

upon the President by section 20 of the Trading with the Enemy Act, as amended by Public Law 322, 79th Congress, approved March 8, 1946 [this section], and by section 32 of the said act, as added by the said Public Law 322 [section 32 of this Appendix].

The Alien Property Custodian may delegate to officers and employees of the Office of Alien Property Custodian such functions as he may deem necessary to carry out the provisions of this order.

This order shall not be construed as revoking or limiting any power or authority heretofore delegated to the Alien Property Custodian.

HARRY S. TRUMAN.

### § 21. Claims of naturalized citizens as affected by expatriation

The claim of any naturalized American citizen under the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix] shall not be denied on the ground of any presumption of expatriation which has arisen against him, under the second sentence of section 2 of the Act entitled "An Act in reference to the expatriation of citizens and their protection abroad," approved March 2, 1907, if he shall give satisfactory evidence to the President, or the court, as the case may be, of his uninterrupted loyalty to the United States during his absence, and that he has returned to the United States, or that he, although desiring to return, has been prevented from so returning by circumstances beyond his control.

(Oct. 6, 1917, ch. 106, § 21, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516.)

#### REFERENCES IN TEXT

The second sentence of section 2 of the Act entitled "An Act in reference to the expatriation of citizens and their protection abroad," approved March 2, 1907, referred to in text, is the second sentence of section 2 of act Mar. 2, 1907, ch. 2534, 34 Stat. 1228, which was classified to section 17 of Title 8, Aliens and Nationality, and which was repealed by act Oct. 14, 1940, ch. 876, title I, subch. V, § 504, 54 Stat. 1172.

### § 22. Fugitives from justice barred from recovery

No person shall be entitled to the return of any property or money under any provision of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], or any amendment of this Act [said sections], who is a fugitive from justice of the United States or any State or Territory thereof, or the District of Columbia.

(Oct. 6, 1917, ch. 106, § 22, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516; amended Mar. 10, 1928, ch. 167, § 16, 45 Stat. 275.)

#### AMENDMENTS

1928—Act Mar. 10, 1928, inserted "or any amendment of this Act" after "any provision of this Act".

### § 23. Payment of income, etc., by Alien Property Custodian

The Alien Property Custodian is directed to pay to the person entitled thereto, from and after March 4, 1923, the net income (including dividends, interest, annuities, and other earnings), accruing and collected thereafter, in respect of any money or property held in trust for such person by the Alien Property Custodian or by the Treasurer of the United States for the ac-

count of the Alien Property Custodian, under such rules and regulations as the President may prescribe.

(Oct. 6, 1917, ch. 106, § 23, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516; amended Mar. 10, 1928, ch. 167, § 17, 45 Stat. 275.)

#### AMENDMENTS

1928—Act Mar. 10, 1928, struck out restriction that no person be paid any amount over \$10,000 per annum.

#### TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

#### WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

### § 24. Payment of taxes and expenses by Alien Property Custodian

(a) The Alien Property Custodian is authorized to pay all taxes (including special assessments), heretofore or hereafter lawfully assessed by any body politic against any money or other property held by him or by the Treasurer of the United States under this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], and to pay the necessary expenses incurred by him or by any depository for him in securing the possession, collection, or control of any such money or other property, or in protecting or administering the same. Such taxes and expenses shall be paid out of the money or other property against which such taxes are assessed or in respect of which such expenses are incurred, or (if such money or other property is insufficient) out of any other money or property held for the same person, notwithstanding the fact that a claim may have been filed or suit instituted under this Act [said sections]. No claim shall be filed with the Alien Property Custodian or allowed by him or by the President of the United States, nor shall any suit be instituted or maintained against the Alien Property Custodian or the Treasurer of the United States, or the United States, under any provisions of law, by any person who was an enemy or ally of enemy as defined in the Trading with the Enemy Act, as amended [said sections], and no allowance of any such claim now pending shall be made, nor judgment entered in any such suit heretofore or hereafter instituted, for the recovery of any deduction or deductions, heretofore or hereafter made by the Alien Property Custodian from money or properties, or income therefrom, held by him or by the Treasurer of the United States hereunder, for the general or administrative expenses of the office of the Alien Property Custodian, which deduction or deductions on the collection of any income do not exceed the sum of two per centum of such income or which on the return of any moneys or properties or income therefrom, do not exceed the sum of two per centum of the aggregate value thereof at the time or times as nearly as may be, of such deduction or deductions, or, for the recovery of any deduc-

tion or deductions heretofore or hereafter made by the Alien Property Custodian from money or properties or income therefrom held by him or by the Treasurer of the United States hereunder, for any and all necessary expenses incurred and actually disbursed by the Alien Property Custodian or by any depository for him in securing the possession, collection or control of any such money or properties or income therefrom, or in protecting or administering the same, as said general or administrative and other expenses and said aggregate value of returned money or properties or income therefrom have been heretofore or shall be hereafter determined by said Alien Property Custodian.

(b) In the case of income, war-profits, excess-profits, or estate taxes imposed by any Act of Congress, the amount thereof shall, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, be computed in the same manner (except as hereinafter in this section provided) as though the money or other property had not been seized by or paid to the Alien Property Custodian, and shall be paid as far as practicable, in accordance with subsection (a) of this section. Pending final determination of the tax liability the Alien Property Custodian is authorized to return, in accordance with the provisions of this Act [sections 1 to 6, 7 to 39, and 41 to 44 of this Appendix], money or other property in any trust in such amounts as may be determined, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, to be consistent with the prompt payment of the full amount of the internal-revenue taxes. Notwithstanding the expiration of any period of limitation provided by law, credit or refund of any income, war-profits, or excess-profits tax erroneously or illegally assessed or collected may be made or allowed if claim therefor was filed with the Commissioner of Internal Revenue by the Alien Property Custodian on or before February 15, 1933.

(c) So much of the net income of a taxpayer for the taxable year 1917, or any succeeding taxable year, as represents the gain derived from the sale or exchange by the Alien Property Custodian of any property conveyed, transferred, assigned, delivered, or paid to him, or seized by him, may at the option of the taxpayer be segregated from the net income and separately taxed at the rate of 30 per centum. This subsection shall be applied and the amount of net income to be so segregated shall be determined, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, as nearly as may be in the same manner as provided in section 208 of the Revenue Act of 1926 (relating to capital net gains), but without regard to the period for which the property was held by the Alien Property Custodian before its sale or exchange, and whether or not the taxpayer is an individual.

(d) Any property sold or exchanged by the Alien Property Custodian (whether before or after the date of the enactment of the Settlement of War Claims Act of 1928 [Mar. 10, 1928]) shall be considered as having been compulsorily or involuntarily converted, within the meaning

of the income, excess-profits, and war-profits tax laws and regulations; and the provisions of such laws and regulations relating to such a conversion shall (under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury) apply in the case of the proceeds of such sale or exchange. For the purpose of determining whether the proceeds of such conversion have been expended within such time as will entitle the taxpayer to the benefits of such laws and regulations relating to such a conversion, the date of the return of the proceeds to the person entitled thereto shall be considered as the date of the conversion.

(e) In case of any internal-revenue tax imposed in respect of property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, or seized by him, and imposed in respect of any period (in the taxable year 1917 or any succeeding taxable year) during which such property was held by him or by the Treasurer of the United States, no interest or civil penalty shall be assessed upon, collected from, or paid by or on behalf of, the taxpayer; nor shall any interest be credited or paid to the taxpayer in respect of any credit or refund allowed or made in respect of such tax.

(f) The benefits of subsections (c), (d), and (e) shall be extended to the taxpayer if claim therefor is filed before the expiration of the period of limitations properly applicable thereto, or before the expiration of six months after the date of the enactment of the Settlement of War Claims Act of 1928 [Mar. 10, 1928], whichever date is the later. The benefits of subsection (d) shall also be extended to the taxpayer if claim therefor is filed before the expiration of six months after the return of the proceeds.

(Oct. 6, 1917, ch. 106, § 24, as added Mar. 4, 1923, ch. 285, § 2, 42 Stat. 1516; amended Mar. 10, 1928, ch. 167, § 18, 45 Stat. 276, 277; Mar. 28, 1934, ch. 102, title I, § 1, 48 Stat. 510; June 18, 1934, ch. 567, 48 Stat. 978.)

#### REFERENCES IN TEXT

Section 208 of the Revenue Act of 1926 (relating to capital net gains), referred to in subsec. (c), is act Feb. 26, 1926, ch. 27, § 208, 44 Stat. 19, which enacted section 939 of former Title 26, Internal Revenue, prior to its repeal by act May 29, 1928, ch. 852, § 63, 45 Stat. 810. See section 1201 et seq. of Title 26, Internal Revenue Code.

#### PRIOR PROVISIONS

Provisions similar to subdivision (a) of this section was contained in the sundry civil appropriation act for the fiscal year 1919, act July 1, 1918, ch. 113, 40 Stat. 646.

#### AMENDMENTS

1934—Subsec. (a). Act Mar. 28, 1934, inserted provisions relating to recovery by enemies of deductions made by Alien Property Custodian for administrative expenses.

Subsec. (b). Act June 18, 1934, provided that credit or refund of income or war profits erroneously collected might be allowed if claim was filed on or before Feb. 15, 1933.

1928—Subsecs. (b) to (f). Act Mar. 10, 1928, designated existing provisions as subsec. (a) and added subsecs. (b) to (f).

#### TRANSFER OF FUNCTIONS

Functions of Alien Property Custodian and Office of Alien Property Custodian, except those relating to

property or interest in Philippines, vested in Attorney General. See notes set out under section 6 of this Appendix.

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment of Office of Alien Property Custodian during World War II, see notes set out under section 6 of this Appendix.

**§ 25. Investments by Custodian in participating certificates issued by Secretary of the Treasury; transfers to and payments from German, Austrian or Hungarian special deposit accounts; allocation of payments**

(a)(1) The Alien Property Custodian is authorized and directed to invest, from time to time upon the request of the Secretary of the Treasury, out of the funds held by the Alien Property Custodian or by the Treasurer of the United States for the Alien Property Custodian, an amount not to exceed \$40,000,000 in the aggregate, in one or more participating certificates issued by the Secretary of the Treasury in accordance with the provisions of this section.

(2) When in the case of any trust written consent under subsection (m) of section 9 [section 9(m) of this Appendix] has been filed, an amount equal to the portion of such trust the return of which is temporarily postponed under such subsection shall be credited against the investment made under paragraph (1) of this subsection. If the total amount so credited is in excess of the amount invested under paragraph (1) of this subsection, the excess shall be invested by the Alien Property Custodian in accordance with the provisions of this subsection, without regard to the \$40,000,000 limitation in paragraph (1). If the amount invested under paragraph (1) of this subsection is in excess of the total amount so credited, such excess shall, from time to time on request of the Alien Property Custodian, be paid to him out of the funds in the German special deposit account created by section 4 of the Settlement of War Claims Act of 1928, and such payments shall have priority over any payments therefrom other than the payments under paragraph (1) of subsection (c) of such section (relating to expenses of administration).

(b) The Alien Property Custodian is authorized and directed to invest, in one or more participating certificates issued by the Secretary of the Treasury, out of the unallocated interest fund, as defined in section 28 [section 28 of this Appendix]—

(1) The sum of \$25,000,000. If, after the allocation under section 26 [section 26 of this Appendix] has been made, the amount of the unallocated interest fund allocated to the trust described in subsection (c) of such section is found to be in excess of \$25,000,000, such excess shall be invested by the Alien Property Custodian in accordance with the provisions of this subsection. If the amount so allocated is found to be less than \$25,000,000 any participating certificate or certificates that have been issued shall be corrected accordingly; and

(2) The balance of such unallocated interest fund remaining after the investment provided for in paragraph (1) and the payment of allocated earnings in accordance with the provisions of subsection (b) of section 26 [section 26(b) of this Appendix] have been made.

(c) If the amount of such unallocated interest fund, remaining after the investment required by paragraph (1) of subsection (b) of this section has been made, is insufficient to pay the allocated earnings in accordance with subsection (b) of section 26 [section 26(b) of this Appendix], then the amount necessary to make up the deficiency shall be paid out of the funds in the German special deposit account created by section 4 of the Settlement of War Claims Act of 1928, and such payment shall have priority over any payments therefrom other than the payments under paragraph (1) of subsection (c) of such section (relating to expenses of administration) and the payments under paragraph (2) of subsection (a) of this section.

(d) The Alien Property Custodian is authorized and directed (after the payment of debts under section 9 [section 9 of this Appendix]) to transfer to the Secretary of the Treasury, for deposit in such special deposit account, all money and the proceeds of all property, including all income, dividends, interest, annuities, and earnings accumulated in respect thereof, owned by the German Government or any member of the former ruling family. All money and other property shall be held to be owned by the German Government (1) if no claim thereto has been filed with the Alien Property Custodian prior to the expiration of three years from the date of the enactment of the Settlement of War Claims Act of 1928 [Mar. 10, 1928], or (2) if any claim has been filed before the expiration of such period (whether before or after the enactment of such Act), then if the ownership thereof under any such claim is not established by a decision of the Alien Property Custodian or by suit in court instituted, under section 9 [section 9 of this Appendix], within one year after the decision of the Alien Property Custodian, or after the date of the enactment of the Settlement of War Claims Act of 1928, whichever date is later. The amounts so transferred under this subsection shall be credited upon the final payment due the United States from the German Government on account of the awards of the Mixed Claims Commission.

(e) The Secretary of the Treasury is authorized and directed to issue to the Alien Property Custodian, upon such terms and conditions and under such regulations as the Secretary of the Treasury may prescribe, one or more participating certificates, bearing interest payable annually (as nearly as may be) at the rate of 5 per centum per annum, as evidence of the investment by the Alien Property Custodian under subsection (a), and one or more non-interest bearing participating certificates, as evidence of the investment by the Alien Property Custodian under subsection (b). All such certificates shall evidence a participating interest, in accordance with, and subject to the priorities of, the provisions of section 4 of the Settlement of War Claims Act of 1928, in the funds in the German special deposit account created by such section, except that—

(1) The United States shall assume no liability, directly or indirectly, for the payment of any such certificates, or of the interest thereon, except out of funds in such special deposit account available therefor, and all such certificates shall so state on their face; and