

designated, and which permitted approval of such schedule of fees only upon a determination that the individual fees did not exceed fair compensation for services rendered.

1946—Act Mar. 8, 1946, raised limitation of fees from 3 per centum of amount involved to 10 per centum.

1928—Act Mar. 10, 1928, inserted “at law or in fact” after “attorney” wherever appearing.

TRANSFER OF FUNCTIONS

Alien Property Custodian designated officer to administer powers and authority conferred upon the President by this section, see Ex. Ord. No. 9725, set out below.

Office of World War II Alien Property Custodian terminated and powers, duties, and functions vested in or transferred or delegated to such Office or in the Alien Property Custodian transferred to Attorney General, see Ex. Ord. No. 9788, set out under section 4306 of this title.

EX. ORD. NO. 9725. ADMINISTRATION OF POWERS AND AUTHORITY OF PRESIDENT BY ALIEN PROPERTY CUSTODIAN

Ex. Ord. No. 9725, May 16, 1946, 11 F.R. 5381, provided:

The Alien Property Custodian is designated as the officer to administer the powers and authority conferred upon the President by section 20 of the Trading with the Enemy Act, as amended by Public Law 322, 79th Congress, approved March 8, 1946 [50 U.S.C. 4317], and by section 32 of the said act, as added by the said Public Law 322 [50 U.S.C. 4329].

The Alien Property Custodian may delegate to officers and employees of the Office of Alien Property Custodian such functions as he may deem necessary to carry out the provisions of this order.

This order shall not be construed as revoking or limiting any power or authority heretofore delegated to the Alien Property Custodian.

HARRY S. TRUMAN.

§ 4318. Claims of naturalized citizens as affected by expatriation

The claim of any naturalized American citizen under the provisions of this chapter shall not be denied on the ground of any presumption of expatriation which has arisen against him, under the second sentence of section 2 of the Act entitled “An Act in reference to the expatriation of citizens and their protection abroad,” approved March 2, 1907, if he shall give satisfactory evidence to the President, or the court, as the case may be, of his uninterrupted loyalty to the United States during his absence, and that he has returned to the United States, or that he, although desiring to return, has been prevented from so returning by circumstances beyond his control.

(Oct. 6, 1917, ch. 106, §21, as added Mar. 4, 1923, ch. 285, §2, 42 Stat. 1516.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, known as the Trading with the enemy Act, also known as the Trading with the Enemy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4301 of this title and Tables.

The second sentence of section 2 of the Act entitled “An Act in reference to the expatriation of citizens and their protection abroad,” approved March 2, 1907, referred to in text, is the second sentence of section 2 of act Mar. 2, 1907, ch. 2534, 34 Stat. 1228, which was classified to section 17 of Title 8, Aliens and Nationality, prior to repeal by act Oct. 14, 1940, ch. 876, title I,

subch. V, §504, 54 Stat. 1172. See section 1481(a) of Title 8.

CODIFICATION

Section was formerly classified to section 21 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

§ 4319. Fugitives from justice barred from recovery

No person shall be entitled to the return of any property or money under any provision of this chapter, or any amendment of this chapter, who is a fugitive from justice of the United States or any State or Territory thereof, or the District of Columbia.

(Oct. 6, 1917, ch. 106, §22, as added Mar. 4, 1923, ch. 285, §2, 42 Stat. 1516; amended Mar. 10, 1928, ch. 167, §16, 45 Stat. 275.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, known as the Trading with the enemy Act, also known as the Trading with the Enemy Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 4301 of this title and Tables.

CODIFICATION

Section was formerly classified to section 22 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1928—Act Mar. 10, 1928, inserted “, or any amendment of this chapter,” after “any provision of this chapter”.

§ 4320. Payment of income, etc., by Alien Property Custodian

The Alien Property Custodian is directed to pay to the person entitled thereto, from and after March 4, 1923, the net income (including dividends, interest, annuities, and other earnings), accruing and collected thereafter, in respect of any money or property held in trust for such person by the Alien Property Custodian or by the Treasurer of the United States for the account of the Alien Property Custodian, under such rules and regulations as the President may prescribe.

(Oct. 6, 1917, ch. 106, §23, as added Mar. 4, 1923, ch. 285, §2, 42 Stat. 1516; amended Mar. 10, 1928, ch. 167, §17, 45 Stat. 275.)

CODIFICATION

Section was formerly classified to section 23 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1928—Act Mar. 10, 1928, struck out restriction that no person be paid any amount over \$10,000 per annum.

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.

§ 4321. Payment of taxes and expenses by Alien Property Custodian

(a) Authority to pay taxes and expenses; disallowance of claims by enemy; limitation on claims for recovery of deductions for expenses

The Alien Property Custodian is authorized to pay all taxes (including special assessments), heretofore or hereafter lawfully assessed by any body politic against any money or other property held by him or by the Treasurer of the United States under this chapter, and to pay the necessary expenses incurred by him or by any depository for him in securing the possession, collection, or control of any such money or other property, or in protecting or administering the same. Such taxes and expenses shall be paid out of the money or other property against which such taxes are assessed or in respect of which such expenses are incurred, or (if such money or other property is insufficient) out of any other money or property held for the same person, notwithstanding the fact that a claim may have been filed or suit instituted under this chapter. No claim shall be filed with the Alien Property Custodian or allowed by him or by the President of the United States, nor shall any suit be instituted or maintained against the Alien Property Custodian or the Treasurer of the United States, or the United States, under any provisions of law, by any person who was an enemy or ally of enemy as defined in this chapter, and no allowance of any such claim now pending shall be made, nor judgment entered in any such suit heretofore or hereafter instituted, for the recovery of any deduction or deductions, heretofore or hereafter made by the Alien Property Custodian from money or properties, or income therefrom, held by him or by the Treasurer of the United States hereunder, for the general or administrative expenses of the office of the Alien Property Custodian, which deduction or deductions on the collection of any income do not exceed the sum of two per centum of such income or which on the return of any moneys or properties or income therefrom, do not exceed the sum of two per centum of the aggregate value thereof at the time or times as nearly as may be, of such deduction or deductions, or, for the recovery of any deduction or deductions heretofore or hereafter made by the Alien Property Custodian from money or properties or income therefrom held by him or by the Treasurer of the United States hereunder, for any and all necessary expenses incurred and actually disbursed by the Alien Property Custodian or by any depository for him in securing the possession, collection or control of any such money or properties or income therefrom, or in protecting or administering the same, as said general or administrative and other expenses and said aggregate value of returned money or properties or income therefrom have been heretofore or shall be hereafter determined by said Alien Property Custodian.

(b) Income, war-profits, excess-profits, or estate taxes; computation of amount; payment

In the case of income, war-profits, excess-profits, or estate taxes imposed by any Act of Con-

gress, the amount thereof shall, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, be computed in the same manner (except as hereinafter in this section provided) as though the money or other property had not been seized by or paid to the Alien Property Custodian, and shall be paid, as far as practicable, in accordance with subsection (a) of this section. Pending final determination of the tax liability the Alien Property Custodian is authorized to return, in accordance with the provisions of this chapter, money or other property in any trust in such amounts as may be determined, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, to be consistent with the prompt payment of the full amount of the internal-revenue taxes. Notwithstanding the expiration of any period of limitation provided by law, credit or refund of any income, war-profits, or excess-profits tax erroneously or illegally assessed or collected may be made or allowed if claim therefor was filed with the Commissioner of Internal Revenue by the Alien Property Custodian on or before February 15, 1933.

(c) Capital gains

So much of the net income of a taxpayer for the taxable year 1917, or any succeeding taxable year, as represents the gain derived from the sale or exchange by the Alien Property Custodian of any property conveyed, transferred, assigned, delivered, or paid to him, or seized by him, may at the option of the taxpayer be segregated from the net income and separately taxed at the rate of 30 per centum. This subsection shall be applied and the amount of net income to be so segregated shall be determined, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, as nearly as may be in the same manner as provided in section 208 of the Revenue Act of 1926 (relating to capital net gains), but without regard to the period for which the property was held by the Alien Property Custodian before its sale or exchange, and whether or not the taxpayer is an individual.

(d) Sales or exchanges of property; involuntary conversion

Any property sold or exchanged by the Alien Property Custodian (whether before or after March 10, 1928) shall be considered as having been compulsorily or involuntarily converted, within the meaning of the income, excess-profits, and war-profits tax laws and regulations; and the provisions of such laws and regulations relating to such a conversion shall (under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury) apply in the case of the proceeds of such sale or exchange. For the purpose of determining whether the proceeds of such conversion have been expended within such time as will entitle the taxpayer to the benefits of such laws and regulations relating to such a conversion, the date of the return of the proceeds to the person entitled thereto shall be considered as the date of the conversion.