D. Enron's Federal Income Tax Position

1. Enron's consolidated Federal income tax filings

Enron Corp. is a calendar year taxpayer that uses the accrual basis method of accounting for Federal income tax purposes. Enron Corp. files consolidated Federal income tax returns in which it reports the consolidated taxable income of its affiliated group within the meaning of section 1504(a).[144] Enron reported 346 entities as members of its affiliated group in its 2000 tax return.[145] Enron's consolidated group also includes numerous single member limited liability companies that Enron treats as disregarded entities for Federal income tax purposes.[146]

The IRS master file account information pertaining to Enron Corp. as of January 8, 2003, shows that Enron filed Federal income tax returns for each of its taxable years from 1988 through 2001. Enron filed its Federal income tax return for its 2001 taxable year in September 2002.[147] Enron's tax return for calendar year 2002 is not due until March 17, 2003.

Mr. Robert J. Hermann signed Enron's Federal income tax returns for the years 1985 through 2000 in his capacity as an officer of the company.[148] Mr. Jordan H. Mintz signed

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[144] In general, an affiliated group is defined for this purpose to mean one or more chains of corporations connected through stock ownership with a common parent if the common parent owns, directly or indirectly, at least 80 percent of the total voting power and value of the stock of such corporations. Certain corporations, including tax-exempt corporations, life insurance companies, foreign corporations, section 936 corporations (regarding the Puerto Rico and possessions tax credit), regulated investment companies, real estate investment trusts, domestic international sales corporations, and S corporations, generally are not eligible to be included in an affiliated group. Sec. 1504(b).

[145] Form 1120, Enron Corp., 2000 (Form 851 Affiliations Schedule).

[146] Enron North America, Corp. (a subsidiary of Enron Corp.) alone reported in excess of 100 such entities. *See* Diagram of Enron North America - Disregarded entities. EC2 000025345. Under the Treasury Department's "check-the-box" entity classification regulations issued in December 1996, a domestic entity (other than a corporation and certain other ineligible entities) with a single owner is disregarded as an entity separate from its owner for Federal income tax purposes unless such entity elects to be treated as an association taxable as a corporation. Treas. Reg. secs. 301.7701-3(b)(1)(ii) and 301.7701-2(c)(2). Such a disregarded entity is treated as a branch or division of its sole owner for Federal income tax purposes.

[147] Enron filed documents with the Federal bankruptcy court which state that PGE has ceased to join in the filing of Enron's consolidated Federal income tax returns as a result of a May 7, 2001, transaction that caused PGE to cease to qualify as a member of Enron's affiliated group. Docket No. 8232, paragraph 27.

[148] Mr. Hermann signed the returns as "Vice-President, Tax" for the tax years through 1995, as "VP & General Tax Counsel" for the tax years 1996 through 1998, and as "Managing Director and General Tax Counsel" for the tax years 1999 and 2000.

Enron's Federal income tax return for the 2001 taxable year as Enron's Managing Director and General Tax Counsel.

Table 7, below, provides a reconciliation of Enron's consolidated financial statement net income and Enron's consolidated taxable income for 1996 through 2000. The information contained in the table is based on Enron's tax returns as filed without regard to audit adjustments.[149] In addition, the information contained in the table is based on Enron's financial statements as initially reported, without regard to earnings restatements as announced on November 19, 2001.[150]

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[149] The IRS examination of tax years 1996 through 2000 is ongoing.

[150] *See* Table 6, above, November 19, 2001, Form 10-Q Accounting Restatements for Enron, for a detailed listing of Enron's restatements. It is impossible to fully assess Enron's book to tax differences prior to determination of Enron's ultimate tax liability, which is under review by the bankruptcy court, and without a restatement of Enron's financial statements for these periods to reflect generally accepted accounting principles.

Table 7.–Enron Corp. and Subsidiaries: Reconciliation of Financial Statement Income to Taxable Income 1996-2000
[millions of dollars]

	1996	1997	1998	1999	2000
Net Income Reported in Consolidated Financial Income Statement[1]	584	105	703	893	979
Less Net Income from Entities not Included in Consolidated Tax Return					
Domestic Corporations[2]	-96	-189	-149	-152	-345
Foreign Corporations[3]	-232	-44	-521	-1,110	-1,722
Partnerships[4]	-145	-211	-319	-638	-6,899
	-473	**-444**	**-989**	**-1,900**	**-8,966**
Plus Net Income from:					
Intercompany Elimination Made for Books but not for Tax	1,322	1,300	1,884	3,997	13,625
Entities not Controlled for Financial Accounting Included for Tax[5]	0	0	14	122	258
	1,322	**1,300**	**1,898**	**4,119**	**13,883**
Book Income Reported on Consolidated Tax Return	**1,433**	**961**	**1,612**	**3,112**	**5,896**
Significant Book to Tax Adjustments[6]					
Federal Income Taxes	159	-35	45	-128	193
Net Partnership Adjustments	-107	-122	-109	-338	-481
Net Mark to Market Adjustments	-118	118	-333	-906	-537
Constructive Sale (section 1259)	0	0	0	0	5,566
Structures Treated as Debt for Tax not for Book (e.g., equity or minority interest)	-2	-24	-3	-12	-149
Company Owned Life Insurance Adjustment	-19	-24	-27	-35	-20
Stock Options Deduction	-113	-9	-92	-382	-1,560
Depreciation Differences	-67	-65	-57	-124	-154
Equity Earnings Reversal Per Tax Return	-1,183	-1,023	-1,688	-2,868	-5,516
All Other Book to Tax Differences	-293	-281	-101	223	-137
Taxable Income Reported on Consolidated Tax Return	-310	-504	-753	-1,458	3,101

Notes:
(1) As originally reported. (2) Corporations not meeting 80 percent vote and value test (sec. 1504(a)(2)). The financial accounting to tax return reconciliation in Appendix A contains additional details of these amounts. (3) Foreign corporations are not eligible for inclusion in consolidated tax return (sec. 1504(b)(3)). (4) Partnerships are required to file separate Federal income tax returns. The financial accounting to tax return reconciliation in Appendix A contains additional details of these amounts. (5) Disregarded entities for tax purposes (Treas. reg. sec. 301.7701-3) not included in consolidated financial statements. The financial accounting to tax return reconciliation in Appendix A contains additional details of these amounts. (6) Amounts as reported in Enron presentation to the Joint Committee staff, June 7, 2002. Appendix B contains this presentation. In addition, Appendix A contains further details of Enron's book to tax adjustments as reported in the tax return.

2. Interaction between Enron and the Internal Revenue Service

Selected information regarding Enron's tax department

Prior to the 1985 acquisition of HNG by InterNorth, HNG had a tax department with 24 employees, and InterNorth had approximately 55 tax department members. The 1985 HNG/InterNorth combination created a combined tax department with approximately 80 employees, led by Mr. Hermann, who had served as HNG's Vice President of Corporate Taxes.[151] The size of the Enron tax department decreased in the late 1980s as a result of recommendations by external management consultants that the company's tax department should be reduced to about 40 employees.

Enron's tax department went through significant expansion and reorganization during the 1990s. Beginning in 1989 or 1990, when Enron's business was moving beyond physical assets into financial products, Enron's tax department began "managing" Enron's tax liability, rather than merely preparing a tax return to report income resulting from Enron's operations. During the late 1980s Enron had been reporting net operating losses for Federal income tax purposes, resulting in a cumulative reported net operating loss carryover of approximately $404 million available from its 1990 taxable year.[152] Enron had "tight sands" tax credits, however, that Enron could utilize only if it had taxable income that generated a Federal income tax liability. It became advantageous for Enron to begin reporting positive taxable income for Federal income tax purposes, rather than net operating losses, to ensure full utilization of the tight sands tax credits. In its 1990 annual report letter to its shareholders and customers, Enron reported that the tight sands tax credits, combined with a Texas severance tax exemption, could be worth more than $100 million to Enron on a present value basis.[153] For 1991, Enron reported Federal taxable income of $167.5 million after fully utilizing its $404 million net operating loss carryover from 1990.[154] Enron also reported that its tight sands tax credits amounted to $17 million in 1991 and could exceed $40 million in 1992.[155] By this time, Enron recognized the importance of Federal income tax benefits, such as the tight sands tax credits, as a means of favorably affecting income

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[151] The information regarding Enron's tax department was obtained during the course of interviews conducted by the Joint Committee staff.

[152] Enron reported a consolidated net operating loss carryover of $403 million, available until 2003, in its notes to its 1990 annual report. Enron Corp., 1990 Annual Report, at 47 (1991). The actual amount of the carryover reported on Enron's 1991 tax return was $404 million.

[153] Enron Corp., 1990 Annual Report, at 6 (1991). The letter stated the successful move to longer term contracts and "the supportive role Enron Oil & Gas played in the passage of tight sands legislation were significant accomplishments in 1990." *Id.*

[154] Enron Corp., 1991 Annual Report, at 43 (1992).

[155] *Id.* at 3. Enron stated that the "positive impact of the tight gas sand tax credit, continued emphasis on cost control and net revenue from other marketing activities should allow EOG earnings to continue to improve despite low natural gas prices." *Id.*

for financial reporting purposes.[156] From the period 1991 through 1995, Enron claimed tight sands tax credits of approximately $150 million.[157]

In 1991, Enron also started expanding into international business ventures. In order to win bids on international ventures, the tax department provided tax planning methods involving the establishment of offshore companies to reduce U.S. tax on income from the ventures.[158] This led to staffing increases in the international tax area in Enron's tax department personnel and in other areas as well, causing the staff to approximately double in size from the late 1980s to 1996. Enron's tax department grew from a staff of 83 in 1996 to 253 in 2000.[159] The majority of these employees were located in Houston, although a few were in Portland, Oregon, and others were in Enron's office in London, England. By the end of 2001, however, the tax department had decreased to 183 employees. By 2002, the Enron tax department had further declined to 117 employees.

During the second half of the 1990s, the Enron tax department was divided into 12 separate and distinct functions. These functions included: Managing Director/General Tax Counsel; Planning; Reporting & Analysis; Tax Systems; Structured Transactions; Audits; Sales and Use Tax; Ad Valorem Tax; Administrative; Azurix; PGE - Portland; and London.[160] At the beginning of 2001, Enron's tax department was organized into several groups, generally with a vice president in charge who reported to Mr. Hermann. These groups included: Corporate Reporting and Analysis; Corporate – International; Corporate - Tax Planning; Enron North

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[156] Enron was able to reduce its income tax expense (and increase its financial statement net income) by the amount of its tight sands tax credits. *See e.g.*, Enron Corp., 1993 Annual Report (1994), at 52, n.3. Enron reported that it utilized tight sand tax credits of approximately $42.5 million in 1992, and that it expected to utilize approximately $50 million of the credit in 1993. Enron Corp., 1992 Annual Report, at 31 (1993). Enron reported it would continue to support a possible extension of the credit qualification period beyond 1992, and that it would continue to benefit from the credit after 1992 because it applied to previously qualified production through 2002. Enron Corp., 1992 Annual Report 31 (1993).

[157] *See* Appendix B, Enron Corp., Presentation to the Joint Committee on Taxation, (June 7, 2002).

[158] These offshore structures are discussed in more detail in Part Five.C., below, of this Report.

[159] *See* Appendix B, Enron Corp. Tax Department Summary Headcount Analysis, Enron Corp. Presentation to the Joint Committee on Taxation (June 7, 2002), at 8.

[160] *See* Appendix B, Enron Corp., Presentation to the Joint Committee on Taxation, (June 7, 2002).

America; Enron Energy Services; Europe; Enron Broadband Services; Gas Pipeline Group; Audits; and Structured Transactions.[161]

Enron's tax department was proactive. Over time the tax department generated benefits for Enron that equaled, or eventually far outstripped, the budgeted cost of the tax department itself. The benefits generated by Enron's tax department included financial earnings as well as tax savings.[162]

Enron's tax department obtained the services of external tax advisors for general tax advice that included: tax return preparation, transfer pricing documentation, State tax issues, tax audit support, and Federal tax consulting.[163] Enron estimated that it paid $14 million in external U.S. tax advisor fees in connection with such advice during the late 1990s.[164]

During the period 1997 through 2000, Enron prepared more than 1,000 Federal tax returns for each year with respect to its affiliated and related entities.[165] From 1997 to 2000, the total number of Federal tax returns prepared by the department increased from 1,002 to 2,486.[166] Similarly, the total number of State income and franchise tax returns prepared by the department increased during this period from 622 to 1,422.[167]

Enron's tax department prepared an annual report measuring the total tax savings generated by the department. The tax department transmitted the report to Enron's Board of Directors each December, before the Board approved the bonus pool for employees. In the late 1990s, the pay and bonuses of the tax department personnel were determined, like those of other Enron employees, on a ranking system with different levels. The base pay and bonus for any particular individual in the tax department were not specifically dependent on the tax savings

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161 Appendix B, Tax Department Organization As Of January 1, 2001, Enron Corp. Presentation to the Joint Committee on Taxation (June 7, 2002), at 7; a description of the Structured Transactions Group is included in Part Three. A of this Report.

162 These benefits are described in more detail with respect to the structured transactions described in Part Three.A., below, of this Report.

163 *See* Appendix B, Enron Corp., Presentation to the Joint Committee on Taxation, (June 7, 2002).

164 *Id.* These estimates do not include external tax advisor fees paid with respect to Enron's structured transactions.

165 *See* Part Two, Background and Methodology. *See also* Appendix B, Enron Corp., Presentation to the Joint Committee on Taxation, (June 7, 2002).

166 *Id.*

167 *See* Appendix B, Enron Corp., Presentation to the Joint Committee on Taxation, (June 7, 2002).

generated by that individual. A general discussion of Enron employee compensation is described in more detail in Part Four of this Report.

IRS examination of Enron tax returns

From 1990 to the present, the IRS conducted four examinations of Enron's Federal income tax returns. The examinations were divided into four audit cycles as follows: (1) taxable years 1983 through 1987; (2) taxable years 1988 through 1991; (3) taxable years 1992 through 1994; and (4) taxable years 1995 through 2001. The first three audit cycles were closed by the IRS in 1993, 1996, and 1998, respectively.[168] The net agreed deficiencies with respect to these examination cycles totaled $4.3 million. The audit cycle for 1995 through 2001 is currently under examination by the IRS.[169]

Each of the IRS's examinations of Enron's tax returns was coordinated through a team manager and a team coordinator. The IRS team generally included revenue agents, economists, engineers, and specialists in financial products, international examinations, and computer audits.[170] Each IRS team that examined Enron's 1985 through 1987 and 1988 through 1991 audit cycles consisted of 11 individuals. The IRS team size increased to 13 individuals for the 1992 through 1994 audit cycle, and to 27 individuals for the 1995 through 2001 audit cycle. The team manager for the last three audit cycles was the same IRS employee. The IRS assigned a different revenue agent as the team coordinator for each of the four audit cycles.

The IRS reported certain audit adjustment information to the Joint Committee staff. According to those reports, the adjustments to taxable income made by the IRS audit teams for Enron's taxable years 1988 through 1995 were as follows: -$18.8 million for 1988, -$27.3 million for 1989, -$11.7 million for 1990, $19.7 million for 1991, $101.6 million for 1992, $85.9 million for 1993, and $211.8 million for 1994. The total net adjustments made by the IRS audit teams for taxable years 1988 through 1994 increased Enron's taxable income by $361.2 million.

For the 1995 through 1999, the IRS issued 854 information document requests to Enron through March 5, 2002. Some of the information or materials requested included or involved: planning materials, partnership filings and returns, phantom stock deductions, other deductions, balance sheets, reorganization materials, affiliates' receivables, commodity derivatives and commodity physical positions, employee status, company policies, and general information. As of March 5, 2002, Enron had completed its responses to 830 requests. The outstanding requests involved related party transactions, potentially abusive tax shelters, development costs,

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[168] Internal Enron management documents reported that Enron had "successfully concluded the audit of the 1989-1991 tax returns, sustaining the deductibility of Net Operating Loss carry forward, which allowed recognition of $10 MM in tax benefit during third quarter 1995." 1995 Performance Review. EC 000102767.

[169] The Joint Committee staff understands that the IRS examination of Enron's 1995 taxable year is complete and that proposed adjustments have been made with respect to 1995.

[170] The IRS team for the 1995 through 2001 audit cycle also included specialists in employee plans and a specialist in excise taxes.

partnership income/loss, trading in the context of financial deals, capital gains, political contributions, and certain self-audit adjustments. The IRS expects to propose or make adjustments to one or more of the years in the open audit cycle, which could affect Enron's tax liability for such years.

Enron's overall working relationship with the IRS was described by Mr. Hermann as "professional" and "good" from the mid-1980s through the mid-1990s.[171] Mr. Hermann reported that Enron's expansion into international markets in the mid-1990s complicated the IRS's development of an audit plan and audit team to examine the tax implications of this growth, resulted in the IRS exploring irrelevant issues, and caused the working relationship between the IRS and Enron to deteriorate.[172] During IRS briefings, the Joint Committee staff was told that the relationship between Enron and the IRS became strained in the later years.

Enron's involvement in the coordinated industry case program

The IRS uses a coordinated industry case program[173] ("CIP") to coordinate the examination of large and highly diversified taxpayers. Pursuant to the CIP, over 1,600 of the largest corporate taxpayers are audited on an ongoing basis for a period of one or more years. If a taxpayer is chosen for the CIP, the taxpayer and all of their effectively controlled entities are included in the case. Unrelated entities may also be included in the case if they are associated

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[171] Joint Committee staff interview.

[172] *Id.*

[173] The CIP was created to centralize control of large cases and obtain uniformity and consistency in management. *See* Internal Revenue Manual Ch. 4.45.3.1 (Primary Control—Overview). CIP cases generally are selected based on factors that potentially indicate a high level of tax complexity. Such factors include the taxpayer's gross assets (usually starting at $500 million), gross receipts (usually starting at $1 billion), the number of entities involved, the number of separate and distinct major industries the taxpayer is involved in, and the specialized staff-related resources required to conduct the audit. Each of these factors is considered for a specific taxpayer and if certain thresholds are met the case qualifies as a CIP case. Usually, once a corporation qualifies as a CIP case it will remain in the program even if there may be a change in its circumstances. *See* Internal Revenue Manual Ch. 4.45.2.1 (Case Selection--Identification of Cases). Irrespective of whether a case exceeds the required threshold, a case may be included in the program if it is determined to be sufficiently complex and would likely benefit from using the team approach of the CIP. Likewise, cases meeting the thresholds may be excluded from the examination under the CIP. *See* Internal Revenue Manual Exhibit 4.45.2-1 (Criteria for the identification of Coordinated Industry Program cases).

Audit-related work in CIP cases is carried out by a team of revenue agents and other specialist members (such as international tax specialists, employment and excise tax specialists, economists, and engineers) who are responsible for reviewing and analyzing the tax liabilities of the corporate taxpayer in their respective area of specialization over a period of approximately 26 months. *See* Internal Revenue Manual Ch. 4.45.7.1 (Examination Cycle).

with the taxpayer in activities that have significant tax consequences. In 2001, over 400 cases and 3,700 returns were closed after being examined under the CIP.[174] Enron has been a CIP program participant since January 1989.

3. Enron's Federal income tax payments

Enron filed Federal income tax returns for 1996 through 2001 that reported a tax liability (before payments and credits) only for its 2000 and 2001 taxable years. These returns report that Enron paid no Federal income taxes with respect to taxable years 1996 through 1999.[175] Enron's taxable year 2000 Federal income tax return reported a tax liability of $63.2 million, tax payments and other credits of $70.1 million, and an overpayment of $6.9 million. Enron's taxable year 2001 Federal income tax return reported a total tax of $13,331, but a refund due to Enron of $20,428.[176]

Table 8, below, contains selected information regarding the company's taxable years 1986 through 2001, based on Enron's consolidated Federal income tax returns as filed without regard to audit adjustments.[177]

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[174] These returns related to a number of different taxable years. *See* Department of Treasury, Program Performance Report for FY2001, at http://www.ustreas.gov/gpra/2001rpt.pdf.

[175] This is consistent with the IRS master file account information pertaining to Enron Corp. as of January 8, 2003.

There have been conflicting accounts regarding whether Enron paid Federal income taxes during its profitable years. For example, a January 17, 2002, analysis of Enron's financial documents by Citizens for Tax Justice concluded that Enron received a net tax rebate of $381 million for the five-year period 1996 to 2000, even though it had U.S. profits before Federal income taxes of $1.785 billion for the same period. http://www.ctj.org/html/enron.htm. The Congressional Research Service, however, concluded that Enron paid U.S. Federal taxes during 1996 through 2000. Congressional Research Service, Report for Congress: *Enron and Taxes*, No. RS21149 (February 12, 2002).

[176] Although Enron made no Federal income tax payments with respect to its 2001 taxable year, Enron's 2001 return reported a credit for Federal tax on fuels of $33,759, which exceeded the reported tax due of $13,331 and created the reported refund of $20,428.

[177] These figures do not include taxes paid by related entities that were not included in Enron's consolidated group. For example, EOG was not included in Enron's consolidated Federal income tax return for those periods in which Enron owned less than 80 percent of EOG, and the figures do not include any taxes paid by EOG during such period. *See* Appendix B, Enron Corp., Presentation to the Joint Committee on Taxation, (June 7, 2002).

Table 8.–Selected Information Relating to Enron's U.S. Federal Taxes for 1986-2001, Per Original or Amended Returns [millions of dollars]

Year	Regular income tax	Alternative minimum tax	Other taxes	Nonrefundable credits	Total tax	Tax payments	Refundable credits	Tax due or overpaid
1986	0	0	1.4	0	1.4	1.3	0	0.1
1987	0	0	0.6	0	0.6	0.6	0	0
1988	0	0	0	0	0	11.0	0	-11.0
1989	0	1.2	0.1	0	1.3	2.0	0	-0.7
1990	0	31.4	0.4	0	31.8	41.4	0	-9.6
1991	56.9	90.4	0.8	-30.1	118.0	124.0	0	-6.0
1992	68.2	0	0.3	-12.4	56.1	60.0	0	-3.9
1993	78.7	0	0.3	-29.2	49.8	56.0	0	-6.2
1994	62.5	0	0.2	-23.7	39.0	44.0	0	-5.0
1995	56.7	0	0.2	-26.5	30.4	21.6	0	8.8
1996	0	0	0	0	0	0	0	0
1997	0	0	0	0	0	0	0.1	-0.1
1998	0	0	0	0	0	0	0	0
1999	0	0	0	0	0	0	0	0
2000	21.3	41.9	0	0	63.2	70.0	0.1	-6.9
2001	0	0	0	0	0[1]	0	0	0
Totals	344.3	164.9	4.3	-121.9	391.6	431.9	0.2	-40.5

Notes: (1) Enron reported tax for 2001of $13,331, tax credits of $33,759, with a refund due of $20,428.

Source: Forms 1120, Enron Corp., 1986-2001.

4. Enron's reported present Federal income tax position

Enron reported net operating losses (before net operating loss carryovers) for each of its taxable years 1996 through 1999. Enron did not seek to carry back those net operating losses to receive a refund of income taxes paid in earlier years. Instead, Enron carried forward these net operating losses ($3.1 billion) into 2000.[178] The net operating losses for 1996 through 1999 prevented Enron from obtaining closure for Federal income tax audit purposes with respect to those years.[179] As a result, Enron adopted a strategy to pay tax for 2000 to close out the audit for 1996 through 1999. Late in 2000, Enron entered into a number of transactions intended to generate taxable income in 2000 that would absorb the entire $3.1 billion net operating loss carryover to that year.[180] In its 2000 Federal income tax return, Enron reported $3.1 billion of taxable income (before its net operating loss deduction), which Enron offset with its reported net operating loss carryover from 1999 to 2000 of approximately the same amount. The following year, 2001, Enron recognized losses from closing out the transactions that had generated taxable income in 2000. This resulted in a net operating loss of $4.6 billion on Enron's 2001 Federal income tax return.[181]

5. Federal income tax claims in Enron's bankruptcy proceeding

Enron Corp. and each of its affiliates included in the consolidated bankruptcy proceeding that filed a Statement of Financial Affairs with the bankruptcy court (except one company, Enron LNG Shipping Company) listed the IRS as a creditor holding an unsecured claim, with the total

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[178] The $3.1 billion net operating loss carryover (as reported in Enron's 1999 return) consisted of $337.5 million from 1996, $503.5 million from 1997, $752.8 million from 1998, and $1.4 million from 1999. The 1996 loss amount of $337.5 million differs slightly from the $310.2 million reported on Enron's 1996 return. Enron reported its consolidated alternative minimum tax net operating loss carryover from 1999 to 2000 as $2.9 billion.

[179] A net operating loss carryover from a year closed under the generally applicable limitations provisions of Section 6501 may be examined for purposes of adjusting the net operating loss deduction allowable in a subsequent open year. Rev. Rul. 56-285, 1956-1 C.B. 134; Rev. Rul. 65-96, 1965-1 C.B. 126. This rule has the effect of keeping open Enron's taxable years for which it had reported unexpired net operating losses (1996 through 1999), for these limited purposes, beyond the generally applicable limitations periods.

[180] These transactions were part of the Project NOLy transaction that is described in Part Three of this Report, which by itself generated $5.5 billion of the taxable income that Enron reported in its 2000 tax return. A member of Enron's tax department described the transactions "as generating income [to] close tax years". In that person's words, "we needed a statute and so in the year 2000 we managed our taxable income to pay $60 million in tax so that we'd have a statute and use up the $3 billion NOL we had." Joint Committee staff interview.

[181] The intent of Project NOLy was to generate sufficient income in taxable year 2000 to use the company's $3.1 billion net operating loss carryover, and reverse the income recognized by Enron the following year (in 2001).

amount of the claim being unknown. Enron Corp. listed as an asset a Federal income tax refund of $63.2 million in its Statement of Financial Affairs, Schedule B, filed with the bankruptcy court on June 17, 2002. On August 1, 2002, the bankruptcy court ordered that the IRS has until March 31, 2003, to file proofs of claim or interests against any of the Enron entities that are part of the consolidated bankruptcy proceeding. Under that order, the IRS may seek an extension of the deadline for filing its proof of claim beyond March 31, 2003.