

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

(2) Such certificates shall not be transferable, except that the Alien Property Custodian may transfer any such participating certificate evidencing the interest of a substantial number of the owners of the money invested, to a trustee duly appointed by such owners.

(f) Any amount of principal or interest paid to the Alien Property Custodian in accordance with the provisions of subsection (c) of section 4 of the Settlement of War Claims Act of 1928 shall be allocated pro rata among the persons filing written consents under subsection (m) of section 9 of this Act [section 9(m) of this Appendix], and the amounts so allocated shall be paid to such persons. If any person to whom any amount is payable under this subsection has died (or if, in the case of a partnership, association, or other unincorporated body of individuals, or a corporation, its existence has terminated), payment shall be made to the persons determined by the Alien Property Custodian to be entitled thereto.

(g) 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 the special deposit account (Austrian or Hungarian, as the case may be), created by section 7 of the Settlement of War Claims Act of 1928, all money and the proceeds of all property, including all income, dividends, interest, annuities, and earnings accumulated in respect thereof, owned by the Austrian Government or any corporation all the stock of which was owned by or on behalf of the Austrian Government (including the property of the Imperial Royal Tobacco Monopoly, also known under the name of K. K. Oesterreichische Tabak Regie), or owned by the Hungarian Government or by any corporation all the stock of which was owned by or on behalf of the Hungarian Government.

(Oct. 6, 1917, ch. 106, § 25, as added Mar. 10, 1928, ch. 167, § 10, 45 Stat. 268; amended Feb. 21, 1929, ch. 291, 45 Stat. 1255; Mar. 10, 1930, ch. 75, § 2, 46 Stat. 84.)

#### REFERENCES IN TEXT

Section 4 of the Settlement of War Claims Act of 1928, referred to in subsecs. (a)(2), (c), (e), and (f), is section 4 of act Mar. 10, 1928, ch. 167, 45 Stat. 254, which is not classified to the Code.

Section 7 of the Settlement of War Claims Act of 1928, referred to in subsec. (g), is section 7 of act Mar. 10, 1928, ch. 167, 45 Stat. 254, which is not classified to the Code.

#### AMENDMENTS

1930—Subsec. (d)(1). Act Mar. 10, 1930, substituted “three years” for “two years”.

1929—Subsec. (d)(1). Act Feb. 21, 1929, substituted “two years” for “one year”.

#### 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.

#### § 26. Allocation of “unallocated interest fund”

(a) The Alien Property Custodian shall allocate among the various trusts the funds in the “unallocated interest fund” (as defined in section 28 [section 28 of this Appendix]). Such allocation shall be based upon the earnings (determined by the Secretary of the Treasury) on the total amounts deposited under section 12 [section 12 of this Appendix].

(b) The Alien Property Custodian, when the allocation has been made, is authorized and directed to pay to each person entitled, in accordance with a final decision of a court of the United States or of the District of Columbia, or of an opinion of the Attorney General, to the distribution of any portion of such unallocated interest fund, the amount allocated to his trust, except as provided in subsection (c) of this section.

(c) In the case of persons entitled, under paragraph (12), (13), (14), or (16) of subsection (b) of section 9 [section 9(b)(12), (13), (14), or (16) of this Appendix], to such return, and in the case of persons who would be entitled to such return thereunder if all such money or property had not been returned under paragraph (9) or (10) of such subsection [section 9(b)(9) or (10) of this Appendix], and in the case of persons entitled to such return under subsection (n) of section 9 [section 9(n) of this Appendix], an amount equal to the aggregate amount allocated to their trusts shall be credited against the sum of \$25,000,000 invested in participating certificates under paragraph (1) of subsection (b) of section 25 [section 25(b)(1) of this Appendix]. If the aggregate amount so allocated is in excess of \$25,000,000, an amount equal to the excess shall be invested in the same manner. Upon the repayment of any of the amounts so invested, under the provisions of section 4 of the Settlement of War Claims Act of 1928, the amount so repaid shall be distributed pro rata among such persons, notwithstanding any receipts or releases given by them.

(d) The unallocated interest fund shall be available for carrying out the provisions of this section, including the expenses of making the allocation.

(Oct. 6, 1917, ch. 106, § 26, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 273; amended June 11, 1929, ch. 14, 46 Stat. 6.)

#### REFERENCES IN TEXT

Section 4 of the Settlement of War Claims Act of 1928, referred to in subsec. (c), is section 4 of act Mar. 10, 1928, ch. 167, 45 Stat. 254, which is not classified to the Code.

#### AMENDMENTS

1929—Subsec. (a). Act June 11, 1929, struck out “average rate of” before “earnings” in second sentence.

#### 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.