

(b) Notwithstanding subsection (a), where an offense is described in section 7203 of the Internal Revenue Code of 1986, or where venue for prosecution of an offense described in section 7201 or 7206(1), (2), or (5) of such Code (whether or not the offense is also described in another provision of law) is based solely on a mailing to the Internal Revenue Service, and prosecution is begun in a judicial district other than the judicial district in which the defendant resides, he may upon motion filed in the district in which the prosecution is begun, elect to be tried in the district in which he was residing at the time the alleged offense was committed: *Provided*, That the motion is filed within twenty days after arraignment of the defendant upon indictment or information.

(June 25, 1948, ch. 645, 62 Stat. 826; Pub. L. 85-595, Aug. 6, 1958, 72 Stat. 512; Pub. L. 89-713, § 2, Nov. 2, 1966, 80 Stat. 1108; Pub. L. 98-369, div. A, title I, § 162, July 18, 1984, 98 Stat. 697; Pub. L. 98-473, title II, § 1204(a), Oct. 12, 1984, 98 Stat. 2152; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

HISTORICAL AND REVISION NOTES

Based on section 103 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 42, 36 Stat. 1100).

Section was completely rewritten to clarify legislative intent and in order to omit special venue provisions from many sections.

The phrase "committed in more than one district" may be comprehensive enough to include "begun in one district and completed in another", but the use of both expressions precludes any doubt as to legislative intent.

Rules 18-22 of the Federal Rules of Criminal Procedure are in accord with this section.

The last paragraph of the revised section was added to meet the situation created by the decision of the Supreme Court of the United States in *United States v. Johnson*, 1944, 65 S. Ct. 249, 89 L. Ed. 236, which turned on the absence of a special venue provision in the Dentures Act, section 1821 of this revision. The revised section removes all doubt as to the venue of continuing offenses and makes unnecessary special venue provisions except in cases where Congress desires to restrict the prosecution of offenses to particular districts as in section 1073 of this revision.

REFERENCES IN TEXT

Section 7203 of the Internal Revenue Code of 1986, referred to in subsec. (b), is classified to section 7203 of Title 26, Internal Revenue Code.

Section 7201 or 7206(1), (2), or (5) of such Code, referred to in subsec. (b), are classified respectively to sections 7201 and 7206(1), (2), (5) of Title 26.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1984—Subsec. (a). Pub. L. 98-473 inserted "or the importation of an object or person into the United States" and ", or imported object or person" in second par.

Subsec. (b). Pub. L. 98-369 substituted "venue for prosecution of an offense" for "an offense involves use of the mails and is an offense" and inserted "is based solely on a mailing to the Internal Revenue Service".

1966—Subsec. (b). Pub. L. 89-713 inserted reference to offenses described in section 7203 of the Internal Revenue Code of 1954.

1958—Pub. L. 85-595 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-713 effective Nov. 2, 1966, see section 6 of Pub. L. 89-713, set out as a note under section 6091 of Title 26, Internal Revenue Code.

§ 3238. Offenses not committed in any district

The trial of all offenses begun or committed upon the high seas, or elsewhere out of the jurisdiction of any particular State or district, shall be in the district in which the offender, or any one of two or more joint offenders, is arrested or is first brought; but if such offender or offenders are not so arrested or brought into any district, an indictment or information may be filed in the district of the last known residence of the offender or of any one of two or more joint offenders, or if no such residence is known the indictment or information may be filed in the District of Columbia.

(June 25, 1948, ch. 645, 62 Stat. 826; Pub. L. 88-27, May 23, 1963, 77 Stat. 48.)

HISTORICAL AND REVISION NOTES

Based on section 102 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 41, 36 Stat. 1100).

Words "begun or" were inserted to clarify scope of this section and section 3237 of this title.

This section is similar to section 219 of title 22, U.S.C., 1940 ed., Foreign Relations and Intercourse, providing in part that unlawful issuance of passports may be prosecuted in the district where the offender may be arrested or in custody. Said provision is therefore omitted as covered by this section. The remaining provisions of said section 219 are incorporated in section 1541 of this title.

AMENDMENTS

1963—Pub. L. 88-27 authorized the trial of offenses not committed in any district in the district in which the offender, or any one of two or more joint offenders, is arrested; an indictment or information to be filed in the district of the last known residence of the offender or of any one of two or more joint offenders where the offender or offenders are not arrested or brought into any district; and an indictment or information to be filed in the District of Columbia where there is no knowledge of the residence of the offender or of any one of two or more joint offenders.

§ 3239. Optional venue for espionage and related offenses

The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

- (1) section 793, 794, 798, or section 1030(a)(1) of this title;
- (2) section 601 of the National Security Act of 1947 (50 U.S.C. 421);¹ or
- (3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b) or (c));

may be in the District of Columbia or in any other district authorized by law.

(Added Pub. L. 103-322, title XXXII, § 320909(a), Sept. 13, 1994, 108 Stat. 2127.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in par. (2), is act July 26, 1947, ch. 343, 61 Stat. 495, which was

¹ See References in Text note below.