

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 vested by law in Alien Property Custodian and Office of Alien Property Custodian transferred to Attorney General by Reorg. Plan No. 1 of 1947, §101, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951, set out in the Appendix to Title 5, Government Organization and Employees.

### **§ 4322. 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) Authority to invest; limitation on amount; credit against investment**

(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 4309 of this title 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) Investments out of unallocated interest fund**

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 4325 of this title—

(1) The sum of \$25,000,000. If, after the allocation under section 4323 of this title 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 4323 of this title have been made.

#### **(c) Insufficiency of amount; payment out of German special deposit account**

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 4323 of this title, 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) Transfers of money and proceeds of property owned by the German Government**

The Alien Property Custodian is authorized and directed (after the payment of debts under section 4309 of this title) 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 March 10, 1928, or (2) if any claim has been filed before the expiration of such period (whether before or after March 10, 1928), 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 4309 of this title, within one year after the decision of the Alien Property Custodian, or after March 10, 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) Issuance of certificates**

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) Allocation of amounts among persons filing written consents; payment**

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 4309 of this title, 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) Transfers of money and proceeds of property owned by Austrian or Hungarian Governments**

The Alien Property Custodian is authorized and directed (after the payment of debts under section 4309 of this title) 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. 260, 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. 265, which is not classified to the Code.

CODIFICATION

Section was formerly classified to section 25 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

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 vested by law in Alien Property Custodian and Office of Alien Property Custodian transferred to Attorney General by Reorg. Plan No. 1 of 1947, §101, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951, set out in the Appendix to Title 5, Government Organization and Employees.

**§ 4323. Allocation of “unallocated interest fund”**

**(a) Allocation among trusts; basis of allocation**

The Alien Property Custodian shall allocate among the various trusts the funds in the “unallocated interest fund” (as defined in section 4325 of this title). Such allocation shall be based upon the earnings (determined by the Secretary of the Treasury) on the total amounts deposited under section 4312 of this title.

**(b) Payment to persons entitled to distributions**

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) Credit against amount invested in certificates**

In the case of persons entitled, under paragraph (12), (13), (14), or (16) of subsection (b) of section 4309 of this title, 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, and in the case of persons entitled to such return under subsection (n) of section 4309 of this title, 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 4322 of this title. 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) Availability of unallocated interest fund**

The unallocated interest fund shall be available for carrying out the provisions of this sec-