

Internal Revenue Service, Treasury

§ 303.1

to section 212 (c) or (d) of the Act, proper adjustment shall be made.

§ 302.1-7 Claims for credit or refund.

(a) *Time for filing claims.* Claims for credit or refund must be filed within the period prescribed by section 322 of the Internal Revenue Code of 1939 or by section 6511 of the Internal Revenue Code of 1954, as modified by section 212(c) of the Act. Any such claim must contain a detailed statement under penalties of perjury of all the facts relied upon in support of the claim and should be filed with the district director of the district in which the tax was paid. See paragraph (f)(1) of § 302.1-4 relating to final computation.

(b) *Attorney General acting for taxpayer.* Any act of the Attorney General for, or on behalf of, a taxpayer in respect of any claim under the regulations in this part will be considered as the act of such taxpayer, unless such taxpayer notifies the Commissioner in writing, by the filing of a claim for refund or credit or otherwise, that he does not ratify such act. See paragraph (b) of § 302.1-4 relating to relationship of Attorney General and former owner.

(c) *Refund payable to Attorney General.* All refund of taxes paid by the Attorney General shall be made directly to that official.

PART 303—TAXES UNDER THE TRADING WITH THE ENEMY ACT

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303.1-1 Definitions.

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AUTHORITY: Sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805, and sec. 36 of the Trading With the Enemy Act, as added by the Act of Aug. 8, 1946, Pub. L. 671, 79th Cong., 60 Stat. 929; 50 U.S.C. App. 36.

SOURCE: T.D. 6459, 25 FR 2953, Apr. 7, 1960, unless otherwise noted.

§ 303.1 Statutory provisions; section 36, Trading With the Enemy Act.

SEC. 36 (a) The vesting in or transfer to the Alien Property Custodian of any property or interest (other than any property or interest acquired by the United States prior to December 18, 1941), or the receipt by him of any earnings, increment, or proceeds thereof shall not render inapplicable any Federal, State, Territorial, or local tax for any period prior or subsequent to the date of such vesting or transfer, nor render applicable the exemptions provided in title II of the Social Security Act with respect to service performed in the employ of the United States Government or of any instrumentality of the United States.

(b) The Alien Property Custodian shall, notwithstanding the filing of any claim or the institution of any suit under this Act, pay any tax incident to any such property or interest, or the earnings, increment, or proceeds thereof, at the earliest time appearing to him to be not contrary to the interest of the United States. The former owner shall not be liable for any such tax accruing while such property, interest, earnings, increment, or proceeds are held by the Alien Property Custodian, unless they are returned pursuant to this Act without payment of such tax by the Alien Property Custodian. Every such tax shall be paid by the Alien Property Custodian to the same extent, as nearly as may be deemed practicable, as though the property or interest had not been vested in or transferred to the Alien Property Custodian, and shall be paid only out of the property or interest, or earnings, increment, or proceeds thereof, to which they are incident or out of other property or interests acquired from the same former owner, or earnings, increment, or proceeds thereof. No tax liability may be enforced from any property or interest or the earnings, increment, or proceeds thereof while held by the Alien Property Custodian except with his consent. Where any property or interest is transferred, otherwise than pursuant to section 9(a) or 32 hereof, the Alien Property Custodian may transfer the property or interest free and clear of any tax, except to the extent of any lien for a tax existing and perfected at the date of vesting, and the proceeds of such transfer shall, for tax purposes, replace the property or interest in the hands of the Alien Property Custodian.

(c) Subject to the provisions of subsection (b) hereof, the manner of computing any Federal taxes, including without limitation by reason of this enumeration, the applicability in such computation of credits, deductions, and exemptions to which the former owner is or would be entitled, and the time and manner of any payment of such taxes and the extent of any compliance by the Custodian with provisions of Federal law and

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regulations applicable with respect to Federal taxes, shall be in accordance with the regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury to effectuate this section. Statutes of limitations on assessment, collection, refund, or credit of Federal taxes shall be suspended with respect to any vested property or interest, or the earnings, increment or proceeds thereof, while vested and for six months thereafter; but no interest shall be paid upon any refund with respect to any period during which the statute of limitations is so suspended.

(d) The word “tax” as used in this section shall include, without limitation by reason of this enumeration, any property, income, excess-profits, war-profits, excise, estate and employment tax, import duty, and special assessment; and also any interest, penalty, additional amount, or addition thereto not arising from any act, omission, neglect, failure, or delay on the part of the Custodian.

(e) Any tax exemption accorded to the Alien Property Custodian by specific provision of existing law shall not be affected by this section.

[Section 36 as added by the Act of August 8, 1946 (Pub. L. 671, 79th Cong., 60 Stat 929)]

EXECUTIVE ORDER 9788, APPROVED OCTOBER 14, 1946 (3 CFR 1943-1948 COMP., P. 575)

By virtue of the authority vested in me by the Constitution and statutes, including the Trading With the Enemy Act of October 6, 1917, 40 Stat. 411, as amended, and the First War Powers Act, 1941, 55 Stat. 838, as amended, and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

1. The Office of Alien Property Custodian in the Office for Emergency Management of the Executive Office of the President, established by Executive Order No. 9095 of March 11, 1942, is hereby terminated; and all authority, rights, privileges, powers, duties, and functions vested in such Office or in the Alien Property Custodian or transferred or delegated thereto are hereby vested in or transferred or delegated to the Attorney General, as the case may be, and shall be administered by him or under his direction and control by such offices and agencies of the Department of Justice as he may designate.

2. All property or interests vested in or transferred to the Alien Property Custodian or seized by him, and all proceeds thereof, which are held or administered by him on the effective date of this order are hereby transferred to the Attorney General.

3. All personnel, property, records, and funds of the Office of Alien Property Custodian are hereby transferred to the Department of Justice.

4. This order supersedes all prior Executive orders to the extent that they are in conflict with this order.

5. This order shall become effective on October 15, 1946.

§ 303.1-1 Definitions.

(a) *General*. When used in this part, the terms defined in this section shall have the meaning so assigned to them. A term not defined in this section shall have the meaning, if compatible with the context, imputed thereto under the Internal Revenue Code of 1954.

(b) *Attorney General*. The term “Attorney General” includes the Alien Property Custodian whose functions were transferred to the Attorney General pursuant to Executive Order 9788 (3 CFR 1943-1948 Comp., p. 575), and any other officers and agencies to which such functions are transferred or assigned pursuant to such Executive Order, or otherwise.

(c) *Commissioner*. The term “Commissioner” means the Commissioner of Internal Revenue.

(d) *Person*. The term “person” includes an individual, a trust, estate, partnership, company, or corporation, and any entity having or claiming an interest in vested property or liable or charged with liability for internal revenue tax in connection with such property.

(e) *Former owner*. The term “former owner” means the owner immediately prior to vesting and any successor in interest by inheritance, devise, bequest, or operation of law, of such owner.

(f) *Trading With the Enemy Act*. The term “Trading With the Enemy Act” includes all amendments of such Act, and all orders, rules, and regulations issued or prescribed under such Act or any such amendment.

(g) *Property*. The term “property” includes money, the proceeds of property, income, dividends, interest, annuities, and other earnings, but does not include any property or interest or any of the foregoing which vested in the Attorney General or was otherwise acquired by the United States prior to December 18, 1941.

(h) *Property vested by or in the Attorney General*. The terms “property vested by the Attorney General” and