

include proposals to waive administrative procedural requirements and controls, including specification of personnel staffing levels, limitations on compensation or remuneration, and prohibitions or restrictions on funding transfers among budget object classification 20 and subclassifications 11, 12, 31, and 32 of each annual budget submitted under section 1105, in return for specific individual or organization accountability to achieve a performance goal. In preparing and submitting the performance plan under section 1105(a)(29),<sup>1</sup> the Director of the Office of Management and Budget shall review and may approve any proposed waivers. A waiver shall take effect at the beginning of the fiscal year for which the waiver is approved.

(b) Any such proposal under subsection (a) shall describe the anticipated effects on performance resulting from greater managerial or organizational flexibility, discretion, and authority, and shall quantify the expected improvements in performance resulting from any waiver. The expected improvements shall be compared to current actual performance, and to the projected level of performance that would be achieved independent of any waiver.

(c) Any proposal waiving limitations on compensation or remuneration shall precisely express the monetary change in compensation or remuneration amounts, such as bonuses or awards, that shall result from meeting, exceeding, or failing to meet performance goals.

(d) Any proposed waiver of procedural requirements or controls imposed by an agency (other than the proposing agency or the Office of Management and Budget) may not be included in a performance plan unless it is endorsed by the agency that established the requirement, and the endorsement included in the proposing agency's performance plan.

(e) A waiver shall be in effect for one or two years as specified by the Director of the Office of Management and Budget in approving the waiver. A waiver may be renewed for a subsequent year. After a waiver has been in effect for three consecutive years, the performance plan prepared under section 1115 may propose that a waiver, other than a waiver of limitations on compensation or remuneration, be made permanent.

(f) For purposes of this section, the definitions under section 1115(f)<sup>1</sup> shall apply.

(Added Pub. L. 103-62, §5(a), Aug. 3, 1993, 107 Stat. 289.)

#### REFERENCES IN TEXT

Section 1105(a)(29), referred to in subsec. (a), was redesignated section 1105(a)(28) of this title by Pub. L. 104-287, §4(1), Oct. 11, 1996, 110 Stat. 3388.

Section 1115(f), referred to in subsec. (f), was redesignated section 1115(g) of this title by Pub. L. 107-296, title XIII, §1311(a)(2), Nov. 25, 2002, 116 Stat. 2290.

#### CODIFICATION

Another section 9703 was renumbered section 9705 of this title.

#### CONSTRUCTION

No provision or amendment made by Pub. L. 103-62 to be construed as creating any right, privilege, benefit,

<sup>1</sup> See References in Text note below.

or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any provision or amendment made by Pub. L. 103-62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103-62, set out as a Construction of 1993 Amendment note under section 1101 of this title.

#### § 9704. Pilot projects for managerial accountability and flexibility

(a) The Director of the Office of Management and Budget shall designate not less than five agencies as pilot projects in managerial accountability and flexibility for fiscal years 1995 and 1996. Such agencies shall be selected from those designated as pilot projects under section 1118 and shall reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

(b) Pilot projects in the designated agencies shall include proposed waivers in accordance with section 9703 for one or more of the major functions and operations of the agency.

(c) The Director of the Office of Management and Budget shall include in the report to the President and to the Congress required under section 1118(c)—

(1) an assessment of the benefits, costs, and usefulness of increasing managerial and organizational flexibility, discretion, and authority in exchange for improved performance through a waiver; and

(2) an identification of any significant difficulties experienced by the pilot agencies in preparing proposed waivers.

(d) For purposes of this section the definitions under section 1115(f)<sup>1</sup> shall apply.

(Added Pub. L. 103-62, §6(b), Aug. 3, 1993, 107 Stat. 290.)

#### REFERENCES IN TEXT

Section 1115(f), referred to in subsec. (d), was redesignated section 1115(g) of this title by Pub. L. 107-296, title XIII, §1311(a)(2), Nov. 25, 2002, 116 Stat. 2290.

#### CONSTRUCTION

No provision or amendment made by Pub. L. 103-62 to be construed as creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any provision or amendment made by Pub. L. 103-62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103-62, set out as a Construction of 1993 Amendment note under section 1101 of this title.

#### § 9705. Department of the Treasury Forfeiture Fund

(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the “Department of the Treasury Forfeiture Fund” (referred to in this section as the “Fund”). The Fund shall be available to the Secretary, without fiscal year limitation, with re-

<sup>1</sup> See References in Text note below.

spect to seizures and forfeitures made pursuant to any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard for the following law enforcement purposes:

(1)(A) Payment of all proper expenses of seizure (including investigative costs incurred by a Department of the Treasury law enforcement organization leading to seizure) or the proceedings of forfeiture and sale, including the expenses of detention, inventory, security, maintenance, advertisement, or disposal of the property, and if condemned by a court and a bond for such costs was not given, the costs as taxed by the court.

(B) Payment for—

(i) contract services;

(ii) the employment of outside contractors to operate and manage properties or to provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursing any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph.

(C) Awards of compensation to informers under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619).

(D) Satisfaction of—

(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate Customs officer according to law; and

(ii) subject to the discretion of the Secretary, other valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by a Department of the Treasury law enforcement organization. To determine the validity of any such lien or mortgage, the amount of payment to be made, and to carry out the functions described in this subparagraph, the Secretary may employ and compensate attorneys and other personnel skilled in State real estate law.

(E) Payment of amounts authorized by law with respect to remission and mitigation.

(F) Payment of claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), in the amounts applicable to such claims at the time of seizure.

(G) Equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), section 981 of title 18, or subsection (h) of this section, and all costs related thereto.

(H) Payment for services of experts and consultants needed by a Department of the Treasury law enforcement organization to carry out the organization's duties relating to seizure and forfeiture.

(I) Payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement offi-

cers that are incurred in joint law enforcement operations with a Department of the Treasury law enforcement organization.

(J) Payment made pursuant to guidelines promulgated by the Secretary, if such payment is necessary and directly related to seizure and forfeiture program expenses for—

(i) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

(ii) training;

(iii) printing; and

(iv) contracting for services directly related to—

(I) the identification of forfeitable assets;

(II) the processing of and accounting for forfeitures; and

(III) the storage, maintenance, protection, and destruction of controlled substances.

(2) At the discretion of the Secretary—

(A) payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Department of the Treasury law enforcement organization participating in the Fund;

(B) purchases of evidence or information by—

(i) a Department of the Treasury law enforcement organization with respect to—

(I) a violation of section 1956 or 1957 of title 18 (relating to money laundering); or

(II) a law, the violation of which may subject property to forfeiture under section 981 or 982 of title 18;

(ii) the United States Customs Service with respect to drug smuggling or a violation of section 542 or 545 of title 18 (relating to fraudulent customs invoices or smuggling);

(iii) the United States Secret Service with respect to a violation of—

(I) section 1028, 1029, or 1030 of title 18;

(II) any law of the United States relating to coins, obligations, or securities of the United States or of a foreign government; or

(III) any law of the United States which the United States Secret Service is authorized to enforce relating to fraud or other criminal or unlawful activity in or against any federally insured financial institution, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation;

(iv) the United States Customs Service or the Internal Revenue Service with respect to a violation of chapter 53 of this title (relating to the Bank Secrecy Act); and

(v) United States Immigration and Customs Enforcement with respect to a violation of chapter 77 of title 18 (relating to human trafficking);

(C) payment of costs for publicizing awards available under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

(D) payment for equipment for any vessel, vehicle, or aircraft available for official use by a Department of the Treasury law enforcement organization to enable the vessel, vehicle, or aircraft to assist in law enforcement functions, and for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;

(E) the payment of claims against employees of the Customs Service settled by the Secretary under section 630 of the Tariff Act of 1930;

(F) payment for equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with a Department of the Treasury law enforcement organization;

(G) reimbursement of private persons for expenses incurred by such persons in cooperating with a Department of the Treasury law enforcement organization in investigations and undercover law enforcement operations; and

(H) payment for training foreign law enforcement personnel with respect to seizure or forfeiture activities of the Department of the Treasury.

(b) LIMITATIONS.—

(1) Any payment made under subparagraph (D) or (E) of subsection (a)(1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.

(2) Any payment made under subsection (a)(1)(G) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.

(3) The Secretary may exempt the procurement of contract services under the Fund from division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, section 6101(b) to (d) of title 41, and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

(4) The Secretary shall assure that any equitable sharing payment made to a State or local law enforcement agency pursuant to subsection (a)(1)(G) and any property transferred to a State or local law enforcement agency pursuant to subsection (h)—

(A) has a value that bears a reasonable relationship to the degree of participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

(5) Amounts transferred by the Attorney General pursuant to section 524(c)(1) of title

28, or by the Postmaster General pursuant to section 2003 of title 39, and deposited into the Fund pursuant to subsection (d), shall be available for Federal law enforcement related purposes of the Department of the Treasury law enforcement organizations.

(c) FUNDS AVAILABLE TO UNITED STATES COAST GUARD.—

(1) The Secretary shall make available to the United States Coast Guard, from funds appropriated under subsection (g)(2) in excess of \$10,000,000 for a fiscal year, an amount equal to the net proceeds in the Fund derived from seizures by the Coast Guard.

(2) Funds made available under this subsection may be used to—

(A) pay for equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

(B) pay for equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with the United States Coast Guard;

(C) pay for overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard;

(D) pay for expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.

(d) DEPOSITS AND CREDITS.—

(1) With respect to fiscal year 1993, there shall be deposited into or credited to the Fund—

(A) all currency forfeited during fiscal year 1993, and all proceeds from forfeitures during fiscal year 1993, under any law enforced or administered by the United States Customs Service or the United States Coast Guard;

(B) all income from investments made under subsection (e); and

(C) all amounts representing the equitable share of the United States Customs Service or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

(2) With respect to fiscal years beginning after fiscal year 1993, there shall be deposited into or credited to the Fund—

(A) all currency forfeited after fiscal year 1993, and all proceeds from forfeitures after fiscal year 1993, under any law (other than sections 7301 and 7302 of the Internal Revenue Code of 1986) enforced or administered by a Department of the Treasury law enforcement organization or the United States Coast Guard;

(B) all income from investments made under subsection (e); and

(C) all amounts representing the equitable share of a Department of the Treasury law

enforcement organization or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

(e) INVESTMENTS.—Amounts in the Fund, and in any holding accounts associated with the Fund, which are not currently needed for the purposes of this section may be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

(f) REPORTS TO CONGRESS.—The Secretary shall transmit to the Congress, not later than February 1 of each year—

(1) a report on—

(A) the estimated total value of property forfeited with respect to which funds were not deposited in the Fund during the preceding fiscal year—

(i) under any law enforced or administered by the United States Customs Service or the United States Coast Guard, in the case of fiscal year 1993; and

(ii) under any law enforced or administered by the Department of the Treasury law enforcement organizations or the United States Coast Guard, in the case of fiscal years beginning after 1993; and

(B) the estimated total value of all such property transferred to any State or local law enforcement agency; and

(2) a report on—

(A) the balance of the Fund at the beginning of the preceding fiscal year;

(B) liens and mortgages paid and the amount of money shared with Federal, State, local, and foreign law enforcement agencies during the preceding fiscal year;

(C) the net amount realized from the operations of the Fund during the preceding fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over into the current fiscal year;

(D) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at \$1,000,000 or more;

(E) the total dollar value of uncontested seizures of monetary instruments having a value of over \$100,000 which, or the proceeds of which, have not been deposited into the Fund pursuant to subsection (d) within 120 days after seizure, as of the end of the preceding fiscal year;

(F) the balance of the Fund at the end of the preceding fiscal year;

(G) the net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for Federal law enforcement related purposes;

(H) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990 (Public Law 101-576); and

(I) an analysis of income and expenses showing the revenue received or lost—

(i) by property category (such as general property, vehicles, vessels, aircraft, cash, and real property); and

(ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with State and local agencies, and destruction).

The Fund shall be subject to annual financial audits as authorized in the Chief Financial Officers Act of 1990 (Public Law 101-576).

(g) APPROPRIATIONS.—

(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes described in subsection (a)(1).

(2) There are authorized to be appropriated from the Fund to carry out the purposes set forth in subsections (a)(2) and (c) not to exceed—

(A) \$25,000,000 for fiscal year 1993; and

(B) \$50,000,000 for each fiscal year after fiscal year 1993.

(3)(A) Subject to subparagraphs (B) and (C), at the end of each of fiscal years 1994, 1995, 1996, and 1997, the Secretary shall transfer from the Fund not more than \$100,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988.<sup>1</sup>

(B) Transfers pursuant to subparagraph (A) shall be made only from excess unobligated amounts and only to the extent that, as determined by the Secretary, such transfers will not impair the future availability of amounts for the purposes described in subsection (a). Further, transfers under subparagraph (A) may not exceed one-half of the excess unobligated balance for a year. In addition, transfers under subparagraph (A) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed \$100,000,000.

(C) The Secretary of the Treasury shall reserve an amount not to exceed \$30,000,000 from the unobligated balances remaining in the Customs Forfeiture Fund on September 30, 1992, and such amount shall be transferred to the Fund on October 1, 1992, or, if later, the date that is 15 days after the date of the enactment of this section. Such amount shall be available for any expenses or activities authorized under this section. At the end of fiscal year<sup>2</sup> 1993, 1994, 1995, and 1996, the Secretary shall reserve in the Fund an amount not to exceed \$50,000,000 of the unobligated balances in the Fund, or, if the Secretary determines that a greater amount is necessary for asset specific expenses, an amount equal to not more than 10 percent of the total obligations from the Fund in the preceding fiscal year. At the end of fiscal year 1997, and at the end of each fiscal year thereafter, the Secretary shall reserve any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under sub-

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Probably should be "years".

section (a). Unobligated balances remaining pursuant to section 4(B) of 9703(g)<sup>3</sup> shall also be carried forward.

(4)(A) After reserving any amount authorized by paragraph (3)(C), any unobligated balances remaining in the Fund on September 30, 1993, shall be deposited into the general fund of the Treasury of the United States.

(B) After reserving any amount authorized by paragraph (3)(C) and after transferring any amount authorized by paragraph (3)(A), any unobligated balances remaining in the Fund on September 30, 1994, and on September 30 of each fiscal year thereafter, shall be available to the Secretary, without fiscal year limitation, for transfers pursuant to subparagraph (A)(ii)<sup>1</sup> and for obligation or expenditure in connection with the law enforcement activities of any Federal agency or of a Department of the Treasury law enforcement organization.

(C) Any obligation or expenditure in excess of \$500,000 with respect to an unobligated balance described in subparagraph (B) may not be made by the Secretary unless the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of such obligation or expenditure.

(h) RETENTION OR TRANSFER OF PROPERTY.—

(1) The Secretary may, with respect to any property forfeited under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury—

(A) retain any of the property for official use; or

(B) transfer any of the property to—

(i) any other Federal agency; or

(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.

(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure of<sup>4</sup> forfeiture of the property, if such a transfer—

(A) is one with which the Secretary of State has agreed;

(B) is authorized in an international agreement between the United States and the foreign country; and

(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)).<sup>1</sup>

(3) Nothing in this section shall affect the authority of the Secretary under section 981 of title 18 or section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a).

(i) REGULATIONS.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this section.

(j) CUSTOMS FORFEITURE FUND.—Notwithstanding any other provision of law—

(1) during any period when forfeited currency and proceeds from forfeitures under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard, are required to be deposited in the Fund pursuant to this section—

(A) all moneys required to be deposited in the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall instead be deposited in the Fund; and

(B) no deposits or withdrawals may be made to or from the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b); and

(2) any funds in the Customs Forfeiture Fund and any obligations of the Customs Forfeiture Fund on the effective date of the Treasury Forfeiture Act of 1992, shall be transferred to the Fund and all administrative costs of such transfer shall be paid for out of the Fund.

(k) LIMITATION OF LIABILITY.—The United States shall not be liable in any action relating to property transferred under this section or under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) if such action is based on an act or omission occurring after the transfer.

(l) AUTHORITY TO WARRANT TITLE.—Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department of the Treasury, the Secretary is authorized, at the Secretary's discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

(m) FORFEITED PROPERTY.—For purposes of this section and notwithstanding section 524(c)(11)<sup>1</sup> of title 28 or any other law—

(1) during fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by the United States Customs Service if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of the United States Customs Service or the property was maintained by the United States Customs Service; or

(B) a civil administrative forfeiture proceeding conducted by the United States Customs Service; and

(2) after fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by a Department of the Treasury law enforcement organization if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Department of the Treasury law enforcement organization or the property was maintained by a Department of the Treasury law enforcement organization; or

(B) a civil administrative forfeiture proceeding conducted by a Department of the Treasury law enforcement organization.

(n) TRANSFERS TO ATTORNEY GENERAL AND POSTMASTER GENERAL.—

<sup>3</sup> So in original. Probably should be "paragraph (4)(B) of section 9703(g)".

<sup>4</sup> So in original. Probably should be "or".

(1) The Secretary shall transfer from the Fund to the Attorney General for deposit in the Department of Justice Assets Forfeiture Fund amounts appropriate to reflect the degree of participation of participating Federal agencies in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization. For purposes of the preceding sentence, a “participating Federal agency” is an agency that participates in the Department of Justice Assets Forfeiture Fund.

(2) The Secretary shall transfer from the Fund to the Postmaster General for deposit in the Postal Service Fund amounts appropriate to reflect the degree of participation of the United States Postal Service in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization.

(o) DEFINITIONS.—For purposes of this section—

(1) DEPARTMENT OF THE TREASURY LAW ENFORCEMENT ORGANIZATION.—The term “Department of the Treasury law enforcement organization” means the United States Customs Service, the United States Secret Service, the Tax and Trade Bureau, the Internal Revenue Service, the Federal Law Enforcement Training Center, the Financial Crimes Enforcement Network, and any other law enforcement component of the Department of the Treasury so designated by the Secretary.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

(Added Pub. L. 102-393, title VI, § 638(b)(1), Oct. 6, 1992, 106 Stat. 1779, § 9703; amended Pub. L. 103-182, title VI, § 685, Dec. 8, 1993, 107 Stat. 2220; Pub. L. 103-322, title IX, § 90205(c), Sept. 13, 1994, 108 Stat. 1994; Pub. L. 103-329, title I, § 112, Sept. 30, 1994, 108 Stat. 2391; Pub. L. 104-208, div. A, title I, § 101(f) [title I, § 116], Sept. 30, 1996, 110 Stat. 3009-314, 3009-325; Pub. L. 105-61, title I, § 122(b), (c), Oct. 10, 1997, 111 Stat. 1289; Pub. L. 107-296, title XI, § 1112(n), Nov. 25, 2002, 116 Stat. 2278; Pub. L. 111-350, § 5(h)(10), Jan. 4, 2011, 124 Stat. 3849; renumbered § 9705 and amended Pub. L. 114-22, title I, § 105(c)(1), May 29, 2015, 129 Stat. 237.)

#### REFERENCES IN TEXT

Sections 7301 and 7302 of the Internal Revenue Code of 1986, referred to in subsecs. (a), (d)(2)(A), (h)(1), and (j)(1), are classified to sections 7301 and 7302, respectively, of Title 26, Internal Revenue Code. Section 5872(b)(2) of the Internal Revenue Code of 1986, referred to in subsec. (o)(1), is classified to section 5872(b)(2) of Title 26.

The Bank Secrecy Act, referred to in subsec. (a)(2)(B)(iv), is title I of Pub. L. 91-508, Oct. 26, 1970, 84 Stat. 1114, which is classified principally to chapter 21 (§ 1951 et seq.) of Title 12, Banks and Banking, and has also been the popular name of provisions reenacted as subchapter II of chapter 53 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1951 of Title 12 and Tables.

Section 630 of the Tariff Act of 1930, referred to in subsec. (a)(2)(E), is classified to section 1630 of Title 19, Customs Duties.

The Chief Financial Officers Act of 1990, referred to in subsec. (f), is Pub. L. 101-576, Nov. 15, 1990, 104 Stat.

2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of this title and Tables.

Section 6073 of the Anti-Drug Abuse Act of 1988, referred to in subsec. (g)(3)(A), was classified to section 1509 of Title 21, Food and Drugs, prior to repeal by Pub. L. 109-469, title XI, § 1101(b), Dec. 29, 2006, 120 Stat. 3539.

The date of the enactment of this section, referred to in subsec. (g)(3)(C), is the date of the enactment of Pub. L. 102-393, which was approved Oct. 6, 1992.

Subparagraph (A)(ii), referred to in subsec. (g)(4)(B), means cl. (ii) of subsec. (g)(4)(A) which was repealed by Pub. L. 103-322, title IX, § 90205(c)(2)(B), Sept. 13, 1994, 108 Stat. 1995.

Section 481(h) of the Foreign Assistance Act of 1961, referred to in subsec. (h)(2)(C), was classified to section 2291(h) of Title 22, Foreign Relations and Intercourse, prior to repeal of subsec. (h) by Pub. L. 102-583, § 6(b)(2), Nov. 2, 1992, 106 Stat. 4932. Reference to section 481(h) of the Foreign Assistance Act of 1961 probably should be to section 490(a)(1) of the Act, which is classified to section 2291j(a)(1) of Title 22.

The effective date of the Treasury Forfeiture Act of 1992, referred to in subsec. (j)(2), probably means the date of enactment of the Treasury Forfeiture Fund Act of 1992, section 638 of Pub. L. 102-393, which was approved Oct. 6, 1992.

Section 524(c)(11) of title 28, referred to in subsec. (m), was redesignated section 524(c)(10) by Pub. L. 104-66, title I, § 1091(h)(2), Dec. 21, 1995, 109 Stat. 722.

#### AMENDMENTS

2015—Pub. L. 114-22, § 105(c)(1)(A), renumbered section 9703 of this title, relating to Department of the Treasury Forfeiture Fund, as this section.

Subsec. (a)(1)(I), Pub. L. 114-22, § 105(c)(1)(B)(i)(I), substituted “Payment” for “payment” and period for semicolon at end.

Subsec. (a)(1)(J), Pub. L. 114-22, § 105(c)(1)(B)(i)(II), which directed substitution of “Payment” for “payment”, was executed by making the substitution the first place appearing, to reflect the probable intent of Congress.

Subsec. (a)(2)(B)(iii)(I), Pub. L. 114-22, § 105(c)(1)(B)(ii)(I)(aa)(AA), substituted “of title 18” for “or title 18”.

Subsec. (a)(2)(B)(v), Pub. L. 114-22, § 105(c)(1)(B)(ii)(I)(aa)(BB)—(cc), added cl. (v).

Subsec. (a)(2)(G), Pub. L. 114-22, § 105(c)(1)(B)(ii)(II), inserted “and” at end.

Subsec. (a)(2)(H), Pub. L. 114-22, § 105(c)(1)(B)(ii)(III), substituted period for “; and” at end.

2011—Subsec. (b)(3), Pub. L. 111-350 substituted “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, section 6101(b) to (d) of title 41” for “section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)”.

2002—Subsec. (a)(2)(B), Pub. L. 107-296, § 1112(n)(1), in cl. (iii)(III), inserted “and” at end, in cl. (iv), substituted a period for “; and” at end, and struck out cl. (v) which read as follows: “the Bureau of Alcohol, Tobacco and Firearms with respect to a violation of—

“(I) section 842(h) of title 18;

“(II) section 844(d), (e), (f), (g), (h), or (i) of title 18;

or

“(III) section 924(c) of title 18;”.

Subsec. (o), Pub. L. 107-296, § 1112(n)(2), (3), redesignated subsec. (p) as (o) and struck out former subsec. (o) which provided that provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of Customs laws, the remission or mitigation of such forfeiture, and the compromise of claims, would apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable law enforced or administered by the Bureau of Alcohol, Tobacco and Firearms, and that duties that were imposed upon a Customs officer or any other person with respect to the seizure and forfeiture

of property under the Customs laws would be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as had been authorized or designated for that purpose by the Secretary.

Subsec. (o)(1). Pub. L. 107-296, §1112(n)(4), substituted “Tax and Trade Bureau” for “Bureau of Alcohol, Tobacco and Firearms”.

Subsec. (p). Pub. L. 107-296, §1112(n)(3), redesignated subsec. (p) as (o).

1997—Subsec. (g)(3)(C). Pub. L. 105-61, §122(b), inserted at end “Unobligated balances remaining pursuant to section 4(B) of 9703(g) shall also be carried forward.”

Subsec. (g)(4)(B). Pub. L. 105-61, §122(c), struck out “, subject to subparagraph (C),” after “shall”.

1996—Subsec. (g)(3)(C). Pub. L. 104-208 substituted “1994, 1995, and 1996” for “and at the end of each fiscal year thereafter” and inserted at end “At the end of fiscal year 1997, and at the end of each fiscal year thereafter, the Secretary shall reserve any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under subsection (a).”

1994—Subsec. (a). Pub. L. 103-329 redesignated subpars. (G) and (J) of par. (2) as (I) and (J) of par. (1), respectively, and subpars. (H) and (I) of par. (2) as (G) and (H) of par. (2), respectively.

Subsec. (g)(3)(A). Pub. L. 103-322, §90205(c)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “Subject to subparagraphs (B) and (C), in each of fiscal years 1994 and 1995, the Secretary shall transfer from the Fund not more than \$10,000,000 to the Special Forfeiture Fund, established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509), for activities authorized under the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.)”

Subsec. (g)(3)(B). Pub. L. 103-322, §90205(c)(1)(B), inserted at end “Further, transfers under subparagraph (A) may not exceed one-half of the excess unobligated balance for a year. In addition, transfers under subparagraph (A) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed \$100,000,000.”

Subsec. (g)(4)(A). Pub. L. 103-322, §90205(c)(2), struck out “(i)” after “(A)” and struck out cl. (ii) which read as follows: “Beginning in fiscal year 1994, and each fiscal year thereafter, the Secretary shall transfer to the Attorney General an amount agreed upon by the Secretary and the Attorney General (taking into account any amount transferred by the Secretary pursuant to paragraph (3)(A)). The amount transferred under this clause shall reflect the Department of the Treasury’s pro rata share of the amount required to be transferred by the Attorney General pursuant to section 524(c)(9)(B) of title 28.”

1993—Subsec. (a)(2)(E) to (J). Pub. L. 103-182, §685(1), (2), added subpar. (E) and redesignated former subpars. (E) to (I) as (F) to (J), respectively.

Subsec. (e). Pub. L. 103-182, §685(3), substituted “may” for “shall” before “be kept on deposit”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

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, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the Federal Law Enforcement Training Center of the Department of the Treasury to the Secretary of Homeland Security, and for treatment of related references, see sections 203(4), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### UNAVAILABLE COLLECTIONS

Pub. L. 105-61, title I, §122(a), Oct. 10, 1997, 111 Stat. 1289, provided that: “The Secretary of the Treasury is authorized to receive all unavailable collections transferred from the Special Forfeiture Fund established by section 26073 [6073] of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509) by the Director of the Office of Drug Control Policy as a deposit into the Treasury Forfeiture Fund (31 U.S.C. 9703(a)), to become available for obligation on October 1, 1998, as revenue available for purposes identified under 31 U.S.C. 9703(g)(4)(B).”