

## Department of Justice

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petitions to review decisions of the Tax Court of the United States.

[Order No. 423-69, 34 FR 20388, Dec. 31, 1969, as amended by Order No. 445-70, 35 FR 19397, Dec. 23, 1970; Order No. 699-77, 42 FR 15315, Mar. 21, 1977; Order No. 960-81, 46 FR 52346, Oct. 27, 1981]

### § 0.71 Delegation respecting immunity matters.

The Assistant Attorney General in charge of the Tax Division is authorized to handle matters involving the immunity of the Federal Government from State or local taxation (except actions to set aside ad valorem taxes, assessments, special assessments, and tax sales of Federal real property, and matters involving payments in lieu of taxes), as well as State or local taxation involving contractors performing contracts for or on behalf of the United States.

## Subpart N—National Security Division

SOURCE: Order No. 2865-2007, 72 FR 10066, Mar. 7, 2007, unless otherwise noted.

### § 0.72 National Security Division.

The following functions are assigned to and shall be conducted, handled, or supervised by the Assistant Attorney General for National Security:

(a) *General functions.* (1) Advise the Attorney General, the Office of Management and Budget, and the White House, and brief Congress, as appropriate, on matters relating to the national security activities of the United States, and ensure that all of the Department's national security activities are effectively coordinated;

(2) Develop, enforce, and supervise the application of all federal criminal laws related to the national counterterrorism and counterespionage enforcement programs, except those specifically assigned to other Divisions;

(3) Represent the Department on interdepartmental boards, committees, and other groups dealing with national security, intelligence, or counterintelligence matters;

(4) Oversee the development, coordination, and implementation of Department policy, in conjunction with other components of the Department as ap-

propriate, with regard to intelligence, counterintelligence, or national security matters;

(5) Provide legal assistance and advice, in coordination with the Office of Legal Counsel as appropriate, to Government agencies on matters of national security law and policy;

(6) Administer the Foreign Intelligence Surveillance Act;

(7) Prosecute Federal crimes involving national security, foreign relations, and terrorism, and coordinate the Department's activities and advice on all issues with respect to the Foreign Intelligence Surveillance Act of 1978, as amended, and the Classified Information Procedures Act arising in connection with any such prosecutions;

(8) Prosecute and coordinate prosecutions and investigations targeting individuals and organizations involved in terrorist acts at home or against U.S. persons or interests abroad, or that assist in the financing of or providing support to those acts;

(9) Except in the case of emergencies where there is an immediate threat to life or property, review for concurrence the Department's use of criminal proceedings in connection with all matters relating to intelligence, counterintelligence, or counterterrorism. Such criminal proceedings include, but are not limited to, grand jury proceedings, the filing of search and arrest warrants or applications for electronic surveillance pursuant to 18 U.S.C. 2510 *et seq.* and 18 U.S.C. 2701 *et seq.*, the filing of complaints, the return of indictments, criminal forfeiture proceedings, and appeals;

(10) Evaluate Departmental activities and existing and proposed domestic and foreign intelligence, counterintelligence, or national security activities to determine their consistency with United States national security policies and law;

(11) Formulate policy alternatives and recommend action by the Department and other executive agencies in achieving lawful United States intelligence, counterintelligence, or national security objectives;

(12) Analyze and interpret current statutes, executive orders, guidelines,

and other directives pertaining to intelligence, counterintelligence, or national security matters;

(13) Formulate legislative initiatives, policies, and guidelines relating to intelligence, counterintelligence, or national security matters;

(14) Review and comment upon proposed statutes, guidelines, and other directives with regard to national security matters, and, in conjunction with the Office of Legal Counsel, review and comment upon the form and legality of proposed executive orders that touch upon matters related to the function of this Division;

(15) Provide training for Departmental components on legal topics related to intelligence, counterintelligence, or national security matters;

(16) Advise, assist, coordinate with, and train those in the law enforcement community, including federal, state, and local prosecutors, investigative agencies, and foreign criminal justice entities (provided that any training of foreign criminal justice entities should be conducted in coordination with the Criminal Division);

(17) Provide oversight of intelligence, counterintelligence, or national security matters by executive branch agencies to ensure conformity with applicable law, executive branch regulations, and Departmental objectives and report to the Attorney General on such activities;

(18) Supervise the preparation of the National Security Division's submission for the annual budget;

(19) Serve as primary liaison to the Director of National Intelligence for the Department of Justice;

(20) Represent the Department on the Committee on Foreign Investments in the United States; and

(21) Perform other duties pertaining to intelligence, counterintelligence, counterterrorism, or national security matters as may be assigned by the Attorney General or the Deputy Attorney General.

(b) *Functions related to intelligence policy and operations.* (1) Advise and assist the Attorney General in carrying out his responsibilities under Executive Order 12333, "United States Intelligence Activities," and other statutes, executive orders, and authorities re-

lated to intelligence, counterintelligence, or national security matters;

(2) Supervise the preparation of certifications and applications for orders under the Foreign Intelligence Surveillance Act of 1978, as amended, and the representation of the United States before the United States Foreign Intelligence Surveillance Court and the United States Foreign Intelligence Court of Review;

(3) Participate in the development, implementation, and review of United States intelligence, counterintelligence, and national security policies, including procedures for the conduct of intelligence, counterintelligence, or national security activities;

(4) Supervise sensitive areas of law enforcement related to the activities of the National Security Division, except for tasks assigned to other Divisions; and

(5) Recommend action by the Department of Justice with regard to applications under the Foreign Intelligence Surveillance Act of 1978, as amended, as well as with regard to other investigative activities by executive branch agencies; and

(6) To the extent deemed appropriate by the Assistant Attorney General for National Security, prepare periodic and special intelligence reports describing and evaluating domestic and foreign intelligence and counterintelligence activities and assessing trends or changes in these activities.

(c) *Functions related to counterterrorism.* (1) Participate in the systematic collection and analysis of data and information relating to the investigation and prosecution of terrorism cases;

(2) Coordinate with Government departments and agencies to facilitate prevention of terrorist activity through daily detection and analysis and to provide information and support to the Offices of the United States Attorneys;

(3) Prosecute matters involving counterterrorism;

(4) Prosecute terrorist financing matters, including material support cases, through the Division's counterterrorism programs;

(5) Formulate legislative initiatives, policies, and guidelines relating to terrorism;

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(6) Prosecute matters involving torture, genocide, and war crimes to the extent such matters involve the activities of the National Security Division;

(7) Assist in the foreign terrorist organization designation process with the Department of State, the Department of the Treasury, and the components of the Department of Justice; and

(8) Provide legal advice to attorneys for the Government concerning federal national security statutes, including but not limited to: aircraft piracy and related offenses (49 U.S.C. 46501-07); aircraft sabotage (18 U.S.C. 32); crimes against internationally protected persons (18 U.S.C. 112, 878, 1116, 1201(a)(4)); sea piracy (18 U.S.C. 1651); hostage taking (18 U.S.C. 1203); terrorist acts abroad, including murder, against United States nationals (18 U.S.C. 2332); acts of terrorism transcending national boundaries (18 U.S.C. 2332b); conspiracy within the United States to murder, kidnap, or maim persons or to damage property overseas (18 U.S.C. 956); providing material support to terrorists and terrorist organizations (18 U.S.C. 2339A, 2339B, 2339C); and using biological, nuclear, chemical or other weapons of mass destruction (18 U.S.C. 175, 831, 2332c, 2332a).

(d) *Functions related to internal security.* (1) Enforcement of all criminal laws relating to subversive activities and kindred offenses directed against the internal security of the United States, including the laws relating to treason, sabotage, espionage, and sedition; enforcement of the Foreign Assets Control Regulations issued under the Trading With the Enemy Act (31 CFR 500.101 *et seq.*); criminal prosecutions under the Atomic Energy Act of 1954, the Smith Act, the neutrality laws, the Arms Export Control Act, the Federal Aviation Act of 1958 (49 U.S.C. 1523) relating to offenses involving the security control of air traffic, and 18 U.S.C. 799 and criminal prosecutions for offenses, such as perjury and false statements, arising out of offenses relating to national security;

(2) Administration and enforcement of the Foreign Agents Registration Act of 1938, as amended; the Act of August 1, 1956, 70 Stat. 899 (50 U.S.C. 851-857), including the determination in writing

that the registration of any person coming within the purview of that Act would not be in the interest of national security; and the Voorhis Act (18 U.S.C. 2386);

(3) Administration and enforcement of the Internal Security Act of 1950, as amended;

(4) Conduct of civil proceedings seeking exclusively equitable relief against laws, investigations or administrative actions designed to protect the national security (including without limitation personnel security programs and the foreign assets control program);

(5) Interpretation of Executive Order 10450 of April 27, 1953, as amended, and advising other departments and agencies in connection with the administration of the federal employees security program, including the designation of organizations as required by the order; the interpretation of Executive Order 10501 of November 5, 1953, as amended, and of regulations issued thereunder in accordance with section 11 of that order; and the interpretation of Executive Order 10865 of February 20, 1960;

(6) Conduct of libels and civil penalty actions (including petitions for remission or mitigation of civil penalties and forfeitures, offers in compromise and related proceedings) arising out of violations of the Trading with the Enemy Act, the neutrality statutes, and the Arms Export Control Act;

(7) Enforcement and administration of the provisions of 2 U.S.C. 441e, relating to contributions by foreign nationals;

(8) Enforcement and administration of the provisions of 18 U.S.C. 219, relating to officers and employees of the United States acting as agents of foreign principals; and

(9) Enforcement and administration of criminal matters arising under the Military Selective Service Act of 1967.

(e) *Relationship to other offices.* Nothing in this subpart shall be construed as affecting the functions or overriding the authority of the Office of Legal Counsel as established by 28 CFR 0.25.