

(c) Penalties

For penalty for refusal to permit entry or examination, see section 7342.

(Aug. 16, 1954, ch. 736, 68A Stat. 903; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

[§ 7607. Repealed. Pub. L. 98-473, title II, § 320(b), Oct. 12, 1984, 98 Stat. 2056, and Pub. L. 98-573, title II, § 213(b)(1), Oct. 30, 1984, 98 Stat. 2988]

Section, added July 18, 1956, ch. 629, title I, § 104(a), 70 Stat. 570; amended Oct. 27, 1970, Pub. L. 91-513, title III, § 1102(g)(1), 84 Stat. 1292, set forth additional authority for Bureau of Customs with respect to firearms, warrants, etc.

Another section 7607 was renumbered section 7613 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 15, 1984, see section 214(e) of Pub. L. 98-573, set out as an Effective Date of 1984 Amendment note under section 1304 of Title 19, Customs Duties.

§ 7608. Authority of internal revenue enforcement officers**(a) Enforcement of subtitle E and other laws pertaining to liquor, tobacco, and firearms**

Any investigator, agent, or other internal revenue officer by whatever term designated, whom the Secretary charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of subtitle E or of any other law of the United States pertaining to the commodities subject to tax under such subtitle for the enforcement of which the Secretary is responsible, may—

(1) carry firearms;

(2) execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(3) in respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and

(4) in respect to the performance of such duty, make seizures of property subject to forfeiture to the United States.

(b) Enforcement of laws relating to internal revenue other than subtitle E

(1) Any criminal investigator of the Intelligence Division of the Internal Revenue Service whom the Secretary charges with the duty of enforcing any of the criminal provisions of the internal revenue laws, any other criminal provisions of law relating to internal revenue for the enforcement of which the Secretary is responsible, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service, is, in the performance

of his duties, authorized to perform the functions described in paragraph (2).

(2) The functions authorized under this subsection to be performed by an officer referred to in paragraph (1) are—

(A) to execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(B) to make arrests without warrant for any offense against the United States relating to the internal revenue laws committed in his presence, or for any felony cognizable under such laws if he has reasonable grounds to believe that the person to be arrested has committed or is committing any such felony; and

(C) to make seizures of property subject to forfeiture under the internal revenue laws.

(c) Rules relating to undercover operations**(1) Certification required for exemption of undercover operations from certain laws**

With respect to any undercover investigative operation of the Internal Revenue Service (hereinafter in this subsection referred to as the “Service”) which is necessary for the detection and prosecution of offenses under the internal revenue laws, any other criminal provisions of law relating to internal revenue, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service—

(A) sums authorized to be appropriated for the Service may be used—

(i) to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to—

(I) sections 1341 and 3324 of title 31, United States Code,

(II) sections 6301(a) and (b)(1)–(3) and 6306 of title 41, United States Code,

(III) chapter 45 of title 41, United States Code,

(IV) section 8141 of title 40, United States Code, and

(V) section 3901 of title 41, United States Code, and

(ii) to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(B) sums authorized to be appropriated for the Service and the proceeds from the undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code, and

(C) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code.

This paragraph shall apply only upon the written certification of the Commissioner of Inter-

nal Revenue (or, if designated by the Commissioner, the Deputy Commissioner or an Assistant Commissioner of Internal Revenue) that any action authorized by subparagraph (A), (B), or (C) is necessary for the conduct of such undercover operation.

(2) Liquidation of corporations and business entities

If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value over \$50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his delegate determines is practicable, shall report the circumstances to the Secretary. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) Deposit of proceeds

As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (B) and (C) of paragraph (1) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(4) Audits

(A) The Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year; and

(i) submit the results of the audit in writing to the Secretary; and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(ii) the number, by programs, of undercover investigative operations commenced in the 1-year period for which such report is submitted;

(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

(iv) the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period—

(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

(II) the total expenditures under the operation and the amount and use of the proceeds from the operation,

(III) a detailed description of the operation including the potential violation being investigated and whether the oper-

ation is being conducted under grand jury auspices, and

(IV) the results of the operation including the results of criminal proceedings.

(5) Definitions

For purposes of paragraph (4)—

(A) Closed

The term “closed” means the date on which the later of the following occurs:

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever occurs later.

(B) Employees

The term “employees” has the meaning given such term by section 2105 of title 5, United States Code.

(C) Undercover investigative operation

The term “undercover investigative operation” means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code.

(Added Pub. L. 85-859, title II, §204(14), Sept. 2, 1958, 72 Stat. 1429; amended Pub. L. 87-863, §6(a), Oct. 23, 1962, 76 Stat. 1143; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-690, title VII, §7601(c)(1), (2), Nov. 18, 1988, 102 Stat. 4504; Pub. L. 101-508, title XI, §11704(a)(32), (33), Nov. 5, 1990, 104 Stat. 1388-519; Pub. L. 104-168, title XII, §1205(b)-(c)(2), July 30, 1996, 110 Stat. 1471, 1472; Pub. L. 104-316, title I, §113, Oct. 19, 1996, 110 Stat. 3833; Pub. L. 105-178, title I, §1103(e)(4), July 22, 1998, 112 Stat. 710; Pub. L. 106-554, §1(a)(7) [title III, §303], Dec. 21, 2000, 114 Stat. 2763, 2763A-632; Pub. L. 107-217, §3(f), Aug. 21, 2002, 116 Stat. 1299; Pub. L. 108-178, §4(e), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 109-135, title III, §304, Dec. 21, 2005, 119 Stat. 2609; Pub. L. 109-432, div. A, title I, §121, Dec. 20, 2006, 120 Stat. 2944; Pub. L. 110-343, div. C, title IV, §401(a), Oct. 3, 2008, 122 Stat. 3875; Pub. L. 111-350, §5(f), Jan. 4, 2011, 124 Stat. 3848.)

PRIOR PROVISIONS

A prior section 7608 was renumbered section 7613 of this title.

AMENDMENTS

2011—Subsec. (c)(1)(A)(i)(II). Pub. L. 111-350, §5(f)(1), substituted “sections 6301(a) and (b)(1)-(3) and 6306” for “sections 11(a) and 22”.

Subsec. (c)(1)(A)(i)(III). Pub. L. 111-350, §5(f)(2), substituted “chapter 45” for “section 255”.

Subsec. (c)(1)(A)(i)(V). Pub. L. 111-350, §5(f)(3), substituted “section 3901” for “section 254(a) and (c)”.

2008—Subsec. (c)(6). Pub. L. 110-343 struck out par. (6). Text read as follows: “The provisions of this subsection—

“(A) shall apply after November 17, 1988, and before January 1, 1990, and

“(B) shall apply after the date of the enactment of this paragraph and before January 1, 2008.

All amounts expended pursuant to this subsection during the period described in subparagraph (B) shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before January 1, 2008.”

2006—Subsec. (c)(6). Pub. L. 109-432 substituted “2008” for “2007” in subpar. (B) and concluding provisions.

2005—Subsec. (c)(6). Pub. L. 109-135 substituted “January 1, 2007” for “January 1, 2006” in subpar. (B) and concluding provisions.

2003—Subsec. (c)(1)(A)(i)(IV). Pub. L. 108-178 substituted “title 40, United States Code” for “title 40”.

2002—Subsec. (c)(1)(A)(i)(IV). Pub. L. 107-217 substituted “section 8141 of title 40” for “section 34 of title 40, United States Code”.

2000—Subsec. (c)(6). Pub. L. 106-554 substituted “January 1, 2006” for “January 1, 2001” in subpar. (B) and concluding provisions.

1998—Subsec. (b)(1). Pub. L. 105-206 struck out “or of the Internal Security Division” after “Intelligence Division”.

1996—Subsec. (c)(2). Pub. L. 104-316 struck out “and the Comptroller General of the United States” after “Secretary”.

Subsec. (c)(4)(B)(ii). Pub. L. 104-168, § 1205(c)(1)(A), (B), struck out “preceding the period” after “in the 1-year period” and “and” at end.

Subsec. (c)(4)(B)(iii), (iv). Pub. L. 104-168, § 1205(c)(1)(C), added cls. (iii) and (iv) and struck out former cl. (iii) which read as follows: “the number, by programs, of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.”

Subsec. (c)(5)(C). Pub. L. 104-168, § 1205(c)(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The terms ‘undercover investigative operation’ and ‘undercover operation’ mean any undercover investigative operation of the Service—

“(i) in which—

“(I) the gross receipts (excluding interest earned) exceed \$50,000; or

“(II) expenditures, both recoverable and non-recoverable (other than expenditures for salaries of employees), exceed \$150,000; and

“(ii) which is exempt from section 3302 or 9102 of title 31, United States Code.

Clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of paragraph (4).”

Subsec. (c)(6). Pub. L. 104-168, § 1205(b), added par. (6). 1990—Subsec. (c)(1)(B). Pub. L. 101-508, § 11704(a)(32), struck out comma after “operations”.

Subsec. (c)(5)(C). Pub. L. 101-508, § 11704(a)(33), substituted “interest” for “interested” in cl. (i)(I) and “title 31” for “title 3” in cl. (ii).

1988—Subsec. (b)(1). Pub. L. 100-690, § 7601(c)(1), substituted comma for “or” before “any other” and inserted “, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service,” after “responsible”.

Subsec. (c). Pub. L. 100-690, § 7601(c)(2), added subsec. (c).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1962—Pub. L. 87-863 redesignated existing provisions as subsec. (a), added subsec. (a) heading, and added subsec. (b).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title IV, § 401(b), Oct. 3, 2008, 122 Stat. 3875, provided that: “The amendment made by this section [amending this section] shall apply to operations conducted after the date of the enactment of this Act [Oct. 3, 2008].”

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-178 effective Aug. 21, 2002, see section 5 of Pub. L. 108-178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-168, title XII, § 1205(c)(3), July 30, 1996, 110 Stat. 1472, provided that: “The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-690, title VII, § 7601(c)(3), Nov. 18, 1988, 102 Stat. 4507, as amended by Pub. L. 101-647, title XXXIII, § 3301(a), Nov. 29, 1990, 104 Stat. 4917; Pub. L. 104-168, title XII, § 1205(a), July 30, 1996, 110 Stat. 1471, provided that: “The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Nov. 18, 1988].”

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-863, § 6(b), Oct. 23, 1962, 76 Stat. 1143, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the day after the date of enactment of this Act [Oct. 23, 1962].”

EFFECTIVE DATE

Section effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

§ 7609. Special procedures for third-party summonses

(a) Notice

(1) In general

If any summonses to which this section applies requires the giving of testimony on or relating to, the production of any portion of records made or kept on or relating to, or the production of any computer software source code (as defined in 7612(d)(2)) with respect to, any person (other than the person summoned) who is identified in the summonses, then notice of the summonses shall be given to any person so identified within 3 days of the day on which such service is made, but no later than the 23rd day before the day fixed in the summonses as the day upon which such records are to be examined. Such notice shall be accompanied by a copy of the summonses which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summonses.

(2) Sufficiency of notice

Such notice shall be sufficient if, on or before such third day, such notice is served in the manner provided in section 7603 (relating to service of summonses) upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice or, in the case of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, to the last known address of the fiduciary of such person, even if such person or fiduciary is then deceased, under a legal disability, or no longer in existence.

(3) Nature of summonses

Any summons to which this subsection applies (and any summonses in aid of collection de-