§ 301. Department of the Treasury

(a) The Department of the Treasury is an executive department of the United States Government at the seat of the Government.

(b) The head of the Department is the Secretary of the Treasury. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

(c) The Department has a Deputy Secretary of the Treasury appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall carry out—

(1) duties and powers prescribed by the Secretary; and

(2) the duties and powers of the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has 2 Under Secretaries, an Under Secretary for Enforcement, 2 Deputy Under Secretaries, and a Treasurer of the United States, appointed by the President, by and with the advice and consent of the Senate. The Department also has a Fiscal Assistant Secretary appointed by the Secretary. They shall carry out duties and powers prescribed by the Secretary. The President may designate one Under Secretary as Counselor. When appointing each Deputy Under Secretary, the President may designate the Deputy Under Secretary as an Assistant Secretary.

(e) The Department has 10 Assistant Secretaries appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretaries shall carry out duties and powers prescribed by the Secretary. The Assistant Secretaries appointed under this subsection are in addition to the Assistant Secretaries appointed under subsection (d) of this section.

(f) (1) The Department has a General Counsel appointed by the President, by and with the advice and consent of the Senate. The General Counsel is the chief law officer of the Department. Without regard to those provisions of title 5 governing appointment in the competitive service, the Secretary may appoint not more than 5 Assistant General Counsels. The Secretary may designate one of the Assistant General Counsels to act as the General Counsel when the General Counsel is absent or unable to serve or when the office of General Counsel is vacant. The General Counsel and Assistant General Counsels shall carry out duties and powers prescribed by the Secretary.

(2) The President may appoint, by and with the advice and consent of the Senate, an Assistant General Counsel who shall be the Chief Counsel for the Internal Revenue Service. The Chief Counsel is the chief law officer for the Service and shall carry out duties and powers prescribed by the Secretary.

(g) The Department shall have a seal.
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<td>Apr. 4, 1924, ch. 84(related to appointment and duties of Deputy and Under Secretaries), 43 Stat. 64.</td>
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<td>301(e)</td>
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<td>301(g)</td>
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<td>R.S. § 372(related to seal); May 10, 1934, ch. 277, § 512(b), 48 Stat. 759.</td>
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In subsection (a), the words “of the United States Government” are added for clarity.
In subsection (b), the words “The Secretary is appointed by the President, by and with the advice and consent of the Senate” are added to conform with clause 2, section 2, of article II of the Constitution.

In subsection (c), the words “carry out” and “duties and powers” are substituted for “perform” and “duties”, respectively, for consistency in the revised title and with other titles of the United States Code. In clause (1), the words “in the Office of the Secretary” in 31:1004 are omitted as unnecessary because of the restatement and for consistency. Clause (2) is substituted for 31:1005 to eliminate unnecessary words and for consistency with other titles of the Code.

In subsection (d), the words “in accordance with the civil-service laws” in section 1 (a)(7)(1st sentence) of Reorganization Plan No. 3 of 1940 (eff. June 30, 1940, 54 Stat. 1232) are omitted as unnecessary because of title 5. The words “and shall receive a salary at the rate of $15,000 per annum” are omitted as superseded by 5:5316. The words “carry out” and “duties and powers” are substituted for “perform” and “duties”, respectively, in 31:1004 and 1005a for consistency in the revised title and with other titles of the Code. The words “in the Office of the Secretary” in 31:1004 are omitted as unnecessary because of the restatement and for consistency. The words “of the Treasury” in 31:1005a are omitted for consistency with other titles of the Code and as being unnecessary.

In subsection (e), the words “of the Treasury” in 31:1006 and 1007 are omitted for consistency with other titles of the Code and as being unnecessary. The words “examine letters, contracts, and warrants prepared for the signature of the Secretary of the Treasury” and “by law” in 31:1007 are omitted as superseded by the source provisions restated in section 321 of the revised title. The words “carry out” and “duties and powers” are substituted for “perform” and “duties”, respectively, for consistency in the revised title and with other titles of the Code.

In subsection (f), the words “carry out” and “duties and powers” are substituted for “perform” and “duties”, respectively, for consistency in the revised title and with other titles of the Code. The text of 26:7801(b)(3) is omitted as unnecessary because of 5:3101. The words “is absent or unable to serve or when the office of General Counsel is vacant” are substituted for “during the absence of” for clarity and consistency. The text of 31:1009(less (a)(6th sentence)) is omitted as superseded by 26:7801(b) as restated in this subsection.

In subsection (f)(1), the words “governing appointment in the competitive service” are substituted for “civil service laws” to conform to 5:2102.

In subsection (g), the words “The General Counsel . . . shall have charge” are omitted as superseded by the source provisions restated in subsection (b) of this section and section 321(c) of the revised title.

References in Text
The provisions of title 5 governing appointment in the competitive service, referred to in subsec. (f)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

Amendments
1985—Subsec. (d). Pub. L. 99–190 substituted “2 Under Secretaries” for “an Under Secretary, an Under Secretary for Monetary Affairs” and “The President may designate one Under Secretary as Counselor” for “When appointing the Under Secretary, the President may designate the Under Secretary as Counselor”.

Effective Date of 2007 Amendment
Amendment by Pub. L. 110–49 applicable after the end of the 90-day period beginning on July 26, 2007, see section 12 of Pub. L. 110–49, set out as a note under section 5315 of Title 5, Government Organization and Employees.
Short Title of 2010 Amendment

Order of Succession
For order of succession during any period when both Secretary and Deputy Secretary of the Treasury are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13246, Dec. 18, 2001, 66 F.R. 66270, set out as a note under section 3345 of Title 5, Government Organization and Employees.

Office of the Secretary of the Treasury; Compensation
“(a)(1) Effective beginning on the date determined under paragraph (2), the compensation and other emoluments attached to the Office of Secretary of the Treasury shall be those that would then apply if Public Law 103–2 (107 Stat. 4; 31 U.S.C. 301 note) had never been enacted.
“(2) Paragraph (1) shall become effective on the later of—
“(A) the day after the date on which the individual holding the Office of Secretary of the Treasury on January 1, 1997, ceases to hold that office; or
“(B) the date of the enactment of this Act [Oct. 10, 1997].
“(3) Nothing in this subsection shall be considered to affect the compensation or emoluments due to any individual in connection with any period preceding the date determined under paragraph (2).
“(b) Subsection (b) of the first section of the public law referred to in subsection (a)(1) of this section shall not apply in the case of any appointment the consent of the Senate to which occurs on or after the date of the enactment of this Act.
“(c) This section shall not be limited (for purposes of determining whether a provision of this section applies or continues to apply) to fiscal year 1998.”

Office of the Undersecretary for Enforcement

Compensation and Emoluments of Secretary of the Treasury at Level in Effect on January 1, 1989; Actions Challenging Appointment on Constitutional Grounds
Pub. L. 103–2, Jan. 19, 1993, 107 Stat. 4, provided: “That (a) the compensation and other emoluments attached to the office of Secretary of the Treasury shall be those in effect January 1, 1989, notwithstanding any increase in such compensation or emoluments after that date under—
“(1) the Ethics Reform Act of 1989 (Public Law 101–194) [see Tables for classification] or any other provision of law amended by that Act; or
“(2) any other provision of law, or provision which has the force and effect of law, that is enacted or becomes effective during the period beginning at noon of January 3, 1989, and ending at noon of January 3, 1995.
“(b)(1) Any person aggrieved by an action of the Secretary of the Treasury may bring a civil action in the United States District Court for the District of Columbia to contest the constitutionality of the appointment and continuance in office of the Secretary of the Treasury on the ground that such appointment and continuance in office is in violation
of article I, section 6, clause 2, of the Constitution. The United States District Court for the District of Columbia shall have exclusive jurisdiction over such a civil action, without regard to the sum or value of the matter in controversy.

“(2) Any claim challenging the constitutionality of the appointment and continuance in office of the Secretary of the Treasury on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution, in an action brought under paragraph (1) shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. It shall be the duty of the district court to advance on the docket and to expedite the disposition of any matter brought under this subsection.

“(3)(A) An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order upon the validity of the appointment and continuance in office of the Secretary of the Treasury under article I, section 6, clause 2, of the Constitution, entered in any action brought under this subsection. Any such appeal shall be taken by a notice of appeal filed within 20 days after such judgment, decree, or order is entered.

“(B) The Supreme Court shall, if it has not previously ruled on the question presented by an appeal taken pursuant to subparagraph (A), accept jurisdiction over the appeal, advance the appeal on the docket, and expedite the appeal.

“(c) This joint resolution shall become effective at 12:00 p.m., January 20, 1993.”

Duties and Functions of Department of the Treasury