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**Sec. 7701. - Definitions**

**(11)** Secretary of the Treasury and Secretary

**(A)** Secretary of the Treasury

The term "Secretary of the Treasury" means the Secretary of the Treasury, personally, and shall not include any delegate of his.

**(B)** Secretary

The term "Secretary" means the Secretary of the Treasury or his delegate.

(22) Attorney General

The term "Attorney General" means the Attorney General of the United States.

**42.2.8.1 (06-15-1988)****Executive Agreements**

1. The U.S. has entered into an executive agreement with the United Kingdom, representing the Cayman Islands, concerning "Assistance From the Cayman Islands in Matters Involving Narcotics Activity [Agreement]." The Agreement provides the exclusive means by which the U.S. may obtain from the Cayman Islands documentary evidence and foundation testimony necessary to permit such evidence to be admitted in a United States criminal trial involving narcotics activity. The Agreement does *not* cover requests by the Cayman Islands to the United States. Although the scope of the Agreement is limited to narcotics activity, the Agreement is broad enough to cover ancillary civil or administrative proceedings "connected with, arising from, relating to, or resulting from" narcotics activity. Thus, in cases where narcotics activity appears to be present, evidence can be obtained by the U.S. from the Cayman Islands under the Agreement and used in connection with civil and/or criminal tax cases.
2. The U.S. has been very successful in obtaining information from the Cayman Islands under the Agreement. In many cases information sought has been obtained within thirty days of the request.
3. To obtain information pursuant to the Agreement, the United States Attorney General is required to submit a certificate requesting assistance to the Cayman Islands Attorney General. The certificate must do four things:
  - A. state that the matter for which assistance is being requested falls within the scope of the Agreement;
  - B. identify the "assistant" or custodian of the documents to be produced in relation to the matter within the scope of the Agreement;
  - C. identify the documents to be produced; and
  - D. agree that documents produced will be used only to resolve matters encompassed by the Agreement (unless written consent of the Cayman Islands Attorney General is obtained).
4. Attorneys desiring assistance pursuant to the Agreement should complete a request form which contains the following information:
  - A. a brief introductory statement setting forth the status of the investigation or prosecution (or ancillary civil or administrative proceedings), the names of the subjects, the acts being investigated or prosecuted, and a general description of the documents sought from the Cayman Islands;
  - B. a more detailed statement identifying the subjects and describing the connection between the subjects and narcotics activity;
  - C. a brief description of the offenses being investigated or prosecuted;
  - D. the identity of the "assistant" or custodian of the documents and a detailed description of the documents to be produced;
  - E. a brief statement explaining the connection between the offenses being investigated or prosecuted and the documents requested;
  - F. specific instructions with respect to form of the documents and foundation testimony required; and
  - G. time deadlines.
5. A Sample of the form requesting issuance of a certificate by the U.S. Attorney General is set forth in Exhibit 42.2.8-1. This form should be

- completed by attorneys and forwarded to Branch 1 of the Associate Chief Counsel (Technical and International) for processing.
6. Attorneys should note that the statement of facts which provides an adequate basis for the U.S. Attorney General to issue a certificate of request to the Cayman Islands in connection with the narcotics activity of a particular U.S. taxpayer often may be used in civil tax cases involving such taxpayer's receipt of unreported income from such activity. In *Weimerskirch v. Commissioner's*, 596 F.2d 358 (9th Cir. 1979), *rev'q*, 67 TC672 (1977), the Ninth Circuit held that, in redetermining an income tax deficiency by the Service on the basis of the taxpayer's alleged unreported income from heroin sales, the presumption of correctness, normally attaching to a deficiency determination by the Commissioner, is not alone sufficient to sustain such a determination, absent at least some prima facie showing by the Commissioner that the taxpayer was engaged in the alleged income-producing activity (sale of heroin). Fatal to the Service's claim in *Weimerskirch* was the failure of the Service to link the taxpayer to the sale of heroin, and to substantiate the unreported income charge by other means, such as the net worth method, bank deposits, cash expenditures, or source and application of funds. Developing facts to the point where a certificate of request could properly be issued will, in many unreported income cases, cure the defects in the Service's claim present in *Weimerskirch*.
  7. The United States and Cayman Islands have signed a Mutual Assistance Treaty that is awaiting notification by the U.S. The tax treaty has only limited coverage for tax offenses.
  8. The United States has entered into narcotics assistance agreements similar to the Caymen Islands agreement with the Turks and Caicos Islands, the British Virgin Islands, Anguilla and Montserrat.

**[1.3] 1.5.3 (04-28-1999)****Criminal Penalties Under IRC 7217**

1. The Restructuring and Reform Act of 1998 (P.L. 105-206) creates a new IRC section 7217. The new section is effective for requests made after July 22, 1998.
2. In general, IRC 7217 prohibits Executive Branch influence over taxpayer audits and other investigations.
3. Specifically, IRC 7217 applies to the:
  - A. President,
  - B. any employee of the Executive Office of the President,
  - C. Vice President,
  - D. any employees of the Executive Office of the Vice President, and
  - E. any person (other than the Attorney General of the United States) serving in a position specified in 5 USC 5312 (generally cabinet positions).
4. It is unlawful for any person described (3) above to request, directly or indirectly, that any officer or employee of the Internal Revenue Service conduct or terminate any audit or other investigation of any particular taxpayer regarding the tax liability of said taxpayer.

**EXCEPTION:**

Requests for information accompanied with the proper taxpayer consent do not fall under IRC 7217.

5. Willful violation of IRC 7217 is punishable, upon conviction, by:
  - A. a fine in any amount not to exceed \$5,000.00; or
  - B. imprisonment of not more than 5 years; or
  - C. both, plus prosecution costs.
6. Any officer or employee of the Internal Revenue Service receiving any request prohibited by IRC 7217 must report said request to the Treasury Inspector General for Tax Administration (TIGTA). Failure to do so is a felony offense and could subject the individual to the sanctions in (5) above

**[1.3] 13.10 (08-31-2000)****FOIA Report**

1. The Freedom of Information Act (FOIA) requires each agency to prepare an annual report of requests for access to agency records including FOIA and Privacy Act requests, for submission to the **Attorney General of the United States** on or before February 1, to report activity for the prior fiscal year.
2. The report is required by 5 U.S.C. 552(e)(1), and must be made electronically available to the public on the Internet. The IRS annual report is available on the IRS E-FOIA web site at <http://www.irs.gov> beginning with fiscal year 1998.

**[9.7] 1.3.5 (04-30-1998)****United States Attorney's Responsibility**

1. The appropriate U.S. Attorney's office will draft indictments of both property and person.
2. In judicial cases, the U.S. Attorney's office representative (AUSA) is responsible for ensuring that proper and timely pre-seizure planning occurs.
3. Title 18 U.S.C. 981 (b)(2) provides that property, involved in a transaction or attempted transaction in violation of section 5313(a) or 5324(a) of Title 31, or of section 1956 or 1957 of Title 18, may be seized and civilly forfeited upon process issued pursuant to the Supplemental Rules for certain admiralty and Maritime Claims. Title 19 U.S.C. 1604 specifically states that it is the responsibility of the Attorney General of the United States (U.S. Attorney) to inquire into the facts presented to him or her by the seizing officers; and, if this inquiry shows that forfeiture is appropriate, it is his or her responsibility to institute procedures in U.S. District Court (obtain warrants of arrest in rem, seizure warrants, or search warrants). The local U.S. Attorney's office must be consulted in order to bring the special agent's affidavit before the U.S. magistrate judge or district court judge.
4. The special agent will not present the affidavit to a magistrate judge without the assistance of the U.S. Attorney's office. Thus, contact and coordination should be made with the Chief, Asset Forfeiture Section, of the U.S. Attorney's office as early as possible to avoid wasted time and effort. The AUSA can assist in assessing the advisability and legality of the proposed seizure and the existence of the requisite probable cause to seize and proceed against the property.
5. In forfeiture proceedings which are judicial from the outset, the AUSA can assist in determining the most appropriate method of action, i.e., civil forfeiture on in rem proceedings under 18 USC 981 or criminal forfeiture on in personam proceedings under 18 USC 982.
6. In administrative forfeiture proceedings, the AUSA assigned to assist in securing a seizure warrant may be assigned litigation responsibility if a Claim and Cost Bond are subsequently filed and the action reverts to a judicial forfeiture.
7. Pursuant to Title 19 USC 1608, if an acceptable Claim and Cost Bond are filed by a claimant within 20 days of the first publication of the Notice of Seizure, the Service will forward the Claim, a copy of the Cost Bond, and a description of the subject property to the U.S. Attorney for the judicial district in which the seizure warrant was issued, so that the attorney may proceed with a judicial forfeiture process.



**5.17.5.5 (10-31-2000)****Procedures Governing Civil Actions Against United States**

1. The Federal Rules of Civil Procedure establish procedures for civil actions against the United States in district courts. Fed. R. Civ. P. 1. The action is commenced by filing a complaint with the court. Then, the clerk of court will issue a summons and deliver the summons to the plaintiff or the plaintiff's attorney, who is responsible for prompt service of the summons and a copy of the complaint upon the United States. Fed. R. Civ. P. 3, 4. Service must be made upon the United States by delivering a copy of the summons and the complaint to the United States Attorney for the district in which the action is brought, or to an Assistant United States Attorney or designated employee, and by sending a copy of the summons and the complaint by registered or certified mail to the Attorney General of the United States. Fed. R. Civ. P. 4(i)(1). Service must be made upon an officer or agency of the United States by serving the United States, as above, and by sending a copy of the summons and complaint to such officer or agency by registered or certified mail. Fed. R. Civ. P. 4(i)(2).
2. The Rules of the United States Court of Federal Claims establish procedures for civil actions against the United States in the United States Court of Federal Claims. The action is commenced by filing a complaint with the clerk of the court. Rule 3(a). Rule 4(a) provides that service of the complaint on the United States shall be made through delivery by the clerk to the Attorney General or the Attorney General's designated agent.
3. 28 U.S.C. 2410(b) establishes procedures for service of process on the United States in suits against the United States in state courts. These procedures are identical to those provided by the Federal Rules of Civil Procedure, cited above. Where the United States is not a party to a suit, and intervenes in such suit pursuant to IRC 7424, 28 U.S.C. 2410(b) is inapplicable.

**7.25.14.1.2 (04-30-1998)****Legislative History**

1. The Revenue Act of 1951 was the first such Act to designate credit unions by name as being exempt from Federal income tax. Prior to this enactment the Attorney General of the United States ruled that credit unions were exempt from income tax because of their similarity to domestic building and loan associations and cooperative banks, which were specifically exempt by prior Revenue Acts, 31 Opinions of Attorneys General, 176 (1916-1919). The 1951 Act:
  - A. Repealed the provisions exempting building and loan associations and cooperative banks.
  - B. Specifically exempted credit unions by name in what is now IRC 501(c)(14).

**Exhibit 35.10.8-1 (03-26-1991)**  
**Compromise by the Attorney General**

See 35.10.8.2
<b>DECISION</b>
Pursuant to agreement of the parties in this case, it is
ORDERED and DECIDED: That the deficiencies in income taxes due from the petitioner for the taxable years 1977 and 1978 have been discharged by the acceptance by the Attorney General of the United States of a sum offered in settlement thereof, and
That by reason of the aforesaid settlement there are now no deficiencies in income taxes due from the petitioner for the taxable years 1977 and 1978.
Judge.
Entered.
* * * * *
It is stipulated that the Court may enter the foregoing decision.

**1.2.2.87 (01-31-2001)****Order Number 169 (Rev. 1)****Authority for the Issuance of Immunity Orders Pursuant to 18 U.S.C. Sections 6002 and 6004 in Proceedings Arising under the Law Administered by the Internal Revenue Service**

1. **Authority:** To make determinations and to issue the orders to compel the testimony under a grant of immunity of any individual who has been or may be called to testify or provide information at any proceeding before the Internal Revenue Service, when such individual refuses to testify or provide information on the basis of his/her privilege against self-incrimination.
2. **Delegated to:** Chief (Criminal Investigation), after review by the Office of the Division Counsel/Associate Chief Counsel (Criminal Tax), and with the approval of the Attorney General. (note: missing - of the United States)
3. **Redelegation:** This authority may not be redelegated.
4. **Sources of Authority:** Treasury Department Order 150-19 and Title II of the Organized Crime Control Act of 1970 (18 U.S.C. Section 6001, et. seq.)
5. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. This order supersedes Delegation Order No. 169, effective date 07-24-1998.
6. Signed: Bob Wenzel, Deputy Commissioner

**31.1.4.1 (04-08-1996)****General Interrelationship Between the Criminal Tax Function and the Internal Revenue Service**

1. By Executive Order dated June 10, 1933, then President Franklin D. Roosevelt reorganized the executive branch of the Government. That Executive Order vested the authority in the Attorney General to (note: missing - of the United States) institute criminal prosecutions for violations of the United States Code.

**1.2.2.115 (01-31-2001)****Order Number 205 (Rev. 8)****Consensual Monitoring of Wire and Oral Communications in Criminal Investigations Conducted by the IRS**

1. **Authority to:** Approve the interception of oral communications with the consent of at least one party to the communication.
2. **Delegated to:** Directors reporting to the Chief, Criminal Investigation.
3. **Redelegation:** The authority in paragraph 1 may be redelegated no lower than the Deputy Director, Operations Policy and Support.
4. **Authority to:** Approve the interception of wire communications with the consent of at least one party to the communication.
5. **Delegated to:** Special Agents in Charge and the Deputy Director, Operations Policy and Support.
6. **Authority to:** Use monitoring equipment to intercept wire and oral communications when approved by delegated officials in this Order.
7. **Delegated to:** Special Agents or persons acting under the direction of Special Agents.
8. **Redelegation:** The authority delegated in paragraphs 4 through 6 may not be redelegated.
9. **Source of Authority:** Treasury Order 150-10 and Memorandum from the **Attorney General** to the Heads and Inspectors General of Executive Departments and Agencies (dated November 7, 1983). **(note: missing - of the United States)**
10. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. Delegation Order No. 205 (Rev. 7), effective September 23, 1994 is superseded.
11. Signed: Bob Wenzel, Deputy Commissioner

**[9.1] 2.3.4 (06-30-1998)****Authority for Searches with Warrants**

1. The basic authority for making searches and seizures is in the Fourth Amendment to the Constitution of the United States which states: The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized. The Fourth Amendment protects individuals against unreasonable searches and seizures by the government. The scope of this protection extends to any area in which an individual has a reasonable expectation of privacy. Further, the fourth Amendment provides that all warrants shall be based upon probable cause and supported by oath or affirmation.
2. Section 7302 of the Internal Revenue Code of 1954 provides that it shall be unlawful to have or to possess any property used, or intended for use, in violating the provisions of the Internal Revenue laws, or regulations prescribed under such laws, and that no property rights shall exist in any such property.
3. Section 7608 of the Internal Revenue Code of 1954, as amended, authorizes special agents of CI to serve search warrants and to make seizures of personal property subject to forfeiture.
4. A search warrant may be issued as provided in Chapter 205, Title 18, United States Code, and the Federal Rules of Criminal Procedure, for the search of the personal property used, or intended for use, in violation of the Internal Revenue laws or regulations.
5. 18 USC 3105 and 3109, Rule 41 of the Federal Rules of Criminal Procedure (FRCrP), and 26 USC 7302, 7321, and 7608 contain the statutory authority pertinent to searches and seizures by special agents. Pertinent parts of Rule 41 provides for a warrant to be issued by a federal judge or magistrate upon the affidavit of a law enforcement officer. A warrant may be issued under this rule to search for and seize any of the following:
  - A. Property that constitutes evidence of the commission of a criminal offense.
  - B. Contraband, the fruits of crime, or things otherwise criminally possessed.
  - C. Property designed or intended for use or which is or has been used as the means of committing a criminal offense.
  - D. Person for whose arrest there is probable cause, or who is unlawfully restrained.
6. The phrase, federal law enforcement officer, is used in this rule to mean any government agent, other than an attorney for the government as defined in Rule 54(c) who is engaged in the enforcement of the criminal laws and is within any category of officers authorized by the **Attorney General** to request the issuance of a search warrant. **(note: missing - of the United States)**
7. For more information concerning search authority and procedure see the Chapter on searches in the Investigative Techniques Handbook.

**[9.1] 2.5 (06-30-1998)****AUTHORITY TO COMPROMISE A TAX INVESTIGATION**

1. The Secretary of the Treasury or the Secretary's delegate may compromise any civil or criminal tax case prior to referral to the DOJ (26 USC 7122(a)). The Secretary has delegated this authority to the Commissioner of Internal Revenue. (203 C.F.R. Sec. 601). Strict compliance with the statutory provisions is required to effect a compromise. Accordingly, attempted settlement by subordinate Service officials will not bar criminal prosecution. A valid compromise is as complete a discharge from prosecution as an acquittal by a jury.
2. CI makes investigations of offers in compromise in cases in which criminal proceedings are pending only as specifically requested by the Chief Counsel or Regional Counsel.
3. After referral of a case to the DOJ, authority to compromise rests with the Attorney General. (note: missing - of the United States)
4. Tender of tax or actual payment thereof prior to a verdict or plea of guilty is not a bar to criminal prosecution.



**[9.4] 2.5.3.2 (04-26-1999)****When is Approval by the Department of Justice, Office of Enforcement Operation Required**

1. The use of protected witnesses, prisoners, probationers, or parolees requires special approval.
2. Consistent with Department of Justice (DOJ) requirements, approval by the Office of Enforcement Operation (OEO) is required for the following:
  - A. Use of federal prisoners as informants. (See text 2.5.11 of this chapter.)
  - B. Use of current or former participants in the Federal Witness Security Program as informants. (See text 2.5.11 of this chapter.)
  - C. Use of informants to engage in warrantless interception of certain sensitive categories of verbal communications as specified by the Attorney General. (See text CI Handbook 9.4 (note: missing - of the United States) Chapter 7.)

**[9.6] 4.17 (12-07-1999)****COMPROMISE OF CRIMINAL TAX CASES**

1. The Secretary of the Treasury or the Secretary's delegate may compromise any civil or criminal tax case prior to referral to the Department of Justice. (26 U.S.C. Section 7122(a)) The Secretary has delegated this authority to the Commissioner of Internal Revenue. (See IRM Handbook 5.8, Offers in Compromise.) Strict compliance with the statutory provisions is required to effect a compromise. Accordingly, attempted settlement by subordinate Service officials will not bar criminal prosecution. A valid compromise is as complete a discharge from prosecution as an acquittal by a jury.
2. Criminal Investigation makes investigations of offers in compromise in cases in which criminal proceedings are pending only as specifically requested by the Chief Counsel or Regional Counsel.
3. After referral of a case to the Department of Justice, authority to compromise rests with the Attorney General. (note: missing - of the United States)
4. Tender of tax or actual payment prior to a verdict or plea of guilty is not a bar to criminal prosecution.

**[9.6] 7.6 (04-26-1999)****Protection and Maintenance of Informants and Witnesses**

1. Federal agencies have always recognized a duty to protect informants and witnesses from threats or possible danger resulting from their assistance to the government by furnishing information or by testifying on behalf of the government in the prosecution of individuals.
2. The Department of Justice's Witness Security Program was established pursuant to Title V of the Organized Crime Control Act of 1970 and amended by the Witness Security Reform Act of 1984. In short, that Title places with the Attorney General broad discretionary authority and authorizes appropriations to provide for the protection of actual and potential government witnesses in legal proceedings against any person alleged to have participated in an organized criminal activity or other serious offenses, when organized crime syndicates threaten the life or person of such a witness or a member of his or her family or close associates. Under its separate appropriation statutes, the Department of Justice (DOJ) receives specific funds for this purpose. (note: missing - of the United States)
3. A decision rendered by the Comptroller General of the United States on August 5, 1975, concluded the IRS has the authority to use its appropriations for temporary protection of an informant/witness or a witness until a determination by the DOJ that the person qualifies for Title V protection under its Witness Security Program.
4. The IRS also has authority to approve all confidential expenditures for other protective arrangements undertaken by the Service for an informant/witness or a witness who does not qualify for or is refused protection under DOJ's Witness Security Program, in an investigation which is not under jurisdiction of the U.S. Attorney's Office.
5. The existence of a specific appropriation, in this case Title V witness protection provisions, precludes the use of a more general appropriation such as that under which the Service receives operating funds.
6. The Special Investigative Techniques Branch (OP:CI:O:S) in Headquarters has been designated to act as the Criminal Investigation Witness Security Coordinator (WSC). The WSC will coordinate all IRS protective arrangements and relocations; and serve as a central contact point for the field, the DOJ, and other Headquarters functions that may have a need to contact a protected informant or witness.
7. Treasury Directive 55-01, Victims and Witness Assistance, dated January 9, 1999 provides policy and guidelines to be followed by Treasury Law Enforcement personnel in responding to the needs of crime victims and witnesses. The guidelines seek to ensure that all victims and witnesses receive the assistance and protection to which they are entitled under the law. For further information see text 7.12 of this chapter and Exhibit 9.6.7-1.

**[9.1] 3.4.31 (07-29-1998)****Section 1957. Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity**

1. Title 18 Section 1957 states;
2. (a) "Whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a monetary transaction in criminally derived property that is of a value greater than \$10,000 and is derived from specified unlawful activity, shall be punished as provided in subsection (b)."
3. (b)(1) "Except as provided in paragraph (2), the punishment for an offense under this section is a fine under title 18, United States Code, or imprisonment for not more than ten years or both."
4. (b)(2) "The court may impose an alternate fine to that imposable under paragraph (1) of not more than twice the amount of the criminally derived property involved in the transaction."
5. (c) "In a prosecution for an offense under this section, the Government is not required to prove the defendant knew that the offense from which the criminally derived property was derived was specified unlawful activity."
6. (d) "The circumstances referred to in subsection (a) are--"
7. "(1) that the offense under this section takes place in the United States or in the special maritime and territorial jurisdiction of the United States; or"
8. "(2) that the offense under this section takes place outside the United States and such special jurisdiction, but the defendant is a United States person (as defined in section 3077 of this title, but excluding the class described in paragraph (2)(D) of such section)."
9. (e) "Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of Treasury as the Secretary of the Treasury may direct, as appropriate and, with respect to offenses over which the united States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General." (note: missing - of the United States)
10. (f) "As used in this section--"
11. "(1) the term ``monetary transaction" means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument (as defined in section 1956(c)(5) of this title) by, through, or to a financial institution (as defined in section 1956 of this title), including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title, but such term does not include any transaction necessary to preserve a person's right to representation as guaranteed by the sixth amendment to the Constitution;"
12. "(2) the term ``criminally derived property" means any property constituting , or derived from, proceeds obtained from a criminal offense; and"
13. "(3) the term ``unspecified unlawful activity" has the meaning given that term in section 1956 of this title."
14. See Chapter on Money Laundering and Asset Seizure Handbook for more information.

**[9.6] 1.2 (07-29-1998)****IMMUNITY -****AUTHORITY AND DEPARTMENT OF JUSTICE, TAX  
DIVISION POLICY**

1. With the approval of the **Attorney General** or delegate, the Secretary of **(note: missing - of the United States)** the Treasury is authorized to issue orders compelling testimony in agency proceedings pursuant to 18 USC 6002 and 6004. By Treasury Department Order No. 150-88, the Secretary of the Treasury delegated this authority to the Commissioner of Internal Revenue who re delegated the authority to the Deputy Commissioner, the Assistant Commissioner (CI), and the Chief Inspector (see Delegation Order No. 169).
2. An agency proceeding as defined by 18 USC 6001, is a proceeding before an agency with respect to which it is authorized to issue subpoenas and to take testimony or receive other information from witnesses under oath.
3. In a proceeding where the IRS is authorized to issue a summons, the **designated** officials of the Service may issue, with the approval of the **Attorney General** or delegate, an order compelling individuals to give testimony or to produce information which they refuse to give or produce on the basis of the right against self-incrimination, if in the judgment of the designated officials:
  - A. The testimony or other information from such individual may be necessary to the public interest; and
  - B. Such individual has refused to testify or provide other information on the basis of the right against self-incrimination.
4. The Assistant Attorney General, Tax Division, has set forth the policies of the Department of Justice regarding the review and approval of requests under 18 USC 6004 for authorization to issue orders compelling testimony and the production of other information in Internal Revenue Service proceedings.
5. Testimony or other information compelled under the order, and information directly or indirectly derived from such testimony or other information, may not be used against the witness in any criminal investigation, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

**[9.13] 1.6 (10-19-1998)****WITNESSES IN FOREIGN COUNTRIES**

1. Non-resident aliens physically present in a foreign country cannot be compelled to appear as witnesses in a United States District Court since the Constitution requires confrontation of adverse witnesses in criminal prosecutions. Therefore the testimony of such aliens may not be admissible until the witness appears at trial. However, certain testimony for the admissibility of documents may be obtained under 18 U.S.C. 3491 et seq. without a "personnel" appearance in the United States. Additionally, 28 U.S.C. 1783 et seq. provides limited powers to induce the appearance of United States citizens physically present in a foreign country.
2. Expenditures necessary for witness fees and travel costs to secure witnesses from outside the United States for Grand Jury and district court purposes, whether American citizens or foreigners, are made from Department of Justice funds, and are authorized only by the **Attorney General** upon application of United States Attorneys. All **matters involving** service of subpoenas abroad are also handled by the **Attorney General**. Special agents will identify in their report those witnesses from a foreign country who may be expected to voluntarily appear so that the United States Attorney may make whatever arrangements are necessary for their appearance. No commitment should be made by Criminal Investigation personnel concerning witness arrangements involving travel from outside the United States (other than for Internal Revenue Service personnel) without the full advance approval of the United States Attorney handling the case. Such arrangements should be made sufficiently in advance so that the United States Attorney can inform the **Attorney General** thereof. **(note: missing - of the United States)**

**[9.13] 2.2 (10-19-1998)****TREATIES ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS**

1. The United States currently has Mutual Legal Assistance Treaties (MLAT) with a number of countries.
2. These treaties provide a vehicle to obtain testimony and tangible evidence from each country. The treaties offer a wide range of assistance from the judicial and executive authorities of the counties involved. Each treaty designates the Attorney General as the (note: missing - of the United States) Competent Authority for the United States who must handle requests under the treaty and whose approval is necessary for all requests. The Attorney General has delegated these powers and duties to the Assistant Attorney General of the Criminal Division.
3. Pursuant to a request under the treaty, the requested authorities may:
  - A. Supply official records.
  - B. Locate persons.
  - C. Provide service of process.
  - D. Execute search and seizures of property.
  - E. Arrange for the appearance of witnesses or experts before the relevant judicial authority.
  - F. Secure extraditions.
  - G. Transfer accused persons needed in the United States.
  - H. Exchange relevant information relating to the laws, regulations, and international practices in criminal matters of the Contracting State.
4. Requests for assistance pursuant to an administrative case must be made via memorandum by the Chief, Criminal Investigation (CI), with concurrence of the Director of Investigations (DI), to the Assistant Commissioner, CI Attn: Chief, Money Laundering and International, OP:CI:O:N:M. The Assistant Commissioner, CI will coordinate requests with the Office of International Affairs, Criminal Division of the Department of Justice. Requests should contain the following items:
  - A. The subject matter and the nature of the investigation or proceeding;
  - B. The principal need for the evidence or information sought;
  - C. The full name, place and date of birth, address and any other available information, such as nationality, which may aid in the identification of person or persons who are the subjects of the investigation or proceeding;
  - D. The name, address and nationality of the person whose testimony or statements are sought, or from whom documents, records, or articles of evidence are requested; and
  - E. A description of the documents, records or articles of evidence to be produced or preserved, and of the manner in which they should be reproduced or authenticated.
5. The request, insofar as possible and to the extent necessary, shall also include:
  - A. A description of the particular procedure to be followed, if any;
  - B. A statement as to whether sworn testimony or statements are required; and
  - C. A description of the information, statement or testimony sought.

**31.4.15.5 (04-08-1996)****Assistance to United States Attorneys**

1. To the extent that staffing permits, attorneys assigned to criminal cases should be ready to assist United States Attorneys upon request. Such assistance includes participation in the trial of cases. Trial preparation may disclose that additional factual information is needed either to complete the prosecution case or to rebut anticipated defenses. The facilities of the Internal Revenue Service will be made available for such investigation. Actual trial participation as an attorney for the Government, however, requires a specific authorization from the Attorney General. *See* CCDM (31)110(7).

(note: missing - of the United States)



**31.4.20.1 (12-12-1991)****Introduction**

1. Because the Internal Revenue Service achieves the greatest deterrent effect through news coverage of criminal tax prosecutions, the Attorney General has approved the issuance, by the Service, of (note: missing - of the United States) appropriate press releases. Excessive pretrial publicity constitutes a danger to an individual's right to a fair trial, and thus it is essential that Service personnel avoid actions that might prejudice that right. Statutory prohibitions on the unauthorized disclosure of return and return information make it imperative that material contained in such news releases be limited to facts that are a matter of public record. See I.R.C. § 6103.

**31.8.1.4.3 (04-08-1996)****18 U.S.C. § 1956**

18 U.S.C. § 1956, prohibiting the conduct or attempted conduct of a financial transaction involving proceeds of a specified unlawful activity (SUA) (as defined in § 1956(c)(7)), if the transaction reflects certain specified intent.

● Pursuant to 18 U.S.C. § 1956(e) the Secretary of Treasury, the Attorney General and the Postmaster General, in August 1990, entered into a Memorandum of Understanding (MOU) which defines Internal Revenue Service jurisdiction under § 1956 to all violations where the underlying conduct is subject to investigation under Title 26 or the Bank Secrecy Act. See CCDM Exhibit 31.8.1-3. (note: missing - of the United States)