

Editorial Notes

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.

Executive Documents

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 depositary 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 depositary 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 Congress, 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.

(e) Interest or civil penalty

In case of any internal-revenue tax imposed in respect of property conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, or seized by him, and imposed in respect of any period (in the taxable year 1917 or any succeeding taxable year) during which such property was held by him or by the Treasurer of the United States, no interest or civil penalty shall be assessed upon, collected from, or paid by or on behalf of, the taxpayer; nor shall any interest be credited or paid to the taxpayer in respect of any credit or refund allowed or made in respect of such tax.

(f) Period of limitations

The benefits of subsections (c), (d), and (e) shall be extended to the taxpayer if claim therefor is filed before the expiration of the period of limitations properly applicable thereto, or before the expiration of six months after March 10, 1928, whichever date is the later. The benefits of subsection (d) shall also be extended to the taxpayer if claim therefor is filed before the expiration of six months after the return of the proceeds.

(Oct. 6, 1917, ch. 106, §24, as added Mar. 4, 1923, ch. 285, §2, 42 Stat. 1516; amended Mar. 10, 1928, ch. 167, §18, 45 Stat. 276, 277; Mar. 28, 1934, ch. 102, title I, §1, 48 Stat. 510; June 18, 1934, ch. 567, 48 Stat. 978.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act" or "the Trading with the Enemy Act, as amended", meaning act Oct. 6, 1917, ch. 106, 40 Stat. 411, as amended, 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.

Section 208 of the Revenue Act of 1926 (relating to capital net gains), referred to in subsec. (c), is act Feb. 26, 1926, ch. 27, §208, 44 Stat. 19, which enacted section 939 of former Title 26, Internal Revenue, prior to repeal by act May 29, 1928, ch. 852, §63, 45 Stat. 810. See section 1201 et seq. of Title 26, Internal Revenue Code.

CODIFICATION

Section was formerly classified to section 24 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

Provisions similar to subsec. (a) of this section were contained in the sundry civil appropriation act for the fiscal year 1919, act July 1, 1918, ch. 113, 40 Stat. 646.

AMENDMENTS

1934—Subsec. (a). Act Mar. 28, 1934, inserted provisions relating to recovery by enemies of deductions made by Alien Property Custodian for administrative expenses.

Subsec. (b). Act June 18, 1934, provided that credit or refund of income or war profits erroneously collected might be allowed if claim was filed on or before Feb. 15, 1933.

1928—Subsecs. (b) to (f). Act Mar. 10, 1928, designated existing provisions as subsec. (a) and added subsecs. (b) to (f).

Executive Documents

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.

§ 4322. Investments by Custodian in participating certificates issued by Secretary of the Treasury; transfers to and payments from German, Austrian or Hungarian special deposit accounts; allocation of payments

(a) Authority to invest; limitation on amount; credit against investment

(1) The Alien Property Custodian is authorized and directed to invest, from time to time upon the request of the Secretary of the Treasury, out of the funds held by the Alien Property Custodian or by the Treasurer of the United States for the Alien Property Custodian, an amount not to exceed \$40,000,000 in the aggregate, in one or more participating certificates issued by the Secretary of the Treasury in accordance with the provisions of this section.

(2) When in the case of any trust written consent under subsection (m) of section 4309 of this title has been filed, an amount equal to the portion of such trust the return of which is temporarily postponed under such subsection shall be credited against the investment made under paragraph (1) of this subsection. If the total amount so credited is in excess of the amount invested under paragraph (1) of this subsection, the excess shall be invested by the Alien Property Custodian in accordance with the provisions of this subsection, without regard to the \$40,000,000 limitation in paragraph (1). If the amount invested under paragraph (1) of this subsection is in excess of the total amount so credited, such excess shall, from time to time on request of the Alien Property Custodian, be paid to him out of the funds in the German special deposit account created by section 4 of the Settlement of War Claims Act of 1928, and such payments shall have priority over any payments therefrom other than the payments under paragraph (1) of subsection (c) of such section (relating to expenses of administration).

(b) Investments out of unallocated interest fund

The Alien Property Custodian is authorized and directed to invest, in one or more partici-