

nal Revenue Code (Mar. 3, 1911, ch. 231, §§43, 45, 46, 47, 36 Stat. 1100; Feb. 10, 1939, ch. 2, §3745(c), 53 Stat. 460).

This section consolidates section 3745(c) of title 26, U.S.C., 1940 ed., with sections 104, 106, 107, and 108 of title 28, U.S.C., 1940 ed., relating to venue in civil proceedings to recover and enforce civil fines, penalties, and forfeitures, pecuniary or otherwise. Subsection (a) is based on said section 104 of title 28 and said section 3745(c) of title 26. Subsections (b) and (c) consolidate such sections 106 and 107 of title 28. Subsection (e) is based on such section 108 of title 28.

Subsection (b) substituted words “may be prosecuted in any district where such property is found” for “shall be prosecuted in the district where the seizure is made,” to include not only property seized, but also all other property subject to forfeiture.

Words “civil” and “fine” were inserted to make this section applicable to the many provisions of the United States Code for fines essentially civil. (See reviser’s note under section 1355 of this title.)

Provisions of section 3745(c) of title 26, U.S.C., 1940 ed., that such suit may be brought “before any other court of competent jurisdiction” were omitted as misleading surplusage, since United States district courts, under section 1355 of this title, have exclusive jurisdiction.

Subsection (d) was added for completeness and clarity.

Changes were made in phraseology.

#### SENATE REVISION AMENDMENT

While section 3745(c) of Title 26, U.S.C., Internal Revenue Code, is one of the sources of this section, it was eliminated from the schedule of repeals by Senate amendment. Therefore, such section 3745(c) remains in Title 26. See 80th Congress Senate Report No. 1559.

### § 1396. Internal revenue taxes

Any civil action for the collection of internal revenue taxes may be brought in the district where the liability for such tax accrues, in the district of the taxpayer’s residence, or in the district where the return was filed.

(June 25, 1948, ch. 646, 62 Stat. 936.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §105, and section 3744 of title 26, U.S.C., 1940 ed., Internal Revenue Code (Mar. 3, 1911, ch. 231, §44, 36 Stat. 1100; Feb. 10, 1939, ch. 2, §3744, 53 Stat. 460).

Section consolidates section 3744 of title 26, U.S.C., 1940 ed., Internal Revenue Code, with section 105 of title 28, U.S.C., 1940 ed.

Words “or in the district where the return was filed” are new. This extension of venue will permit of an action in a district easily determinable for collection of revenue earned in several districts, or States, but the return for which is filed with one collector.

Changes were made in phraseology.

#### SENATE REVISION AMENDMENT

While section 3744 of Title 26, U.S.C., Internal Revenue Code [1939], is one of the sources of this section, it was eliminated from the schedule of repeals by Senate amendment. Therefore, it remains in Title 26 [I.R.C. 1939]. See 80th Congress Senate Report No. 1559.

### § 1397. Interpleader

Any civil action of interpleader or in the nature of interpleader under section 1335 of this title may be brought in the judicial district in which one or more of the claimants reside.

(June 25, 1948, ch. 646, 62 Stat. 936.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §41(26) (Mar. 3, 1911, ch. 231, §24, par. 26, as added Jan. 20, 1936, ch. 13, §1, 49 Stat. 1096).

Provisions of section 41(26) of title 28, U.S.C., 1940 ed., relating to jurisdiction are the basis of section 1335 of this title and other provisions thereof are incorporated in section 2361 of this title.

Words “civil action” were substituted for “suit,” in view of Rule 2 of the Federal Rules of Civil Procedure. Changes were made in phraseology.

### § 1398. Interstate Commerce Commission’s orders

(a) Except as otherwise provided by law, a civil action brought under section 1336(a) of this title shall be brought only in a judicial district in which any of the parties bringing the action resides or has its principal office.

(b) A civil action to enforce, enjoin, set aside, annul, or suspend, in whole or in part, an order of the Interstate Commerce Commission made pursuant to the referral of a question or issue by a district court or by the United States Court of Federal Claims, shall be brought only in the court which referred the question or issue.

(June 25, 1948, ch. 646, 62 Stat. 936; Pub. L. 88-513, §2, Aug. 30, 1964, 78 Stat. 695; Pub. L. 93-584, §2, Jan. 2, 1975, 88 Stat. 1917; Pub. L. 97-164, title I, §130, Apr. 2, 1982, 96 Stat. 39; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §43 (Oct. 22, 1913, ch. 32, 38 Stat. 219).

This section is completely rewritten to give effect to changes recommended by the Judicial Conference of the United States.

Section 43 of title 28, U.S.C., 1940 ed., is as follows:

“§43. Venue of suits relating to orders of Interstate Commerce Commission.

“The venue of any suit brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties upon whose petition the order was made, except that where the order does not relate to transportation or is not made upon the petition of any party the venue shall be in the district where the matter complained of in the petition before the commission arises, and except that where the order does not relate either to transportation or to a matter so complained of before the commission the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office. In case such transportation relates to a through shipment the term ‘destination’ shall be construed as meaning final destination of such shipment.” The amendment of section 207 of title 28, U.S.C., 1940 ed., proposed by the Judicial Conference is:

“Except as otherwise provided in the Act entitled ‘An Act to Regulate Commerce’, approved February 4, 1887, as amended, the venue of any suit brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties bringing the suit or wherein such party or any of such parties has its principal office.”

The revised section substitutes the words “Except as otherwise provided by law” for the words of the conference bill, “in the act entitled ‘An Act to Regulate Commerce, approved February 4, 1887, as amended’”. (See section 16 of title 49, U.S.C., 1940 ed., which provides for jurisdiction and venue of actions to enforce Interstate Commerce Commission orders for the payment of money.)

#### AMENDMENTS

1992—Subsec. (b). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Subsec. (b). Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims”.

1975—Subsec. (a). Pub. L. 93-584 substituted provisions that civil actions under section 1336(a) of this title shall be brought only in a judicial district in which any of the parties bringing the action resides or has its principal office, for provisions that civil actions to enforce, suspend, or set aside in whole or in part orders of the Interstate Commerce Commission shall be brought in such judicial district.

1964—Pub. L. 88-513 designated existing provisions as subsec. (a) and added subsec. (b).

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-584 not applicable to actions commenced on or before last day of first month beginning after Jan. 2, 1975, and actions to enjoin or suspend orders of Interstate Commerce Commission which are pending when this amendment becomes effective shall not be affected thereby, but shall proceed to final disposition under the law existing on the date they were commenced, see section 10 of Pub. L. 93-584, set out as a note under section 2321 of this title.

#### ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of Title 49.

### § 1399. Partition action involving United States

Any civil action by any tenant in common or joint tenant for the partition of lands, where the United States is one of the tenants in common or joint tenants, may be brought only in the judicial district where such lands are located or, if located in different districts in the same State, in any of such districts.

(June 25, 1948, ch. 646, 62 Stat. 936.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 41(25) (Mar. 3, 1911, ch. 231, § 24, par. 25, 36 Stat. 1094).

Provisions of section 41(25) of title 28, U.S.C., 1940 ed., relating to jurisdiction are the basis of section 1347 of this title.

Words “civil action” were substituted for “suits in equity,” in view of Rule 2 of the Federal Rules of Civil Procedure.

Provision with respect to property in different districts was added to conform with section 1392 of this title.

Changes were made in phraseology.

### § 1400. Patents and copyrights, mask works, and designs

(a) Civil actions, suits, or proceedings arising under any Act of Congress relating to copyrights

or exclusive rights in mask works or designs may be instituted in the district in which the defendant or his agent resides or may be found.

(b) Any civil action for patent infringement may be brought in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business.

(June 25, 1948, ch. 646, 62 Stat. 936; Pub. L. 100-702, title X, § 1020(a)(5), Nov. 19, 1988, 102 Stat. 4671; Pub. L. 105-304, title V, § 503(c)(1), (2), Oct. 28, 1998, 112 Stat. 2917; Pub. L. 106-44, § 2(a), Aug. 5, 1999, 113 Stat. 223.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 109, and section 35 of title 17, U.S.C., 1940 ed., Copyrights (Mar. 4, 1909, ch. 320, § 35, 35 Stat. 1084; Mar. 3, 1911, ch. 231, § 48, 36 Stat. 1100).

Section consolidates section 35 of title 17, U.S.C., 1940 ed., with part of section 109 of title 28, U.S.C., 1940 ed., with necessary changes in phraseology.

Subsection (b) is based on section 109 of title 28, U.S.C., 1940 ed., with the following changes:

Words “civil action” were substituted for “suit,” and words “in law or in equity,” after “shall have jurisdiction” were deleted, in view of Rule 2 of the Federal Rules of Civil Procedure.

Words in subsection (b) “where the defendant resides” were substituted for “of which the defendant is an inhabitant.” A corresponding change was made in subsection (a). Words “inhabitant” and “resident,” as respects venue, are synonymous. (See reviser’s note under section 1391 of this title.)

Words “whether a person, partnership, or corporation” before “has committed” were omitted as surplusage.

The provisions of section 109 of title 28, U.S.C., 1940 ed., relating to process are incorporated in section 1694 of this title.

Jurisdiction and venue of patent suits against residents of foreign countries or persons residing in plurality of districts, see section 72a of title 35, U.S.C., 1940 ed., Patents.

#### SENATE REVISION AMENDMENT

Title 17 of the United States Code was enacted into positive law by act July 30, 1947, ch. 391, 61 Stat. 652, and, in such enactment, section 35 of the prior title became section 111 of the new title, and all Acts from which sections of the prior title had been derived, were repealed. Therefore, this paragraph should read: “Based on Title 28, U.S.C., 1940 ed., § 109 (Mar. 3, 1911, ch. 231, § 48, 36 Stat. 1100), and section 111 of Title 17, U.S.C., 1946 ed., Copyrights.” By Senate amendment, section 111 of Title 17 U.S.C., is included in the schedule of repeals. See 80th Congress Senate Report No. 1559.

#### AMENDMENTS

1999—Pub. L. 106-44 amended section catchline generally so as to read “Patents and copyrights, mask works, and designs”.

1998—Pub. L. 105-304, § 503(c)(2), amended section catchline generally, substituting “Patents and copyrights, mask works, and designs” for “Patents and copyrights”.

Subsec. (a). Pub. L. 105-304, § 503(c)(1), inserted “or designs” after “mask works”.

1988—Subsec. (a). Pub. L. 100-702 inserted “or exclusive rights in mask works” after “copyrights”.

### § 1401. Stockholder’s derivative action

Any civil action by a stockholder on behalf of his corporation may be prosecuted in any judicial district where the corporation might have sued the same defendants.