

collect and account for the taxes and penalties so certified. (R. S. 3182.)

Sec. 1532. Supplemental assessment lists—(a) Authorization.—Whenever it is ascertained that any list delivered^a to any collector is imperfect or incomplete in consequence of the omission of the name of any person liable to tax, or in consequence of any omission, or understatement, or undervaluation, or false or fraudulent statement contained in any return made by any person liable to tax, the Commissioner may, at any time within the period prescribed for assessment,^b enter on any monthly or special list:

(1) **Original assessments.**—The name of such person so omitted, together with the amount of tax for which he may be^c liable, and also

(2) **Additional assessments.**—The name of any such person in respect to whose return, as aforesaid, there has been^d any omission, undervaluation, understatement, or false or fraudulent statement, together with the amount for which such person may be liable, above the amount for which he may have been^e assessed upon any return made as aforesaid. (R. S. 3182.)

(b) **Certification to collector.**—The Commissioner⁷ shall certify and return such list to the collector as required by law. (R. S. 3182.)

Sec. 1533. Other laws applicable.—All provisions of law for the ascertainment of liability to any tax, or the assessment or collection thereof, shall be held to apply, so far as may be necessary, to the proceedings authorized⁸ and directed under this chapter. (R. S. 3182.)

Sec. 1534. Establishment by regulation of mode or time of assessment.—Whenever the mode or time of assessing any tax which is imposed is not provided for, the Commissioner may establish the same by regulation. (R. S. 3447.)

Sec. 1535. Periods of limitation upon assessment.—For the periods of limitation prescribed for making assessments, see the following:

(a) **Income tax—(1) Taxpayer.**—Sections 275 and 276.

(2) **Transferee and fiduciary.**—Section 311.

(b) **Estate tax—(1) Decedent.**—Sections 474 and 475.

(2) **Transferee and fiduciary.**—Section 500.

(c) **Gift tax—(1) Donor.**—Sections 566 and 567.

(2) **Transferee and fiduciary.**—Section 575.

(d) **Tobacco, snuff, cigars, and cigarettes.**—Section 702 (b) and section 1432.

(e) **Documents, other instruments, and playing cards.**—Section 908 (b) and section 1432.

(f) **Admissions and dues.**—Section 962 and section 1432.

(g) **Oleomargarine.**—Section 971 (c) (2) and section 1432.

(h) **Adulterated and process or renovated butter.**—Sections 1431 and 1432.

(i) **Filled cheese.**—Section 1001 (c) (2) and section 1432.

(j) **Mixed flour.**—Section 1021 (c) (2) and section 1432.

(k) **Narcotics.**—Section 1052 and section 1432.

(l) **White phosphorus matches.**—Section 1071 (c) (2) and section 1432.

^a “Delivered” is substituted for “which has been or shall be delivered.”

^b “Within the period prescribed for assessment” is substituted for “Within 15 months from the time of the delivery of the list to the collector as aforesaid.” The 15 months’ period applied only where there was no other period for assessment. The period for assessment in case of income taxes is prescribed by section 275 of the Revenue Act of 1932, in the case of estate taxes by section 310 of the Revenue Act of 1926, and in the case of all other internal revenue taxes by section 1109 of the Revenue Act of 1926. See Treasury Regulations No. 1, Revised, p. 152.

^c “May be” is substituted for “may have been or shall become.”

^d “Or shall be” is omitted after “been.”

^e “And” is omitted and “the Commissioner” is substituted for “he.”

⁷ “Herein” is omitted before “authorized” and “under this chapter” is substituted.

(m) **Cotton futures.**—Section 1104 and section 1432.

(n) **Pistols and revolvers.**—Section 1131 and section 1432.

(o) **Circulation other than of national banks.**—Section 1432.

(p) **Liquor.—(1) Distilled spirits.**—Sections 1150 (b) (2), 1256, 1271, and 1432.

(2) **Wines.**—Section 1432.

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(q) **Occupational taxes.**—Section 1432.

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SUBCHAPTER A—GENERAL PROVISIONS

Sec. 1540. **Collection districts**—(a) **Establishment and alteration**.—For the purpose of assessing, levying, and collecting the taxes provided by the internal revenue laws, the President may establish convenient collection districts, and may from time to time alter said districts. (R. S. 3141.)

(b) **Number**.—¹The whole number of collection districts for the collection of internal revenue shall not exceed 65. (R. S. 3142 as amended by Mar. 4, 1923, c. 244, 42 Stat. 1444.)

(c) **Boundaries**—(1) **Hawaii**.—²The Territory of Hawaii shall constitute a district for the collection of the internal revenue of the United States, with a collector, whose office shall be at Honolulu, and deputy collectors at such other places in the several islands as the Secretary shall direct. (Apr. 30, 1900, c. 339, § 87, 31 Stat. 158.)

(2) **Elsewhere**.—³For the purpose mentioned in subsection (a), the President⁴ may subdivide any State, Territory, or the District of Columbia, or may unite two or more States or Territories into one district. (R. S. 3141.)

Sec. 1541. **Collection authority**—(a) **In general**—(1) **Within district**.—It shall be the duty of the collectors or their deputies, in their respective districts, and they are authorized, to collect all the taxes imposed by law, however the same may be designated. (R. S. 3183.)

(2) **Outside district**.—For authority of collector or deputy to collect taxes by distraint outside his own collection district, but within the State, see section 1613.

(b) **Transferred assessments**.—Whenever a collector has on any list duly returned to him the name of any person not within his collection district who is liable to tax, or of any person so liable who has, in the collection district in which he resides, no sufficient property subject to seizure or distraint, from which the money due for tax can be collected, such collector shall transmit a statement containing the name of the person liable to such tax, with the amount and nature thereof, duly certified under his hand, to the collector of any district to which said person shall have removed, or in which he shall have property, real or personal, liable to be seized and sold for tax. And the collector to whom the said certified statement is transmitted shall proceed to collect the said tax in the same way as if the name of the person and objects of tax contained in the said certified statement were on any list of his own collection district; and he shall, upon receiving said certified statement as aforesaid, transmit his receipt for it to the collector sending the same to him. (R. S. 3209.)

Sec. 1542. **Establishment by regulation of mode or time of collection**.—Whenever the mode or time of collecting any tax which is imposed is not provided for, the Commissioner may establish the same by regulation. (R. S. 3447.)

Sec. 1543. **Prohibition of suits to restrain assessment or collection**—(a) **Tax**.—Except as provided in sections 272 (a),

471 (a) and 562 (a)⁵, no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court. (R. S. 3224.)

(b) **Liability of transferee or fiduciary**.—For provision prohibiting suit to restrain the assessment or collection of the liability of a transferee of the property of a taxpayer or the personal liability of a fiduciary in respect of any income, estate, or gift tax, see sections 313, 500 (d), and 575 (e).

Sec. 1544. **General powers and duties relating to collection**—(a) **Collectors**.—Every collector within his collection district shall see that all laws and regulations relating to the collection of internal revenue taxes are faithfully executed and complied with, and shall aid in the prevention, detection, and punishment of any frauds in relation thereto. For such purposes, he shall have power to examine all persons, books, papers, accounts, and premises, to administer oaths, and to summon any person to produce books and papers, or to appear and testify under oath before him, and to compel compliance with such summons in the same manner as provided in section 1515. (R. S. 3163; Aug. 15, 1876, c. 287, § 1, 19 Stat. 152; Mar. 1, 1879, c. 125, § 2, 20 Stat. 328.)

(b) **Deputy collectors**.—Every deputy collector⁶ shall have the like authority in every respect to collect the taxes levied or assessed within the portion of the district assigned to him which is by law vested in the collector himself; but each collector shall, in every respect, be responsible, both to the United States and to individuals, as the case may be, for all moneys collected, and for every act done or neglected to be done, by any of his deputies while acting as such. (Feb. 8, 1875, c. 36, § 12, 18 Stat. 307, as amended by Mar. 1, 1879, c. 125, § 2, 20 Stat. 329.)

(c) **Internal revenue agents**.—Every internal revenue agent shall see that all laws and regulations relating to the collection of internal revenue taxes are faithfully executed and complied with, and shall aid in the prevention, detection, and punishment of any frauds in relation thereto. (R. S. 3163, as amended by Mar. 1, 1879, c. 125, § 2, 20 Stat. 328.)

Sec. 1545. **Notice and demand for tax**—(a) **Delivery**.—Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner, 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. (R. S. 3184.)

(b) **Addition to tax for nonpayment**.—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 5 per centum additional upon the amount of taxes, and interest at the rate of 1 per centum a month. (R. S. 3184.)

(c) **Cross reference**.—For additions to tax for nonpayment after notice and demand in case of—

- (1) **Income taxes**.—See sections 294 (b) and 297.
- (2) **Estate taxes**.—See section 493 (b).
- (3) **Gift taxes**.—See section 573.

Sec. 1546. **Payment by check**—(a) **Certified checks**—(1) **Authority to receive**.—It shall be lawful for collectors to receive for internal revenue taxes certified checks drawn on national and State banks and trust companies during such time and under such regulations as the Secretary may prescribe.

(2) **Discharge of liability**—(A) **Check duly paid**.—No person⁷ who may be indebted to the United States on account of internal revenue taxes who shall have tendered a certified check or checks as provisional payment for such taxes, in accordance with the terms of this subsection, shall be released from the

¹ "On and after July 1, 1921," is omitted before "the."

² "That" preceding "the" is omitted.

³ "For the purpose mentioned in subsection (a)" is substituted for "and for that purpose."

⁴ "The President" is substituted for "he."

⁵ "Except as provided in sections 272 (a), 471 (a), and 562 (a)" is inserted.

⁶ "Every deputy collector" is substituted for "each such deputy."

⁷ "However" is omitted after "person."

obligation to make ultimate payment thereof until such certified check so received has been duly paid.

(B) **Check unpaid.**—If any such check so received is not duly paid by the bank on which it is drawn, and so certifying, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for the amount of such check upon all the assets of such bank; and such amount shall be paid out of its assets in preference to any or all other claims whatsoever against said bank, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such bank. (Mar. 2, 1911, c. 191, § 1, 36 Stat. 965 as amended by Mar. 3, 1913, c. 119, 37 Stat. 733.)

(h) **Uncertified checks—(1) Authority to receive.**—Collectors may receive uncertified checks in payment of income, war profits, and excess profits taxes, and any other taxes payable other than by stamp, during such time and under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

(2) **Ultimate liability.**—If a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions to the same extent as if such check had not been tendered. (Feb. 26, 1926, c. 27, § 1118 (a), 44 Stat. 120.)

Sec. 1547. Payment by United States notes and certificates of indebtedness.—Collectors may receive, at par with an adjustment for accrued interest, notes or certificates of indebtedness issued by the United States in payment of income, war profits, and excess profits taxes, and any other taxes payable other than by stamp, during such time and under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe. (Feb. 26, 1926, c. 27, § 1118 (a), 44 Stat. 120.)

Sec. 1548. Fractional parts of a cent.—In the payment of any tax under this title^a not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. (Feb. 24, 1919, c. 18, § 1313, 40 Stat. 1145; Nov. 23, 1921, c. 136, § 1306, 42 Stat. 310; Feb. 26, 1926, c. 27, § 1118 (c), 44 Stat. 120.)

Sec. 1549. Receipts for taxes—(a) In general.—^o 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. (R. S. 3183, as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 331.)

(b) **Cross references.**—For receipts in case of—

(1) **Income tax.**—See section 56 (h).

(2) **Estate tax.**—See section 423.

(3) **Gift tax.**—See section 558 (e).

Sec. 1550. Removal of property or departure from the United States.—(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 (1) 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 pre-

scribed 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. (June 6, 1932, c. 209, § 1105, 47 Stat. 287.)

Sec. 1551. Cross references.—For provisions relating to collection accounts, see subchapter B of chapter 28.

For prohibition upon collection of any tax from insolvent banks, see section 1697.

SUBCHAPTER B—LIEN FOR TAXES

Sec. 1560. Property subject to lien.—If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, penalty, additional amount, or addition to such tax, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person. (R. S. 3186, as amended by May 29, 1928, c. 852, § 613, 45 Stat. 875.)

Sec. 1561. Period of lien.—Unless another date is specifically fixed by law, the lien shall arise at the time the assessment list was received by the collector and shall continue until the liability for such amount is satisfied or becomes unenforceable by reason of lapse of time. (R. S. 3186 as amended by May 29, 1928, c. 852, § 613, 45 Stat. 875.)

Sec. 1562. Validity against mortgagees, purchasers, and judgment creditors.—Such lien shall not be valid as against any mortgagee, purchaser, or judgment creditor until notice thereof has been filed by the collector—

(a) **Under State or Territorial laws.**—In accordance with the law of the State or Territory in which the property subject to the lien is situated, whenever the State or Territory has by law provided for the filing of such notice; or

(b) **With clerk of district court.**—In the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State or Territory has not by law provided for the filing of such notice; or

(c) **With clerk of District of Columbia Supreme Court.**—In the office of the clerk of the Supreme Court of the District of Columbia, if the property subject to the lien is situated in the District of Columbia. (R. S. 3186, as amended by May 29, 1928, c. 852, § 613, 45 Stat. 875.)

Sec. 1563. Release of lien.—Subject to such regulations as the Commissioner, with the approval of the Secretary, may prescribe, the collector charged with an assessment in respect of any tax, may issue a certificate of release of the lien if—

(a) **Liability satisfied or unenforceable.**—The collector finds that the liability for the amount assessed, together with all interest in respect thereof, has been satisfied or has become unenforceable by reason of lapse of time¹⁰; or

(b) **Bond accepted.**—There is furnished to the collector and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and form of the bond and sureties thereon, as may be specified in the regulations. (R. S. 3186 as amended by May 29, 1928, c. 852, § 613, 45 Stat. 876.)

Sec. 1564. Partial discharge of property.—Subject to such regulations as the Commissioner, with the approval of the Secretary, may prescribe, the collector charged with an assessment in respect of any tax may issue a certificate of partial discharge of any part of the property subject to the lien if the collector finds that the fair market value of that part of such

^a "Title" is substituted for "Act."

^o "And" is omitted before "every."

¹⁰ "By reason of lapse of time" is added after "unenforceable," to harmonize with section 1561.

property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect of such tax and the amount of all prior liens upon such property. (R. S. 3186 as amended by May 29, 1928, c. 852, § 613, 45 Stat. 876.)

Sec. 1565. Effect of certificates of release or partial discharge.—A certificate of release or of partial discharge issued under this subchapter shall be held conclusive that the lien upon the property covered by the certificate is extinguished. (R. S. 3186 as amended by May 29, 1928, c. 852, § 613, 45 Stat. 876.)

Sec. 1566. Single bond covering release of lien and payment of income tax deficiency.—The Commissioner, with the approval of the Secretary, may by regulation provide for the acceptance of a single bond complying both with the requirements of section 272 (j) (relating to the extension of time for the payment of a deficiency)¹¹ and the requirements of subsection (b) of section 1563. (R. S. 3186 as amended by May 29, 1928, c. 852, § 613, 45 Stat. 876.)

Sec. 1567. Extended application of provisions relating to release or partial discharge.—Sections 1563, 1564, 1565, and 1566 shall apply to a lien in respect of any internal revenue tax, whether or not the lien is imposed by this subchapter.¹² (R. S. 3186 as amended by May 29, 1928, c. 852, § 613, 45 Stat. 876.)

Sec. 1568. Bill in chancery to enforce lien on realty—(a) Filing.—In any case where there has been a refusal or neglect to pay any tax, and it has become necessary to seize and sell real estate to satisfy the same, the Commissioner may direct a bill in chancery to be filed, in a district court of the United States, to enforce the lien of the United States for tax upon any real estate, or to subject any real estate owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax. (R. S. 3207, as amended by June 2, 1924, c. 234, § 1030, 43 Stat. 350; Feb. 26, 1926, c. 27, § 1127 (a), 44 Stat. 123.)

(h) Parties to proceedings.—All persons having liens upon or claiming any interest in the real estate sought to be subjected as aforesaid, shall be made parties to such proceedings, and be brought into court as provided in other suits in chancery therein. (R. S. 3207, as amended by June 2, 1924, c. 234, § 1030, 43 Stat. 350; Feb. 26, 1926, c. 27, § 1127 (a), 44 Stat. 123.)

(c) Adjudication and decree.—¹³The said court shall, at the term next after the parties have been duly notified of the proceedings, unless otherwise ordered by the court, proceed to adjudicate all matters involved therein, and finally determine the merits of all claims to and liens upon the real estate in question, and, in all cases where a claim or interest of the United States therein is established, shall decree a sale of such real estate, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States. (R. S. 3207, as amended by June 2, 1924, c. 234, § 1030, 43 Stat. 350; Feb. 26, 1926, c. 27, § 1127 (a), 44 Stat. 123.)

Sec. 1569. Bill in chancery to clear title to realty—(a) Filing—(1) Request to Commissioner.—Any person having a lien upon or any interest in the real estate referred to in the preceding section,¹⁴ notice of which has been duly filed of record in the jurisdiction in which the real estate is located, prior to the filing of notice of the lieu of the United States as provided in section 1562, or any person purchasing the real estate

at a sale to satisfy such prior lien or interest, may make written request to the Commissioner to direct the filing of a bill in chancery as provided in the preceding section. (R. S. 3207, as amended by June 2, 1924, c. 234, § 1030, 43 Stat. 350; Feb. 26, 1926, c. 27, § 1127 (b), 44 Stat. 124.)

(2) Petition to court.—If the Commissioner fails to direct the filing of such bill 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 bill for a final determination of all claims to or liens upon the real estate in question. (R. S. 3207, as amended by June 2, 1924, c. 234, § 1030, 43 Stat. 351; Feb. 26, 1926, c. 27, § 1127 (b), 44 Stat. 124.)

(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 bill, in which the United States and all persons having liens upon or claiming any interest in the real estate shall be made parties. (R. S. 3207, as amended by June 2, 1924, c. 234, § 1030, 43 Stat. 350; Feb. 26, 1926, c. 27, § 1127 (c), 44 Stat. 124.)

(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, 1887,¹⁵ entitled "An Act to provide for the bringing of suits against the Government of the United States," c. 359, 24 Stat. 506 (U. S. C. 28: 762, 763). (R. S. 3207 as amended by June 2, 1924, c. 234, § 1030, 43 Stat. 351; Feb. 26, 1926, c. 27, § 1127 (b), 44 Stat. 124.)

(c) Adjudication.—Upon the filing of such bill the district court shall proceed to adjudicate the matters involved therein, in the same manner as in the case of bills filed under the preceding section. 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 bill shall be borne by the person filing the bill. (R. S. 3207 as amended by June 2, 1924, c. 234, § 1030, 43 Stat. 351; Feb. 26, 1926, c. 27, § 1127 (b), 44 Stat. 124.)

Sec. 1570. Cross references.—For lien in case of—(1) **Estate tax.**—See section 427.

(2) **Tax on distilled spirits.**—See section 1150 (e).

(3) **United States as party defendant in State court.**—For provisions permitting the United States to be made party defendant in a proceeding in a State court for the foreclosure of

¹⁵ Section 5 of the act of March 3, 1887:

"That the plaintiff in any suit brought under the provisions of the second section of this act shall file a petition, duly verified, with the clerk of the respective court having jurisdiction of the case, and in the district where the plaintiff resides. Such petition shall set forth the full name and residence of the plaintiff, the nature of his claim, and a succinct statement of the facts upon which the claim is based, the money or any other thing claimed, or the damage sought to be recovered, and praying the court for a judgment or decree upon the facts and law."

Section 6 of the act of March 3, 1887:

"That the plaintiff shall cause a copy of his petition filed under the preceding section to be served upon the district attorney of the United States in the district wherein suit is brought, and shall mail a copy of the same, by registered letter, to the Attorney General of the United States, and shall thereupon cause to be filed with the clerk of the court wherein suit is instituted an affidavit of such service and the mailing of such letter. It shall be the duty of the district attorney upon whom service of petition is made as aforesaid to appear and defend the interests of the Government in the suit, and within sixty days after the service of petition upon him, unless the time should be extended by order of the court made in the case to file a plea, answer, or demurrer on the part of the Government, and to file a notice of any counter-claim, set-off, claim for damages, or other demand or defense whatsoever of the Government in the premises: *Provided*, That should the district attorney neglect or refuse to file the plea, answer, demurrer, or defense, as required, the plaintiff may proceed with the case under such rules as the court may adopt in the premises; but the plaintiff shall not have judgment or decree for his claim, or any part thereof, unless he shall establish the same by proof satisfactory to the court."

¹¹ "Or of any similar provisions of any prior law" preceding "and" is omitted as temporary.

¹² The following provision of section 613 of the Revenue Act of 1928 was repealed by section 809 (b) of the Revenue Act of 1932: "The second sentence of section 315 (a) of the Revenue Act of 1926 is repealed."

¹³ "And" preceding "the" is omitted.

¹⁴ "The real estate referred to in the preceding section" is substituted for "such real estate."

a lien upon real estate where the United States may have a claim upon the premises involved, see Act of Mar. 4, 1931, c. 515, 46 Stat. 1528 (U. S. C. 28: 901-906).

SUBCHAPTER C—DISTRRAINT

PART I—DISTRRAINT ON PERSONAL PROPERTY

Sec. 1580. 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 5 per centum additional thereto, and interest as provided in section 1430 and section 1545, by distrain 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. (R. S. 3187 as amended by June 2, 1924, c. 234, § 1016, 43 Stat. 343.)

Sec. 1581. Property exempt from distrain.—(a) **Enumeration.**—¹⁶ There shall be exempt from distrain 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 distrain 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. (R. S. 3187.)

Sec. 1582. Levy.—In case of neglect or refusal under section 1580, 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 1560 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. (R. S. 3188.)

Sec. 1583. Proceedings on distrain.—When distrain is made, as provided in section 1580—

(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 distrain, 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.**—¹⁷ Forthwith cause a notification to be published in some newspaper within the county wherein said distrain 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. (R. S. 3190.)

¹⁶ "Provided, That" is omitted before "There."

(c) **Time and place of sale.**—The time of sale¹⁸ 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 distrain. (R. S. 3190.)

(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. (R. S. 3190.)

Sec. 1584. 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 distrain 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. (R. S. 3191.)

Sec. 1585. Property for account of United States.—(a) **Purchase.**—When any property advertised for sale under distrain is of a kind subject to tax, and the tax has not been paid, and the amount bid for such property is not equal to the amount of the tax, the collector may purchase the same in behalf of the United States for an amount not exceeding the said tax.

(b) **Sale.**—All property so purchased may be sold by the collector, under such regulations as may be prescribed by the Commissioner.

(c) **Accounting.**—The collector shall render to the Commissioner a distinct account of all charges incurred in such sales, and, in case of sale, shall pay into the Treasury the proceeds as provided in section 1761.¹⁹ (R. S. 3192.)

Sec. 1586. Redemption of property.—In any case of distrain for the payment of taxes, the goods, chattels, or effects so distrained shall be restored to the owner or possessor, if, prior to the sale, payment of the amount due is made to the proper officer charged with the collection, together with the fees and other charges; but in case of nonpayment, the said officer shall proceed to sell the said goods, chattels, or effects at public auction.²⁰ (R. S. 3193.)

Sec. 1587. Certificates of sale.—In all cases of sale, as aforesaid, the certificate of such sale—

(a) **As evidence.**—Shall be prima facie evidence of the right of the officer to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale; and

(b) **As conveyances.**—Shall transfer to the purchaser all right, title, and interest of such delinquent in and to the property sold; and

(c) **As authority for transfer of corporate stock.**—Where such property consists of stocks, shall be notice, when received, to any corporation, company, or association of said transfer, and shall be authority to such corporation, company, or association to record the transfer on their books and records in the same manner as if the stocks were transferred or assigned by the party holding the certificate of sale, in lieu of any original or prior certificates, which shall be void, whether canceled or not; and

¹⁷ "The said officer shall" is omitted as surplusage.

¹⁸ "The time of sale" is substituted for "such time."

¹⁹ "Proceeds as provided in section 1761" is substituted for "surplus, if any there be after defraying all lawful charges and fees."

²⁰ The following clause after "auction" in the original text is omitted as superseded by Feb. 26, 1926, c. 27, § 1123 (b), 44 Stat. 124, codified in section 1761:

"And shall retain from the proceeds of such sale, the amount demandable for the use of the United States, and a commission of five per centum thereon for his own use, with the fees and charges for distrain and sale, rendering the overplus, if any there be, to the person who may be entitled to receive the same."

(d) **As receipts.**—Where the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the same, as against any person holding, or claiming to hold, possession of such securities or other evidences of debt.²² (R. S. 3194.)

Sec. 1588. Cross references.—For provisions relating to—

(a) **Production of books.**—See section 1611.

(b) **Sale of indivisible property.**—See section 1612.

(c) **Stamps, marks, and brands.**—See section 1625.

PART II—DISTRRAINT ON REAL ESTATE

Sec. 1600. Authority to distrain.—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. (R. S. 3196.)

Sec. 1601. Proceedings on distrain—(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. (R. S. 3197 as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 331.)

(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. (R. S. 3197 as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 331.)

(c) **Time and place of sale.**²³—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. (R. S. 3197 as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 331.)

(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.²⁴ 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 charges²⁴ aforesaid to such several tracts or parcels, or to any of them, in estimating the minimum price. (R. S. 3197 as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 331.)

²² R. S. 3194: "In all cases of sale, as aforesaid, the certificate of such sale shall be prima facie evidence of the right of the officer to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale, and shall transfer to the purchaser all right, title, and interest of such delinquent in and to the property sold; and where such property consists of stocks, said certificate shall be notice, when received, to any corporation, company, or association of said transfer, and shall be 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."

²³ "The time of sale" is substituted for "which sale."

²⁴ "And an officer's fees of \$10" is omitted. R. S. 3206 gives the Commissioner authority by regulation to determine the fees in case of distrain. This fee has been discontinued (Treasury Decision 1373). Moreover, the compensation of field officers is now adjusted by section 2 of the Act of July 3, 1930, c. 8530, 46 Stat. 1005.

(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. (R. S. 3197 as amended by Mar. 1 1879, c. 125, § 3, 20 Stat. 332.)

(f) **Adjournment of sale.**—The said sale may be adjourned from time to time by said officer for not exceeding thirty days in all, as 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. (R. S. 3197 as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 332.)

Sec. 1602. 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. (R. S. 3201.)

(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. (R. S. 3202.)

(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. (R. S. 3202.)

(c) **Record.**—When any lands sold are redeemed as provided in this section, the collector shall make entry of the fact upon the record mentioned in section 1606, and the said entry shall be evidence of such redemption. (R. S. 3204.)

Sec. 1603. Certificates of purchase—(a) Real estate purchased by the United States.—In case the real estate sold under section 1601²⁵ shall be declared to be purchased for the United States, the officer shall immediately transmit a certificate of the purchase to the Commissioner. (R. S. 3197, as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 332.)

(b) **Real estate purchased by others.**—Upon any sale of real estate, as provided in section 1601, 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. (R. S. 3198.)

Sec. 1604. Deeds of sale—(a) Real estate purchased by the United States.—In case real estate shall be declared under section 1601 (e) to be purchased for the United States, the officer shall—

(1) **Execution.**—At the proper time, as provided in subsection (b), execute a deed therefor after its preparation and the endorsement of approval as to its form by the United States district attorney for the district in which the property is situate, and

(2) **Record and transmission.**—Without delay cause the same to be duly recorded in the proper registry of deeds, and immediately thereafter transmit such deed to the Commissioner. (R. S. 3197, as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 332.)

(b) **Real estate purchased by others.**—If the said real estate be not redeemed in the manner and within the time provided in section 1602, the said collector or deputy collector shall

²⁵ "And charges" is substituted for "charges and fees" for the reason explained in the preceding note.

²⁶ "Real estate sold under section 1601" is substituted for "same."

execute to the said purchaser, upon his surrender of said certificate, a deed of the real estate purchased by him as aforesaid, reciting the facts set forth in said certificate, and in accordance with the laws of the State in which such real estate is situate upon the subject of sales of real estate under execution. (R. S. 3198.)

(c) **Legal effect**—(1) **As evidence**.—The deed of sale given in pursuance of this section shall be prima facie evidence of the facts therein stated; and

(2) **As conveyance of title**.—If the proceedings of the officer as set forth have been substantially in accordance with the provisions of law, such deed shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real estate thus sold at the time the lien of the United States attached thereto. (R. S. 3199.)

Sec. 1605. Transmission of certificates and deeds to Commissioner.²⁶—All certificates of purchase, and deeds of property purchased by the United States under the internal revenue laws, on sales for taxes, or under executions issued from United States courts, which²⁷ may be found in the office of any collector, United States marshal, or United States district attorney, shall be immediately transmitted by such officers respectively to the Commissioner.²⁸ (R. S. 3197 as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 331.)

Sec. 1606. Records of sale—(a) **Requirement**.—It shall be the duty of every collector to keep a record of all sales of land made in his collection district, whether by himself or his deputies, or by another collector. And it shall be the duty of every deputy making sale, as aforesaid, to return a statement of all his proceedings to the collector, and to certify the record thereof. (R. S. 3203 as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 332.)

(b) **Contents**.—The record shall set forth²⁹ the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making said sale, the amount of fees and expenses, the name of the purchaser, and the date of the deed. (R. S. 3203 as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 332.)

(c) **Certification**.—The³⁰ said record shall be certified by the officer making the sale. (R. S. 3203 as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 332.)

(d) **Copy to Commissioner**.—On or before the 5th day of each succeeding month, the collector³¹ shall transmit a copy of such record of the preceding month to the Commissioner. (R. S. 3203 as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 332.)

(e) **Delivery by collector to successor**.—In case of the death or removal of the collector, or the expiration of his term of office from any other cause, said record shall be delivered to his successor in office. (R. S. 3203 as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 332.)

(f) **Copy as evidence**.—A copy of every such record, certified by the collector, shall be evidence in any court of the truth of the facts therein stated. (R. S. 3203 as amended by Mar. 1, 1879, c. 125, § 3, 20 Stat. 332.)

²⁶ "And it is hereby provided that" is omitted before "all."

²⁷ "Which may be found" is substituted for "which now are or hereafter may be found."

²⁸ "And it is hereby further provided, That for the preparation and approval by the United States district attorney of each deed as above required, a fee of five dollars shall be allowed to that officer, to be paid by the United States, and which he shall account for in his emolument returns" is omitted as superseded by May 28, 1896, c. 252, § 6, 29 Stat. 179; Mar. 3, 1905, c. 1483, § 1, 32 Stat. 1207; and July 19, 1919, c. 24, § 1, 41 Stat. 209, prohibiting the collection of fees from the United States by district attorneys.

²⁹ "The record shall set forth" is substituted for "in which shall be set forth."

³⁰ "The" preceding "said" is substituted for "and."

³¹ "The collector" is substituted for "he."

Sec. 1607. Cross references.—For provisions relating to—

(a) **Levy**.—See section 1582.

(b) **Production of books**.—See section 1611.

(c) **Sale of indivisible property**.—See section 1612.

(d) **Administration of real estate acquired by the United States**.—See section 1694.

PART III—GENERAL PROVISIONS

Sec. 1610. Surrender of property subject to distraint—

(a) **Requirement**.—Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process. (Feb. 26, 1926, c. 27, § 1114 (e), 44 Stat. 116.)

(b) **Penalty for violation**.—Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such levy has been made, together with costs and interest from the date of such levy. (Feb. 26, 1926, c. 27, § 1114 (e), 44 Stat. 116.)

(c) **Person defined**.—The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs. (Feb. 26, 1926, c. 27, § 1114 (f), 44 Stat. 116.)

Sec. 1611. Production of books.—All persons, and officers of companies or corporations, are required, on demand of a collector or deputy collector about to distraint or having distrained on any property, or rights of property, to exhibit all books containing evidence or statements relating to the subject of distraint, or the property or rights of property liable to distraint for the tax due. (R. S. 3189.)

Sec. 1612. Sale of indivisible property.—When any property liable to distraint for taxes is not divisible, so as to enable the collector by sale of a part thereof to raise the whole amount of the tax, with all costs and charges, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for the costs and charges of the distraint and sale, shall be deposited with the Treasurer of the United States as provided in section 1761. (R. S. 3195, as amended by June 2, 1924, c. 234, § 1031 (a), 43 Stat. 351; Feb. 26, 1926, c. 27, § 1128 (a), 44 Stat. 124.)

Sec. 1613. Distraint by collector outside his district.—Any collector or deputy collector may, for the collection of taxes imposed upon any person, and committed to him for collection, seize and sell any of the property, real or personal (except property exempt from distraint and sale under section 1581), or any right or interest therein, of such person situated in any other collection district within the State in which such officer resides, notwithstanding the provisions of subsection (b) of section 1541; and his proceedings in relation thereto shall have the same effect as if the same were had in his proper collection district. (R. S. 3200 as amended by Feb. 26, 1926, c. 27, § 1129, 44 Stat. 125.)

Sec. 1614. Period of limitation upon distraint—(a) **Length of period**.—For period within which distraint may be begun in case of—

(1) **Income tax**.—See sections 276 (c) and 277.

(2) **Estate tax**.—See sections 474 (b) (2) and 475.

(3) **Miscellaneous taxes**.—See section 1432 (d).

(b) **Date of beginning distraint.**—In determining the running of any period of limitation in respect of distraint, the distraint shall be held to have been begun—

(1) **Personal property.**—In the case of personal property, on the date on which the levy upon such property is made; or

(2) **Real property.**—In the case of real property, on the date on which notice of the time and place of sale is given to the person whose estate it is proposed to sell. (Feb. 26, 1926, c. 27, § 1130, 44 Stat. 125.)

Sec. 1615. Successive seizures.—Whenever any property, personal or real, which is seized and sold by virtue of the foregoing provisions, is not sufficient to satisfy the claim of the United States for which distraint or seizure is made, the collector may, thereafter, and as often as the same may be necessary, proceed to seize and sell in like manner, any other property liable to seizure of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid. (R. S. 3205.)

Sec. 1616. Fees and charges in distraint and seizure cases.—The Commissioner shall by regulation determine the fees and charges to be allowed in all cases of distraint and other seizures; and shall have power to determine whether any expense incurred in making any distraint or seizure was necessary. (R. S. 3206.)

Sec. 1617. Cross reference.—For distraint proceedings against delinquent collectors, see sections 1765 to 1768.

SUBCHAPTER D—FORFEITURES

Sec. 1620. Seizure of forfeitable property—(a) Authority of collectors and deputy collectors—(1) Manufactured articles.—All goods, wares, merchandise, articles, or objects, on which taxes are imposed, which shall be found in the possession, or custody, or within the control of any person, for the purpose of being sold or removed by him in fraud of the internal revenue laws, or with design to avoid payment of said taxes, may be seized by the collector or deputy collector of the proper district, or by such other collector or deputy collector as may be specially authorized by the Commissioner for that purpose, and shall be forfeited to the United States. (R. S. 3453.)

(2) **Raw materials and equipment.**—All raw materials found in the possession of any person intending to manufacture the same into articles of a kind subject to tax for the purpose of fraudulently selling such manufactured articles, or with design to evade the payment of said tax; and all tools, implements, instruments, and personal property whatsoever, in the place or building, or within any yard or inclosure where such articles or raw materials are found, may also be seized by any collector or deputy collector, as aforesaid, and shall be forfeited as aforesaid. (R. S. 3453.)

(b) **Authority of other internal revenue officers.**—Any officer of internal revenue may be specially authorized by the Commissioner to seize any property which may by law be subject to seizure, and for that purpose such officer shall have all the power conferred by law upon collectors; and such special authority shall be limited in respect of time, place, and kind and class of property, as the Commissioner may specify. (R. S. 3166.)

(c) **Responsibility.**—For the issuance of certificates of probable cause relieving officers making seizures of responsibility for damages, see R. S. 970 (U. S. C. 28: 818).

Sec. 1621. Judicial proceedings to enforce forfeiture—(a) Nature and venue.—The proceedings to enforce such forfeitures shall be in the nature of a proceeding in rem in the²² district court of the United States for the district where such

²² "Circuit court or" is omitted before "district" as circuit courts were abolished and their powers and duties transferred to district courts by the act of Mar. 3, 1911, cited.

seizure is made. (R. S. 3453; Mar. 3, 1911, c. 231, § 289, 36 Stat. 1167.)

(b) **Consolidation.**—For consolidation of seizures in one suit, see R. S. 920 (U. S. C. 28: 733).

Sec. 1622. Custody of seized goods pending possession by process of law.—Any goods, wares, merchandise, articles, or objects which may be seized, under the provisions of section 1620, by any collector or deputy collector, may, at the option of the collector, be delivered to the marshal of the district, and remain in the care and custody and under the control of said marshal, until he shall obtain possession by process of law. And the cost of seizure, made before process issues, shall be taxable by the court. (R. S. 3458.)

Sec. 1623. Perishable goods—(a) Examination and appraisal.—When any property which is seized under section 1620 is liable to perish or become greatly reduced in price or value by keeping, or when it can not be kept without great expense, the owner thereof, or the marshal of the district, may apply to the collector of the district to examine it; and if, in the opinion of said collector, it shall be necessary that the said property should be sold to prevent such waste or expense, he shall appraise the same; and thereupon

(b) **Return to owner under bond—(1) After seizure.**—The owner shall have said property returned to him upon giving bond in such form as may be prescribed by the Commissioner, and in an amount equal to the appraised value, with such sureties as the collector shall deem good and sufficient, to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the collector, marshal, or otherwise, as he may be ordered and directed by the court, which bond shall be filed by said collector with the United States district attorney for the district in which the proceedings in rem authorized in section 1621 may be commenced.

(2) **Before seizure.**—²³ In case said bond shall have been executed and the property returned before seizure thereof by virtue of the process aforesaid, the marshal shall give notice of pendency of proceedings in court to the parties executing said bond, by personal service or publication, and in such manner and form as the court may direct, and the court shall thereupon have jurisdiction of said matter and parties in the same manner as if such property had been seized by virtue of the process aforesaid. (R. S. 3459.)

(c) **Sale in absence of bond—(1) Order to sell.**—If said owner shall neglect or refuse to give said bond, the collector shall issue to a deputy collector or to the marshal aforesaid an order to sell the same.

(2) **Manner of sale.**—The deputy collector or marshal shall thereupon advertise and sell the said property at public auction in the same manner as goods may be sold on final execution in said district.

(3) **Disposition of proceeds.**—The proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court aforesaid, to abide its final order, decree, or judgment. (R. S. 3459.)

Sec. 1624. Goods valued at \$500 or less.—In all cases of seizure of any goods, wares, or merchandise as being subject to forfeiture under any provision of the internal revenue laws which, in the opinion of the collector or deputy collector making the seizure, are of the appraised value of \$500 or less, the said collector or deputy collector shall, except in cases otherwise provided, proceed as follows:

(a) **List and appraisal.**—He shall cause a list containing a particular description of the goods, wares, or merchandise seized to be prepared in duplicate, and an appraisal thereof to be made by three sworn appraisers, to be selected by him,

²³ "Provided, That" preceding "in" is omitted.

who shall be respectable and disinterested citizens of the United States residing within the collection district wherein the seizure was made. Said list and appraisal shall be properly attested by the said collector or deputy collector and the said appraisers, for which service each of the said appraisers shall be allowed the sum of \$1.50 a day, to be paid in the manner provided by law for other necessary charges of collectors. (R. S. 3460, First.)

(b) **Notice of seizure.**—If the said goods are found by the said appraisers to be of the value of \$500 or less, the said collector or deputy collector shall publish a notice, for three weeks, in some newspaper of the district where the seizure was made, describing the articles, and stating the time, place, and cause of their seizure, and requiring any person claiming them to appear and make such claim within thirty days from the date of the first publication of such notice. (R. S. 3460, Second.)

(c) **Execution of bond by claimant.**—Any person claiming the goods, wares, or merchandise so seized, within the time specified in the notice, may file with the said collector or deputy collector a claim, stating his interest in the articles seized, and may execute a bond to the United States in the penal sum of \$250, with sureties to be approved by the said collector or deputy collector, conditioned that, in case of condemnation of the articles so seized, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation; and upon the delivery of such bond to the collector or deputy collector, he shall transmit the same, with the duplicate list or description of the goods seized, to the United States district attorney for the district, and said attorney shall proceed thereon in the ordinary manner prescribed by law. (R. S. 3460, Third.)

(d) **Sale in absence of bond.**—If no claim is interposed and no bond is given within the time above specified, the collector or deputy collector, as the case may be, shall give ten days' notice of the sale of the goods, wares, or merchandise by publication, and, at the time and place specified in the notice, shall sell the articles so seized at public auction. (R. S. 3460, Fourth.)

(e) **Disposition of proceeds of sale.**—After deducting the expenses of appraisal and sale, the collector or deputy collector, as the case may be,³⁴ shall deposit the proceeds to the credit of the Secretary. If no application for restoration of the proceeds is made within one year, as prescribed in the following subsection, the Secretary shall, at the expiration of the said time, cause the proceeds of the sale of the said property to be distributed according to law, as in the case of goods, wares, or merchandise condemned and sold pursuant to the decree of a competent court. (R. S. 3460, Fourth; R. S. 3461.)

(f) **Remission of forfeiture.**—(1) **Claim.**—Within one year after the sale of any goods, wares, or merchandise, as provided in the preceding subsections, any person claiming to be interested in the property sold, may apply to the Secretary for a remission of the forfeiture thereof, or of any part thereof, and a restoration of the proceeds of the sale.

(2) **Allowance.**—The Secretary may grant the same upon satisfactory proof, to be furnished in such manner as he shall prescribe: *Provided*, That it shall be satisfactorily shown—

(A) That the applicant, at the time of the seizure and sale of the said property, and during the intervening time, was absent, out of the United States, or in such circumstances as prevented him from knowing of the seizure, and that he did not know of the same; and also

(B) That the said forfeiture was incurred without willful negligence or any intention of fraud on the part of the owner of said property. (R. S. 3461.)

Sec. 1625. Stamping, marking, and branding seized goods.—Where any whisky or tobacco, or other article of manufacture or produce, requiring brands, stamps, or marks of whatever

kind to be placed thereon shall be sold upon distraint, forfeiture, or other process provided by law, the same not having been branded, stamped, or marked, as required by law, the officer selling the same shall, upon sale thereof, fix or cause to be affixed the brands, stamps, or marks, so required, and deduct the expense thereof from the proceeds of such sale. (R. S. 3458.)

Sec. 1626. Customs laws applicable.—The provisions of law applicable to the remission or mitigation by the Secretary of forfeitures under the customs laws shall apply to forfeitures incurred or alleged to have been incurred³⁵ under the internal revenue laws. (May 29, 1928, c. 852, § 709, 45 Stat. 882.)

Sec. 1627. Cross references.—For provisions relating to—

(1) Destruction of stills and distilling apparatus after judgment of forfeiture, see section 1204.

(2) Release of seized distillery or distilling apparatus before judgment, see section 1203.

(3) Disposal of forfeited distilled spirits and equipment and material for distilling, see section 1156.

SUBCHAPTER E—SUITS BY UNITED STATES

Sec. 1640. Authorization to commence suit.—No suit for the recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Commissioner authorizes or sanctions the proceedings. (R. S. 3214.)

Sec. 1641. Continuance.—It shall be lawful for any court in which any suit or criminal proceeding arising under the internal revenue laws may be pending to continue the same at any stage thereof for good cause shown on motion by the district attorney. (R. S. 3231.)

Sec. 1642. Discontinuance or nolle prosequi.—For discontinuance or nolle prosequi of prosecutions against distillers for defrauding or attempting to defraud the United States of tax on distilled spirits, see section 1155. (f) (2).

Sec. 1643. Regulations.—It shall be the duty of the Commissioner, with the approval of the Secretary, to establish such regulations, not inconsistent with law, for the observance of revenue officers, district attorneys, and marshals, respecting suits arising under the internal revenue laws in which the United States is a party, as may be deemed necessary for the just responsibility of those officers and the prompt collection of all revenues and debts due and accruing to the United States under such laws. (R. S. 3215.)

Sec. 1644. Suits for taxes.—Taxes may be sued for and recovered in the name of the United States in any proper form of action, before any district court of the United States, for the district within which the liability to such tax is incurred, or where the party from whom such tax is due resides at the time of the commencement of the said action. (R. S. 3213; Mar. 3, 1911, c. 231, § 289, 36 Stat. 1167.)

Sec. 1645. Suits for fines, penalties, and forfeitures.—(a) **Prosecution.**—(1) **By collector.**—It shall be the duty of the collectors, in their respective districts, subject to the provisions of this title, to prosecute for the recovery of any sums which may be forfeited by law. (R. S. 3213.)

(2) **By district attorney.**—For duty of district attorney to prosecute for violations of revenue laws, see R. S. 838 as amended by Feb. 27, 1877, c. 69, § 1, 19 Stat. 241 (U. S. C. 28: 486.)

(b) **Collector's report to district attorney.**—It shall be the duty of every collector of internal revenue having knowledge of any willful violation of any law of the United States relating to the revenue, within thirty days after coming into possession of such knowledge, to file with the district attorney of the district in which any fine, penalty, or forfeiture may be incurred, a statement of all the facts and circumstances of the case within his knowledge, together with the names of the witnesses, setting

³⁴ "The collector or deputy collector, as the case may be," is substituted for "he."

³⁵ "Before or after the enactment of this act" is omitted after "incurred."

forth the provisions of law believed to be so violated on which reliance may be had for condemnation or conviction. (R. S. 3164 as amended by Feb. 24, 1919, c. 18, § 1317, 40 Stat. 1146; Feb. 26, 1926, c. 27, § 1115, 44 Stat. 117.)

(c) **Plaintiff, proceedings, and venue.**—All suits for fines, penalties, and forfeitures, where not otherwise provided for, shall be brought in the name of the United States, in any proper form of action, or by any appropriate form of proceeding, *qui tam* or otherwise, before any district court of the United States for the district within which said fine, penalty, or forfeiture may have been incurred, or before any other court of competent jurisdiction. (R. S. 3213; Mar. 3, 1911, c. 231, § 289, 36 Stat. 1167.)

(d) **Costs.**³⁰—In case of any suit for penalties or forfeitures brought upon information received from any person, other than a collector, deputy collector, revenue agent, or inspector, the United States shall not be subject to any costs of suit. (R. S. 3214; July 13, 1866, c. 184, § 9, 14 Stat. 111; R. S. 969 (U. S. C. 28: 817).)

Sec. 1646. Suits for recovery of erroneous refunds—(a) Refunds after limitation period.—Any portion of an internal revenue tax (or any interest, penalty, additional amount, or addition to such tax) refund of which is erroneously made, within the meaning of section 1674,³⁷ may be recovered by suit brought in the name of the United States, but only if such suit is begun within two years after the making of such refund. (May 29, 1928, c. 852, § 610 (a), 45 Stat. 875.)

(b) **Refunds otherwise erroneous.**—Any portion of an internal revenue tax (or any interest, penalty, additional amount, or addition to such tax) which has been erroneously refunded (if such refund would not be considered erroneous under section 1674) may be recovered by suit brought in the name of the United States, but only if such suit is begun before the expiration of two years after the making of such refund.³⁸ (May 29, 1928, c. 852, § 610(b), 45 Stat. 875.)

Sec. 1647. Disposition of judgments and moneys recovered.—All judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties, shall be paid to collectors as internal revenue taxes are required to be paid. (R. S. 3216.)

Sec. 1648. Periods of limitation.—For period of limitation in respect of—

(a) **Suits for taxes—(1) Income tax.**—See sections 275, 276, and 277.

(2) **Estate tax.**—See sections 474 and 475.

(3) **Gift tax.**—See sections 566 and 567.

(4) **Miscellaneous taxes.**—See section 1432.

(b) **Suits for fines, penalties, and forfeitures.**—See section 1047 of the Revised Statutes (U. S. C. 28: 791).³⁹

(c) **Suits for erroneous refunds.**—See section 1646.

(d) **Criminal prosecutions.**—See Act of July 5, 1884, c. 225, § 1, 23 Stat. 122 as amended by June 6, 1932, c. 209, § 1108, 47 Stat. 288 (U. S. C. Supp. 18: 585).⁴⁰

³⁰ "Provided, That" preceding "in" is omitted.

³⁷ The phrase "after the enactment of this act" is omitted as temporary.

³⁸ "Or before May 1, 1928, whichever date is later," is omitted as temporary after "refund."

³⁹ R. S. 1047. "No suit or prosecution for any penalty or forfeiture, pecuniary or otherwise, accruing under the laws of the United States, shall be maintained, except in cases where it is otherwise specially provided, unless the same is commenced within five years from the time when the penalty or forfeiture accrued: *Provided*, That the person of the offender, or the property liable for such penalty or forfeiture, shall, within the same period, be found within the United States; so that the proper process therefor may be instituted and served against such person or property."

⁴⁰ Section 1108 of the Revenue Act of 1932:

Sec. 1108. Limitation on prosecutions for internal revenue offenses.—(a) The Act entitled "An Act to limit the time within which prosecutions may be instituted against persons charged with violating internal revenue laws," approved July 5, 1884, as amended, and as reenacted

SUBCHAPTER F—CLOSING AGREEMENTS AND COMPROMISES

Sec. 1660. Closing agreements—(a) Authorization.—The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period ending prior to the date of the agreement. (May 29, 1928, c. 852, § 606 (a), 45 Stat. 874.)

(b) **Finality.**—If such agreement is approved by the Secretary, or the Undersecretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded. (May 29, 1928, c. 852, § 606 (b), 45 Stat. 874.)⁴¹

Sec. 1661. Compromises—(a) Authorization.—The Commissioner, with the advice and consent of the Secretary, may compromise any civil or criminal case arising under the internal revenue laws instead of commencing suit thereon; and, with the advice and consent of the said Secretary and the recommendation of the Attorney General, he may compromise any such case after a suit thereon has been commenced. (R. S. 3229.)

(b) **Record.**—Whenever a compromise is made in any case there shall be placed on file in the office of the Commissioner the opinion of the General Counsel for the Bureau of Internal

by section 1110 of the Revenue Act of 1926, is amended to read as follows:

"That no person shall be prosecuted, tried, or punished, for any of the various offenses arising under the internal revenue laws of the United States unless the indictment is found or the information instituted within three years next after the commission of the offense, except that the period of limitation shall be six years—

"(1) for offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner,

"(2) for the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof, and

"(3) for the offense of willfully aiding or assisting in, or procuring, counseling, or advising, the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document).

"For offenses arising under section 37 of the Criminal Code, where the object of the conspiracy is to attempt in any manner to evade or defeat any tax or the payment thereof, the period of limitation shall also be six years. The time during which the person committing any of the offenses above mentioned is absent from the district wherein the same is committed shall not be taken as any part of the time limited by law for the commencement of such proceedings. Where a complaint is instituted before a commissioner of the United States within the period above limited, the time shall be extended until the discharge of the grand jury at its next session within the district."

(b) The amendment made by subsection (a) of this section shall apply to offenses whenever committed; except that it shall not apply to offenses the prosecution of which was barred before the date of the enactment of this Act."

⁴¹ Subsection (c) of section 606 of the Revenue Act of 1928 reads as follows: "Section 1106 (b) of the Revenue Act of 1926 is repealed, effective on the expiration of 30 days after the enactment of this Act, but such repeal shall not affect any agreement made before such repeal takes effect." It is omitted as temporary,

Revenue,⁴² or of the officer acting as such, with his reasons therefor, with a statement of—

- (1) The amount of tax assessed,
- (2) The amount of additional tax or penalty imposed by law in consequence of the neglect or delinquency of the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise. (R. S. 3229; Feb. 26, 1926, c. 27, § 1201, 44 Stat. 126.)

(c) **Cross reference.**—For compromises after judgment, see R. S. 3469 (U. S. C. 31: 194).

Sec. 1662. Penalties.—Any person who, in connection with any compromise under section 1661, or offer of such compromise, or in connection with any closing agreement under section 1660, or offer to enter into any such agreement, willfully—

(a) **Concealment of property.**—Conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or

(b) **Withholding, falsification, and destruction of records.**—Receives, destroys, mutilates, or falsifies any book, document, or record, or makes under oath any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax—

Shall, upon conviction thereof, be fined not more than \$10,000 or imprisoned for not more than one year, or both. (May 29, 1928, c. 852, § 616, 45 Stat. 877.)

Chapter 24.—ABATEMENTS, CREDITS, AND REFUNDS

Sec.

1670. Authority to make abatements, credits, and refunds.

1671. Interest on overpayments.

1672. Suits for refund.

1673. Interest on judgments.

1674. Refunds after periods of limitation.

1675. Credits after periods of limitation.

1676. Reports to Congress of refunds in excess of \$500.

1677. Reports of refunds and credits in excess of \$75,000.

1678. Cross references.

Sec. 1670. Authority to make abatements, credits, and refunds—(a) To taxpayers—(1) Assessments and collections generally.—Except as otherwise provided by law in the case of income, estate, and gift taxes, the Commissioner, subject to regulations prescribed by the Secretary, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected. (R. S. 3220 as amended by May 29, 1928, c. 852, § 619, 45 Stat. 878, and May 29, 1928, c. 901, § 3, 45 Stat. 996.)

(2) **Assessments and collections after limitation period.**—Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid¹ after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim. (May 29, 1928, c. 852, § 607, 45 Stat. 874.)

(3) **Date of allowance.**—Where the Commissioner has (before or after June 6, 1932²) signed a schedule of overassessments in respect of any internal revenue tax imposed by this title, the Revenue Act of 1932, 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

⁴² "General Counsel for the Bureau of Internal Revenue" is substituted for "Solicitor of Internal Revenue" in view of section 1201 of the Revenue Act of 1926, cited to the text, codified in sections 1720 and 1721.

¹ "(Whether before or after the enactment of this Act)" is omitted.

² "June 6, 1932" is substituted for "the enactment of this Act."

or credit in respect of such tax. (June 6, 1932, c. 209, § 1104, 47 Stat. 287.)

(4) **Cross references.**—For limitations on refunds and credits in case of—

(A) **Income tax.**—See section 322.

(B) **Estate tax.**—See sections 510, 511, and 512.

(C) **Gift tax.**—See section 577.

(D) **Miscellaneous taxes.**—See section 1433.

(b) **To collectors and officers.**—The Commissioner, subject to regulations prescribed by the Secretary, is authorized³ to repay—

(1) **Collections recovered.**—To any collector or deputy collector the full amount of such sums of money as may be recovered against him in any court, for any internal revenue taxes collected by him, with the cost and expense of suit; also

(2) **Damages and cost.**—All damages and cost recovered against any⁴ collector, deputy collector, agent, or inspector, in any suit brought against him by reason of anything done in the due performance of his official duty. (R. S. 3220; May 29, 1928, c. 901, § 3, 45 Stat. 996.)

Sec. 1671. Interest on overpayments—(a) Rate.—Interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the rate of 6 per centum per annum.⁵ (May 29, 1928, c. 852, § 614 (a), 45 Stat. 876; June 30, 1932, c. 314, § 319, 47 Stat. 412; Mar. 3, 1933, c. 212, Title II, § 14, 47 Stat. 1517.)

(h) **Period.**—Such interest shall be allowed and paid⁶ as follows:

(1) **Credits.**—In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment of a tax imposed by the Revenue Act of 1921, Nov. 23, 1921, c. 136, 42 Stat. 227, or any subsequent Revenue Act, then to the date of the assessment of that amount.

(2) **Refunds.**—In the case of a refund, from the date of the overpayment to a date preceding the date of the refund check by not more than thirty days, such date to be determined by the Commissioner. (May 29, 1928, c. 852, § 614 (a), 45 Stat. 876.)

(c) **Additional assessment defined.**—As used in this section the term "additional assessment" means a further assessment for a tax of the same character previously paid in part, and includes the assessment of a deficiency of any income or estate tax imposed by the Revenue Act of 1924, June 2, 1924, c. 234, 43

³ The words "The Commissioner, subject to regulations prescribed by the Secretary, is authorized" are added to supply the omission of "also."

⁴ "Assessor, assistant assessor" preceding "collector" in the original text is omitted since the offices of assessor and assistant assessor were abolished by the Act of Dec. 24, 1872, c. XIII, § 1, 17 Stat. 401.

⁵ Section 614 (a) of the Revenue Act of 1928 reads as follows:

"(a) Interest shall be allowed and paid upon any overpayment in respect of any internal-revenue tax, at the rate of 6 per centum per annum, as follows:

"(1) In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment of a tax imposed by the Revenue Act of 1921 or any subsequent revenue Act, then to the date of the assessment of that amount.

"(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days, such date to be determined by the Commissioner."

Section 319 of the Act of June 30, 1932, repealed as of June 30, 1932, by Mar. 3, 1933, c. 212, Title II, § 14, 47 Stat. 1517, read as follows: "Hereafter the rate of interest to be allowed or paid shall be 4 per centum whenever interest is allowed by law upon any judgment of whatsoever character against the United States and/or upon any overpayment in respect of any internal-revenue tax. All laws or parts of laws in so far as inconsistent herewith are hereby repealed."

⁶ "Such interest shall be allowed and paid" is interpolated.