

## **The Law Reflected At 26 U.S.C. § 6331(a)**

On the following pages will be found the legislative basis for the code provision found at 26 U.S.C. § 6331- Levy and distraint

### (a) Authority of Secretary

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

As will be seen from the Derivation tables with which we shall begin, the authority meant to be represented by 6331(a) is rather garbled in that representation. 6331(a) is derived from, and subordinate to, sections 3310, 3660, 3690, 3692 and 3700 of the IRC of 1939. In turn, those sections are derived from earlier Revenue Acts and the Revised Statutes of 1873, again, as shown in the Derivation Table entries that follow.

Read everything carefully. Some discussion of the materials at which you will be looking can be found [here](#).

For the benefit of anyone preparing briefs with these materials, I will include below a few relevant citations of general authority concerning the primacy of the actual statutes over code representations:

*"...[7602] has its ascertainable roots in the 1939 Code's 3614 and, also, 3615 (a)-(c)..."*  
Donaldson v. United States, 400 U.S. 517 (1971);

*Section 7602 derives, assertedly without change in meaning, from corresponding and similar provisions in 3614, 3615, and 3654 of the 1939 Code.* " United States v. LaSalle National Bank, 437 U.S. 298 (1978) (referencing H. R. Rep. No. 1337, 83d Cong., 2d Sess., A436 (1954); S. Rep. No. 1622, 83d Cong., 2d Sess., 617 (1954)).

*"...absent [substantive] comment it is generally held that a change during codification is not intended to alter the statute's scope. See Muniz v. Hoffman, 422 U.S. 454, 467-474 (1975)."* Walters v. Nat. Assn. of Radiation Survivors, 473 U.S. 305 (1985);

*As we said in United States v. Ryder, 110 U.S. 729, 740 (1884): "It will not be inferred that the legislature, in revising and consolidating the laws, intended to change their policy,*

*unless such intention be clearly expressed.*" (Citations omitted). Fulman v. United States, 434 U.S. 528 (1978);

*"The internal revenue title, which comprises all of the Code except the preliminary sections relating to its enactment, is intended to contain all the United States statutes of a general and permanent nature relating exclusively to internal revenue, in force on January 2, 1939; also such of the temporary statutes of that description as relate to taxes the occasion of which may arise after the enactment of the Code. **These statutes are codified without substantive change** and with only such change of form as is required by arrangement and consolidation. The title contains no provision, except for effective date, not derived from a law approved prior to January 3, 1939. Preface to the Internal Revenue Code of 1939 (Emphasis added)*

Finally, I encourage everyone to make good use of these materials. If proceeding in a legal contest on your own, do a careful, thoughtful study of the materials and ensure that their revelations are reflected accurately and purposefully in any relevant briefs or arguments. If using a legal-service-provider, furnish these pages to that person and see to it that he or she does the same.

Remember that you got this important information at [losthorizons.com](http://losthorizons.com), and there's a whole lot more where that came from. Be sure your legal-service provider knows that, too, so they can get busy helping with the critical work of restoring the rule of law in America.

-Pete



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Table II.—Sources of the 1954 Code—Continued

1954 Code section	Derived from 1939 Code section	1954 Code section	Derived from 1939 Code section	1954 Code section	Derived from 1939 Code section
6205(a)		6216.....		6324(a)	827(c).
(2).....	1411.	6301.....	3651(a)(1).	(3).....	
6205(b).	1421, 1502, 1522.	6302(a).	3652.	6324(b).	1009.
		6302(b).	1420(c), 1719, 2550(c), 2708, 3281, 3282.	6324(c).	
6206.....				6325(a)	
6211(a).	271(a), 870, 1011.			(1).....	827(a), 1009, 3673(a).
6211(b)		6302(c).	3310(f)(2).	6325(a)	
(1).....	271(b)(1).	6303(a).	3655(a).	(2).....	3673(b).
6211(b)		6303(b).		6325(b)	
(2).....	271(b)(2).	6304.....		(1).....	3674(a).
6211(b)		6311(a).	3656 (a)(1), (b)(1).	6325(b)	
(3).....	271(b)(3).			(2).....	3674(b).
6212(a).	272(a), 871(a), 1012(a).	6311(b)		6325(c)	3675.
		(1).....	3656	6325(d)	
6212(b)			(a)(2)(A), (b)(2).	6326	
(1).....	272(k), 1012(f).	6311(b)		6331(a)	3310, 3660, 3690, 3692, 3700.
		(2).....	3456(a)(2)(B)		
6212(b)		6312(a).	3657.	6331(b)	3690, 3692, 3700.
(2).....	272(a).	6312(b).			
6212(b)		6313.....	56(g), 1008(d), 1420(d), 1530(d), 1605(e), 3658.	6331(c).	3715.
(3).....	901(d).			6331(d).	
6212(c)				6332(a).	3710(a).
(1).....	272(f), 871(f), 1012(f).			6332(b).	3710(b).
6212(c)				6332(c).	3710(c).
(2).....		6314(a).	1008(e), 3659(a).	6333.....	3711.
6213(a).	272(a), 871(a), 1012(a).	6314(b).	823.	6334(a).	3691(a).
		6314(c).		6334(b).	3691(b).
6213(b)		6315.....	59(d).	6334(c).	3692.
(1).....	272(f), 871(f), 1012(f).	6316.....		6335(a).	3693(a), 3701(a).
6213(b)		6321.....	3670.	6335(b).	3693(b), 3701(b).
(2).....	3780(c).	6322.....	3671.	6335(c).	3712.
6213(b)		6323(a).	3672(a).	6335(d).	3693(c), 3701(c).
(3).....		6323(a)			
6213(c).	272(c), 871(c), 1012(c).	(1).....	3672(a)(1).	6335(e)	
		6323(a)		(1).....	3695(a); 3701 (d), (e).
6213(d).	272(d), 871(d), 1012(d).	(2).....	3672(a)(2).	6335(e)	
		6323(a)		(2).....	3695(b).
6213(e).		(3).....	3672(a)(3).	6335(e)	
6214(a).	272(e), 871(e), 1012(e).	6323(b).		(2)(A).	3695(a), 3701(d).
		6323(c).		6335(e)	
6214(b).	272(g), 1012(g).	6323(d)		(1).....	3695(a), 3701(d).
		(1).....	3672(b)(1).	6335(e)	
6214(c).	272(h), 871(g), 1012(h).	6323(d)		(2)(B).	3701(d).
		(2).....	3672(b)(2).	6335(e)	
6215(a).	272(b), 871(b), 1012(b).	6323(e).		(2)(C).	
		6324(a)		6335(e)	
6215(b).		(1).....	827(a).	6335(e)	
		6324(a)		(2)(D).	3701(f).
		(2).....	827(b).		

Table I.—Sources of the 1939 Code—Continued

[\* = Amending statute. † = Reenacting statute. ‡ = Adding statute.]

1939 I. R. C. section	Date enacted	Statutes at Large—			Act section
		Vol- ume	Page	Chap- ter	
3272(b), (c).....	*1936, June 26....	49	1953	830	322.
3273(a).....					R. S. 3238.
3273(b).....	*1875, Feb. 18....	18	319	80	1.
3273(c).....	*1890, Oct. 1.....	26	618	1244	R. S. 3239.
3274.....					26.
3275(a).....	*1877, Feb. 27....	19	248	69	R. S. 3239.
3275(b).....	*1906, June 21....	34	387	3509	1.
3276.....					R. S. 3240.
3277.....					R. S. 3243.
3278.....					R. S. 3234.
3279.....					R. S. 3235.
3280(a).....					R. S. 3236.
3280(b), (c).....					R. S. 3241.
3281.....	1926, Feb. 26....	44	120	27	1119.
3282.....	1886, Aug. 2.....	24	209	840	3.
	1896, June 6.....	29	253	337	3.
	1898, June 13....	30	466	448	31.
	1902, May 9.....	32	195	784	4.
	1926, Feb. 26....	44	97,	27	703, 1100.
			111		
				3	R. S., Title XXXV.
3300(a), (b).....					R. S. 3446.
3300(c).....	*1879, Mar. 1....	20	351	125	18.
3301(a).....					R. S. 3446.
3301(b).....	*1879, Mar. 1....	20	351	125	18.
3302.....					R. S. 3446.
3303.....	*1879, Mar. 1....	20	351	125	18.
	1898, June 13....	30	448	448	1.
	*1901, Mar. 2....	31	938	806	1.
	1902, Apr. 12....	32	96	500	1.
3304(a), (b).....	1900, May 12....	31	177	393	1.
3304(c).....	do.....	31	178	393	1.
	*1924, June 2....	43	343	234	1013(a).
3304(d).....	1900, May 12....	31	178	393	2.
3304(e).....					
3305.....	1876, Aug. 15....	10	152	287	1.
3310(a), (b).....					R. S. 3185.

Table I.—Sources of the 1939 Code—Continued

(\*=Amending statute. †=Reenacting statute. ‡=Adding statute.)

1939 I. R. C. section	Date enacted	Statutes at Large—			Act section
		Vol- ume	Page	Chap- ter	
3310(c), (d).....	1935, Aug. 30.....	49	1027	329	R. S. 3185. 404.
3310(e).....					R. S. 3185.
3311.....	1894, Aug. 27.....	28	562	349	R. S. 3187.
	1926, Feb. 26.....	44	114	27	47.
3312(a).....	do.....	44	114	27	1109(a).
	*1928, May 29.....	45	878	852	1109(a)(1).
3312(b), (c).....	1926, Feb. 26.....	44	114	27	619(a).
	*1928, May 29.....	45	878	852	1109(a)(2).
3312(d).....	1926, Feb. 26.....	44	114	27	619(a).
	*1928, May 29.....	45	878	852	1109(a)(3).
3313.....					619(a).
	*1926, Feb. 26.....	44	115	27	R. S. 3228(a).
	1928, May 29.....	45	878	852	1112.
	1932, June 6.....	47	287	209	619(c).
3314.....					1106(a).
3320(a).....					R. S. 3452.
3320(b).....					
3321(a).....					R. S. 3450.
	*1936, June 26.....	49	1955	830	325.
3321(b).....					R. S. 3450.
3321(c).....					
3322.....					R. S. 3457.
3323.....					R. S. 3455.
3324.....					R. S. 3454.
3325.....	1926, Feb. 26.....	44	121	27	1123.
3326.....					R. S. 3443.
3330.....	1926, Feb. 26.....	44	112	27	1102(c).
3331.....					R. S. 3464.
3332-3335.....					
3340.....	1930, June 17.....	46	686	497	301.
3341(a), (b).....	do.....	46	686	497	301.
3341(c).....	1915, Mar. 4.....	38	1189	164	
3342.....	1930, June 17.....	46	686	497	301.
3343(a).....	do.....	46	686	497	301.
3343(b).....	1902, Mar. 8.....	32	54	140	4.
3343(c).....					
3350.....	1919, Feb. 24.....	40	1142	18	1304.
3351.....	do.....	40	1142	18	1304.
3360(a).....	1900, Apr. 12.....	31	77	191	3.
	1932, May 17.....	47	158	190	
3360(b)(1).....	1900, Apr. 12.....	31	77	191	3.
3360(b)(2).....	1906, June 29.....	34	620,	3613	1, 2.
			621		

NOTE: 3310(f) was added by act of Aug. 27, 1949, which occurred after the creation of the records from which this Derivation Table was drawn.

Table I.—Sources of the 1939 Code—Continued

[\*=Amending statute. †=Reenacting statute. ‡=Adding statute.]

1939 I. R. C. section	Date enacted	Statutes at Large—			Act section
		Vol- ume	Page	Chap- ter	
3651(a)(2).....					
3651(b).....					R. S. 3209.
3652.....					R. S. 3447.
3653(a).....					R. S. 3224.
3653(b).....	1928, May 29.....	45	873	852	604.
	1932, June 6.....	47	257	209	526(e).
3654(a).....					R. S. 3163.
	1876, Aug. 15.....	19	152	287	1.
	1879, Mar. 1.....	20	328	125	2.
3654(b).....	1875, Feb. 8.....	18	307	36	12.
	*1879, Mar. 1.....	20	329	125	2.
3654(c).....					R. S. 3163.
	*1879, Mar. 1.....	20	328	125	2.
3655(a).....					R. S. 3184.
3655(b).....					R. S. 3184.
	1926, Feb. 26.....	44	76	27	308(i).
	.....do.....	44	76	27	309.
	.....do.....	44	78	27	312(j)
	1932, June 6.....	47	255	209	524.
	.....do.....	47	282	209	808(b).
	1935, Aug. 30.....	49	1027	829	404.
	1938, May 28.....	52	541	289	294.
	.....do.....	52	542	289	297.
	*1938, May 28.....	52	574	289	805.
3655(c).....					
3656(a).....	1911, Mar. 2.....	36	965	191	1.
	*1913, Mar. 3.....	37	733	119	
3656(b).....	1926, Feb. 26.....	44	120	27	1118(a).
3657.....	.....do.....	44	120	27	1118(a).
3658.....	1919, Feb. 24.....	40	145	18	1313.
	1926, Feb. 26.....	44	120	27	1118(c).
3659(a).....					R. S. 3183.
	*1879, Mar. 1.....	20	331	125	3.
3659(b).....					
3660.....	1932, June 6.....			209	1105.
	*1934, May 10.....	48	758	277	510.
3661.....	1934, May 10.....	48	768	277	607.
3662.....					
3663.....					
3670.....					R. S. 3186
					(a).
3671.....	*1928, May 29.....	45	875	852	613.
					R. S. 3186
					(a).
	*1928, May 29.....	45	875	852	613

Table I.—Sources of the 1939 Code—Continued

[\*—Amending statute. †—Reenacting statute. ‡—Adding statute.]

1939 I. R. C. section	Date enacted	Statutes at Large—			Act section
		Vol- ume	Page	Chap- ter	
	†1926, Feb. 26 .....	44	124	27	1127.
	*1934, June 19 .....	48	1064	651	Rule 2, Dis. Courts.
3690					R. S. 3187.
3690	*1924, June 2 .....	43	343	234	1016.
3691					R. S. 3187.
3692					R. S. 3188.
3693					R. S. 3190.
3694					R. S. 3191.
3695	*1934, May 10 .....	48	757	277	R. S. 3192. 508.
3696					R. S. 3193.
3697					R. S. 3194.
3698					
3700					R. S. 3196.
3701					R. S. 3197.
	*1879, Mar. 1 .....	20	331	125	3.
3702(a)					R. S. 3201.
3702(b)					R. S. 3202.
3702(c)					R. S. 3204.
3703(a)					R. S. 3197.
	*1879, Mar. 1 .....	20	332	125	3.
3703(b)					R. S. 3198.
3704(a)					R. S. 3197.
	*1879, Mar. 1 .....	20	332	125	3.
3704(b)					R. S. 3198.
3704(c)					R. S. 3199.
3705					R. S. 3197.
	*1879, Mar. 1 .....	20	332	125	3.
	1933, Mar. 3 .....	47	1518	212	16. Executive Order No. 6166, sec. 5.
3706					R. S. 3203.
	*1879, Mar. 1 .....	20	332	125	3.
3707					
3710(a), (b)	1926, Feb. 26 .....	44	117	27	1114(e).
3710(c)	.....do .....	44	117	27	1114(f).
3711					R. S. 3189.
3712					R. S. 3195.
	*1924, June 2 .....	43	351	234	1031(a).
	1926, Feb. 26 .....	44	124	27	1128(a).

13 July, 1866, c. 184, s. 9, v. 14, p. 106.  
 2 Mar., 1867, c. 169, s. 8, v. 14, p. 473.  
 24 Dec., 1872, c. 13, s. 2, v. 17, p. 402.

from the Commissioner of Internal Revenue, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof. If such person does not pay the taxes, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of five per centum additional upon the amount of taxes, and interest at the rate of one per centum a month.

Monthly returns and special returns, when to be made, and when tax payable.

13 July, 1866, c. 184, s. 11, v. 14, p. 150.  
 2 Mar., 1867, c. 169, s. 8, v. 14, p. 473.  
 24 Dec., 1872, c. 13, ss. 1, 2, v. 17, pp. 401, 402.

SEC. 3185. All returns required to be made monthly by any person liable to tax shall be made on or before the tenth day of each month, and the tax assessed or due thereon shall be returned by the Commissioner of Internal Revenue to the collector on or before the last day of each month. All returns for which no provision is otherwise made shall be made on or before the tenth day of the month succeeding the time when the tax is due and liable to be assessed, and the tax thereon shall be returned as herein provided for monthly returns, and shall be due and payable on or before the last day of the month in which the assessment is so made. When the said tax is not paid on or before the last day of the month, as aforesaid, the collector shall add a penalty of five per centum, together with interest at the rate of one per centum per month, upon such tax from the time the same became due; but no interest for a fraction of a month shall be demanded: *Provided*, That notice of the time when such tax becomes due and payable is given in such manner as may be prescribed by the Commissioner of Internal Revenue. It shall then be the duty of the collector, in case of the non-payment of said tax on or before the last day of the month, as aforesaid, to demand payment thereof, with five per centum added thereto, and interest at the rate of one per centum per month, as aforesaid, in the manner prescribed by law; and if said tax, penalty, and interest, are not paid within ten days after such demand, it shall be lawful for the collector or his deputy to make distraint therefor, as provided by law.

Lien for taxes.

13 July, 1866, c. 184, s. 9, v. 14, p. 107.

SEC. 3186. If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount shall be a lien in favor of the United States from the time it was due until paid, with the interest, penalties, and costs that may accrue in addition thereto, upon all property and rights to property belonging to such person.

Taxes collectible by distraint.

13 July, 1866, c. 184, s. 9, v. 14, pp. 106, 107, 108.  
 2 Mar., 1867, c. 169, s. 8, v. 14, p. 473.

SEC. 3187. If any person liable to pay any taxes neglects or refuses to pay the same within ten days after notice and demand, it shall be lawful for the collector or his deputy to collect the said taxes, with five per centum additional thereto, and interest as aforesaid, by distraint and sale, in the manner hereafter provided, of the goods, chattels, or effects, including stocks, securities, and evidences of debt, of the person delinquent as aforesaid: *Provided*, That there shall be exempt from distraint and sale, if belonging to the head of a family, the school-books and wearing apparel necessary for such family; also arms for personal use, one cow, two hogs, five sheep and the wool thereof, provided the aggregate market-value of said sheep shall not exceed fifty dollars; the necessary food for such cow, hogs, and sheep, for a period not exceeding thirty days; fuel to an amount not greater in value than twenty-five dollars; provisions to an amount not greater than fifty dollars; household furniture kept for use to an amount not greater than three hundred dollars; and the books, tools, or implements, of a trade or profession, to an amount not greater than one hundred dollars shall also be exempt; and the officer making the distraint shall summon three disinterested householders of the vicinity, who shall appraise and set apart to the owner the amount of property herein declared to be exempt.

Mode of levying distraint.

13 July, 1866, c. 184, s. 9, v. 14, p. 107.

SEC. 3188. In such case of neglect or refusal, the collector may levy, or by warrant may authorize a deputy collector to levy, upon all property and rights to property, except such as are exempt by the preceding section, belonging to such person, or on which the said lien exists, for the payment of the sum due as aforesaid, with interest and penalty for non-payment, and also of such further sum as shall be sufficient for the fees, costs, and expenses of such levy.



ne authority to such corporation, company, or association to record the same on their books and records in the same manner as if transferred or assigned by the party holding the same, in lieu of any original or prior certificates, which shall be void, whether canceled or not. And said certificates, where the subject of sale is securities or other evidences of debt, shall be good and valid receipts to the person holding the same, as against any person holding, or claiming to hold, possession of such securities or other evidences of debt.

When property  
distrained is not  
divisible.

13 July, 1866, c.  
184, s. 9, v. 14, p.  
108.

SEC. 3195. When any property liable to distraint for taxes is not divisible, so as to enable the collector by a sale of part thereof to raise the whole amount of the tax, with all costs, charges, and commissions, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after satisfying the tax, costs, and charges, shall be paid to the person legally entitled to receive the same; or, if he cannot be found, or refuses to receive the same, shall be deposited in the Treasury of the United States, to be there held for his use until he makes application therefor to the Secretary of the Treasury, who, upon such application and satisfactory proofs in support thereof, shall, by warrant on the Treasury, cause the same to be paid to the applicant.

When real estate  
may be sold to sat-  
isfy taxes.

13 July, 1866, c.  
184, s. 9, v. 14, p. 108.

SEC. 3196. When goods, chattels, or effects sufficient to satisfy the taxes imposed upon any person are not found by the collector or deputy collector, he is authorized to collect the same by seizure and sale of real estate.

Proceedings for  
seizure and sale of  
real estate for  
taxes.

13 July, 1866, c.  
184, s. 9, v. 14, pp.  
108, 109.

27 Feb., 1877, c.  
69, v. 19, p. 248.

U. S. r. Mackoy,  
2 Dill., 299.

SEC. 3197. The officer making the seizure mentioned in the preceding section shall give notice to the person whose estate it is proposed to sell, by giving him in hand, or leaving at his last or usual place of abode, if he has any such within the collection-district where said estate is situated, a notice, in writing, stating what particular estate is to be sold, describing the same with reasonable certainty, and the time when and place where said officer proposes to sell the same; which time shall not be less than twenty nor more than forty days from the time of giving said notice. The said officer shall also cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and shall also cause a like notice to be posted at the post-office nearest to the estate [to be] seized, and in two other public places within the county; and the place of said sale shall not be more than five miles distant from the estate seized, except by special order of the Commissioner of Internal Revenue. At the time and place appointed, the officer making such seizure shall proceed to sell the said estate at public auction, offering the same at a minimum price, including the expense of making such levy, and all charges for advertising and an officer's fee of ten dollars. When the real estate so seized consists of several distinct tracts or parcels, the officer making sale thereof shall offer each tract or parcel for sale separately, and shall, if he deem it advisable, apportion the expenses, charges, and fees, aforesaid, to such several tracts or parcels, or to any of them, in estimating the minimum price aforesaid. If no person offers for said estate the amount of said minimum price, the officer shall declare the same to be purchased by him for the United States, and shall deposit with the district attorney of the United States a deed thereof, as hereafter provided; otherwise, the same shall be declared to be sold to the highest bidder. And said sale may be adjourned from time to time by said officer for not exceeding thirty days in all, if he shall think it advisable so to do. If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same manner.

Certificate of  
purchase. Deed.

13 July, 1866, c.  
184, s. 9, v. 14, p.  
108.

SEC. 3198. Upon any sale of real estate, as provided in the preceding section, and the payment of the purchase-money, the officer making the seizure and sale shall give to the purchaser a certificate of purchase, which shall set forth the real estate purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor; and if the said real estate be not redeemed in the manner and within the time hereafter provided, the said collector or deputy collector shall exe-

SEC. 1013. (a) The second proviso of the first section of the Act entitled "An Act Authorizing the Commissioner of Internal Revenue to redeem or make allowance for internal-revenue stamps," approved May 12, 1900, as amended, is amended to read as follows: "*Provided further*, That no claim for the redemption of or allowance for stamps shall be allowed unless presented within four years after the purchase of such stamps from the Government."

(b) The exemption provided in paragraph (10) of subdivision (a) of section 11 of the Revenue Act of 1916, and in subdivision (10) of section 231 of the Revenue Act of 1918, and in subdivision (10) of section 231 of the Revenue Act of 1921, shall be granted to farmers or other mutual hail, cyclone, or fire insurance companies (if otherwise exempt under such paragraphs), whether or not such organizations were of a purely local character. Any taxes assessed against such organizations shall, subject to the statutory period of limitations properly applicable thereto, be abated, credited or refunded.

#### LIMITATIONS UPON SUITS AND PROCEEDINGS BY THE TAXPAYER.

SEC. 1014. (a) Section 3226 of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3226. No suit or proceeding shall be maintained in any court for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after any such disallowance notify the taxpayer thereof by mail."

(b) This section shall not affect any proceeding in court instituted prior to the enactment of this Act.

SEC. 1015. Section 3225 of the Revised Statutes, as amended, is repealed and any claim for credit or refund of taxes imposed by the Revenue Act of 1916, the Revenue Act of 1917, the Revenue Act of 1918, the Revenue Act of 1921, or any such Act as amended, heretofore denied in whole or in part because of the provisions of such section may be reopened and decided without reference to its provisions.

#### DISTRAINT OF BANK ACCOUNTS.

SEC. 1016. Section 3187 of the Revised Statutes is amended by inserting after "securities" the words "bank accounts" and a comma.

#### PENALTIES.

SEC. 1017. (a) Any person required under this Act to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the

**SEC. 1104. DATE OF ALLOWANCE OF REFUND OR CREDIT.**

Where the Commissioner has (before or after the enactment of this Act) signed a schedule of overassessments in respect of any internal revenue tax imposed by this Act or any prior revenue Act, the date on which he first signed such schedule (if after May 28, 1928) shall be considered as the date of allowance of refund or credit in respect of such tax.

**SEC. 1105. JEOPARDY ASSESSMENT.**

(a) If the Commissioner finds that a person liable for tax (other than income tax) under any provision of the internal-revenue laws designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings be brought without delay, the Commissioner shall cause notice of such finding to be given such person, together with a demand for an immediate return and immediate payment of such tax, and such tax shall thereupon become immediately due and payable.

(b) If such person (i) is not in default in making any return or paying any tax under the internal-revenue laws, and (2) furnishes to the United States, under regulations to be prescribed by the Commissioner with the approval of the Secretary, security approved by the Commissioner that he will duly return and pay the tax to which the Commissioner's finding relates, then such tax shall not be payable prior to the time otherwise fixed for payment.

**SEC. 1106. REFUNDS OF MISCELLANEOUS TAXES.**

(a) Subsection (a) of section 3228 of the Revised Statutes, as amended, is amended by adding at the end thereof the following:

"The amount of the refund (in the case of taxes other than income, war-profits, excess-profits, estate, and gift taxes) shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund."

(b) The amendment made by subsection (a) of this section to section 3228 of the Revised Statutes shall not bar from allowance a claim for refund filed prior to the enactment of this Act which but for such enactment would have been allowable.

**SEC. 1107. ADJUSTMENTS OF CARRIERS' TAX LIABILITIES TO CONFORM TO RECAPTURE PAYMENTS.**

The Interstate Commerce Commission shall, as soon as practicable after its order with respect to the amount recoverable from any carrier under the provisions of section 15a of the Interstate Commerce Act, as amended, for any year or portion thereof has become final, and such amount, if any, has been paid, certify to the Commissioner of Internal Revenue the amount so paid. If the amount so paid by such carrier differs from the amount allowed as so recoverable in computing the income or excess profits tax liabilities for any taxable period of such carrier, or of any corporation whose income or excess profits tax liability is affected, the Commissioner of Internal Revenue shall determine any deficiency or overpayment attributable to such difference. Notwithstanding any other provision of law, (1) any such deficiency may be assessed within two years from the date of such certification, and, if so assessed, shall be paid upon notice and demand from the collector, and (2) any such overpayment may be credited or refunded within two years from the date of such certifica-

"(4) May issue a certificate of discharge of any part of the property subject to the lien if there is paid over to the collector in part satisfaction of the liability in respect of such tax an amount determined by the Commissioner, which shall not be less than the value, as determined by him, of the interest of the United States in the part to be so discharged. In determining such value the Commissioner shall give consideration to the fair market value of the part to be so discharged and to such liens thereon as have priority to the lien of the United States."

**SEC. 510. JEOPARDY ASSESSMENTS.**

Section 1105 of the Revenue Act of 1932 is amended to read as follows:

**"SEC. 1105. JEOPARDY ASSESSMENT.**

"(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3187 of the Revised Statutes, as amended.

"(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due."

**SEC. 511. GIFTS OF PROPERTY SUBJECT TO POWER.**

Subsection (c) of section 501 of the Revenue Act of 1932 (relating to the inapplicability of gift tax in the case of the transfer of property in trust subject to the power of the donor to revest title in himself) is repealed.

**SEC. 512. GENERAL COUNSEL FOR THE TREASURY.**

(a) There is hereby created in the Department of the Treasury the office of General Counsel for the Department of the Treasury (hereinafter in this section referred to as the "General Counsel"). The General Counsel shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$10,000 per annum. The General Counsel shall be the chief law officer of the department, and shall perform such duties in respect of the legal activities thereof as may be prescribed by the Secretary or required by law. The President is authorized to appoint, by and with the advice and consent of the Senate, an Assistant General Counsel for the Bureau of Internal Revenue and to fix his compensation at a rate not in excess of \$10,000 per annum. The Secretary may appoint and fix the duties of such other Assistant General Counsel (not to exceed five) and such other officers and employees as he may deem necessary to assist the General Counsel in the performance of his duties. The Secre-

**SEC. 404. INTEREST ON DELINQUENT TAXES**

Interest on delinquent taxes.

Notwithstanding any provision of law to the contrary, interest accruing during any period of time after the date of the enactment of this Act upon any internal-revenue tax (including amounts assessed or collected as a part thereof) or customs duty, not paid when due, shall be at the rate of 6 per centum per annum.

**SEC. 405. DECLARATORY JUDGMENTS AS TO TAXES**

Declaratory judgments as to taxes, Vol. 48, p. 985.

(a) Paragraph (1) of section 274D of the Judicial Code (Public, Numbered 343, Seventy-third Congress) is amended by adding after the words "actual controversy" the following: "(except with respect to Federal taxes)".

(b) The amendment made by subsection (a) of this section shall apply to any proceeding now pending in any court of the United States.

Application of amendment.

**SEC. 406. FAILURE TO FILE RETURNS**

Failure to file returns.

In the case of a failure to make and file an internal-revenue tax return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after the date of the enactment of this Act, if a 25 per centum addition to the tax is prescribed by existing law, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

Penalty.

**SEC. 407. TAXES ON CRUDE PETROLEUM**

Taxes on crude petroleum. Rate. Vol. 48, p. 766.

Effective on the first day of the first calendar month following the date of the enactment of this Act, sections 604 and 605 of the Revenue Act of 1934 (relating to taxes on production and refining of crude petroleum) are amended by striking out "1/10 of 1 cent per barrel" wherever appearing therein and inserting in lieu thereof "1/25 of 1 cent per barrel".

**TITLE V—GENERAL PROVISIONS****SEC. 501. DEFINITIONS**

Title V—General provisions.

Definitions.

(a) When used in this Act—

(1) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

"Person."

(2) The term "corporation" includes associations, joint-stock companies, and insurance companies.

"Corporation."

(3) The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

"Domestic."

(4) The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

"Foreign."

(5) The term "stock" includes the share in an association, joint-stock company, or insurance company.

"Stock."

(6) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

"Shareholder."

(7) The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

"United States."

(8) The term "Secretary" means the Secretary of the Treasury.

"Secretary."

(9) The term "Commissioner" means the Commissioner of Internal Revenue.

"Commissioner."

amount, paid in error, or in any manner wrongfully collected.

(b) Method and conditions of allowance.

Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Commissioner, or until satisfactory proof has been made showing the reason why the same can not be returned; or, if so required by the said Commissioner, when the person presenting the same can not satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid.

(c) Time for filing claims.

No claim for the redemption of or allowance for stamps shall be allowed unless presented within four years after the purchase of such stamps from the Government.

(d) Finality of Commissioner's decisions.

The finding of facts in and the decision of the Commissioner upon the merits of any claim presented under or authorized by this section shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

(e) Tobacco and cigars.

For special provisions relating to redemption of spoiled stamps, in the case of tobacco, snuff, cigars, or cigarettes, see section 2198.

(53 Stat. 399.)

DERIVATION

Subsecs. (a), (b) from act May 12, 1900, ch. 393, § 1, 31 Stat. 177.

Subsec. (c) from act May 12, 1900, ch. 393, § 1, 31 Stat. 178, as amended by act June 2, 1924, ch. 234, § 1013 (a), 43 Stat. 343.

Subsec. (d) from act May 12, 1900, ch. 393, § 2, 31 Stat. 78.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Commissioner of Internal Revenue, referred to in this section, is an officer of the Treasury Department.

SIMILAR PROVISIONS

1898—June 13, 1898, ch. 448, 30 Stat. 448, which was repealed by act April 12, 1902, ch. 500, §§ 5, 7, 32 Stat. 97; R. S. § 3426.

1864—June 30, 1864, ch. 173, § 161, 13 Stat. 294, as amended by act Mar. 1, 1879, ch. 125, § 17, 20 Stat. 349.

Provisions concerning the redemption of stamps issued under act Oct. 22, 1914, ch. 331, 38 Stat. 747, and joint resolution, Dec. 17, 1915, were contained in acts Apr. 17, 1917, ch. 3, 40 Stat. 6; Sept. 8, 1918, ch. 463, § 411, 39 Stat. 793, which was repealed by act Feb. 24, 1919, ch. 18, § 1400, 40 Stat. 1149.

§ 3305. Transmission of stamps to internal revenue officers.

The transmission of internal revenue stamps to the officers of the internal revenue service shall be made through the mails of the United States in registered packages. (53 Stat. 399.)

DERIVATION

Act Aug. 15, 1876, ch. 287, § 1, 19 Stat. 152.

PART II.—ASSESSMENT, COLLECTION, AND REFUND

§ 3310. Returns and payment of tax—(a) Monthly returns.

All returns required to be made monthly by any person liable to tax shall be made on or before the 10th day of each month, and the tax assessed or due thereon shall be returned by the Commissioner to the collector on or before the last day of each month.

(b) Other returns.

All returns for which no provision is otherwise made shall be made on or before the 10th day of the month succeeding the time when the tax is due and liable to be assessed, and the tax thereon shall be returned as herein provided for monthly returns, and shall be due and payable on or before the last day of the month in which the assessment is so made.

(c) Addition to tax in case of nonpayment.

When the said tax is not paid on or before the last day of the month, as aforesaid, the collector shall add a penalty of 5 per centum, together with interest at the rate of 6 per centum per annum, upon such tax from the time the same became due; but no interest for a fraction of a month shall be demanded: *Provided*, That notice of the time when such tax becomes due and payable is given in such manner as may be prescribed by the Commissioner.

(d) Demand for tax, penalty, and interest.

It shall then be the duty of the collector, in case of the nonpayment of said tax on or before the last day of the month, as aforesaid, to demand payment thereof, with 5 per centum added thereto, and interest at the rate of 6 per centum per annum, as aforesaid, in the manner prescribed by law; and

(e) Distrain.

If said tax, penalty, and interest, are not paid within ten days after such demand, it shall be lawful for the collector or his deputy to make distraint therefor, as provided by law.

(f) Discretion allowed commissioner.

(1) Returns and payment of tax.

Notwithstanding any other provision of law relating to the filing of returns or payment of any tax imposed by chapters 9, 9A, 10, 12, 19, 21, 30, 32, subchapter A of chapter 25, subchapter A of chapter 27A, or subchapter A of chapter 29, the Commissioner may by regulations approved by the Secretary prescribe the period for which the return for such tax shall be filed, the time for the filing of such return, the time for the payment of such tax, and the number of copies of the return required to be filed.

**(2) Use of Government depositaries.**

The Secretary may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed by this title, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks and trust companies is to be treated as payment of such tax to the collector. (53 Stat. 399; Aug. 27, 1949, ch. 517, § 7 (a), 63 Stat. 668; Oct. 20, 1951, 2:07 p. m., E. S. T., ch. 521, title IV, § 471 (b), 65 Stat. 531.)

**DERIVATION**

R. S. § 3135, as amended by act Aug. 30, 1935, ch. 829, § 404, 49 Stat. 1027. Said R. S. § 3185 was in nature of a revision of acts July 13, 1866, ch. 184, § 11, 14 Stat. 150; Mar. 2, 1867, ch. 169, § 8, 14 Stat. 473; Dec. 24, 1872, ch. 13, §§ 1, 2, 17 Stat. 401, 402.

**AMENDMENTS**

1951—Subsec. (f) (1) amended by act Oct. 20, 1951, which inserted "subchapter A of chapter 27A".

1949—Subsec. (f) added by act Aug. 27, 1949.

**EFFECTIVE DATE OF 1951 AMENDMENT**

Amendment of subsec. (f) (1) as effective Nov. 1, 1951, see note set out under section 3285 of this title.

**ABOLITION OF EXISTING OFFICES AND CREATION OF NEW OFFICES**

The offices of Collector and Deputy Collector, provided for in sections 3941 and 3980 of this title, were abolished, effective at such time as the Secretary of the Treasury shall specify but in no event later than Dec. 1, 1952, and the winding up of the affairs of said officers were made subject to such provisions as said Secretary deems necessary, by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F. R. 2243, 66 Stat. 823, set out as a note under section 3905 of this title; and the offices of "district commissioner of internal revenue", not exceeding twenty-five, and so many other offices, with titles to be determined by the Secretary of the Treasury, not exceeding seventy, were established by section 2 (a) of said Plan.

**TRANSFER OF FUNCTIONS**

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Commissioner of Internal Revenue, the collector and deputy collector, referred to in this section, are officials of the Treasury Department.

**TREATY OBLIGATIONS**

Section 615 of act Oct. 20, 1951, provided that: "No amendment made by this Act [act Oct. 20, 1951] shall apply in any case where its application would be contrary to any treaty obligation of the United States."

**§ 3311. Assessment of unpaid taxes payable by stamp.**

Whenever any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale by the manufacturer thereof, without the use of the proper stamp, in addition to the penalties imposed by law for such sale or removal, it shall be the duty of the Commissioner, within a period of not more than four years (except as provided in section 3312) after such removal or sale, upon such

information as he can obtain, to estimate the amount of the tax which has been omitted to be paid, and to make an assessment therefor upon the manufacturer or producer of such article. He shall certify such assessment to the collector, who shall immediately demand payment of such tax, and upon the neglect or refusal of payment by such manufacturer or producer, shall proceed to collect the same in the manner provided for the collection of other assessed taxes. (53 Stat. 400.)

**DERIVATION**

R. S. § 3437, which was in nature of a revision of acts Mar. 2, 1867, ch. 169, § 5, 14 Stat. 472; June 6, 1872, ch. 315, § 31, 17 Stat. 251; Dec. 24, 1873, ch. 13, § 7, 17 Stat. 403; acts Aug. 27, 1894, ch. 349, § 47, 28 Stat. 562; Feb. 26, 1926, ch. 27, § 1109 (a), 44 Stat. 114.

**ABOLITION OF EXISTING OFFICES AND CREATION OF NEW OFFICES**

The office of Collector, provided for in section 3941 of this title, was abolished effective at such time as the Secretary of the Treasury shall specify but in no event later than Dec. 1, 1952, and the winding up of the affairs of said officer was made subject to such provisions as said Secretary deems necessary, by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F. R. 2243, 66 Stat. 823, set out as a note under section 3905 of this title; and the offices of "district commissioner of internal revenue", not exceeding twenty-five, and so many other offices, with titles to be determined by the Secretary of the Treasury, not exceeding seventy, were established by section 2 (a) of said Plan.

**TRANSFER OF FUNCTIONS**

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Commissioner of Internal Revenue, and the collectors, referred to in this section, are officials of the Treasury Department.

**§ 3312. Period of limitation upon assessment and collection.**

Except in the case of income, war-profits, excess-profits, estate, and gift taxes, and except as otherwise provided in section 1635 with respect to employment taxes under subchapters A and D of chapter 9—

**(a) General rule.**

All internal revenue taxes shall (except as provided in subsections (b), (c), and (d)) be assessed within four years after such taxes became due, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of five years after such taxes became due.

**(b) False return or no return.**

In case of a false or fraudulent return with intent to evade tax, or of a failure to file a return within the time required by law, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

**(c) Willful attempt to evade tax.**

In case of a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a

## SIMILAR PROVISIONS

Act Oct. 3, 1917, ch. 63, § 1008, 40 Stat. 326, which was repealed by act Feb. 24, 1919, ch. 18, § 1400, 40 Stat. 1149. See also note to section 3656 of this title.

## § 3659. Receipts for taxes—(a) In general.

Every collector and deputy collector shall give receipts for all sums collected by him, excepting only when the same are in payment for stamps sold and delivered; but no collector or deputy collector shall issue a receipt in lieu of a stamp representing a tax.

## (b) Cross references.

For receipts in case of—

Income tax, see section 56 (h).

Estate tax, see section 823.

Gift tax, see section 1008 (e).

(53 Stat. 448.)

## DERIVATION

R. S. § 3183, which was in nature of a revision of acts June 30, 1864, ch. 173, § 36, 13 Stat. 238; July 18, 1866, ch. 184, § 9, 14 Stat. 111; as amended by act Mar. 1, 1879, ch. 125, § 3, 20 Stat. 331.

## ABOLITION OF EXISTING OFFICES AND CREATION OF NEW OFFICES

The offices of Collector and Deputy Collector, provided for in sections, 3941 and 3990 of this title, was abolished, effective at such time as the Secretary of the Treasury shall specify but in no event later than Dec. 1, 1952, and the winding up of the affairs of said officer was made subject to such provisions as said Secretary deems necessary, by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F. R. 2243, 66 Stat. 823, set out as a note under section 3905 of this title; and the offices of "district commissioner of internal revenue", not exceeding twenty-five, and so many other offices, with titles to be determined by the Secretary of the Treasury, not exceeding seventy, were established by section 2 (a) of said Plan.

## TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The collectors and deputy collectors, referred to in this section, are officials of the Treasury Department.

## § 3660. Jeopardy assessment.

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3690.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by

filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due. (53 Stat. 448.)

## DERIVATION

Act June 6, 1932, ch. 209, § 1105, as amended by act May 10, 1934, ch. 277, § 510, 48 Stat. 758.

## ABOLITION OF EXISTING OFFICES AND CREATION OF NEW OFFICES

The office of Collector, provided for in section 3941 of this title, was abolished, effective at such time as the Secretary of the Treasury shall specify but in no event later than Dec. 1, 1952, and the winding up of the affairs of said officer was made subject to such provisions as said Secretary deems necessary, by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F. R. 2243, 66 Stat. 823, set out as a note under section 3905 of this title; and the offices of "district commissioner of internal revenue", not exceeding twenty-five, and so many other offices, with titles to be determined by the Secretary of the Treasury, not exceeding seventy, were established by section 2 (a) of said Plan.

## TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Commissioner of Internal Revenue and the collectors, referred to in this section, are officials of the Treasury Department.

## § 3661. Enforcement of liability for taxes collected.

Whenever any person is required to collect or withhold any internal-revenue tax from any other person and to pay such tax over to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose. (53 Stat. 448.)

## DERIVATION

Act May 10, 1934, ch. 277, § 607, 48 Stat. 768.

## § 3662. Prohibition of suits to replevy property taken under internal revenue laws.

For statute prohibiting suits to replevy property taken under revenue laws, see section 934 R. S.

(53 Stat. 448.)

## REFERENCES IN TEXT

Section 934 R. S., referred to in the text, was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, and is now covered by section 2463 of Title 28, Judiciary and Judicial Procedure.

## § 3663. Cross references.

For provisions relating to collection accounts, see subchapter B of chapter 41.

For prohibition upon collection of any tax from insolvent banks, see section 3798.

(53 Stat. 448.)



(2) Petition to court.

If the Commissioner fails to authorize the filing of such civil action within six months after receipt of such written request, such person or purchaser may, after giving notice to the Commissioner, file a petition in the district court of the United States for the district in which the real estate is located, praying leave to file a civil action for a final determination of all claims to or liens upon the real estate in question.

(3) Court order.

After a full hearing in open court, the district court may in its discretion enter an order granting leave to file such civil action, in which the United States and all persons having liens upon or claiming any interest in the real estate shall be made parties.

(b) Service on United States.

Service on the United States shall be had in the manner provided by sections 5 and 6 of the Act of March 3, 1887, entitled "An Act to provide for the bringing of suits against the Government of the United States", ch. 359, 24 Stat. 506 (U. S. C., Title 28, §§ 762, 763), as amended.

(c) Adjudication.

Upon the filing of such civil action the district court shall proceed to adjudicate the matters involved therein, in the same manner as in the case of civil actions filed under section 3678. For the purpose of such adjudication, the assessment of the tax upon which the lien of the United States is based shall be conclusively presumed to be valid.

(d) Costs.

All costs of the proceedings on the petition and the civil action shall be borne by the person filing the civil action. (53 Stat. 450.)

DERIVATION

R. S. § 3207 (b), as amended by act Feb. 26, 1926, ch. 27, § 1127, 44 Stat. 124; act Mar. 3, 1933, ch. 212, § 16, 47 Stat. 1518; Ex. Ord. No. 6166, § 5; act June 19, 1934, ch. 651, 48 Stat. 1064; rule 2, District Courts.

See also derivation note to section 3678 of this title.

REFERENCES IN TEXT

Sections 5 and 6 of the act of March 3, 1887, ch. 359, 24 Stat. 506, as amended, referred to in the text of subsection (b), were repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, and are now covered by sections 507 and 1402 of Title 28, Judiciary and Judicial Procedure, and Rules 4 (d), 12 (a) and 55 (e) of the Federal Rules of Civil Procedure, set out following section 2072 of said Title 28.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Commissioner of Internal Revenue, referred to in this section, is an officer of the Treasury Department.

FEDERAL RULES OF CIVIL PROCEDURE

Process and costs, see Rules 4, 54, following section 2072 of Title 28, Judiciary and Judicial Procedure.

§ 3680. Cross references.

For lien in case of—

Estate tax, see section 327.

Tax on distilled spirits, see section 2800 (e).

For provisions permitting the United States to be made party defendant in a proceeding in a State court for the foreclosure of a lien upon real estate where the United States may have a claim upon the premises involved, see act of March 4, 1931, ch. 515, 46 Stat. 1628 (U. S. C., Title 28, §§ 901—906).

(53 Stat. 451.)

REFERENCES IN TEXT

Act of March 4, 1931, ch. 515, 46 Stat. 1528 (U. S. C., Title 28, §§ 901—906), was repealed by act June 25, 1948, ch. 648, § 39, 62 Stat. 992, and is now covered by sections 1444 and 2410 of Title 28, Judiciary and Judicial Procedure.

SUBCHAPTER C.—DISTRAINT

PART I.—DISTRAINT ON PERSONAL PROPERTY

§ 3690. Authority to distrain.

If any person liable to pay any taxes neglects or refuses to pay the same within ten days after notice and demand, it shall be lawful for the collector or his deputy to collect the said taxes, with such interest and other additional amounts as are required by law, by distraint and sale, in the manner provided in this subchapter, of the goods, chattels, or effects, including stocks, securities, bank accounts, and evidences of debt, of the person delinquent as aforesaid. (53 Stat. 451.)

DERIVATION

R. S. § 3187, which was in nature of a revision of acts July 13, 1866, ch. 184, § 9, 14 Stat. 106, 107, 108; Mar. 2, 1867, ch. 169, § 8, 14 Stat. 473; as amended by act June 2, 1924, ch. 234, § 1016, 43 Stat. 343.

ABOLITION OF EXISTING OFFICES AND CREATION OF NEW OFFICES

The offices of Collector and Deputy Collector, provided for in sections 3941 and 3990 of this title, was abolished, effective at such time as the Secretary of the Treasury shall specify but in no event later than Dec. 1, 1952, and the winding up of the affairs of said officer was made subject to such provisions as said Secretary deems necessary, by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F. R. 2243, 66 Stat. 823, set out as a note under section 3905 of this title; and the offices of "district commissioner of internal revenue", not exceeding twenty-five, and so many other offices, with titles to be determined by the Secretary of the Treasury, not exceeding seventy, were established by section 2 (a) of said Plan.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The collectors and deputy collectors, referred to in this section, are officials of the Treasury Department.

§ 3691. Property exempt from distraint—(a) Enumeration.

There shall be exempt from distraint and sale, if belonging to the head of a family—

(1) School books and wearing apparel.

The school books and wearing apparel necessary for such family; also

## (2) Arms.

Arms for personal use;

## (3) Livestock.

One cow, 2 hogs, 5 sheep and the wool thereof, provided the aggregate market value of said sheep shall not exceed \$50;

## (4) Fodder.

The necessary food for such cow, hogs, and sheep, for a period not exceeding thirty days;

## (5) Fuel.

Fuel to an amount not greater in value than \$25;

## (6) Provisions.

Provisions to an amount not greater than \$50;

## (7) Household furniture.

Household furniture kept for use to an amount not greater than \$300; and

## (8) Books and tools of trade or profession.

The books, tools, or implements, of a trade or profession, to an amount not greater than \$100.

## (b) Appraisal.

The officer making the distraint shall summon three disinterested householders of the vicinity, who shall appraise and set apart to the owner the amount of property herein declared to be exempt. (53 Stat. 451.)

## DERIVATION

R. S. § 3187, which was in nature of a revision of acts July 13, 1866, ch. 184, § 9, 14 Stat. 106, 107, 108; Mar. 2, 1867, ch. 169, § 8, 14 Stat. 473.

## § 3692. Levy.

In case of neglect or refusal under section 3690, the collector may levy, or by warrant may authorize a deputy collector to levy, upon all property and rights to property, except such as are exempt by the preceding section, belonging to such person, or on which the lien provided in section 3670 exists, for the payment of the sum due, with interest and penalty for nonpayment, and also of such further sum as shall be sufficient for the fees, costs, and expenses of such levy. (53 Stat. 452.)

## DERIVATION

R. S. § 3188, which was in nature of a revision of act July 13, 1866, ch. 184, § 9, 14 Stat. 107.

## ABOLITION OF EXISTING OFFICES AND CREATION OF NEW OFFICES

The offices of Collector and Deputy Collector, provided for in sections 3941 and 3990 of this title, was abolished, effective at such time as the Secretary of the Treasury shall specify but in no event later than Dec. 1, 1952, and the winding up of the affairs of said officer was made subject to such provisions as said Secretary deems necessary, by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F. R. 2243, 66 Stat. 823, set out as a note under section 3905 of this title; and the offices of "district commissioner of internal revenue", not exceeding twenty-five, and so many other offices, with titles to be determined by the Secretary of the Treasury, not exceeding seventy, were established by section 2 (a) of said Plan.

## TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power

vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The collectors and deputy collectors, referred to in this section, are officials of the Treasury Department.

## § 3693. Proceedings on distraint.

When distraint is made, as provided in section 3690—

## (a) Account and notice to owner.

The officer charged with the collection shall make or cause to be made an account of the goods or effects distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods or effects, or at his dwelling or usual place of business, with some person of suitable age and discretion, if any such can be found, with a note of the sum demanded and the time and place of sale; and

## (b) Public notice.

Forthwith cause a notification to be published in some newspaper within the county wherein said distraint is made, if a newspaper is published in said county, or to be publicly posted at the post office, if there be one within five miles nearest to the residence of the person whose property shall be distrained, and in not less than two other public places. Such notice shall specify the articles distrained, and the time and place for the sale thereof.

## (c) Time and place of sale.

The time of sale shall not be less than ten nor more than twenty days from the date of such notification to the owner or possessor of the property and the publication or posting of such notice as provided in subsection (b) and the place proposed for the sale shall not be more than five miles distant from the place of making such distraint.

## (d) Adjournment of sale.

Said sale may be adjourned from time to time by said officer, if he deems it advisable, but not for a time to exceed in all thirty days. (53 Stat. 452.)

## DERIVATION

R. S. § 3690, which was in nature of a revision of act July 13, 1866, ch. 184, § 9, 14 Stat. 107.

## § 3694. Priority of specific tax liability on distrained property.

When property subject to tax, but upon which the tax has not been paid, is seized upon distraint and sold, the amount of such tax shall, after deducting the expenses of such sale, be first appropriated out of the proceeds thereof to the payment of the tax. And if no assessment of such tax has been made upon such property, the collector shall make a return thereof in the form required by law, and the Commissioner shall assess the tax thereon. (53 Stat. 452.)

## DERIVATION

R. S. § 3191, which was in nature of a revision of acts July 13, 1866, ch. 184, § 9, 14 Stat. 108; Dec. 24, 1872, ch. 13, § 2, 17 Stat. 402.

## PART II.—DISTRAINT ON REAL ESTATE

## § 3700. Authority to distraint.

When goods, chattels, or effects sufficient to satisfy the taxes imposed upon any person are not found by the collector or deputy collector, he is authorized to collect the same by seizure and sale of real estate. (53 Stat. 453.)

## DERIVATION

R. S. § 3196, which was in nature of a revision of act July 13, 1866, ch. 184, § 9, 14 Stat. 108.

## ABOLITION OF EXISTING OFFICES AND CREATION OF NEW OFFICES

The offices of Collector and Deputy Collector, provided for in sections 3941 and 3990 of this title were abolished, effective at such time as the Secretary of the Treasury shall specify but in no event later than Dec. 1, 1952, and the winding up of the affairs of said officers were made subject to such provisions as said Secretary deems necessary by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F. R. 2243, 68 Stat. 823, set out as a note under section 3905 of this title; and the offices of "district commissioner of internal revenue", not exceeding twenty-five, and so many other offices, with titles to be determined by the Secretary of the Treasury, not exceeding seventy, were established by section 2 (a) of said Plan.

## TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The collector and deputy collector, referred to in this section, are officials of the Treasury Department.

## § 3701. Proceedings on distraint—(a) Notice to owner.

The officer making the seizure mentioned in the preceding section shall give notice to the person whose estate it is proposed to sell by giving him in hand, or leaving at his last or usual place of abode, if he has any such within the collection district where said estate is situated, a notice, in writing, stating what particular estate is to be sold, describing the same with reasonable certainty, and the time when and place where said officer proposes to sell the same.

## (b) Public notice.

The said officer shall also cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and shall also cause a like notice to be posted at the post office nearest to the estate seized, and in two other public places within the county.

## (c) Time and place of sale.

The time of sale shall not be less than twenty nor more than forty days from the time of giving said notice. The place of said sale shall not be more than five miles distant from the estate seized, except by special order of the Commissioner.

## (d) Manner of sale.

At the time and place appointed, the officer making such seizure shall proceed to sell the said estate at public auction, offering the same at a minimum

price, including the expense of making such levy, and all charges for advertising. When the real estate so seized consists of several distinct tracts or parcels, the officer making sale thereof shall offer each tract or parcel for sale separately, and shall, if he deem it advisable, apportion the expenses and charges aforesaid to such several tracts or parcels, or to any of them, in estimating the minimum price.

## (e) Purchasers.

If no person offers for said estate the amount of said minimum price, the officer shall declare the same to be purchased by him for the United States; otherwise the same shall be declared to be sold to the highest bidder.

## (f) Adjournment of sale.

The said sale may be adjourned from time to time by said officer for not exceeding thirty days in all, if he shall think it advisable so to do. If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same manner. (53 Stat. 453.)

## DERIVATION

R. S. § 3197, which was in nature of a revision of act July 13, 1866, ch. 184, § 9, 14 Stat. 108, as amended by act Mar. 1, 1879, ch. 125, § 3, 20 Stat. 332. R. S. § 3197 was also amended by act Feb. 27, 1877, ch. 69, § 1, 19 Stat. 248.

## TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Commissioner of Internal Revenue, referred to in this section, is an officer of the Treasury Department.

## § 3702. Redemption of real estate—(a) Before sale.

Any person whose estate may be proceeded against as aforesaid shall have the right to pay the amount due, together with the costs and charges thereon, to the collector or deputy collector at any time prior to the sale thereof, and all further proceedings shall cease from the time of such payment.

## (b) After sale—(1) Period.

The owners of any real estate sold as aforesaid, their heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the land sold, or any particular tract thereof, at any time within one year after the sale thereof.

## (2) Price.

The land or tract aforesaid shall be permitted to be redeemed upon payment to the purchaser, or in case he can not be found in the county in which the land to be redeemed is situated, then to the collector of the district in which the land is situated, for the use of the purchaser, his heirs, or assigns, the amount paid by the said purchaser and interest thereon at the rate of 20 per centum per annum.