

## CODIFICATION

“Section 3324(a) and (b) of title 31” substituted in text for “section 3648 of the Revised Statutes of the United States (U.S.C., title 31, sec. 529)” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was formerly classified to section 529f of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, §1, Sept. 13, 1982, 96 Stat. 877.

## AMENDMENTS

1970—Pub. L. 91-513 struck out reference to enforcement of narcotics laws.

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-513 effective on first day of seventh calendar month that begins after the day immediately preceding the date of enactment of Pub. L. 91-513, which was approved on Oct. 27, 1970, see section 1105(a) of Pub. L. 91-513, set out as an Effective Date note under section 951 of Title 21, Food and Drugs.

## SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91-513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91-513, set out as a note under section 171 of Title 21, Food and Drugs.

### § 2081. Undercover investigative operations of Customs Service

#### (a) Certification required for exemption of undercover operations from certain laws

With respect to any undercover investigative operation of the United States Customs Service (hereinafter in this section referred to as the “Service”) which is necessary for the detection and prosecution of offenses against the United States which are within the jurisdiction of the Secretary of the Treasury—

(1) sums authorized to be appropriated for the Service may be used—

(A) to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to—

- (i) sections 1341 and 3324 of title 31,
- (ii) sections 6301(a) and (b)(1) to (3) and 6306 of title 41,
- (iii) chapter 45 of title 41,
- (iv) section 8141 of title 40, and
- (v) section 3901 of title 41, and

(B) to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31;

(2) sums authorized to be appropriated for the Service and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18 and section 3302 of title 31; and

(3) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation

without regard to the provisions of section 3302 of title 31;

only upon the written certification of the Commissioner of Customs (or, if designated by the Commissioner the Deputy or an Assistant Commissioner of Customs) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

#### (b) Liquidation of corporations and business entities

If a corporation or business entity established or acquired as part of an undercover operation under paragraph (1)(B) of subsection (a) of this section with a net value over \$50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his designee determines is practicable, shall report the circumstances to the Secretary of the Treasury. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

#### (c) Deposit of proceeds

As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) of subsection (a) of this section are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

#### (d) Audits

(1) The Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year, and

(A) submit the results of the audit in writing to the Secretary of the Treasury; and

(B) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(2) The Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

(A) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(B) the number, by programs, of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

(C) the number, by programs, of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

#### (e) Definitions

For purposes of subsection (d) of this section—

(1) The term “closed” refers to the earliest point in time at which—

(A) all criminal proceedings (other than appeals) are concluded, or

(B) covert activities are concluded, whichever occurs later.

(2) The term “employees” means employees, as defined in section 2105 of title 5, of the Service.

(3) The terms “undercover investigative operation” and “undercover operation” mean any undercover investigative operation of the Service—

(A) in which—

(i) the gross receipts (excluding interest earned) exceed \$50,000, or

(ii) expenditures (other than expenditures for salaries of employees) exceed \$150,000; and

(B) which is exempt from section 3302 or 9102 of title 31;

except that subparagraphs (A) and (B) shall not apply with respect to the report required under paragraph (2) of subsection (d) of this section.

(Pub. L. 99-570, title III, § 3131, Oct. 27, 1986, 100 Stat. 3207-90; Pub. L. 104-201, div. A, title X, § 1074(d)(3), Sept. 23, 1996, 110 Stat. 2661; Pub. L. 104-316, title I, § 110(b), Oct. 19, 1996, 110 Stat. 3832.)

#### CODIFICATION

In subsec. (a)(1)(A)(ii), “sections 6301(a) and (b)(1) to (3) and 6306 of title 41,” substituted for “sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22),” on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (a)(1)(A)(iii), “chapter 45 of title 41,” substituted for “section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),” on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (a)(1)(A)(iv), “Section 8141 of title 40” substituted for “the third undesignated paragraph under the heading ‘Miscellaneous’ of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34)” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works.

In subsec. (a)(1)(A)(v), “section 3901 of title 41, and” substituted for “section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), and” on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

#### AMENDMENTS

1996—Subsec. (a)(1)(A)(v). Pub. L. 104-201 struck out “and (c)” after “section 254(a)”.

Subsec. (b). Pub. L. 104-316 struck out “and the Comptroller General” after “the Secretary of the Treasury”.

#### 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, set out as a note under section 542 of Title 6.

### § 2082. Customs Service administration

#### (a) In general

The Commissioner of Customs shall—

(1) develop and implement accounting systems that accurately determine and report the

allocations made of Customs Service personnel and other resources among the various operational functions of the Service, such as passenger processing, merchandise processing and drug enforcement; and

(2) develop and implement periodic labor distribution surveys of major workforce activities (such as inspectors, import specialists, fines, penalties, and forfeiture officers, special agents, data transcribers, and Customs aides) to determine the costs of different types of passenger and merchandise processing transactions, such as informal and formal entries, and automated and manual entries.

#### (b) Survey reports

The Commissioner of Customs shall no later than January 31, 1991, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of the first survey implemented under subsection (a)(2) of this section.

(Pub. L. 101-382, title I, § 113, Aug. 20, 1990, 104 Stat. 639; Pub. L. 101-508, title X, § 10001(d), Nov. 5, 1990, 104 Stat. 1388-386.)

#### AMENDMENTS

1990—Subsec. (a). Pub. L. 101-508, § 10001(d)(1)-(3), inserted “and” after semicolon at end of par. (1), substituted a period for semicolon at end of par. (2), and struck out pars. (3) to (5) which read as follows:

“(3) as soon as practicable after the enactment of appropriations for the Customs Service for each fiscal year, but not later than the 15th day after the beginning of such year, estimate, based on the amounts appropriated, the amount of the fee that would, if imposed on the processing of merchandise, offset the salaries and expenses subject to reimbursement from the fee that will likely be incurred by the Service in conducting commercial operations during that year;

“(4) develop annually a detailed derivation of the commercial services cost base and the methodology used for computing the merchandise processing fee under paragraph (3); and

“(5) report within 45 days of the beginning of any fiscal year to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of each fee estimate made under paragraph (3) and each cost base and user fee methodology derivation made under paragraph (4).”

Subsec. (b). Pub. L. 101-508, § 10001(d)(4), substituted “Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate” for “Committees referred to in subsection (a)(5) of this section”.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective on the date of enactment of the Act providing full-year appropriations for the Customs Service for fiscal year 1992, and applicable to fiscal years beginning on and after Oct. 1, 1991, see section 10001(g)(1) of Pub. L. 101-508, set out as a note under section 58c of this title.

#### EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 115(a) of Pub. L. 101-382, set out as an Effective Date of 1990 Amendment note under section 58c 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 Sec-