        | ....       | ....                       | ....        | ....       | ....   | ....        | 472          | 595               | 531        | 83,093          |
| <b>TOTAL</b>          | <b>595</b>    | <b>531</b> | <b>\$82,621</b> | <b>....</b> | <b>....</b> | <b>\$0</b> | <b>....</b>                | <b>....</b> | <b>\$0</b> | <b>....</b>                                      | <b>....</b> | <b>\$472</b> | <b>595</b>        | <b>531</b> | <b>\$83,093</b> |
| Reimbursable FTE      |               | 8          |                 |             |             |            |                            |             |            |  |             |              |                   | 8          |                 |
| Total FTE             |               | 539        |                 |             | ....        |            |                            | ....        |            |  | ....        |              |                   | 539        |                 |
| Other FTE             |               |            |                 |             |             |            |                            |             |            |  |             |              |                   |            |                 |
| LEAP                  |               |            |                 |             |             |            |                            |             |            |  |             |              |                   | ....       |                 |
| Overtime              |               |            |                 |             |             |            |                            |             |            |  |             |              |                   | ....       |                 |
| Total Compensable FTE |               | 539        |                 |             | ....        |            |                            | ....        |            |  | ....        |              |                   | 539        |                 |

Unobligated Balances. Funds were carried over from FY 2006 from the ALS account.

## H: Summary of Reimbursable Resources

### Summary of Reimbursable Resources

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

| Collections by Source              | 2006 Enacted |          |                | 2007 Planned |          |                | 2008 Request |          |              | Increase/Decrease |             |                  |
|------------------------------------|--------------|----------|----------------|--------------|----------|----------------|--------------|----------|--------------|-------------------|-------------|------------------|
|                                    | Pos.         | FTE      | Amount         | Pos.         | FTE      | Amount         | Pos.         | FTE      | Amount       | Pos.              | FTE         | Amount           |
| Organized Crime & Drug Enforcement | 10           | 8        | \$971          | 10           | 8        | \$621          | 10           | 8        | \$983        | ....              | ....        | \$362            |
| Debt Collection (3% Fund)          | ....         | ....     | 1,849          | ....         | ....     | 1,539          | ....         | ....     | ....         | ....              | ....        | (1,539)          |
| Internal Revenue Service           | ....         | ....     | ....           | ....         | ....     | 101            | ....         | ....     | ....         | ....              | ....        | (101)            |
| <b>Budgetary Resources:</b>        | <b>10</b>    | <b>8</b> | <b>\$2,820</b> | <b>10</b>    | <b>8</b> | <b>\$2,261</b> | <b>10</b>    | <b>8</b> | <b>\$983</b> | <b>....</b>       | <b>....</b> | <b>(\$1,278)</b> |

**I: Detail of Permanent Positions by Category**

**Detail of Permanent Positions by Category**  
 Tax Division  
 Salaries and Expenses

| Category                               | 2006 Enacted w/Rescissions and Supplementals |                    | 2007 Estimate    |                    | 2008 Request           |                        |             |                   |                   |                   |                  |                    |
|--|--|--------------------|------------------|--------------------|------------------------|------------------------|-------------|-------------------|-------------------|-------------------|------------------|--------------------|
|  | Total Authorized                             | Total Reimbursable | Total Authorized | Total Reimbursable | Adj. to Base Increases | Adj. to Base Decreases | Total ATB   | Program Increases | Program Decreases | Total Pr. Changes | Total Authorized | Total Reimbursable |
| Attorneys (905)                        | 342  | 8                  | 361              | 8                  | ....                   | ....                   | ....        | 51                | ....              | 51                | 412              | 8                  |
| Paralegals / Other Law (900-998)       | 96   | ....               | 99               | ....               | ....                   | ....                   | ....        | 7                 | ....              | 7                 | 106              | ....               |
| Personnel Management (200-299)         | 8  | ....               | 8                | ....               | ....                   | ....                   | ....        | ....              | ....              | ....              | 8                | ....               |
| Clerical and Office Services (300-399) | 99   | 2                  | 106              | 2                  | ....                   | ....                   | ....        | 13                | ....              | 13                | 119              | 2                  |
| Accounting and Budget (500-599)        | 9  | ....               | 9                | ....               | ....                   | ....                   | ....        | ....              | ....              | ....              | 9                | ....               |
| Library (1400-1499)                    | 1  | ....               | 1                | ....               | ....                   | ....                   | ....        | ....              | ....              | ....              | 1                | ....               |
| Information Technology Mgmt (2210)     | 11   | ....               | 11               | ....               | ....                   | ....                   | ....        | ....              | ....              | ....              | 11               | ....               |
| <b>Total</b>                           | <b>566</b>                                   | <b>10</b>          | <b>595</b>       | <b>10</b>          | <b>....</b>            | <b>....</b>            | <b>....</b> | <b>71</b>         | <b>....</b>       | <b>71</b>         | <b>666</b>       | <b>10</b>          |
| <b>Location</b>                        |  |                    |                  |                    |                        |                        |             |                   |                   |                   |                  |                    |
| Headquarters (Washington, D.C.)        | 536  | 10                 | 565              | 10                 | ....                   | ....                   |             |                   |                   | 71                | 636              | 10                 |
| U.S. Field                             | 30   | ....               | 30               | ....               | ....                   | ....                   |             |                   |                   | ....              | 30               | ....               |
| Foreign Field                          | ....   | ....               | ....             | ....               | ....                   | ....                   |             |                   |                   | ....              | ....             | ....               |
| <b>Total</b>                           | <b>566</b>                                   | <b>10</b>          | <b>595</b>       | <b>10</b>          | <b>....</b>            | <b>....</b>            | <b>....</b> | <b>....</b>       | <b>....</b>       | <b>71</b>         | <b>666</b>       | <b>10</b>          |

# J: Financial Analysis of Program Changes

## Financial Analysis of Program Changes

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

| Grades:  | General Tax Matters |                |            |              |                       |              |          |            | Program Changes |                |
|--|---------------------|----------------|------------|--------------|-----------------------|--------------|----------|------------|-----------------|----------------|
|  | Attorneys           |                | Paralegals |              | Litigation Assistants |              | Offset   |            | Pos.            | Amount         |
|  | Pos.                | Amount         | Pos.       | Amount       | Pos.                  | Amount       | Pos.     | Amount     |                 |                |
| SES  | ....                | ....           | ....       | ....         | ....                  | ....         | ....     | ....       | ....            | ....           |
| GS-15  | 17                  | \$1,819        | ....       | ....         | ....                  | ....         | ....     | ....       | 17              | \$1,819        |
| GS-14  | 34                  | 3,638          | ....       | ....         | ....                  | ....         | ....     | ....       | 34              | 3,638          |
| GS-9   | ....                | ....           | 7          | \$392        | ....                  | ....         | ....     | ....       | 7               | 392            |
| GS-7   | ....                | ....           | ....       | ....         | 13                    | \$546        | ....     | ....       | 13              | 546            |
| Total positions & annual amount                        | 51                  | 5,457          | 7          | 392          | 13                    | 546          | ....     | ....       | 71              | 6,395          |
| Lapse (-)  | ....                | (2,729)        | ....       | (196)        | ....                  | (273)        | ....     | ....       | ....            | (3,198)        |
| Other personnel compensation                           | ....                | ....           | ....       | ....         | ....                  | ....         | ....     | ....       | ....            | ....           |
| Total FTE & personnel compensation                     | 51                  | 2,729          | 7          | 196          | 13                    | 273          | ....     | ....       | 71              | 3,198          |
| Personnel benefits                                     | ....                | 806            | ....       | 58           | ....                  | 81           | ....     | ....       | ....            | 945            |
| Travel and transportation of persons                   | ....                | 255            | ....       | 4            | ....                  | ....         | ....     | ....       | ....            | 259            |
| Transportation of things                               | ....                | 49             | ....       | 7            | ....                  | 13           | ....     | ....       | ....            | 69             |
| GSA rent   | ....                | 0              | ....       | 0            | ....                  | 0            | ....     | ....       | ....            | ....           |
| Communication, rents, and utilities                    | ....                | 77             | ....       | 5            | ....                  | 7            | ....     | ....       | ....            | 89             |
| Other services   | ....                | 179            | ....       | 11           | ....                  | 13           | ....     | ....       | ....            | 203            |
| Purchases of goods & services from Government accounts | ....                | 155            | ....       | 13           | ....                  | 23           | ....     | ....       | ....            | 191            |
| Operation and maintenance of equipment                 | ....                | 128            | ....       | 18           | ....                  | 26           | ....     | ....       | ....            | 172            |
| Supplies and materials                                 | ....                | 26             | ....       | 4            | ....                  | 7            | ....     | ....       | ....            | 37             |
| Equipment and Structures                               | ....                | 26             | ....       | ....         | ....                  | ....         | ....     | ....       | ....            | 26             |
| <b>Total, 2008 program changes requested</b>           | <b>51</b>           | <b>\$4,430</b> | <b>7</b>   | <b>\$316</b> | <b>13</b>             | <b>\$442</b> | <b>0</b> | <b>\$0</b> | <b>71</b>       | <b>\$5,187</b> |

**K: Summary of Requirements by Grade**

**Summary of Requirements by Grade**

Tax Division  
Salaries and Expenses

| Grades and Salary Ranges             | 2006 Actual |                   | 2007 Estimate |                   | 2008 Request |                   | Increase/Decrease |        |
|--------------------------------------|-------------|-------------------|---------------|-------------------|--------------|-------------------|-------------------|--------|
|                                      | Pos.        | Amount            | Pos.          | Amount            | Pos.         | Amount            | Pos.              | Amount |
| SES, \$109,808 - \$152,000           | 23          |                   | 23            |                   | 23           |                   | ....              |        |
| GS-15, \$107,521 - 139,774           | 256         |                   | 260           |                   | 277          |                   | 17                |        |
| GS-14, \$91,407 - 118,828            | 62          |                   | 77            |                   | 111          |                   | 34                |        |
| GS-13, \$77,353 - 100,554            | 42          |                   | 42            |                   | 42           |                   | ....              |        |
| GS-12, \$65,048 - 84,559             | 15          |                   | 15            |                   | 15           |                   | ....              |        |
| GS-11, \$54,272 - 70,558             | 42          |                   | 42            |                   | 42           |                   | ....              |        |
| GS-10, 49,397 - 64,213               | 2           |                   | 2             |                   | 2            |                   | ....              |        |
| GS-9, \$44,856 - 58,318              | 41          |                   | 44            |                   | 51           |                   | 7                 |        |
| GS-8, 40,612 - 52,794                | 62          |                   | 62            |                   | 62           |                   | ....              |        |
| GS-7, \$36,671 - 47,669              | 17          |                   | 24            |                   | 37           |                   | 13                |        |
| GS-6, \$33,000 - 42,898              | 2           |                   | 2             |                   | 2            |                   | ....              |        |
| GS-5, \$29,604 - 38,487              | 2           |                   | 2             |                   | 2            |                   | ....              |        |
| GS-4, \$26,460 - 34,402              | ....        |                   | ....          |                   | ....         |                   | ....              |        |
| GS-3, \$23,571 - 30,645              | ....        |                   | ....          |                   | ....         |                   | ....              |        |
| GS-2, \$21,602 - 27,182              | ....        |                   | ....          |                   | ....         |                   | ....              |        |
| GS-1, \$19,214 - 24,029              | ....        |                   | ....          |                   | ....         |                   | ....              |        |
| <b>Total, appropriated positions</b> | <b>566</b>  |                   | <b>595</b>    |                   | <b>666</b>   |                   | <b>71</b>         |        |
| <b>Average SES Salary</b>            |             | <b>\$ 152,000</b> |               | <b>\$ 156,104</b> |              | <b>\$ 159,538</b> |                   |        |
| <b>Average GS Salary</b>             |             | <b>\$ 82,691</b>  |               | <b>\$ 84,554</b>  |              | <b>\$ 86,296</b>  |                   |        |
| <b>Average GS Grade</b>              |             | <b>12.75</b>      |               | <b>12.71</b>      |              | <b>12.69</b>      |                   |        |

**L: Summary of Requirements by Object Class**

**Summary of Requirements by Object Class**

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

| Object Classes  | 2006 Actual Obligations |                 | 2007 Estimate |                 | 2008 Request |                 | Increase/Decrease |                 |
|---|-------------------------|-----------------|---------------|-----------------|--------------|-----------------|-------------------|-----------------|
|   | FTE                     | Amount          | FTE           | Amount          | FTE          | Amount          | FTE               | Amount          |
| 11.1 Direct FTE & personnel compensation                    | 418                     | \$44,906        | 431           | \$45,288        | 483          | \$51,943        | 52                | \$6,654         |
| 11.3 Other than full-time permanent                         | 63                      | 1,529           | 37            | 2,862           | 37           | 3,030           | ....              | 168             |
| 11.5 Total, Other personnel compensation                    | ....                    | 642             | ....          | 899             | ....         | 952             | ....              | 53              |
| <i>Overtime</i>   | ....                    | ....            | ....          | ....            | ....         | ....            | ....              | ....            |
| <i>Other Compensation</i>                                   | ....                    | ....            | ....          | ....            | ....         | ....            | ....              | ....            |
| 11.8 Special personal services payments                     | ....                    | ....            | ....          | ....            | ....         | ....            | ....              | ....            |
| Total   | 481                     | \$47,077        | 468           | \$49,049        | 520          | \$55,925        | 52                | \$6,875         |
| Reimbursable FTE:   | 4                       |                 | 8             |                 | 8            |                 |                   |                 |
| Full-time permanent   | 485                     |                 | 476           |                 | 528          |                 |                   |                 |
| Other Object Classes:                                       |                         |                 |               |                 |              |                 |                   |                 |
| 12.0 Personnel benefits                                     |                         | \$11,078        |               | \$11,418        |              | \$14,410        |                   | \$2,993         |
| 13.0 Benefits to Former Personnel                           |                         | ....            |               | 28              |              | 28              |                   |                 |
| 21.0 Travel and transportation of persons                   |                         | 2,748           |               | 3,405           |              | 3,405           |                   | ....            |
| 22.0 Transportation of things                               |                         | 726             |               | 775             |              | 775             |                   | ....            |
| 23.2 Rental Payments to Others                              |                         | 11,077          |               | 12,078          |              | 14,116          |                   | 2,038           |
| 23.3 Comm., util., & other misc. charges                    |                         | 1,140           |               | 1,065           |              | 1,065           |                   | ....            |
| 24.0 Printing and reproduction                              |                         | 68              |               | 66              |              | 66              |                   | ....            |
| 25.2 Other services   |                         | 3,380           |               | 2,839           |              | 2,499           |                   | (340)           |
| 25.3 Purchases of goods & services from Government accounts |                         | 1,191           |               | 1,529           |              | 1,548           |                   | 19              |
| 25.7 Operation and maintenance of equipment                 |                         | 282             |               | 180             |              | 180             |                   | ....            |
| 26.0 Supplies and materials                                 |                         | 679             |               | 561             |              | 561             |                   | ....            |
| 31.0 Equipment  |                         | 432             |               | 100             |              | 100             |                   | ....            |
| <b>Total obligations</b>                                    |                         | <b>\$79,878</b> |               | <b>\$83,093</b> |              | <b>\$94,678</b> |                   | <b>\$11,585</b> |
| Unobligated balance, start of year [-]                      |                         |                 |               | (472)           |              | ....            |                   |                 |
| Unobligated balance, end of year [+]                        |                         |                 |               |                 |              |                 |                   |                 |
| Recoveries of prior year obligations [-]                    |                         | ....            |               | ....            |              | ....            |                   |                 |
| Total requirements  |                         | 79,878          |               | 82,621          |              | 94,678          |                   |                 |
| Relation of Obligation to Outlays:                          |                         |                 |               |                 |              |                 |                   |                 |
| Total obligations   |                         | ....            |               | ....            |              | ....            |                   |                 |
| Obligated balance, start of year [+]                        |                         | ....            |               | ....            |              | ....            |                   |                 |
| Obligated balance, end of year [-]                          |                         | ....            |               | ....            |              | ....            |                   |                 |
| Recoveries of prior year obligations                        |                         | ....            |               | ....            |              | ....            |                   |                 |
| Outlays   |                         |                 |               |                 |              |                 |                   |                 |

The Increase/Decrease column is \$472,000 less than the total increase of \$12,057,000 due to carryover funding being obligated in FY 2007.

**M. Status of Congressionally Requested Studies, Reports, and Evaluations**

**NOT APPLICABLE**