

(2) gifts to such eleemosynary institutions as, in the opinion of the Secretary, have a need for such distilled spirits, wines, and malt liquor for medical purposes;

(3) sale by Customs Service at public auction under such regulations as the Secretary shall prescribe, except that before making any such sale the Secretary shall determine that no Government agency or eleemosynary institution has established a need for such spirits, wines, and malt liquor under paragraph (1) or (2); or

(4) destruction.

(June 17, 1930, ch. 497, title IV, § 491, 46 Stat. 726; June 25, 1938, ch. 679, § 14, 52 Stat. 1083; Pub. L. 91-271, title III, § 301(j), June 2, 1970, 84 Stat. 289; Pub. L. 95-410, title II, § 208, Oct. 3, 1978, 92 Stat. 901; Pub. L. 103-182, title VI, § 659, Dec. 8, 1993, 107 Stat. 2213; Pub. L. 104-295, § 21(e)(8), Oct. 11, 1996, 110 Stat. 3531.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in R.S. §§ 2973, 2975 and 2976, all of which were superseded by act Sept. 21, 1922, ch. 356, title IV, § 491, 42 Stat. 963, and repealed by section 642 thereof. Section 491 of the 1922 act was superseded by section 491 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-295 substituted “in a bonded warehouse pursuant to section 1490” for “in a bonded warehouse pursuant to section 1490” and “Customs Service” for “appropriate customs officer”.

1993—Subsec. (a). Pub. L. 103-182, § 659(1), substituted “in a bonded warehouse pursuant to section 1490 of this title for 6 months” for “customs custody for one year”, “estimated duties, taxes, fees, interest, storage,” for “estimated duties and storage”, “duties, taxes, fees, interest, storage, and other charges, if permitted” for “duties, storage, and other charges, if permitted”, “pursuant to section 1490 of this title in a bonded warehouse for 6 months” for “public store or bonded warehouse for a period of one year”, “duties, taxes, fees, interest, storage, and other charges” for “duties, storage, and other charges”, “duties, taxes, fees, interest, charges, and expenses” for “duties, charges, and expenses”, and “computation of duties, taxes, interest, and fees for the purposes” for “computation of duties for the purposes”.

Subsecs. (b) to (d). Pub. L. 103-182, § 659(2), added subsecs. (b) to (d). Former subsec. (b) redesignated (e).

Subsec. (e). Pub. L. 103-182, § 659(2), (3), redesignated subsec. (b) as (e) and substituted “Customs Service” for “appropriate customs officer” in par. (3).

1978—Pub. L. 95-410 amended section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector, and struck out reference to appraiser of merchandise.

1938—Act June 25, 1938, amended generally so much of this section as preceded “shall be considered unclaimed and abandoned”.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXTENSION OF ONE-YEAR PERIOD

For extension of one year period prescribed in this section, see Proc. No. 2948, Oct. 12, 1951, 16 F.R. 10589, 65 Stat. c41, set out as a note under section 1318 of this title.

Proc. No. 2599, Nov. 6, 1943, 8 F.R. 15359, 57 Stat. 758, as amended by Proc. No. 2712, Dec. 4, 1946, 11 F.R. 14133, 61 Stat. 1947, was superseded by Proc. No. 2948, Oct. 12, 1951, 16 F.R. 10589, 65 Stat. c41.

§ 1492. Destruction of abandoned or forfeited merchandise

Except as provided in R.S. § 3369 (relating to tobacco and snuff), and in section 901 of the Revenue Act of 1926 (relating to distilled spirits), any merchandise abandoned or forfeited to the Government under the preceding or any other provision of the customs laws, which is subject to internal revenue tax and which the Customs Service shall be satisfied will not sell for a sufficient amount to pay such taxes, shall be forthwith destroyed, retained for official use, or otherwise disposed of under regulations to be prescribed by the Secretary of the Treasury, instead of being sold at auction.

(June 17, 1930, ch. 497, title IV, § 492, 46 Stat. 727; Pub. L. 91-271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 103-182, title VI, § 660, Dec. 8, 1993, 107 Stat. 2214.)

REFERENCES IN TEXT

R.S. § 3369, referred to in text, is covered by sections 5723(a) and 5753 of Title 26, Internal Revenue Code.

Section 901 of Revenue Act of 1926, referred to in text, is covered by section 5243 of Title 26.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 492, 42 Stat. 963. That section was superseded by section 492 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Prior to its incorporation into the Code, this section read: “Except as provided in section 3369 of the Revised Statutes, as amended,” etc. R.S. § 3369, as amended by act Oct. 14, 1921, ch. 107, 42 Stat. 205, related in part to abandoned, condemned or forfeited tobacco, snuff, cigars, or cigarettes, which would not bring a price equal to the internal revenue tax thereon. So far as it related to tobacco and snuff, it was incorporated into the Code as sections 702(a)(1), 803(a)(1), (c), (d), and 890, of Title 26, Internal Revenue Code, and so far as it applied to cigars and cigarettes, it was incorporated into the Code as sections 812(d)(2) and 890, of Title 26.

AMENDMENTS

1993—Pub. L. 103-182 substituted “Customs Service” for “appropriate customs officer” and inserted “, retained for official use, or otherwise disposed of” after “destroyed”.

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1493. Proceeds of sale

The surplus of the proceeds of sales under section 1491 of this title, after the payment of storage charges, expenses, duties, taxes, and fees, and the satisfaction of any lien for freight, charges, or contribution in general average, shall be deposited in the Treasury of the United States, if claim therefor shall not be filed with the Customs Service within ten days from the date of sale, and the sale of such merchandise shall exonerate the master of any vessel in which the merchandise was imported from all claims of the owner thereof, who shall, nevertheless, on due proof of his interest, be entitled to receive from the Treasury the amount of any surplus of the proceeds of sale.

(June 17, 1930, ch. 497, title IV, § 493, 46 Stat. 727; Pub. L. 91-271, title III, § 301(e), June 2, 1970, 84 Stat. 288; Pub. L. 103-182, title VI, § 661, Dec. 8, 1993, 107 Stat. 2214.)

PRIOR PROVISIONS

Provisions substantially similar in most respects to those in this section, with further provisions concerning the documents to be forwarded by the collector to the Treasury Department, were contained in R.S. § 2974, which was superseded and more nearly assimilated to the present section by act Sept. 21, 1922, ch. 356, title IV, § 493, 42 Stat. 964, and repealed by section 642 thereof. Section 493 of the 1922 act was superseded by section 493 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1993—Pub. L. 103-182 inserted “taxes, and fees,” after “duties,” struck out “by the appropriate customs officer” after “shall be deposited”, and substituted “the Customs Service” for “such customs officer”.

1970—Pub. L. 91-271 substituted references to appropriate customs officer or such customs officer for references to collector wherever appearing.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

APPROPRIATIONS

Act June 26, 1934, ch. 756, § 2, 48 Stat. 1225, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title “Refunding proceeds of unclaimed merchandise (Customs) (2x326)” effective July 1, 1935, and provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations.

§ 1494. Expense of weighing and measuring

In all cases in which the invoice or entry does not state the weight, quantity, or measure of the merchandise, the expense of ascertaining the same shall be collected from the importer of record before its release from customs custody.

(June 17, 1930, ch. 497, title IV, § 494, 46 Stat. 727; Pub. L. 97-446, title II, § 201(e), Jan. 12, 1983, 96 Stat. 2350.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 494, 42 Stat. 964. That section was superseded by section 494 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision requiring merchandise to be weighed, gauged or measured at the expense of the owner, agent or consignee, in cases in which the invoice or entry did not contain the weight, quantity or measure was contained in R.S. § 2920, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1983—Pub. L. 97-446 substituted “importer of record” for “consignee” after “collected from the”.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-446 applicable with respect to merchandise entered on and after 30th day after Jan. 12, 1983, see section 201(g) of Pub. L. 97-446, set out as a note under section 1484 of this title.

§ 1495. Partnership bond

When any bond is required by law or regulations to be executed by any partnership for any purpose connected with the transaction of business at any customhouse, the execution of such bond by any member of such partnership shall bind the other partners in like manner and to the same extent as if such other partners had personally joined in the execution, and an action or suit may be instituted on such bond against all partners as if all had executed the same.

(June 17, 1930, ch. 497, title IV, § 495, 46 Stat. 727.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 495, 42 Stat. 964. That section was superseded by section 495 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions substantially similar to those in this section, except that they applied to bonds for the payment of duties or for any other purpose connected with the general transaction of business at any customs house, were contained in act June 20, 1876, ch. 136, 19 Stat. 60, as amended by act Aug. 27, 1894, ch. 349, § 70, 28 Stat. 569, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.