

93–490, §3(b)(5), Oct. 26, 1974, 88 Stat. 1467; Pub. L. 94–455, title XIX, §1904(b)(8)(G), (9)(D), Oct. 4, 1976, 90 Stat. 1816.)

Editorial Notes

AMENDMENTS

1976—Par. (2). Pub. L. 94–455, §1904(b)(9)(D), redesignated par. (7) as (2). Former par. (2), which related to oleomargarine or filled cheese adjudged to contain deleterious ingredients, was repealed. See 1958 Amendment note below.

Par. (3). Pub. L. 94–455, §1904(b)(9)(D), redesignated par. (8) as (3). Former par. (3), relating to offenses by manufacturers or importers of or wholesale dealers in oleomargarine or adulterated butter, was struck out.

Par. (4). Pub. L. 94–455, §1904(b)(9)(D), struck out par. (4) which related to the purchase or receipt of adulterated butter.

Par. (5). Pub. L. 94–455, §1904(b)(9)(D), struck out par. (5) which related to packages of oleomargarine found without required stamps or marks.

Par. (6). Pub. L. 94–455, §1904(b)(8)(G), struck out par. (6) which related to white phosphorus matches.

Pars. (7), (8). Pub. L. 94–455, §1904(b)(9)(D), redesignated pars. (7) and (8) as (2) and (3), respectively.

1974—Par. (4). Pub. L. 93–490 substituted provisions relating to purchase or receipt of adulterated butter and payment of tax under section 4821 of this title for provisions relating to purchase or receipt of filled cheese or adulterated butter and payment of tax under section 4821 or 4841 of this title.

Par. (5). Pub. L. 93–490 substituted provisions relating to packages of oleomargarine subject to tax under subchapter F of chapter 38 of this title for provisions relating to oleomargarine or filled cheese subject to tax under subchapter F of chapter 38 or part II of subchapter C of chapter 39 of this title.

1958—Pub. L. 85–881 repealed par. (2) which related to oleomargarine or filled cheese adjudged to contain deleterious ingredients.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94–455, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–490 applicable to filled cheese manufactured, imported, or sold after Oct. 26, 1974, see section 3(c) of Pub. L. 93–490, set out as an Effective Date of Repeal note under sections 4831 to 4834 of this title.

§ 7304. Penalty for fraudulently claiming drawback

Whenever any person fraudulently claims or seeks to obtain an allowance of drawback on goods, wares, or merchandise on which no internal tax shall have been paid, or fraudulently claims any greater allowance of drawback than the tax actually paid, he shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of \$500, at the election of the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 869; Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

AMENDMENTS

1976—Pub. L. 94–455 struck out “or his delegate” after “Secretary”.

PART II—PROVISIONS COMMON TO FORFEITURES

Sec.	
7321.	Authority to seize property subject to forfeiture.
7322.	Delivery of seized personal property to United States marshal.
7323.	Judicial action to enforce forfeiture.
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7325.	Personal property valued at \$100,000 or less.
[7326.]	Repealed.]
7327.	Customs laws applicable.
7328.	Cross references.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–141, div. U, title IV, §401(b)(50), Mar. 23, 2018, 132 Stat. 1205, struck out item 7326 “Disposal of forfeited or abandoned property in special cases”.

1986—Pub. L. 99–514, title XV, §1566(d), Oct. 22, 1986, 100 Stat. 2763, substituted “\$100,000” for “\$2,500” in item 7325.

1976—Pub. L. 94–455, title XIX, §1904(b)(8)(H)(ii), Oct. 4, 1976, 90 Stat. 1816, struck out item 7328 “Confiscation of matches exported” and redesignated item 7329 as 7328.

1958—Pub. L. 85–859, title II, §204(11), Sept. 2, 1958, 72 Stat. 1429, substituted “\$2,500” for “\$1,000” in item 7325.

§ 7321. Authority to seize property subject to forfeiture

Any property subject to forfeiture to the United States under any provision of this title may be seized by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 869; Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

AMENDMENTS

1976—Pub. L. 94–455 struck out “or his delegate” after “Secretary”.

§ 7322. Delivery of seized personal property to United States marshal

Any forfeitable property which may be seized under the provisions of this title may, at the option of the Secretary, be delivered to the United States marshal of the district, and remain in the care and custody and under the control of such marshal, pending disposal thereof as provided by law.

(Aug. 16, 1954, ch. 736, 68A Stat. 869; Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

AMENDMENTS

1976—Pub. L. 94–455 struck out “or his delegate” after “Secretary”.

§ 7323. Judicial action to enforce forfeiture

(a) Nature and venue

The proceedings to enforce such forfeitures shall be in the nature of a proceeding in rem in the United States District Court for the district where such seizure is made.

(b) Service of process when property has been returned under bond

In case bond as provided in section 7324(3) shall have been executed and the property re-

turned before seizure thereof by virtue of process in the proceedings in rem authorized in subsection (a) of this section, 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.

(c) Cost of seizure taxable

The cost of seizure made before process issues shall be taxable by the court.

(Aug. 16, 1954, ch. 736, 68A Stat. 869.)

§ 7324. Special disposition of perishable goods

When any property which is seized under the provisions of section 7301 or section 7302 is liable to perish or become greatly reduced in price or value by keeping, or when it cannot be kept without great expense—

(1) Application for examination

The owner thereof, or the United States marshal of the district, may apply to the Secretary to examine it; and

(2) Appraisal

If, in the opinion of the Secretary, it shall be necessary that such property should be sold to prevent such waste or expense, the Secretary shall appraise the same; and thereupon

(3) Return to owner under bond

The owner shall have such property returned to him upon giving bond in an amount equal to such appraised value 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 Secretary, the United States marshal, or otherwise, as may be ordered and directed by the court, which bond shall be filed by the Secretary with the United States attorney for the district in which the proceedings in rem authorized in section 7323 may be commenced.

(4) Sale in absence of bond

(A) Order to sell

If such owner shall neglect or refuse to give such bond, the Secretary shall issue to any Treasury officer or employee or to the United States marshal an order to sell the same.

(B) Manner of sale

Such Treasury officer or employee or the marshal shall as soon as practicable make public sale of such property in accordance with such regulations as may be prescribed by the Secretary.

(C) Disposition of proceeds

The proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court to abide its final order, decree, or judgment.

(5) Form of bond and sureties

For provisions relating to form and sureties on bonds, see section 7101.

(Aug. 16, 1954, ch. 736, 68A Stat. 870; Pub. L. 85-859, title II, §204(9), Sept. 2, 1958, 72 Stat. 1429;

Pub. L. 85-866, title I, §78, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

AMENDMENTS

1976—Pars. (1) to (4). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1958—Par. (3). Pub. L. 85-866 struck out “district” before “attorney”.

Pub. L. 85-859 included property seized under section 7302 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

Amendment by Pub. L. 85-859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

§ 7325. Personal property valued at \$100,000 or less

In all cases of seizure of any goods, wares, or merchandise as being subject to forfeiture under any provision of this title which, in the opinion of the Secretary, are of the appraised value of \$100,000 or less, the Secretary shall, except in cases otherwise provided, proceed as follows:

(1) List and appraisal

The Secretary shall cause a list containing a particular description of the goods, wares, or merchandise seized to be prepared in duplicate, and an appraisement thereof to be made by three sworn appraisers, to be selected by the Secretary who shall be respectable and disinterested citizens of the United States residing within the internal revenue district wherein the seizure was made. Such list and appraisement shall be properly attested by the Secretary and such appraisers. Each appraiser shall be allowed for his services such compensation as the Secretary shall by regulations prescribe, to be paid in the manner similar to that provided for other necessary charges incurred in collecting internal revenue.

(2) Notice of seizure

If such goods are found by such appraisers to be of the value of \$100,000 or less, the Secretary shall publish a notice for 3 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 30 days from the date of the first publication of such notice.

(3) 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 Secretary a claim, stating his interest in the articles seized, and may execute a bond to the United States in the penal sum of \$2,500, conditioned that, in case of condemnation of the articles so seized, the obligors shall pay all the costs