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FOR IMMEDIATE RELEASE
March 12, 2007

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U.S. CHARGES IRS REVENUE AGENT WITH TAX FRAUD

MICHAEL J. GARCIA, the United States Attorney for the Southern District of New York, MICHAEL J. THOMAS, the Special Agent-in-Charge of the New York Office of the Internal Revenue Service ("IRS"), and RUSSELL GEORGE, the Treasury Inspector General for Tax Administration, announced the arrest today of HARRY WILLNER, an Internal Revenue Service Revenue Agent, on charges of tax fraud. According to the Indictment unsealed in Manhattan federal court earlier today:

WILLNER was employed by the IRS as a Revenue Agent assigned to the Large and Mid-Size Business ("LMSB") Unit of the IRS in the Southern District of New York. As an LMSB Revenue Agent, WILLNER was responsible for audits of large financial institutions and served as a Team Coordinator of other Revenue Agents. WILLNER has been employed by the IRS as a Revenue Agent or Appeals Officer since 1974.

At various times, WILLNER was also an officer of a corporation known as NIA Advertising, Inc. ("NIA"), which was purportedly in the advertising business. According to certain NIA records, NIA's address was the same as WILLNER's home address in New Jersey. WILLNER did not request approval from the IRS to serve as an officer of NIA. WILLNER did, however, request approval for outside, part-time employment as an instructor with

schools located in Manhattan and to hold an unspecified position with a company known as Royal Magazine, Inc. ("Royal").

According to NIA's books and records, from 1998 through 2001, NIA purportedly loaned Royal approximately \$849,000. The "loan" was not evidenced by any written contracts or agreements. Beginning in 2002, WILLNER reported a "bad debt" deduction on NIA's corporate tax return, associated with the purported loan to Royal, which resulted in a "net operating loss," or "NOL," deduction in NIA's return in 2002 of more than \$758,000. The Internal Revenue Code and associated regulations generally define an NOL as an amount by which allowable deductions and exclusions for the year in question exceed gross income for that same tax year. The Internal Revenue Code and associated regulations also provide that, if computation of a taxpayer's liabilities for a particular year resulted in a determination that there was an NOL, that loss could be carried back or forward to offset net income in other tax years.

From January 2002 through March 2006, WILLNER endeavored in various ways to make fraudulent use of the NOL purportedly generated by NIA in 2002. First, between 2003 and 2004, WILLNER endeavored to sell NIA's NOLs to other taxpayers, thereby enabling those other taxpayers to employ NIA's NOLs to offset the income on their own tax returns and thereby to fraudulently reduce their tax liabilities. WILLNER proposed to accomplish this fraud by having other taxpayers who were owed income direct the fee payment to NIA, which would report it as income but pay no tax on it because the income would be offset by the NOL. WILLNER would then remit the money, less a fee for himself, to the other taxpayer disguised as a loan repayment. Second, between March 2002 and March 2006, WILLNER used NIA's NOLs to offset his own individual income tax liability by having fee income, earned by WILLNER in his individual capacity as an instructor at two schools, paid or assigned to NIA. WILLNER directed the two schools at which he earned off-duty teaching income to issue Form 1099s to NIA. WILLNER thereafter fraudulently reported the fee income on NIA's corporate income tax returns as receipts of NIA. Because NIA carried the sizeable NOL deduction from 2002 through 2005, the taxability of the teaching income was offset. As a consequence of this latter scheme, WILLNER evaded a total of approximately \$20,957 in United States income taxes.

WILLNER, 59, lives in Fair Lawn, New Jersey.

If convicted, WILLNER faces a maximum term of imprisonment of 3 years and a fine of \$5,000 on Count One, which

charges corrupt interference with the administration of the tax laws, and a maximum term of imprisonment of 3 years and a fine of \$10,000 on each of Counts Two through Five, which charge willful aiding in the preparation of false tax return.

Mr. GARCIA praised the investigative efforts of the Internal Revenue Service, Criminal Investigation Division, and the United States Department of the Treasury, Treasury Inspector General for Tax Administration.

Assistant United States Attorney SERENE K. NAKANO is in charge of the prosecution.

The charges contained in the Indictment are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

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