

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.

§ 4327. Attachment or garnishment of funds or property held by Custodian

Any money or other property returnable under subsection (b) or (n) of section 4309 of this title shall, at any time prior to such return, be subject to attachment in accordance with the provisions of the code of law for the District of Columbia, as amended, relating to attachments in suits at law and to attachments for the enforcement of judgments at law and decrees in equity, but any writ of attachment or garnishment issuing in any such suit, or for the enforcement of any judgment or decree, shall be served only upon the Alien Property Custodian, who shall for the purposes of this section be considered as holding credits in favor of the person entitled to such return to the extent of the value of the money or other property so returnable. Nothing in this section shall be construed as authorizing the taking of actual possession, by any officer of any court, of any money or other property held by the Alien Property Custodian or by the Treasurer of the United States.

(Oct. 6, 1917, ch. 106, § 30, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 275.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 30 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

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§ 4328. "Member of the former ruling family" defined

As used in this chapter, the term "member of the former ruling family" means (1) any person who was at any time between April 6, 1917, and July 2, 1921, the German Emperor or the ruler of any constituent kingdom of the German Empire, or (2) the wife or any child of such person.

(Oct. 6, 1917, ch. 106, § 31, as added Mar. 10, 1928, ch. 167, § 15, 45 Stat. 275.)

Editorial Notes

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 31 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

§ 4329. Return of property**(a) Conditions precedent**

The President, or such officer or agency as he may designate, may return any property or interest vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the net proceeds thereof, whenever the President or such officer or agency shall determine—

(1) that the person who has filed a notice of claim for return, in such form as the President or such officer or agency may prescribe, was the owner of such property or interest immediately prior to its vesting in or transfer to the Alien Property Custodian, or is the legal representative (whether or not appointed by a court in the United States), or successor in interest by inheritance, devise, bequest, or operation of law, of such owner; and

(2) that such owner, and legal representative or successor in interest, if any, are not—

(A) the Government of Germany, Japan, Bulgaria, Hungary, or Rumania; or

(B) a corporation or association organized under the laws of such nation: *Provided*, That any property or interest or proceeds which, but for the provisions of this subdivision (B), might be returned under this section to any such corporation or association, may be returned to the owner or owners of all the stock of such corporation or of all the proprietary and beneficial interest in such association, if their ownership of such stock or proprietary and beneficial interest existed immediately prior to vesting in or transfer to the Alien Property Custodian and continuously thereafter to the date of such return (without regard to purported divestments or limitations of such ownership by any government referred to in subdivision (A) hereof) and if such ownership was by one or more citizens of the United States or by one or more corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia: *Provided further*, That such owner or owners shall succeed to those obligations limited in aggregate amount to the value of such property or interest or proceeds, which are lawfully assertible against the corporation or association by persons not ineligible to receive a return under this section; or

(C) an individual voluntarily resident at any time since December 7, 1941, within the territory of such nation, other than a citizen of the United States or a diplomatic or consular officer of Italy or of any nation with which the United States has not at any time since December 7, 1941, been at war: *Provided*, That an individual who, while in the territory of a nation with which the United

States has at any time since December 7, 1941, been at war, was deprived of life or substantially deprived of liberty pursuant to any law, decree, or regulation of such nation discriminating against political, racial, or religious groups, shall not be deemed to have voluntarily resided in such territory; or

(D) an individual who was at any time after December 7, 1941, a citizen or subject of Germany, Japan, Bulgaria, Hungary, or Rumania, and who on or after December 7, 1941, and prior to March 8, 1946, was present (other than in the service of the United States) in the territory of such nation or in any territory occupied by the military or naval forces thereof or engaged in any business in any such territory: *Provided*, That notwithstanding the provisions of this subdivision (D) return may be made to an individual who, as a consequence of any law, decree, or regulation of the nation of which he was then a citizen or subject, discriminating against political, racial, or religious groups, has at no time between December 7, 1941, and the time when such law, decree, or regulation was abrogated, enjoyed full rights of citizenship under the law of such nation: *And provided further*, That, notwithstanding the provisions of subdivision (C) hereof and of this subdivision (D), return may be made to an individual who at all times since December 7, 1941, was a citizen of the United States, or to an individual who, having lost United States citizenship solely by reason of marriage to a citizen or subject of a foreign country, reacquired such citizenship prior to September 29, 1950, if such individual would have been a citizen of the United States at all times since December 7, 1941, but for such marriage: *And provided further*, That the aggregate book value of returns made pursuant to the foregoing proviso shall not exceed \$9,000,000; and any return under such proviso may be made if the book value of any such return, taken together with the aggregate book value of returns already made under such proviso does not exceed \$9,000,000; and for the purposes of this proviso the term "book value" means the value, as of the time of vesting, entered on the books of the Alien Property Custodian for the purpose of accounting for the property or interest involved; or

(E) a foreign corporation or association which at any time after December 7, 1941, was controlled or 50 per centum or more of the stock of which was owned by any person or persons ineligible to receive a return under subdivisions (A), (B), (C), or (D) hereof: *Provided*, That notwithstanding the provisions of this subdivision (E), return may be made to a corporation or association so controlled or owned, if such corporation or association was organized under the laws of a nation any of whose territory was occupied by the military or naval forces of any nation with which the United States has at any time since December 7, 1941, been at war, and if such control or ownership arose after March 1, 1938, as an incident to such occupation and was terminated prior to March 8, 1946;

and

(3) that the property or interest claimed, or the net proceeds of which are claimed, was not at any time after September 1, 1939, held or used, by or with the assent of the person who was the owner thereof immediately prior to vesting in or transfer to the Alien Property Custodian, pursuant to any arrangement to conceal any property or interest within the United States of any person ineligible to receive a return under subsection (a)(2) hereof;

(4) that the Alien Property Custodian has no actual or potential liability under the Renegotiation Act or the Act of October 31, 1942 (56 Stat. 1013), in respect of the property or interest or proceeds to be returned and that the claimant and his predecessor in interest, if any, have no actual or potential liability of any kind under the Renegotiation Act or the said Act of October 31, 1942; or in the alternative that the claimant has provided security or undertakings adequate to assure satisfaction of all such liabilities or that property or interest or proceeds to be retained by the Alien Property Custodian are adequate therefor; and

(5) that such return is in the interest of the United States.

(b) Extension of filing time limitation for redemption of excessive profits

Notwithstanding the limitation prescribed in the Renegotiation Act upon the time within which petitions may be filed in The Tax Court of the United States,¹ any person to whom any property or interest or proceeds are returned hereunder shall, for a period of ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) following return, have the right to file such a petition for a redetermination in respect of any final order of the Renegotiation Board² determining excessive profits, made against the Alien Property Custodian, or of any determination, not embodied in an agreement, of excessive profits, so made by or on behalf of a Secretary.

(c) Inventions

Any person to whom any invention, whether patented or unpatented, or any right or interest therein is returned hereunder shall be bound by any notice or order issued or agreement made pursuant to the Act of October 31, 1942 (56 Stat. 1013), in respect of such invention or right or interest, and such person to whom a licensor's interest is returned shall have all rights assertible by a licensor pursuant to section 2 of the said Act.

(d) Rights and duties

Except as otherwise provided herein, and except to the extent that the President or such officer or agency as he may designate may otherwise determine, any person to whom return is made hereunder shall have all rights, privileges, and obligations in respect to the property or interest returned or the proceeds of which are returned which would have existed if the property or interest had not vested in the Alien Property

¹ See Change of Name note below.

² See Transfer of Functions note below.

Custodian, but no cause of action shall accrue to such person in respect of any deduction or retention of any part of the property or interest or proceeds by the Alien Property Custodian for the purpose of paying taxes, costs, or expenses in connection with such property or interest or proceeds: *Provided*, That except as provided in subsections (b) and (c) hereof, no person to whom a return is made pursuant to this section, nor the successor in interest of such person, shall acquire or have any claim or right of action against the United States or any department, establishment or agency thereof, or corporation owned thereby, or against any person authorized or licensed by the United States, founded upon the retention, sale, or other disposition, or use, during the period it was vested in the Alien Property Custodian, of the returned property, interest, or proceeds. Any notice to the Alien Property Custodian in respect of any property or interest or proceeds shall constitute notice to the person to whom such property or interest or proceeds is returned and such person shall succeed to all burdens and obligations in respect of such property or interest or proceeds which accrued during the time of retention by the Alien Property Custodian, but the period during which the property or interest or proceeds returned were vested in the Alien Property Custodian shall not be included for the purpose of determining the application of any statute of limitations to the assertion of any rights by such person in respect of such property or interest or proceeds.

(e) Legal proceeding unaffected

No return hereunder shall bar the prosecution of any suit at law or in equity against a person to whom return has been made, to establish any right, title, or interest, which may exist or which may have existed at the time of vesting, in or to the property or interest returned, but no such suit may be prosecuted by any person ineligible to receive a return under subsection (a)(2) hereof. With respect to any such suit, the period during which the property or interest or proceeds returned were vested in the Alien Property Custodian shall not be included for the purpose of determining the application of any statute of limitations.

(f) Notice of intention

At least thirty days before making any return to any person other than a resident of the United States or a corporation organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, the President or such officer or agency as he may designate shall publish in the Federal Register a notice of intention to make such return, specifying therein the person to whom return is to be made and the place where the property or interest or proceeds to be returned are located. Publication of a notice of intention to return shall confer no right of action upon any person to compel the return of any such property or interest or proceeds, and such notice of intention to return may be revoked by appropriate notice in the Federal Register. After publication of such notice of intention and prior to revocation thereof, the property or interest or proceeds specified shall be subject to attach-

ment at the suit of any citizen or resident of the United States or any corporation organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, in the same manner as property of the person to whom return is to be made: *Provided*, That notice of any writ of attachment which may issue prior to return shall be served upon the Alien Property Custodian. Any such attachment proceeding shall be subject to the provisions of law relating to limitation of actions applicable to actions at law in the jurisdiction in which such proceeding is brought, but the period during which the property or interest or proceeds were vested in the Alien Property Custodian shall not be included for the purpose of determining the period of limitation. No officer of any court shall take actual possession, without the consent of the Alien Property Custodian, of any property or interest or proceeds so attached, and publication of a notice of revocation of intention to return shall invalidate any attachment with respect to the specified property or interest or proceeds, but if there is no such revocation, the President or such officer or agency as he may designate shall accord full effect to any such attachment in returning any such property or interest or proceeds.

(g) Payment of expenses of Custodian

Without limitation by or upon any other existing provision of law with respect to the payment of expenses by the Alien Property Custodian, the Custodian may retain or recover from any property or interest or proceeds returned pursuant to this section or section 4309(a) of this title an amount not exceeding that expended or incurred by him for the conservation, preservation, or maintenance of such property or interest or proceeds, or other property or interest or proceeds returned to the same person.

(h) Designation of successor organizations to receive heirless property; time for application; payment of funds: time, allocation, claims barred by acceptance and conditions

The President may designate one or more organizations as successors in interest to deceased persons who, if alive, would be eligible to receive returns under the provisos of subdivision (C) or (D) of subsection (a)(2) thereof.³ In the case of any organization not so designated before the date of enactment of this amendment, such organization may be so designated only if it applies for such designation within three months after such date of enactment.

The President, or such officer as he may designate, shall, before the expiration of the one-year period which begins on the date of enactment of this amendment, pay out of the War Claims Fund to organizations designated before or after the date of enactment of this amendment pursuant to this subsection the sum of \$500,000. If there is more than one such designated organization, such sum shall be allocated among such organizations in the proportions in which the proceeds of heirless property were distributed, pursuant to agreements to which the United States was a party, by the

³ So in original. Probably should be "hereof."

Intergovernmental Committee for Refugees and successor organizations thereto. Acceptance of payment pursuant to this subsection by any such organization shall constitute a full and complete discharge of all claims filed by such organization pursuant to this section, as it existed before the date of enactment of this amendment.

No payment may be made to any organization designated under this section unless it has given firm and responsible assurances approved by the President that (1) the payment will be used on the basis of need in the rehabilitation and settlement of persons in the United States who suffered substantial deprivation of liberty or failed to enjoy the full rights of citizenship within the meaning of subdivisions (C) and (D) of subsection (a)(2) of this section; (2) it will make to the President, with a copy to be furnished to the Congress, such reports (including a detailed annual report on the use of the payment made to it) and permit such examination of its books as the President, or such officer or agency as he may designate, may from time to time require; and (3) it will not use any part of such payment for legal fees, salaries, or other administrative expenses connected with the filing of claims for such payment or for the recovery of any property or interest under this section.

As used in this subsection, "organization" means only a nonprofit charitable corporation incorporated on or before January 1, 1950, under the laws of any State of the United States or of the District of Columbia with the power to sue and be sued.

(Oct. 6, 1917, ch. 106, §32 as added Dec. 18, 1941, ch. 593, title III, §304, as added Mar. 8, 1946, ch. 83, §1, 60 Stat. 50; amended Aug. 8, 1946, ch. 878, §2, 60 Stat. 930; Aug. 5, 1947, ch. 499, §2, 61 Stat. 784; Sept. 29, 1950, ch. 1108, §1, 64 Stat. 1080; Mar. 23, 1951, ch. 15, title II, §201(a), (b), 65 Stat. 23; June 6, 1952, ch. 372, 66 Stat. 129; Aug. 23, 1954, ch. 830, §1, 68 Stat. 767; Pub. L. 87-846, title II, §204(a), Oct. 22, 1962, 76 Stat. 1114.)

Editorial Notes

REFERENCES IN TEXT

The Renegotiation Act, referred to in subsecs. (a)(4) and (b), is act Apr. 28, 1942, ch. 247, title IV, §403, 56 Stat. 245, which was formerly classified to section 1191 of the former Appendix to this title prior to omission from the Code.

Act of October 31, 1942 (56 Stat. 1013), referred to in subsecs. (a)(4) and (c), is act Oct. 31, 1942, ch. 634, 56 Stat. 1013, which was formerly classified to sections 89 to 96 of former Title 35, Patents, prior to the general revision and enactment of Title 35, Patents, by act July 19, 1952, ch. 950, §1, 66 Stat. 792. Section 2 of the Act was formerly classified to section 90 of former Title 35.

Date of enactment of this amendment, referred to in subsec. (h), probably means the date of enactment of Pub. L. 87-846, which was approved Oct. 22, 1962.

CODIFICATION

Section was formerly classified to section 32 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

Prior to classification as section 32, section was formerly classified to section 619 of the former Appendix to this title.

AMENDMENTS

1962—Subsec. (h). Pub. L. 87-846 permitted application for designation as successor organization to be made

within three months after Oct. 22, 1962, required payments in sum of \$500,000 to be made from the War Claims Fund before expiration of one year from Oct. 22, 1962, provided for allocation of funds to multiple successor organizations and acceptance of payments as discharge of all claims, and eliminated provisions deeming a successor organization as successor in interest by operation of law, respecting time for making return to such organizations, limiting the return to \$3,000,000, requiring filing of notice of claim before expiration of one year from Aug. 23, 1954, for transfer of property to eligible persons, and declaring that filing of notice of claim would not bar payment of debt claims under section 4331 of this title.

1954—Subsec. (h). Act Aug. 23, 1954, added subsec. (h).
1952—Subsec. (a)(2)(D). Act June 6, 1952, increased from \$5,000,000 to \$9,000,000 the limitation on amount of property which may be returned to nationals.

1950—Subsec. (a)(2)(D). Act Sept. 29, 1950, clarified authority of Alien Property Custodian to return vested property to a person who possessed American citizenship at all times since Dec. 7, 1941, despite concurrent enemy citizenship and residence in enemy territory, and authorized return of vested property to American women who lost their citizenship solely because of marriage, and who have reacquired their citizenship prior to Sept. 29, 1950.

1947—Subsec. (a)(2). Act Aug. 5, 1947, provided that returns shall not be made to any owner, legal representative, or successor in interest, of the Governments of Germany, Japan, Rumania, Bulgaria, or Hungary; or to corporations or associations organized under the laws of such countries; or to an individual voluntarily resident in such countries at any time since Dec. 7, 1941; or to an individual who was at any time after Dec. 7, 1941, a citizen or subject of such country and present in the territory of such nation.

1946—Subsec. (a)(2)(C), (D). Act Aug. 8, 1946, inserted provisos in subdvs. (C) and (D).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Tax Court of the United States redesignated United States Tax Court pursuant to Pub. L. 91-172, title IX, §951, Dec. 30, 1969, 83 Stat. 730. See section 7441 of Title 26, Internal Revenue Code.

TRANSFER OF FUNCTIONS

Renegotiation Board terminated and all property, including records, of Board transferred to Administrator of General Services on Mar. 31, 1979, pursuant to Pub. L. 95-431, title V, §501, Oct. 10, 1978, 92 Stat. 1043.

PURPOSE OF ACT AUGUST 5, 1947

Act Aug. 5, 1947, ch. 499, 61 Stat. 784, provided in part: "Whereas article 79 of the Treaty of Peace with Italy, signed at Paris on February 10, 1947, grants to the Allied and Associated Powers the right to seize and retain 'all property rights and interests which on the coming into force of the present treaty are within its territory and belong to Italy or to Italian nationals, and to apply such property or the proceeds thereof to such purposes as it may desire, within the limits of its claims and those of its nationals against Italy or Italian nationals, including debts, other than claims fully satisfied under other articles of the present treaty' and further provides that 'All Italian property, or the proceeds thereof, in excess of the amount of such claims, shall be returned'; and

"Whereas, pursuant to article 79 of the treaty of peace, negotiations have been entered into between the Governments of the United States and of Italy looking toward an agreement under which, upon the return of property, formerly Italian, in the United States, Italy will place at the disposal of the United States funds to be used in meeting certain claims of nationals of the United States; and

"Whereas, for the purpose of carrying out such agreement, it is desirable to authorize, in accordance with

the procedures provided for in section 32 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended [50 U.S.C. 4329], return to Italy or citizens or subjects of Italy, or corporations or associations organized under the laws of Italy, of property vested in or transferred to the United States or its agencies; and

“Whereas, for the purpose of aiding the revival of the Italian economy and establishing it on a self-sustaining basis, it is desirable that there be returned or transferred to Italy those Italian vessels acquired by the United States after December 7, 1941, for use in the war effort and now owned by the United States and vessels of a total tonnage approximately equal to the tonnage of those Italian vessels seized by the United States after September 1, 1939, and lost while being employed in the United States war effort”.

RETURN OF ITALIAN PROPERTY

Act Aug. 5, 1947, ch. 499, §1, 61 Stat. 784, provided: “That the President, or such officer or agency as he may designate, is hereby authorized to return, in accordance with the procedures provided for in section 32 of the Trading With the Enemy Act, as amended [50 U.S.C. 4329], any property or interest, or the net proceeds thereof, which has been, since December 18, 1941, vested in or transferred to any officer or agency of the United States pursuant to the Trading With the Enemy Act, as amended [50 U.S.C. 4301 et seq.], and which immediately prior to such vesting or transfer was the property or interest of Italy or a citizen or subject of Italy, or a corporation or association organized under the laws of Italy.”

TRANSFER OF VESSELS TO ITALIAN GOVERNMENT

Act Aug. 5, 1947, ch. 499, §4, 61 Stat. 786, provided: “The President is authorized upon such terms as he deems necessary (a) to transfer to the Government of Italy all vessels which were under Italian registry and flag on September 1, 1939, and were thereafter acquired by the United States and are now owned by the United States; and (b) with respect to any vessel under Italian registry and flag on September 1, 1939, and subsequently seized in United States ports and thereafter lost while being employed in the United States war effort, to transfer to the Government of Italy surplus merchant vessels of the United States of a total tonnage approximately equal to the total tonnage of the Italian vessels lost: *Provided*, That no monetary compensation shall be paid either for the use by the United States or its agencies of former Italian vessels so acquired or seized or for the return or transfer of such vessels or substitute vessels.”

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TRANSFER OF FUNCTIONS

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§ 4330. Notice of claim; institution of suits; computation of time

No return may be made pursuant to section 4309 or 4329 of this title unless notice of claim has been filed: (a) in the case of any property or interest acquired by the United States prior to December 18, 1941, by August 9, 1948; or (b) in the case of any property or interest acquired by the United States on or after December 18, 1941, not later than one year from February 9, 1954, or two years from the vesting of the property or interest in respect of which the claim is made, whichever is later. No suit pursuant to section 4309 of this title may be instituted after April 30, 1949,

or after the expiration of two years from the date of the seizure by or vesting in the Alien Property Custodian, as the case may be, of the property or interest in respect of which relief is sought, whichever is later, but in computing such two years there shall be excluded any period during which there was pending a suit or claim for return pursuant to section 4309 or 4329(a) of this title.

(Oct. 6, 1917, ch. 106, §33, as added Dec. 18, 1941, ch. 593, title III, §305, as added Aug. 8, 1946, ch. 878, §1, 60 Stat. 925; amended Aug. 5, 1947, ch. 499, §3, 61 Stat. 786; July 1, 1948, ch. 794, 62 Stat. 1218; Feb. 9, 1954, ch. 4, 68 Stat. 7; Aug. 23, 1954, ch. 830, §2, 68 Stat. 768; Pub. L. 87-846, title II, §204(b), Oct. 22, 1962, 76 Stat. 1115.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 33 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

Prior to classification as section 33, section was formerly classified to section 620 of the former Appendix to this title.

AMENDMENTS

1962—Pub. L. 87-846 struck out before period at end of first sentence “; except that return may be made to successor organizations designated pursuant to section 4329(h) of this title if notice of claim is filed before the expiration of one year from the effective date of this Act”.

1954—Act Aug. 23, 1954, inserted before period at end of first sentence “; except that return may be made to successor organizations designated pursuant to section 4329(h) of this title if notice of claim is filed before the expiration of one year from the effective date of this Act”.

Act Feb. 9, 1954, substituted “not later than one year from February 9, 1954” for “by April 30, 1949” in first sentence.

1948—Act July 1, 1948, amended section generally, extending time for filing claims under section 4309 or 4329 of this title.

1947—Act Aug. 5, 1947, provided that notice of certain claims could be filed by Aug. 8, 1948, or that Italian notice of claim could be filed by July 31, 1949.

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§ 4331. Payment of debts

(a) Claims allowable; defenses

Any property or interest vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the net proceeds thereof, shall be equitably applied by the Custodian in accordance with the provisions of this section to the payment of debts owed by the person who owned such property or interest immediately prior to its vesting in or transfer to the Alien Property Custodian. No debt claim shall be allowed under this section if it was not due and owing at the time of such