

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
328(a)	31:1014(1st, 2d sentences).	Dec. 24, 1942, ch. 821, 56 Stat. 1086; restated Aug. 1, 1947, ch. 438, 61 Stat. 717; June 6, 1972, Pub. L. 92-310, §231(dd), 86 Stat. 213.
328(b)	31:1014(last sentence).	

In subsection (a), the words “director of a disbursing center” are substituted for “any regional disbursing officer of the Fiscal Service, Treasury Department” to reflect the title of the position now presently authorized. The words “dies, resigns, or leaves office” are substituted for “In case of the death or of the resignation or separation from office” for consistency with other titles of the United States Code. The words “designated by an official of the Treasury Department authorized by the Secretary of the Treasury to make such designation” are omitted as unnecessary because of the source provisions restated in section 321 of the revised title. The word “through” is substituted for “for a period of time not to extend beyond” to eliminate unnecessary words. The words “as provided by law” are substituted for “in the General Accounting Office”, for consistency with other titles of the Code. The word “Secretary” is substituted for “Treasurer of the United States” because of the source provisions restated in section 321 of the revised title.

Subsection (b) is substituted for 31:1014(last sentence) for clarity and to eliminate unnecessary words.

§ 329. Limitations on outside activities

(a)(1) The Secretary of the Treasury and the Treasurer may not—

- (A) be involved in trade or commerce;
- (B) own any part of a vessel (except a pleasure vessel);
- (C) buy or hold as a beneficiary in trust public property;
- (D) be involved in buying or disposing of obligations of a State or the United States Government; and
- (E) personally take or use a benefit gained from conducting business of the Department of the Treasury except as authorized by law.

(2) An officer violating this subsection shall be fined \$3,000, removed from office, and thereafter may not hold an office of the Government.

(3) An individual (except prosecutors) giving information leading to the prosecution and conviction of an individual violating this subsection shall receive \$1,500 of the fine when paid.

(b)(1) An officer or employee of the Department (except the Secretary or Treasurer) may not—

- (A) carry on a trade or business in the funds, debts, or property of a State or the Government; and
- (B) personally use a benefit gained from conducting business of the Department.

(2) An officer or employee violating this subsection shall be fined \$500 and removed from office.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 884.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
329(a)	31:163, 1003.	R.S. §243.
329(b)	31:1018.	R.S. §244.

In subsection (a)(1), before clause (A), the words “The Secretary of the Treasury and the Treasurer may not” are substituted for “No person appointed to the office of Secretary of the Treasury, or Treasurer, shall” because of the restatement and for consistency in the revised title. The words “or First Comptroller” (subsequently redesignated as the Comptroller of the Treasury by section 4 of the Act of July 31, 1894 (ch. 174, 28 Stat. 205)) and “or First Auditor” in section 243 of the Revised Statutes are omitted because the positions were abolished by sections 301 and 310 of the Act of June 10, 1921 (ch. 18, 42 Stat. 23, 25). The text of 31:163 is omitted because the position of Register was abolished by section 1(a) of Reorganization Plan No. 3 of 1940 (eff. June 30, 1940, 54 Stat. 1231). In clause (A), the words “directly or indirectly” are omitted as unnecessary. The words “be involved” are substituted for “be concerned or interested in carrying on the business of” to eliminate unnecessary words. In clause (B), the words “any part of a” are substituted for “in whole or in part” for consistency. The words “(except a pleasure vessel)” are added for consistency with 19:1599. In clause (C), the words “buy or hold as beneficiary in trust” are substituted for “purchase by himself, or another in trust for him” for clarity and consistency. The words “public land” are omitted as being included in “public property”. In clause (D), the words “involved in buying or disposing of obligations” are substituted for “be concerned in the purchase or disposal of any public securities” to eliminate unnecessary words and for consistency in the revised title. In clause (E), the words “personally take or use a benefit gained from conducting business of the Department of the Treasury” are substituted for “take or apply to his own use any emolument or gain for negotiating or transacting any business in the Treasury Department” to eliminate unnecessary words.

In subsection (a)(2), the words “an officer” are substituted for “every person” as being more precise. The word “violating” is substituted for “who offends against any of the prohibitions of this section” for clarity and to eliminate unnecessary words. The words “shall be deemed guilty of a high misdemeanor” are omitted because of 18:1. The word “fined” is substituted for “forfeit to the United States the penalty” for consistency and to eliminate unnecessary words. The words “and shall upon conviction be” are omitted as unnecessary.

In subsection (a)(3), the words “giving information leading to the prosecution and conviction of an individual violating this subsection” are substituted for “shall give information of any such offense, upon which a prosecution and conviction shall be had” for clarity. The words “shall receive \$1,500 of the fine when paid” are substituted for “one-half the aforesaid penalty of three thousand dollars, when recovered, shall be for the use of the person giving such information” to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words “An officer or employee of the Department (except the Secretary or Treasurer)” are substituted for “Every clerk employed in the Treasury Department” because of the restatement and for consistency with subsection (a) of the section. In clause (A), the words “in any kind of public” are omitted as unnecessary. In clause (B), the words “personally use a benefit gained” are substituted for “who takes or applies to his own use any emolument or gain” to eliminate unnecessary words. The word “conducting” is substituted for “negotiating or transacting” for consistency. The words “shall be deemed guilty of a misdemeanor” are omitted because of 18:1.

In subsection (b)(2), the words “An officer or employee violating this subsection” are added because of the restatement. The word “punished” is omitted as unnecessary.

§ 330. Practice before the Department

(a) Subject to section 500 of title 5, the Secretary of the Treasury may—

(1) regulate the practice of representatives of persons before the Department of the Treasury; and

(2) before admitting a representative to practice, require that the representative demonstrate—

- (A) good character;
- (B) good reputation;
- (C) necessary qualifications to enable the representative to provide to persons valuable service; and
- (D) competency to advise and assist persons in presenting their cases.

(b) After notice and opportunity for a proceeding, the Secretary may suspend or disbar from practice before the Department, or censure, a representative who—

- (1) is incompetent;
- (2) is disreputable;
- (3) violates regulations prescribed under this section; or
- (4) with intent to defraud, willfully and knowingly misleads or threatens the person being represented or a prospective person to be represented.

The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.

(c) After notice and opportunity for a hearing to any appraiser, the Secretary may—

- (1) provide that appraisals by such appraiser shall not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service, and
- (2) bar such appraiser from presenting evidence or testimony in any such proceeding.

(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 884; Pub. L. 98-369, div. A, title I, §156(a), July 18, 1984, 98 Stat. 695; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 108-357, title VIII, §822(a)(1), (b), Oct. 22, 2004, 118 Stat. 1586, 1587; Pub. L. 109-280, title XII, §1219(d), Aug. 17, 2006, 120 Stat. 1085.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
330(a)	31:1026(1st sentence).	July 7, 1884, ch. 334, §3(proviso and sentence immediately after proviso under heading "War Department"), 23 Stat. 258.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
330(b)	31:1026(last sentence).	

In the section, the words "representatives of persons" are substituted for "agents, attorneys, or other persons representing claimants before his department" to eliminate unnecessary words.

In subsection (a), before clause (1), the words "Subject to section 500 of title 5" are added for clarity and to conform to title 5. In clause (1), the word "regulate" is substituted for "prescribe rules and regulations" to eliminate unnecessary words. The words "the practice" are substituted for "before being recognized" for consistency with other revised titles of the United States Code. In clause (2)(C), the words "possessed of the" are omitted because of the restatement.

In subsection (b), the word "proceeding" is substituted for "hearing" because of subchapter II of chapter 5 of title 5. In clause (3), the words "violates regulations prescribed under this section" are substituted for "who refuses to comply with said rules and regulations" to eliminate unnecessary words. In clause (4), the words "in any manner" are omitted as surplus. The word "deceive" is omitted as being included in the word "mislead". The words "by word, circular, letter, or by advertisement" are omitted as unnecessary.

AMENDMENTS

2006—Subsec. (c). Pub. L. 109-280 struck out "with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1986" after "any appraiser" in introductory provisions.

2004—Subsec. (b). Pub. L. 108-357, §822(a)(1), inserted ", or censure," after "Department" in introductory provisions and inserted at end "The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative."

Subsec. (d). Pub. L. 108-357, §822(b), added subsec. (d). 1986—Subsec. (c). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1984—Subsec. (c). Pub. L. 98-369 added subsec. (c).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to appraisals prepared with respect to returns or submissions filed after Aug. 17, 2006, see section 1219(e)(2) of Pub. L. 109-280, set out as a note under section 170 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §822(a)(2), Oct. 22, 2004, 118 Stat. 1587, provided that: "The amendments made by this subsection [amending this section] shall apply to actions taken after the date of the enactment of this Act [Oct. 22, 2004]."

EFFECTIVE DATE OF 1984 AMENDMENT

Section 156(b) of Pub. L. 98-369 provided that: "The amendment made by subsection (a) [amending this section] shall apply to penalties assessed after the date of the enactment of this Act [July 18, 1984]."

§ 331. Reports

(a) The Secretary of the Treasury shall submit to Congress each year an annual report. The report shall include—