

ENFORCING THE NATION'S TAX LAWS FULLY, FAIRLY, AND CONSISTENTLY THE ROLE OF DOJ IN TAX ENFORCEMENT

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INTRODUCTION

This Essay is based on my presentation to Temple University Beasley School of Law for the 2022 Frank and Rose Fogel Lecture Series. This is not intended to be a transcript of my remarks given on October 11, 2022, but instead, an opportunity to provide additional information regarding the Tax Division. I want to thank Professor Alice G. Abreu, the Honorable Nelson A. Diaz Professor of Law and Director of the Center for Tax Law and Public Policy, for her friendship, her invitation to present the lecture, and her kind and thoughtful introduction. Finally, I extend my appreciation to Dean Rachel Rebouché, the Temple faculty, and everyone who attended the lecture. I am honored to have spent the afternoon with each of you discussing the role of the U.S. Department of Justice in tax enforcement.

THE U.S. DEPARTMENT OF JUSTICE

The mission of the U.S. Department of Justice (“the Department”) is to uphold the rule of law, to keep our country safe, and to protect civil rights.¹ The individuals who work at the Department are committed to this mission and strive every day to uphold the core values of the Department, which include:

Independence and Impartiality. The Justice Department works each day to earn the public’s trust by following the facts and the law wherever they may lead, without prejudice or improper influence.

Honesty and Integrity. The Justice Department’s employees adhere to the highest standards of ethical behavior, mindful that, as public servants, we must work to earn the trust of, and inspire confidence in, the public we serve.

Respect. The Justice Department’s employees value differences in people and in ideas and treat everyone with fairness, dignity, and compassion.

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1. Information throughout this Essay is sourced to the websites of the U.S. Department of Justice, <https://www.justice.gov/> [<https://perma.cc/N6NE-PBBL>] (last visited Mar. 1, 2023) and the Tax Division, <https://www.justice.gov/tax> [<https://perma.cc/NXW2-JHUU>] (last visited Mar. 1, 2023). See *About DOJ*, U.S. DEP’T OF JUST., <https://www.justice.gov/about> [<https://perma.cc/YF2R-3VAR>] (last visited Mar. 1, 2023); *About the Tax Division*, U.S. DEP’T OF JUST., <https://www.justice.gov/tax/about-division> [<https://perma.cc/YF2R-3VAR>] (last visited Mar. 1, 2023).

Excellence. The Justice Department works every day to provide the highest levels of service to the American people and to be a responsible steward of the taxpayers' dollars.²

During my tenure with the Department, I proudly served alongside the career employees who came to work every day and did their very best to meet and exceed these high standards.

A bit of history is in order. The Office of the Attorney General was created by the Judiciary Act of 1789³ as a one-person, part-time position. The Act specified that the Attorney General was to be “learned in the law,” with the duty “to prosecute and conduct all suits in the Supreme Court in which the United States shall be concerned, and to give his advice and opinion upon questions of law when requested by the President of the United States, or when requested by the heads of any of the departments.”⁴

In 1870, Congress established the Department as an executive department of the U.S. government led by the Attorney General.⁵ The Department was empowered to handle all criminal prosecutions and civil suits in which the United States had an interest. To assist the Attorney General, the 1870 Act also created the Office of the Solicitor General, who represents the interests of the United States before the U.S. Supreme Court. Today, the Department has expanded to include over 115,000 employees in more than forty separate components, including the Tax Division.

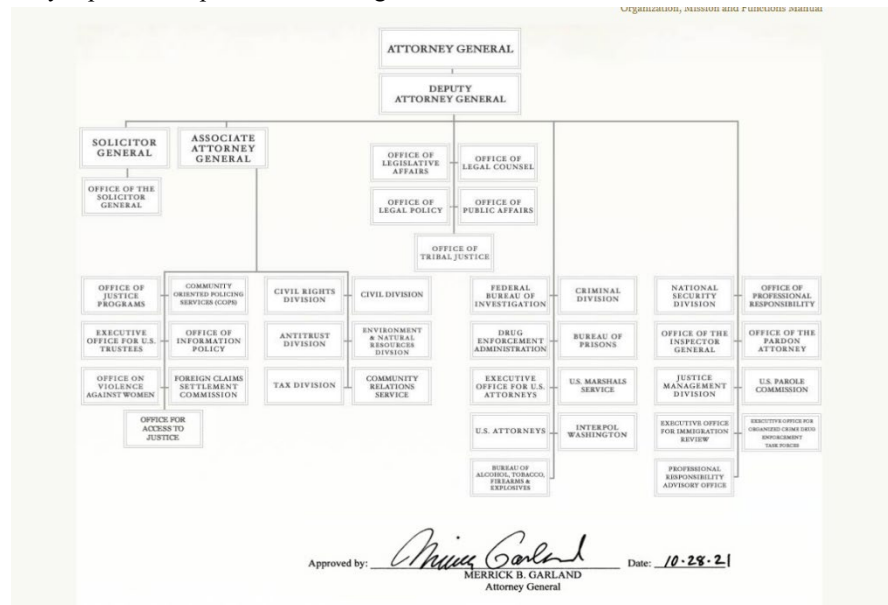


Figure 1: Department of Justice Organization

2. *Mission, Values, and Organization*, U.S. Dep’t of Just., <https://www.justice.gov/doj/mission-values-and-organization> [<https://perma.cc/Q5VQ-9PSP>] (last visited Mar. 1, 2023).

3. Ch. 20, § 35, 1 Stat. 73, 92–93.

4. *Id.*; U.S. DEP’T OF JUST., JUST. MANUAL § 4-1.100 (2018), <https://www.justice.gov/jm/jm-4-1000-assignment-responsibilities> [<https://perma.cc/8QHQ-G3NT>].

5. An Act to Establish the Department of Justice, P.L. 41-97, ch. 150, 16 Stat. 162 (1870).

THE TAX DIVISION

In 1829, President Andrew Jackson considered assigning the Attorney General to handle all treasury litigation. Senator Daniel Webster successfully opposed the plan and offered an alternative. Under the Webster Act, which controlled tax enforcement for more than a century, several government agencies shared responsibility for tax litigation. As the complexity of the tax laws increased after World War I, however, the system of divided responsibility for tax litigation grew increasingly inefficient.

On June 10, 1933, President Franklin D. Roosevelt issued an executive order consolidating within the Department the control of all federal tax litigation.⁶ Later that year, Attorney General Homer Cummings created the Tax Division, effective as of January 1, 1934, and charged it with primary responsibility for supervising all federal litigation involving the internal revenue laws. The Tax Division's authority is codified at 28 C.F.R. § 0.70.

The Tax Division's mission is to enforce the nation's tax laws fully, fairly, and consistently, through both criminal and civil litigation, to promote voluntary compliance with the tax laws, maintain public confidence in the integrity of the tax system, and promote the sound development of the law.⁷ To accomplish this mission, the Tax Division handles or authorizes most civil tax litigation and criminal tax investigations and prosecutions in federal district and appellate courts. These matters are generally referred to the Tax Division by the Internal Revenue Service (IRS). Tax Division attorneys seek to secure correct, uniform, and fair interpretations of the internal revenue laws and ensure that uniform standards are applied in criminal tax prosecutions.

The Tax Division is generally led by an Assistant Attorney General (AAG),⁸ who is nominated by the President and confirmed by the U.S. Senate. The AAG manages the Tax Division with the help of four Deputy Assistant Attorneys General (DAAG), three of which are generally political appointees selected by the Attorney General, while one is a career public servant. Each DAAG has an assigned area of responsibility: civil matters; criminal matters; appellate and review; or policy and planning. One of the four DAAGs is designated as the Principal DAAG and, in this capacity, serves as the Head of the Tax Division in the absence of the AAG.

6. Exec. Order No. 6166, § 5 (1933), <https://www.archives.gov/federal-register/codification/executive-order/06166.html> [<https://perma.cc/2ZD8-S8H6>] ("The functions of prosecuting in the courts of the United States claims and demands by, and offenses against, the Government of the United States, and of defending claims and demands against the Government . . . are transferred to the Department of Justice.")

7. *Tax Division*, U.S. DEP'T OF JUST., <https://www.justice.gov/tax> [<https://perma.cc/EK3Z-MJ2U>] (last visited Feb. 26, 2023).

8. Under the Federal Vacancies Reform Act of 1998, Pub. L. No. 105-277, 112 Stat. 2681 (codified as amended at 5 U.S.C. § 3345-3349d), when a position that requires the nomination of the President and the advice and consent of the Senate becomes vacant, certain individuals are authorized to serve in an acting capacity. The most recent Senate-confirmed AAG for the Tax Division was Kathryn Kenneally, who was sworn in on April 6, 2012, and served until June 5, 2014. Following her departure and as of today, the Principal DAAG serves, at various times, as Acting AAG. When the limited time for serving in an acting capacity expires, the Principal DAAG or, if there is no Principal DAAG, the DAAG with the longest tenure as DAAG, serves as the Head of the Tax Division pursuant to 28 U.S.C. § 515(a), 28 C.F.R. § 0.13, and Tax Division Directive No. 142, *Principal Deputy Delegation*.

During my time with the Tax Division, I served as Principal DAAG, DAAG of Policy and Planning, DAAG of Criminal Matters, and Acting AAG. David Hubbert, a dedicated career public servant who has played an essential and invaluable role in maintaining the continuity in the front office when there has been no Senate-confirmed AAG, was appointed Acting AAG of the Tax Division by President Biden on February 8, 2021. Mr. Hubbert held this title until November 17, 2021, when his title reverted to Principal DAAG. He continues to serve as the Head of the Tax Division as of the date of publication.

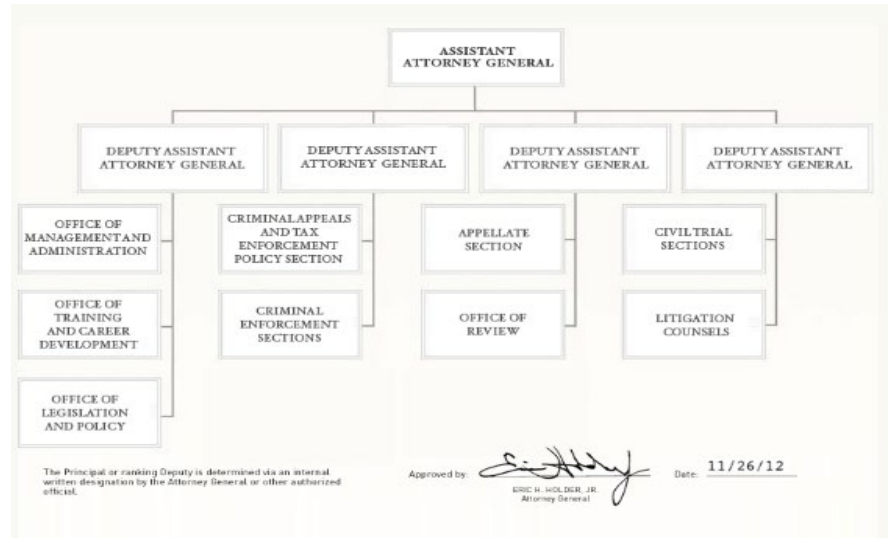


Figure 2: Tax Division Organization

The Tax Division employs more than 350 attorneys and approximately 150 administrative professionals, who are assigned to one of sixteen sections or offices, all of which are based in Washington, D.C., except for the Southwestern Civil Trial Section, which is located in Dallas, Texas. Tax Division attorneys frequently travel to represent the United States in cases throughout the country. The Tax Division functions, broadly, as four groups: (1) the Civil Trial Sections; (2) the Appellate Section; (3) the Criminal Enforcement Sections; and (4) the Criminal Appeals and Tax Enforcement Policy Section.

During my time with the Tax Division, the civil trial sections had, on average, about 6,000 cases pending in various stages, with anywhere from 2,500 to 4,000 being actively worked and claims in those suits exceeding \$9 billion.⁹ The Tax Division's civil appellate attorneys handled, on average, about 650 civil appeals, about fifty percent of which were from decisions of the U.S. Tax Court.

9. *Acting Assistant Attorney General David A. Hubbert of the Tax Division Testifies Before the House Judiciary Committee Subcommittee on Regulatory Reform, Commercial & Antitrust Law at a Hearing on Oversight of the Tax Division*, U.S. DEP'T OF JUST. (June 8, 2017), <https://www.justice.gov/opa/speech/acting-assistant-attorney-general-david-hubbert-tax-division-testifies-house-judiciary> [<https://perma.cc/KT33-4ZUB>].

To help achieve uniformity in nationwide standards for criminal tax prosecutions, the Tax Division's prosecutors authorize almost all grand jury investigations and prosecutions involving violations of the internal revenue laws. Cases are authorized for prosecution only if the Tax Division determines that there is a reasonable probability of conviction based on sufficient admissible evidence to prove each element of the offense charged. During my tenure, Tax Division prosecutors authorized between 1,300 and 1,800 investigations each year. Cases authorized for prosecution are assigned to Assistant U.S. Attorneys around the country, Tax Division prosecutors, or teams of prosecutors from both offices.¹⁰ Criminal tax appeals are generally handled by the Criminal Appeals and Tax Enforcement Policy Section. To the greatest extent possible, the Tax Division coordinates the use of civil and criminal enforcement tools to maximize the deterrent effect of its litigation and to enhance collection efforts.

10. *Id.*

THE CIVIL TRIAL SECTIONS

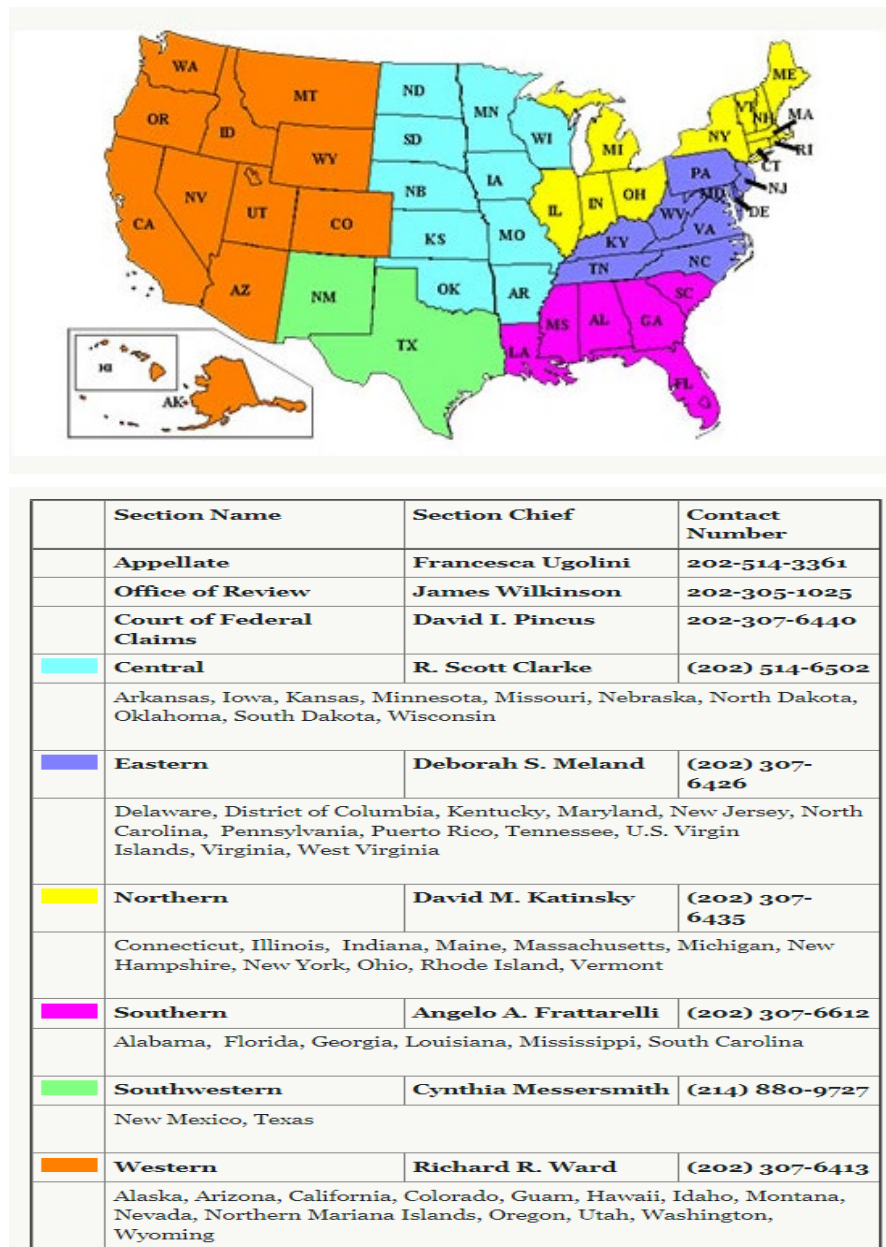


Figure 3: Civil Trial Sections Geographical Map

Tax Division civil trial attorneys in the six regional trial sections maintain busy dockets with a wide range of procedural and substantive tax matters that can impact an individual taxpayer or business, many similarly situated individual taxpayers, or an entire

industry. The cases involve transactions ranging from a single individual tax return to the consequences of a sophisticated and complex corporate tax shelter. Attorneys in a civil trial section are generally responsible for cases that arise or are filed in their assigned region, but the central, eastern, and southern trial sections have nationwide jurisdiction over certain categories of litigation.

Tax cases filed against the United States constitute approximately seventy percent of the Tax Division's civil dockets and include, but are not limited to, refund claims, petitions to quash requests for information, wrongful disclosure actions, actions under the Freedom of Information Act, and challenges pursuant to the Administrative Procedure Act. The Tax Division also engages in affirmative litigation, including suits to reduce federal tax liens to judgment and pursue foreclosures, determine the priority of federal tax liens, establish tax claims in bankruptcy, remove state proceedings to federal court, participate in receivership and probate proceedings, and collect outstanding liabilities. Civil litigators within the Tax Division also represent other federal departments and agencies in cases involving the immunity of the federal government from state and local taxation.

The attorneys in the Tax Division's seventh civil trial section practice in the U.S. Court of Federal Claims, which has nationwide jurisdiction over most suits for monetary claims against the government. In the Court of Federal Claim section, the Tax Division attorneys only handle defensive litigation. As of September 30, 2021, approximately three percent of the court's pending docket consisted of tax cases, which traditionally include the nation's most complex, high dollar, precedent-setting issues.¹¹ Because these cases establish nationwide precedent, the total fiscal impact of an opinion can reach into the billions. Many of the cases assigned to the Court of Federal Claims section involve tax shelter schemes engaged in by large corporations or wealthy individuals. For example, a team of Court of Federal Claims attorneys successfully defended against a sale-in/lease-out tax shelter transaction in *Wells Fargo & Co. & Subsidiaries v. United States*,¹² involving \$51 million.

Most tax cases brought in the Court of Federal Claims involve refund claims, but Tax Division attorneys assigned to this section also litigate cases involving partnership adjustments that affect the partners' tax liabilities and declaratory judgment actions. Unlike in the United States district courts, there is no right to a jury trial in cases filed in the Court of Federal Claims.

The Tax Division's civil litigation involves federal and state tax law, bankruptcy law, constitutional law, commercial law, state property and probate law, and provisions under the Bank Secrecy Act,¹³ Federal Debt Collection Procedures Act,¹⁴ Freedom of Information Act,¹⁵ and other federal legislation, as well as a panoply of evidentiary, procedural, and jurisdictional issues. The goal of the Tax Division's civil tax litigation is

11. U.S. Court of Federal Claims—Cases Filed, Terminated, and Pending During the 12-Month Period Ending September 30, 2021, U.S. COURTS, <https://www.uscourts.gov/statistics/table/g-2a/judicial-business/2021/09/30> [<https://perma.cc/DB4N-CWLP>].

12. 641 F.3d 1319 (Fed. Cir. 2011).

13. Pub. L. No. 91-508, 84 Stat. 1114 (codified at 12 U.S.C. § 1829b).

14. Pub. L. No. 101-647, 104 Stat. 4933 (codified at 28 U.S.C. §§ 3001–3308).

15. 5 U.S.C. § 552.

twofold: first, to enforce the tax laws and collect taxes that would otherwise go unpaid; and second, to assure honest taxpayers that those who choose not to pay their fair share will be pursued and penalized.

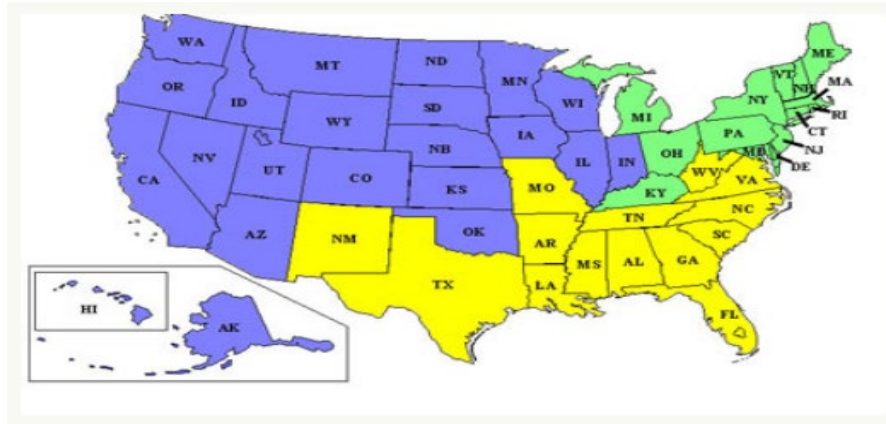
THE APPELLATE SECTION

Tax Division appellate attorneys brief and argue hundreds of civil federal tax cases each year before the United States appellate courts. Approximately half of these cases involve appeals from the United States Tax Court, with the remainder arising from decisions of the United States district courts or the Court of Federal Claims. In addition, the civil appellate attorneys in the Tax Division assist the Solicitor General in evaluating the legal and policy implications of a potential appeal of court decisions adverse to the government, formulating arguments, and drafting briefs filed in the United States Supreme Court.

THE OFFICE OF REVIEW

The Tax Division's Office of Review serves a critical civil function; namely, evaluating and, if appropriate, approving or recommending proposed settlements of civil judgments obtained by the Tax Division. The Office of Review considers settlement offers based on litigating hazards and policy considerations, advises and assists Tax Division civil trial attorneys in complex cases, and either takes final action on settlements within its authority or advises the AAG on settlements that require action at a higher level. When disputes arise between Tax Division litigators and the IRS regarding proposed settlements, the Office of Review may work with the stakeholders to resolve those disagreements. The Office of Review also includes the Financial Litigation Unit, a centralized and specialized group of Tax Division attorneys and administrative professionals skilled with respect to federal debt collection matters. This team works to collect on judgments in favor of the United States and monitors post-settlement debts owed to the United States.

THE CRIMINAL ENFORCEMENT SECTIONS



	Section Name	Section Chief	Contact Number
	Criminal Appeals and Tax Enforcement Policy	Samuel R. Lyons	(202) 307-6512
	Northern	Jason Poole	(202) 514-0302
	Connecticut, Delaware, District of Columbia, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont		
	Southern	Karen E. Kelly	(202) 616-3864
	Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Puerto Rico, South Carolina, Tennessee, Texas, US Virgin Islands, Virginia, West Virginia		
	Western	Larry J. Wszalek	(202) 616-3866
	Alaska, Arizona, California, Colorado, Hawaii, Illinois, Idaho, Indiana, Iowa, Kansas, Montana, Minnesota, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming		

Figure 4: Criminal Enforcement Sections Geographical Map

The Tax Division's criminal trial attorneys are broken into three regional sections and as noted, play a critical role in criminal tax enforcement by authorizing nearly all federal grand jury investigations and prosecutions of intentional violations of our internal revenue laws. This centralized system of authorization is designed to promote uniform nationwide criminal tax enforcement. The Tax Division receives requests to authorize grand jury investigations after the IRS Criminal Investigation division has conducted an administrative criminal investigation and determined that the additional tools available in a grand jury investigation are needed to determine whether tax crimes have occurred

and should be prosecuted. The Tax Division also receives requests to authorize prosecution after an administrative or grand jury investigation is complete and either the IRS or a United States Attorney's office believes that there is sufficient evidence to prove each element of a criminal tax offense beyond a reasonable doubt and a strong likelihood of conviction.

Tax crimes may involve legal source income, earned through legitimate means, such as taxpayers or professional enablers intentionally omitting self-employment income, skimming from business receipts, mischaracterizing taxable income as nontaxable, as well as inflating or creating fictitious deductions or claiming tax credits to which the taxpayer is not entitled. These investigations can be focused on the taxpayers seeking to evade their individual or corporate tax due, as well as on fraudulent tax return preparers and promoters who serve as force multipliers of criminal tax offenses.

In some cases, the tax crimes are committed in conjunction with other federal criminal violations, including securities violations, wire or mail fraud, bankruptcy fraud, health care fraud, public corruption, federal election violations, illegal drug offenses, and organized crime. In those cases, Tax Division prosecutors will collaborate with a United States Attorney's office and various federal investigative agencies to address the federal tax violations.

The Criminal Appeals and Tax Enforcement Policy Section (CATEPS) handles appeals in criminal tax cases prosecuted by Tax Division prosecutors and some appeals from criminal tax cases handled by United States Attorneys' offices. CATEPS may also supervise appeals in matters prosecuted by the United States Attorneys' offices. The section is also responsible for developing criminal tax enforcement policy and providing technical guidance on issues including international tax enforcement, treaties and international agreements involving tax-related issues, international discovery matters in civil and criminal tax cases, the United States sentencing guidelines, and restitution in tax cases. Finally, CATEPS prepares and publishes the Criminal Tax Manual, an invaluable training and reference tool for Tax Division attorneys that is available to the public at no charge.¹⁶

In addition to its pool of traditional tax enforcement matters, the Tax Division's work adjusts to and focuses on current trends and enforcement priorities. For example, over the past decade, the Tax Division has played an important role in attacking the use of secret foreign bank and financial accounts and foreign structures to evade U.S. tax and reporting obligations.¹⁷ Tax Division civil litigators work closely with the IRS to enforce requests for information in ongoing administrative audits, including requests for records of offshore accounts and financial transactions and the formation and existence of foreign entities, while Tax Division prosecutors investigate individuals and entities suspected of engaging in offshore tax evasion and other criminal tax violations. Similarly, Tax Division attorneys work closely with their colleagues at the IRS to halt the spread of tax shelters and other abusive tax advantaged transactions by defending the disallowance of sham tax benefits and seeking to enjoin professional enablers—attorneys, accountants,

16. U.S. DEP'T OF JUST., CRIM. TAX MANUAL (2022), <https://www.justice.gov/tax/foia-library/criminal-tax-manual-title-page-0> [<https://perma.cc/9VAH-RL68>].

17. *Swiss Bank Program*, U.S. DEP'T OF JUST., <https://www.justice.gov/tax/swiss-bank-program> [<https://perma.cc/6YGP-NVZ7>] (last updated Oct. 28, 2020).

financial advisors, promoters, etc.—who are promoting these transactions. Tax Division prosecutors will pursue those cases where the evidence establishes that the taxpayers or professional enablers intentionally promoted and facilitated transactions designed to defraud the United States.

As indicated by the foregoing, the Tax Division has an established history of internal collaboration and with its colleagues in the IRS. A shining example of this collaboration was the Swiss Bank Program (“the Program”), announced by the Department on August 29, 2013.¹⁸ The Program provided a path for Swiss banks to resolve potential criminal liabilities in the United States arising from the banks’ arrangements with U.S. taxpayers to evade U.S. tax and reporting obligations. Under the terms of the Program, the Swiss banks agreed to cooperate in the Department’s ongoing investigations of the use of foreign accounts and structures to commit U.S. tax violations. In exchange for full and continuing cooperation and compliance with all terms of the Program, including the payment of substantial fines as applicable, the Department agreed not to prosecute the Swiss banks for their admittedly illegal conduct. The Program also provided a path for those Swiss banks that were not engaged in willful conduct but nonetheless were interested in a final resolution of their status in the United States.

More than one hundred Swiss financial institutions applied to participate in the Program, far more than initially anticipated. To manage this workload, the Tax Division recruited attorneys and administrative professionals from throughout the Tax Division and assigned teams of civil trial attorneys, criminal prosecutors, and paralegals to each Swiss institution. The Tax Division also sought assistance from the IRS and that call was answered with personnel and resources from the IRS Large Business & International division, IRS Criminal Investigation division, and other IRS business operating divisions. With this extraordinary team effort, in less than two years, the Tax Division negotiated and executed nonprosecution agreements with eighty Swiss banks and collected more than \$1.36 billion in penalties.¹⁹

The Department also signed a nonprosecution agreement with a Swiss asset management firm. This agreement reflected the Department’s interest in reaching fair and appropriate resolutions with any entity—regardless of foreign jurisdiction—that comes forward in a timely manner, discloses all relevant information regarding illegal conduct, and cooperates fully and completely. Full and complete cooperation includes naming individuals involved.

Finally, under the Program, three Swiss banks and one cooperative satisfied the nonwillful category requirements, leading to nontarget letters, which confirm that, as of the date of the letter and based on the information then known to the Tax Division, the recipient is not the target of a criminal investigation authorized by the Tax Division for violations of any tax-related offenses. In announcing the final resolution, Attorney

18. See *United States and Switzerland Issue Joint Statement Regarding Tax Evasion Investigations*, OFF. OF PUB. AFFS., U.S. DEP’T OF JUST. (Aug. 29, 2013), <https://www.justice.gov/opa/pr/united-states-and-switzerland-issue-joint-statement-regarding-tax-evasion-investigations> [https://perma.cc/TDP7-FYQ8].

19. *Justice Department Announces Final Swiss Bank Program Category 2 Resolution with HSHZ Verwaltungs AG*, OFF. OF PUB. AFFS., U.S. DEP’T OF JUST. (Jan. 27, 2016), <https://www.justice.gov/opa/pr/justice-department-announces-final-swiss-bank-program-category-2-resolution-hszh-verwaltungs> [https://perma.cc/224D-N2VQ].

General Loretta Lynch noted the historic nature of the Program and the continuing impact it would have on tax administration and enforcement:

The Swiss Bank Program has been and continues to be a vital part of the Justice Department's efforts to aggressively pursue tax evasion. . . . This groundbreaking initiative has uncovered those who help facilitate evasion schemes and those who hide funds in secret offshore accounts; improved our ability to return tax dollars to the United States; and allowed us to pursue investigations into banks and individuals. I want to thank the Swiss government for their cooperation in this effort, and I look forward to continuing our work together to eradicate fraud and corruption.²⁰

OTHER IMPORTANT OFFICES WITHIN THE TAX DIVISION

The Tax Division also includes the Office of Legislation and Policy, the Office of Training, and the Office of Management and Administration—each of which play a vital role in tax enforcement and administration.

The Tax Division's Office of Legislation and Policy works on legislative and policy initiatives, including review and comments on proposed legislation and preparation of written and oral testimony of Tax Division representatives in Congressional hearings.

The Tax Division's Office of Training oversees training and professional development for Tax Division employees including extensive new attorney orientation training on practical courtroom skills as well as in relevant substantive areas of the law. Continuing education sessions focus on discovery techniques, evidentiary problems, the art of advocacy, effective cross-examination, various substantive tax issues, and other areas relevant to the Tax Division's work. The Office of Training also supports Tax Division personnel who present educational programs for the IRS Criminal Investigation, the United States Attorneys' offices, and other federal law enforcement personnel, such as the Drug Enforcement Administration and the Federal Bureau of Investigation. Finally, the Office of Training provides training and professional development programs for Tax Division administrative professionals and in support of the Tax Division's unwavering commitment to diversity, equity, and inclusion.

The Tax Division's Office of Management and Administration provides critical support for the Tax Division's litigators and administrative professionals. From ensuring that Tax Division employees have the tools they need to accomplish their work, including offices, supplies, computers, and phones, to providing litigation support through skilled paralegals, document management specialists, and travel coordinators, the Office of Management and Administration keeps the trains running on time. The Tax Division could not accomplish its mission without this team.

MY EXPERIENCE WITH THE TAX DIVISION

I was fortunate to join the Tax Division as a political appointee in January 2015 during President Obama's administration and under Attorney General Eric Holder's

20. *Justice Department Reaches Final Resolutions Under Swiss Bank Program*, OFF. OF PUB. AFFS., U.S. DEP'T OF JUST. (Dec. 29, 2016), <https://www.justice.gov/opa/pr/justice-department-reaches-final-resolutions-under-swiss-bank-program> [<https://perma.cc/4LM6-QQWJ>].

leadership of the Department. This was an exciting time—the Department was filled with bright, hardworking career and political public servants and Department leadership expressed strong support for tax administration and enforcement. The Tax Division was thriving, having benefited from the leadership of AAG Kathryn Kenneally, Principal DAAG Tamara Ashford, and DAAG for Civil Matters David Hubbert, and the assistance and commitment of dedicated Tax Division employees.

I was even more fortunate to join the Tax Division with my dear friend Diana Erbsen, a partner at DLA Piper in New York and one of the brightest attorneys I have ever met. Diana was appointed by Attorney General Holder as the DAAG for Appellate and Review in November 2014. By the time I arrived at the Tax Division two months later, Diana had acquired substantial knowledge of Tax Division operations and was invaluable in my transition from private practice to government service. She spent the next two years providing essential counsel and support as we worked together, with the career employees, to lead the Tax Division and set enforcement priorities. Of course, this was in addition to her primary workload and responsibilities, which included oversight of the Appellate Section and the Office of Review, representing the Department on the Advisory Committee on Bankruptcy Rules, serving as a leader on the Tax Division Diversity Committee, participating in preparation sessions for Congressional testimony, and myriad other undertakings, which often included engagement with Department leadership. For anyone considering a political appointment, I highly recommend finding a dear friend as brilliant as Diana Erbsen with whom you can share the experience!

My tenure with the Tax Division was filled with highs and lows. I celebrated amazing achievements of the talented Tax Division employees, managed disappointments, and endured personal and professional doubts and frustrations. My tenure was, by far, the most exciting and challenging time of my legal career. I was honored to serve the United States in this role and alongside the incredible public servants with the Tax Division. I hope each of you will consider similar opportunities.

TAX DIVISION EMPLOYMENT OPPORTUNITIES

And speaking of which, the Department and the Tax Division offer several opportunities for those seeking employment.

The Summer Law Intern Program (SLIP) is the Department's competitive recruitment program for compensated summer internships.²¹ Each year, the Department hires approximately fifty paid summer legal interns, who spend the summer working closely with Department personnel. The Tax Division generally fills several SLIP positions each year. Tasks assigned to legal interns include research and preparation of legal memoranda and draft pleadings, briefs, motions, and other legal documents. Interns may also assist with discovery, including draft interrogatories, requests for production of documents, requests for admissions, motions to compel, and subpoenas. Interns may assist Tax Division attorneys in preparing for oral arguments, hearings, or trials, and are often invited to attend and observe proceedings.

21. See *Student Employment Program*, TAX DIV., U.S. DEP'T OF JUST., <https://www.justice.gov/tax/students-0> [<https://perma.cc/WT3E-3PGL>] (last visited Mar. 1, 2023).

Most SLIP hires are second year law students who work at the Department the summer between their second and third years of law school. The SLIP is also open to recent law school graduates between graduation and the start of a judicial clerkship or full-time qualifying legal fellowship. The application period generally opens a year prior to the anticipated start date and usually ends in early October. In filling these positions, the Tax Division is seeking students with a strong academic record and excellent legal research and writing skills.

The Department also offers approximately 1,800 volunteer legal internships each year. Approximately 1,000 are available during the summer; and 800 are offered during the academic year. Applications are generally due in January for the following summer.

The Department Honors Program considers applications for entry-level attorney positions during an annual recruitment period running from July 31 through early September. Those eligible include full- or part-time law students who will graduate from law school between the October 1 following the recruitment cycle through the end of the following September, joint degree students who will complete all academic requirements by the same deadline, and recent law school graduates participating in or formally committed to an eligibility preserving activity, which includes judicial clerkships, federal agency honors programs, graduate law programs, or qualifying legal fellowships that are full-time positions that last at least one year (with very limited exceptions) and begin within nine months of law school graduation.

For those attorneys who are not eligible for the Honors Program, the Tax Division will occasionally post openings for experienced attorney positions, referred to as laterals. These positions are generally open to an attorney who is an active member of the bar of any U.S. jurisdiction and has at least one year post-J.D. legal or other relevant experience. Some attorney positions require greater experience and additional eligibility criteria. Vacancies are generally posted on the Department's website²² and on USAJOBS²³ for a minimum of fourteen calendar days and up to sixty days.

CLOSING REMARKS



Thank you for taking the time to learn more about the Tax Division and the pivotal role it plays in federal tax enforcement. Regardless of where you are in your legal career, I strongly encourage you to consider public service. Whether you pursue a student internship, apply for an experienced attorney position, or consider a political appointment, giving back and supporting our nation's tax system is an incredible honor. These positions offer exceptional experiences simply unavailable outside of government service. Moreover, individuals from the private sector bring fresh perspectives and "on the ground" client experiences that are so needed in establishing sound and reasonable policies and enforcement priorities.

Along the same lines, if you are working for the Tax Division, or any government agency, department, or commission, I hope you will consider spending some time in the private sector. Former public servants add tremendous value and insight as they work with clients, colleagues, and constituents.

22. *Current Vacancies*, Tax Div., U.S. DEP'T OF JUST., <https://www.justice.gov/tax/current-vacancies> [<https://perma.cc/9RL5-HR6Z>] (last visited Mar. 1, 2023).

23. USAJOBS, <https://www.usajobs.gov/> [<https://perma.cc/UMJ8-7TEL>].

I wish you the very best and welcome any questions.



THE 2022 FRANK AND ROSE FOGEL LECTURE

**ENFORCING THE NATION'S
TAX LAWS FULLY, FAIRLY,
AND CONSISTENTLY:**

THE ROLE OF DOJ IN TAX ENFORCEMENT


FEATURING CAROLINE CIRAOLDO

Tuesday, October 11, 2022
12:00 PM - 1:00 PM | Klein Hall Room 2B

Connect with the United States' Former Top Federal Tax Prosecutor

The Tax Division of the Department of Justice is responsible for enforcing our country's tax laws through civil and criminal litigation. The Tax Division strives to promote voluntary compliance, maintain public confidence in the integrity of the tax system, and promote the sound development of the law.

The 2022 Fogel Lecture will discuss the role of the Tax Division in civil and criminal tax enforcement, how the Tax Division interacts with the IRS and other stakeholders, and the exciting employment opportunities within the Division.



The Fogel Lecture is hosted by the Center for Tax Law and Public Policy. Lunch will be served.

REGISTER NOW

Figure 5: 2022 Fogel Lecture Flyer