

U. S. TREASURY DEPARTMENT
BUREAU OF INTERNAL REVENUE

REGULATIONS 113

(1943 EDITION)

RELATING TO THE

TAX ON THE TRANSPORTATION
OF PROPERTY

UNDER

CHAPTER 30 OF THE
INTERNAL REVENUE CODE
AS AMENDED

(PART 143 OF TITLE 26, CODIFICATION OF FEDERAL REGULATIONS)



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TITLE 26—INTERNAL REVENUE

CHAPTER I, SUBCHAPTER C

PART 143—REGULATIONS RELATING TO THE TAX WITH RESPECT TO THE TRANSPORTATION OF PROPERTY*

SUBPART A—INTRODUCTORY

SECTION 143.0. SCOPE OF REGULATIONS.—These regulations deal with the excise tax with respect to the transportation of property imposed by Chapter 30, Subchapter E, of the Internal Revenue Code, as added by section 620 of the Revenue Act of 1942.

Subpart B defines certain of the terms that are used in the Code and in these regulations.

Subpart C contains general provisions relating to the effective period, scope, rates, and application of the tax.

Subpart D deals with exemption from the tax in the case of amounts paid *by* or *to* the United States or any agency or instrumentality thereof for the transportation of property, and with amounts paid *by* a State for such transportation.

Subpart E relates to exemption from the tax in the case of property shipped for export and actually exported.

Subpart F deals with the registration of taxpayers.

Subpart G deals with returns, payment of tax, and records.

Subpart H contains miscellaneous provisions relating to refunds and credits, and penalties and interest.

The statutory references are to the Internal Revenue Code (53 Stat., Part 1) unless otherwise stated.*

*Sections 143.0 to 143.63 are issued under the authority contained in sections 3472, 3791 of the Internal Revenue Code (53 Stat., 423 and 467, 26 U. S. C., 1940 ed., 3472, 3791), and follow the statutory provisions to which they, respectively, refer.

SUBPART B—DEFINITIONS

SEC. 3797. DEFINITIONS.

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) **PERSON.**—The term “person” shall be construed to mean and include an individual, a trust, estate, partnership, company, or corporation.

(2) **PARTNERSHIP AND PARTNER.**—The term “partnership” includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term “partner” includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) **CORPORATION.**—The term “corporation” includes associations, joint-stock companies, and insurance companies.

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(9) **UNITED STATES.**—The term “United States” when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(10) **STATE.**—The word “State” shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury.

(12) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of Internal Revenue.

(13) **COLLECTOR.**—The term “collector” means collector of internal revenue.

(14) **TAXPAYER.**—The term “taxpayer” means any person subject to a tax imposed by this title.

* * * * *

(b) **INCLUDES AND INCLUDING.**—The terms “includes” and “including” when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

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SEC. 143.1. **MEANING OF TERMS.**—As used in these regulations, unless otherwise specified or indicated by the context—

(a) *General.*—The terms defined in the applicable provisions of law shall have the meanings so assigned to them.

(b) *Person engaged in the business of transporting property for hire.*—The term “person engaged in the business of transporting

property for hire" includes a common carrier, contract carrier, local moving or drayage concern, freight forwarder, express company, or other person transporting property for hire wholly or in part by rail, motor vehicle, water, or air.

(c) *Carrier*.—The term "carrier" is coextensive with the term "person engaged in the business of transporting property for hire."

(d) *Transportation*.—The term "transportation" as used herein means the movement of property by a person engaged in the business of transporting property for hire, including interstate, intrastate, and intracity or other local movements, as well as towing, ferrying, switching, etc. In general, it includes accessorial services furnished in connection with a transportation movement, such as loading, unloading, blocking and staking, elevation, transfer in transit, ventilation, refrigeration, icing, storage, demurrage, lighterage, trimming of cargo in vessels, wharfage, handling, feeding and watering live stock, and similar services and facilities.

(e) *Property*.—The term "property" means any physical matter regardless of value over which the right of ownership or control may be exercised, including currency, documents, papers of all kinds, etc.

(f) *Coal*.—The term "coal" as used herein includes anthracite, bituminous, semibituminous, sub-bituminous, and lignite coal, coal dust, and coke, and briquettes made from coal.*

SUBPART C—GENERAL PROVISIONS

SEC. 620. TRANSPORTATION OF PROPERTY. (REVENUE ACT OF 1942.)

(a) Chapter 30 is amended by inserting at the end thereof the following new subchapter:

“SUBCHAPTER E—TRANSPORTATION OF PROPERTY

“SEC. 3475. TRANSPORTATION OF PROPERTY.

“(a) TAX.—There shall be imposed upon the amount paid within the United States after the effective date of this section for the transportation, on or after such effective date, of property by rail, motor vehicle, water, or air from one point in the United States to another, a tax equal to 3 per centum of the amount so paid, except that, in the case of coal, the rate of tax shall be 4 cents per short ton. Such tax shall apply only to amounts paid to a person engaged in the business of transporting property for hire, including amounts paid to a freight forwarder, express company, or similar person, but not including amounts paid by a freight forwarder, express company, or similar person for transportation with respect to which a tax has previously been paid under this section. In the case of property transported from a point without the United States to a point within the United States the tax shall apply to the amount paid within the United States for that part of the transportation which takes place within the United States. The tax on the transportation of coal shall not apply to the transportation of coal with respect to which there has been a previous taxable transportation.”

* * * * *

(c) EFFECTIVE DATE OF SECTION.—The amendments made by this section shall take effect on the first day of the first month which begins more than thirty days after the date of the enactment of this Act.

SEC. 143.10. EFFECTIVE PERIOD.—The tax on the transportation of property imposed by section 3475(a) is effective with respect to transportation originating on or after December 1, 1942, and continues in effect indefinitely.*

SEC. 143.11. SCOPE OF TAX.—Section 3475(a) imposes a tax upon amounts paid within the United States after December 1, 1942, to a person engaged in the business of transporting property for hire, for transportation, originating on or after such date, of property by rail, motor vehicle, water, or air from one point in the United States to another.*

SEC. 143.12. RATE OF TAX.—The tax is equal to 3 per cent of the taxable payment for the transportation of property, except that in the case of coal the rate of tax is 4 cents per short ton (2,000 pounds).*

SEC. 143.13. APPLICATION OF TAX.—(a) *In general.*—The tax is payable by the person making the taxable transportation payment and is collectible by the person receiving such payment. (See section 143.50.)

The tax applies to the total amount paid within the United States for transportation of property from one point in the United States to another even though while en route part of the transportation movement is through a foreign country.

The tax applies to any payment, not specifically exempted, for the transportation of property, made to a person engaged in the business of transporting property for hire, including a payment made by one such person to another, but not including an amount paid by a carrier, a freight forwarder, express company, or similar person for transportation with respect to which a tax is payable to such person.

The tax applies only to amounts paid after December 1, 1942, for transportation which originated on or after that date. No tax attaches to payments for transportation originating prior to the first moment of December 1, 1942. Payments made prior to December 2, 1942, are not taxable regardless of when the transportation occurs.

In the case of property transported from a point without the United States to a point within the United States the tax applies to any amount paid within the United States for that part of the transportation which takes place within the United States.

Where the amount paid in the United States covers the entire movement of property from point of origin in a foreign country to an inland point in the United States, the tax will apply to the pro rata part of such payment which represents transportation within the United States. However, in the case of shipments of foreign origin arriving by water, no tax will attach to transportation or services performed prior to the unloading of property at the port of first arrival.

The tax does not apply: (1) to an amount paid outside the United States for the transportation of property from a point without the United States to a point within the United States; (2) to an amount paid by a carrier, freight forwarder, express company, or similar person for the transportation of property with respect to which a tax is payable to such carrier, freight forwarder, express company, or similar person; (3) to an amount paid by or to the United States or any agency or instrumentality thereof for the transportation of property (see section 143.20); (4) to an amount paid by a State, or political subdivision thereof, for the transportation of property (see section 143.21); or (5) to an amount paid for the transportation of property in course of exportation or shipment to a possession of the United States and actually so exported or shipped (see section 143.30).

(b) *Coal*.—An amount paid after December 1, 1942, with respect to the first transportation for hire originating on or after that date of coal is subject to tax, except that if such payment covers a movement from the mine to a preparation plant, including a breaker, washery, or tippie, the tax will apply to the first transportation for hire which occurs thereafter.

An amount paid for transportation of coal is not taxable if there has been a previous taxable transportation of such coal. However, as there was no "taxable transportation" of coal prior to December 1, 1942, the tax applies to the amount paid for the first movement for hire, originating on or after that date, of all prepared coal, or of coal which is to be consumed in its unprepared state, irrespective of the fact that there may have been one or more previous movements of such coal for hire.

No tax attaches with respect to the transportation of unprepared coal from the mine to a preparation plant, including a breaker, washery, or tippie.

An amount paid for the transportation of coke or briquettes made from coal is not subject to tax, provided there has been a previous taxable transportation of the coal or coal dust from which such coke or briquettes were manufactured.

When a person delivers to a carrier a quantity of coal for a transportation movement, and the transportation tax has previously been paid with respect to the coal so delivered, a statement to that effect shall be endorsed on the bill of lading or other shipping papers. This endorsement shall constitute authority to the carrier not to collect tax with respect to the transportation charges due on such shipment.*

SEC. 143.14. ACCESSORIAL AND OTHER MISCELLANEOUS CHARGES.—(a) *Circus or show trains*.—An amount paid pursuant to a contract for the movement of a circus or show train is subject to the 3 per cent tax where the amount covers only the transportation of the performers, laborers, equipment, etc., by the circus or show train. However, if the contract payment also covers the issuance to advance agents, bill posters, etc., of circus or show scrip books or other evidence of the right to transportation for use on regular passenger trains, that portion of the contract payment properly allocable to such scrip books or other evidence is subject to tax as an amount paid for the transportation of persons imposed under section 3469 of the Internal Revenue Code. The balance of the contract payment is subject to the tax on the transportation of property.

(b) *Refused or unclaimed property*.—When damaged, refused, or unclaimed property is sold by a carrier in satisfaction of a transportation charge, the carrier will collect from the purchaser the tax on the

net amount realized from such sale to the extent of, but not in excess of, the actual transportation charge.

(c) *Baggage*.—An amount paid, in connection with the transportation of persons, for the transportation of baggage, including incidental charges on account of excess weight, excess value, storage, transfer, special delivery, etc., or an amount so paid for a special baggage or express car or other conveyance, is subject to the tax on the transportation of property if separable from the payment for the transportation of persons and separately shown on the records of the carrier. Otherwise, the tax on the transportation of persons applies.*

SEC. 143.15. IN-TRANSIT SHIPMENTS.—In the case of an in-transit shipment where a carrier has charged a local rate from the point of origin to the in-transit point and also a local rate from the in-transit point to the point of destination, and subsequently an adjustment is made for the difference between the sum of the local rates and the through rate, the carrier is authorized to make adjustment of the proportionate amount of tax involved and take credit for such amount in a subsequent monthly return.*

SUBPART D—GOVERNMENTAL EXEMPTIONS

SEC. 3475. TRANSPORTATION OF PROPERTY. (AS ADDED BY SECTION 620 OF THE REVENUE ACT OF 1942.)

* * * * *

“(b) EXEMPTION OF GOVERNMENT TRANSPORTATION.—The tax imposed under this section shall not apply to amounts paid by or to the United States or any agency or instrumentality of the United States for the transportation of property.”

SEC. 143.20. PAYMENTS BY OR TO THE UNITED STATES.—An amount paid to the United States or any agency or instrumentality thereof for the transportation of property is exempt from tax.

An amount paid directly to a carrier by the United States or any agency or instrumentality thereof for the transportation of property is likewise exempt.

In neither case will an exemption certificate be required.*

SEC. 143.21. PAYMENTS BY A STATE OR POLITICAL SUBDIVISION THEREOF.—An amount paid directly to a carrier by a State, or political subdivision thereof, for the transportation of property is exempt from tax and no exemption certificate will be required.*

SUBPART E—EXPORT SHIPMENTS

SEC. 143.30. TRANSPORTATION OF PROPERTY BEYOND THE BOUNDARIES OF THE UNITED STATES.—The tax will not apply to an amount paid in the United States for transportation of property in course of exportation to a foreign destination, or shipment to a possession of the United States, in accordance with the applicable requirements of these regulations. The provisions of this subpart covering transportation of property for export shall also apply to transportation to a possession of the United States.

Property will be considered to be in course of exportation from the time of delivery to a carrier in the United States for transportation by continuous movement to a point beyond the boundaries of the United States. The term "United States" means the States, the Territories of Alaska and Hawaii, and the District of Columbia.

A shipment moving through the United States from one foreign point to another is deemed to be in course of exportation. However, if a break in the movement occurs within the United States, the tax will apply to any payment made in the United States with respect to that part of the transportation which takes place in the United States. Any subsequent transportation of such property would be regarded as a separate movement.

The export character of a shipment shall be evidenced by a contract, order, proposal of purchase, or other written evidence of intention to export, antedating the delivery of the shipment to the carrier.*

SEC. 143.31. CONTINUITY OF MOVEMENT.—The continuity of the movement shall be evidenced by a through bill of lading covering a shipment to contiguous foreign territory, or a through export bill of lading covering a land-and-ocean shipment to noncontiguous foreign territory or to a possession of the United States, or, when the movement has not been under through shipping papers, by the bills of lading, freight or express receipts, or other evidence. Any break in the movement must be due to the fault of transportation and not to any act of the shipper.

In case a break occurs in the movement of property shipped for export, which is not the fault of transportation, and the property comes to rest in transit prior to exportation, that part of the amount paid for the transportation which pertains to the movement from the point of origin to the point where the break occurs is taxable. A "break"

may be said to occur wherever the property is stopped for a business purpose, such as grading, cleaning, mixing, sorting, or manufacture, and not merely in accommodation to the means of transportation.

When a shipment originating in, and consigned to a destination in, the United States is subsequently diverted or reconsigned to a foreign destination and exported, tax will be due on that part of the amount paid for transportation which covers the movement from the point of origin to the point where the diversion or reconsignment to the foreign destination occurs. The amount paid for transportation from the point of diversion or reconsignment to the foreign destination will be considered as exempt from tax provided a temporary exemption certificate and certificate of exportation are filed. (See sections 143.33 and 143.34.)

The related bill of lading or receipt, or other evidence of the continuity of the movement, shall be made available for inspection by internal revenue officers and retained by the shipper or other person who pays for the transportation for a period of four years from the date of payment.*

SEC. 143.32. BILLS OF LADING.—An amount paid for the transportation of property shipped direct from a point within the United States to a point outside the United States under a through bill of lading or a through export bill of lading will be treated as exempt from the transportation tax without further evidence of actual exportation. In case a through bill of lading is not issued at the point of origin, but the shipper intends to obtain a through bill of lading, there should be stamped across the original shipping papers the words: "To be exchanged for through bill of lading." The original shipping papers in such case must show a consignee and destination outside the United States.

A shipment to contiguous foreign territory not made on a through bill of lading, or a land-and-ocean shipment not made on a through export bill of lading, must be covered by a temporary exemption certificate, and proof of the exportation of the shipment must be established by the subsequent filing of a certificate of exportation as explained in sections 143.33 and 143.34.

A bill of lading covering property consigned to a person at a border point or port of exportation, even though showing the name of a foreign consignee and an ultimate foreign destination, is not a through bill of lading within the meaning of these regulations and shipments so consigned, in order to be exempt from the transportation tax, must be covered by a temporary exemption certificate and a certificate of exportation.*

SEC. 143.33. TEMPORARY EXEMPTION CERTIFICATE.—The Temporary Exemption Certificate, Form 798, shall be executed in accordance with

the instructions printed thereon and in these regulations, and filed in duplicate by the shipper or other person who pays the transportation charge with the agent of the carrier at the time of payment. The carrier receiving a Temporary Exemption Certificate, in duplicate, shall retain the duplicate with the paid transportation document, and forward the original securely attached to its monthly return, Form 727, Revised, to the collector of internal revenue for the district in which the carrier's principal place of business is located.

If a break for a business purpose occurs in the transportation movement covered by a Temporary Exemption Certificate, the amount paid for the transportation from the point of origin to the point where the break occurs is taxable.*

SEC. 143.34. CERTIFICATE OF EXPORTATION.—Upon receipt of evidence of the actual exportation of a shipment, covering which a Temporary Exemption Certificate on Form 798 has been filed, the shipper or other person who paid for the transportation of the shipment to the point of export shall execute Form 799, Certificate of Exportation, in duplicate, retain the duplicate with the shipping papers, and at the close of the month forward the original to the Commissioner of Internal Revenue, Washington, D. C., attention: MT: M.

Documentary evidence of the exportation of the property, such as a copy of export bill of lading, memorandum from the captain of the vessel, customs official, or foreign consignee, shipper's export declaration, or other evidence sufficient to establish the fact that the property has actually been exported, shall be made available for inspection by internal revenue officers and be retained by the person paying the transportation charge for a period of four years.

If a properly executed certificate of exportation is not furnished within six months from the date of shipment from the point of origin, the tax on the amount paid for transportation will be assessed and collected from the person who paid for the transportation.*

SEC. 143.35. POOLS OR SIMILAR ARRANGEMENTS.—Property intended expressly for export may be shipped from an interior point into a pool or similar arrangement, such as a grain elevator, oil storage tank, coal yard, etc., and, in continuation of the export movement, an equivalent amount of property of the same grade and kind, only, may be shipped therefrom to a place outside the United States.

The movement of property intended for export from an interior point to a pool shall be covered by a Temporary Exemption Certificate, Form 798, executed and filed as provided in section 143.33. This certificate shall have the word "Pool" typed, printed, or stamped in the space provided therefor immediately beneath the number of the certificate.

Where a person has been designated to direct the exporting operations of a pool with authority to control its accounting practice, an additional copy of the Temporary Exemption Certificate, Form 798, filed with the carrier covering each shipment entering the pool, shall be furnished to such person by the person who pays the transportation charge. The director of the pool may, in behalf of the shipper or other person who paid the transportation charge, execute Forms 799 as prescribed in section 143.34 covering shipments made from the pool for export.

No exemption from tax will be allowed with respect to transportation of property entering a pool in excess of the quantity of the same grade and kind actually exported therefrom.*

SUBPART F—REGISTRATION

SEC. 3475. TRANSPORTATION OF PROPERTY. (AS ADDED BY SECTION 620 OF THE REVENUE ACT OF 1942.)

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“(e) REGISTRATION.—Every person engaged in the business of transporting property for hire, including freight forwarders, express companies, and similar persons, shall, on or before the sixtieth day after the effective date of this section, or within sixty days after first engaging in the business of transportation of property for hire, register his name and his place or places of business with the collector in the district in which is located the principal place of business of such person. Every such person who fails to register within the period specified shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$50.”

SEC. 143.40. REGISTRATION.—Every person engaged in the business of transporting property for hire, by rail, motor vehicle, water, or air, including freight forwarders, express companies, and similar persons, shall, on or before January 30, 1943, or within 60 days after first engaging in the business of transportation of property for hire, file Application for Registry on Form 800 with the collector for the district in which is located his principal place of business (or if he has no principal place of business in the United States, then with the collector of Internal Revenue, Baltimore, Md.). A new application must be filed immediately upon removal of the place of business to a new location.

The collector receiving an application for registry will issue Certificate of Registry, Form 800A, which must be posted in the registered place of business.

Every person required to register who fails to do so within the specified period is liable for the penalties imposed by law.*

SUBPART G—RETURNS, PAYMENT OF TAX, AND RECORDS

SEC. 3475. TRANSPORTATION OF PROPERTY. (AS ADDED BY SECTION 620 OF THE REVENUE ACT OF 1942.)

“(c) RETURNS AND PAYMENT.—The tax imposed by this section shall be paid by the person making the payment subject to the tax. Each person receiving any payment specified in subsection (a) shall collect the amount of the tax imposed from the person making such payment, and shall, on or before the last day of each month, make a return, under oath, for the preceding month, and pay the taxes so collected to the collector in the district in which his principal place of business is located, or if he has no principal place of business in the United States, to the collector at Baltimore, Maryland. Such returns shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulations prescribe.

“(d) EXTENSIONS OF TIME.—The Commissioner may extend the time for making returns and paying the taxes collected, under such rules and regulations as he shall prescribe with the approval of the Secretary, but no such extension shall be for more than ninety days.”

SEC. 3470. PAYMENT OF TAXES.

The taxes imposed by this chapter shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time fixed for filing the return. * * *

LIABILITY FOR TAXES COLLECTED

SEC. 3661. ENFORCEMENT OF LIABILITY FOR TAXES COLLECTED.

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

SEC. 3658. FRACTIONAL PARTS OF A CENT.

In the payment of any tax under this title 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.

RECORDS, STATEMENTS, AND SPECIAL RETURNS

SEC. 1720. RECORDS, STATEMENTS, AND RETURNS.

Every person liable to any tax imposed by this chapter, or for the collection thereof, shall keep such records, render under oath such state-

ments, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

SEC. 3603. NOTICE REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS.

Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

SEC. 3634. EXTENSION OF TIME FOR FILING RETURNS.

If the failure to file a return (other than a return of income tax) or list at the time prescribed by law or by regulation made under authority of law is due to sickness or absence, the collector may allow such further time, not exceeding thirty days, for making and filing the return or list as he deems proper.

SEC. 3632. AUTHORITY TO ADMINISTER OATHS, TAKE TESTIMONY, AND CERTIFY.

(a) **INTERNAL REVENUE PERSONNEL.—**

(1) **PERSONS IN CHARGE OF ADMINISTRATION OF INTERNAL REVENUE LAWS GENERALLY.**—Every collector, deputy collector, internal revenue agent, and internal revenue officer assigned to duty under an internal revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

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(b) **OTHERS.**—Any oath or affirmation required or authorized by any internal revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by any consular officer of the United States. This subsection shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

SEC. 3330. WITNESSING OF RETURNS IN LIEU OF OATH.

The Commissioner, with the approval of the Secretary, may by regulation prescribe that any return required by any internal revenue law (except returns required under income or estate tax laws) to be under oath may, if the amount of the tax covered thereby is not in excess of \$10, be signed or acknowledged before two witnesses instead of under oath.

SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR.

(a) **AUTHORITY OF COLLECTOR.**—If any person fails to make and file a return or list at the time prescribed by law or by regulation made under

authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise.

(b) **AUTHORITY OF COMMISSIONER.**—In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise—

(1) **TO MAKE RETURN.**—Make a return, or

(2) **TO AMEND COLLECTOR'S RETURN.**—Amend any return made by a collector or deputy collector.

(c) **LEGAL STATUS OF RETURNS.**—Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

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EXAMINATION OF BOOKS AND WITNESSES

SEC. 3614. EXAMINATION OF BOOKS AND WITNESSES.

(a) **TO DETERMINE LIABILITY OF THE TAXPAYER.**—The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

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APPLICABILITY OF ADMINISTRATIVE PROVISIONS

SEC. 3473. APPLICABILITY OF ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 1700, shall, in so far as applicable and not inconsistent with this chapter, be applicable in respect of the taxes imposed by this chapter.

SEC. 1722. OTHER LAWS APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this chapter.

SEC. 1719. DISCRETIONARY METHOD ALLOWED COMMISSIONER FOR COLLECTING TAX.

Whether or not the method of collecting any tax imposed by this chapter is specifically provided herein, any such tax may, under regulations prescribed by the Commissioner, with the approval of the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty

provisions of subchapters A, B, and C of chapter 11, in so far as applicable, shall apply to the collection of any tax which the Commissioner determines or prescribes shall be collected in such manner.

SEC. 143.50. DUTY TO COLLECT, RETURN, AND PAY TAX.—Every person receiving any taxable payment for the transportation of property must collect the tax from the person making such payment at the time the payment is made.*

SEC. 143.51. RECORDS.—Every person required by the provisions of the Code to collect any tax on any amount paid for the transportation of property must keep accurate records to show with respect to each individual transaction the amount of tax collected or evidence of the right to exemption where tax is not collected. Such records shall be kept for at least four years from the date the tax is due, and shall at all times be open to inspection by internal revenue officers. For penalties for failure to keep proper and accurate records, see section 143.62.*

SEC. 143.52. RETURNS.—Every person required to collect any tax on any amount paid for the transportation of property must make returns on Form 727 (Revised) in accordance with the instructions printed on the back thereof and in these regulations. A return must be made, in duplicate, under oath, for each calendar month, and must be sworn to before a person duly authorized to administer oaths, unless the amount of tax returned is \$10 or less, when it may be signed or acknowledged before two witnesses. The return, together with the amount of the tax, must be filed with the collector of the district in which the principal place of business of the person required to file the return is located (or if he has no principal place of business in the United States, with the collector at Baltimore, Md.), on or before the last day of the month following that for which it is made, except where otherwise required. (See sections 143.53, relating to extension of time, and 143.56, relating to jeopardy assessments.)

When the last day of the month in which a return is due falls on Sunday or a legal holiday, the return may be filed with the collector of internal revenue or his authorized representative on the next secular or business day. If a person charged with the duty of collecting and paying over the tax on any of the facilities or services specified above discontinues business for any reason, the last return to be filed shall be marked "Final Return."

For penalties for failure to file, or delinquency in filing, returns, see section 143.62.*

SEC. 143.53. EXTENSION OF TIME.—If it is found impossible to make the proper return within the prescribed time, a request may be filed with the Commissioner for an extension of time, and upon a proper showing the Commissioner may, pursuant to section 3475, fix a definite

time in each instance within which the return may be filed, but in no case shall such extension exceed 90 days.*

SEC. 143.54. PAYMENT OF TAXES.—All taxes are due and payable to the collector of internal revenue, without assessment by the Commissioner or notice from the collector, at the time fixed for filing the return. If the tax is not paid when due there shall be added, as part of the tax, interest at the rate of 6 per cent per annum from the time the tax became due to the actual date of payment or assessment, whichever is prior. (See section 143.62.) *

SEC. 143.55. REFUSAL TO PAY TAXES.—If a person to whom taxable transportation service is furnished refuses to pay the tax imposed thereon, or if for any reason it is impossible for the collecting agency to collect the tax from such person, the collecting agency should report to the collector of internal revenue for the district in which its returns are filed the name and address of such person, the nature of the service rendered, the amount paid for such service, and the date on which paid. Upon receipt of such information the collector will report the item to the Commissioner for direct assessment. (See section 143.62 for penalties for refusal to pay tax.) *

JEOPARDY ASSESSMENT

SEC. 3690. JEOPARDY ASSESSMENT.

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

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

SEC. 143.56. JEOPARDY ASSESSMENT.—Whenever in the opinion of the collector it becomes necessary to protect the interests of the Government by effecting immediate collection of tax, the matter shall be promptly reported to the Commissioner by telegram or letter showing the reasons therefor. The communication must state the full name and address of the person involved, the kind and amount of tax due, and the period involved, so that the Commissioner can immediately

assess the tax, together with all penalties and interest due. Such tax, penalties, and interest will, upon assessment, become immediately due and payable, and the collector shall, without delay, issue a notice and demand for payment thereof in full.

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

Upon refusal to pay, or failure to pay or give bond, the collector shall proceed immediately to collect the tax, penalty, and interest, by distraint, without regard to the 10-day period after notice and demand prescribed in section 3690.*

SUBPART H—MISCELLANEOUS PROVISIONS

REFUNDS AND CREDITS

SEC. 3471. REFUNDS AND CREDITS. (AS AMENDED BY SECTION 554(d) (2) OF THE REVENUE ACT OF 1941.)

(a) Credit or refund of any overpayment of tax imposed by subchapter B or subchapter C may be allowed to the person who collected the tax and paid it to the United States if such person establishes, to the satisfaction of the Commissioner, under such regulations as the Commissioner with the approval of the Secretary may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtained the consent of such person to the allowance of such credit or refund.

(b) Any person entitled to refund of tax under this chapter paid, or collected and paid, to the United States by him may take credit therefor against taxes due upon any monthly return.

(c) Any person making a refund of any payment on which tax under subchapter B or subchapter C has been collected, may repay therewith the amount of tax collected on such payment, and the amount of tax so repaid may be credited against the tax under any subsequent return.

SEC. 620. TRANSPORTATION OF PROPERTY. (REVENUE ACT OF 1942.)

* * * * *

(b) TECHNICAL AMENDMENT.—Section 3471 (a) and (b) are amended by striking out "or Subchapter C" wherever occurring therein and inserting in lieu thereof "Subchapter C, or Subchapter E".

SEC. 3770. AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS. (AS AMENDED BY SECTION 508(b) OF THE SECOND REVENUE ACT OF 1940.)

(a) To TAXPAYERS.—

(1) ASSESSMENTS AND COLLECTIONS GENERALLY.—Except as otherwise provided by law in the case of income, war-profits, excess-profits, 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.

(2) ASSESSMENTS AND COLLECTIONS AFTER LIMITATION PERIOD.—Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid 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.

* * * * *

SEC. 3313. PERIOD OF LIMITATION UPON REFUNDS AND CREDITS.

All claims for the refunding or crediting of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, be presented to the Commissioner within four years next after the payment of such tax, penalty, or sum. The amount of the refund (in the case of taxes other than income, war-profits, excess-profits, estate, and gift taxes) shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

SEC. 3771. 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.

(b) **PERIOD.**—Such interest shall be allowed and paid 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, 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, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

* * * * *

SEC. 3772. SUITS FOR REFUND.

(a) **LIMITATIONS.**—

(1) **CLAIM.**—No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof.

(2) **TIME.**—No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of mailing by registered mail by the Commissioner to the taxpayer of a notice of the disallowance of the part of the claim to which such suit or proceeding relates.

(3) RECONSIDERATION AFTER MAILING OF NOTICE.—Any consideration, reconsideration, or action by the Commissioner with respect to such claim following the mailing of a notice by registered mail of disallowance shall not operate to extend the period within which suit may be begun. This paragraph shall not operate (A) to bar a suit or proceeding in respect of a claim reopened prior to June 22, 1936, if such suit or proceeding was not barred under the law in effect prior to that date, or (B) to prevent the suspension of the statute of limitations for filing suit under section 3774(b) (2).

(b) PROTEST OR DURESS.—Such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

* * * * *

SEC. 3774. REFUNDS AFTER PERIODS OF LIMITATION.

A refund of any portion of an internal revenue tax (or any interest, penalty, additional amount, or addition to such tax) shall be considered erroneous—

(a) EXPIRATION OF PERIOD FOR FILING CLAIM.—If made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) DISALLOWANCE OF CLAIM AND EXPIRATION OF PERIOD FOR FILING SUIT.—In the case of a claim filed within the proper time and disallowed by the Commissioner if the refund was made after the expiration of the period of limitation for filing suit, unless—

(1) within such period suit was begun by the taxpayer, or

(2) within such period, the taxpayer and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more named cases then pending before the Board of Tax Appeals or the courts. If such agreement has been entered into, the running of such statute of limitations shall be suspended in accordance with the terms of the agreement.

* * * * *

SEC. 3775. CREDITS AFTER PERIODS OF LIMITATION.

(a) PERIOD AGAINST UNITED STATES.—Any credit against a liability in respect of any taxable year shall be void if any payment in respect of such liability would be considered an overpayment under section 3770(a) (2).

(b) PERIOD AGAINST TAXPAYER.—A credit of an overpayment in respect of any tax shall be void if a refund of such overpayment would be considered erroneous under section 3774.

SEC. 143.60. CREDITS.—Every person required to pay tax, or to collect and pay tax, who overpays from his own funds, tax on any monthly return may, in cases where the overpayment was the result of a clerical or mechanical error, take credit for such overpayment against the tax due on a subsequent monthly return.

Every person required to collect tax, who makes a refund of any payment on which tax has been collected, may repay therewith the amount of tax collected on such payment and take credit for the amount so repaid against the tax due on a subsequent monthly return.

Any monthly return on which a credit is taken shall have attached thereto a sworn statement explaining the reason or reasons for claiming the credit, setting forth the amount of each kind of tax, and the portion thereof chargeable to each month's tax payment which is claimed to have been overpaid or overcollected, and stating whether a claim for refund with respect to any of the amounts involved has been filed, either with the collector or the Commissioner. To the extent that credit claimed on a return filed by a collecting agency is based on refunds or adjustments made with persons who paid the tax, the statement shall show that the collecting agency has refunded the tax to the persons involved or has obtained the written consent of such persons to the allowance of the credit. The written consent must be forwarded to the collector with the return on which the credit is taken.

A complete and detailed record of all credits taken shall be maintained and made available for inspection by revenue officers for four years from the date of the return on which the credit appears.*

SEC. 143.61. ABATEMENT OR REFUND OF ERRONEOUS OR ILLEGAL ASSESSMENTS OR COLLECTIONS.—A claim for abatement or refund of taxes alleged to have been erroneously or illegally assessed or paid (or of any penalties assessed or collected without authority) shall be prepared on Form 843 and presented to the collector of internal revenue for the district in which the amount claimed was assessed or paid. (See section 3313 of the Code.)

Where a collecting agency has erroneously or illegally overpaid from its own funds any tax, the collecting agency may claim a refund of such overpayments. In case a collecting agency has erroneously or illegally overcollected and overpaid any tax due, the collecting agency may claim a refund of the amount so overcollected and overpaid, but only if it is established by affidavit or otherwise as may be required (a) that the tax so overcollected and overpaid has been returned to the person from whom collected, or that the collecting agency has obtained the written consent of such person to the granting of the refund, and (b) that no credits have been taken for the alleged overpayment in the manner provided for in section 143.60.

If a person who has paid tax to a collecting agency files a claim for refund in his own name, there should be attached to the claim the original receipts issued by the collecting agency showing payment of the tax involved and a sworn statement of the facts on which the claim for refund is based, and the affidavit on Form 843 must show that no repayment of the tax alleged to have been overpaid or any part thereof has been made to the claimant by the collecting agency and that he has not consented to the allowance of credit or refund to the collecting agency.*

PENALTIES AND INTEREST

SEC. 1853. PAYMENT OF TAX.

* * * * *

(c) ADDITION TO THE TAX IN CASE OF DELINQUENCY.—If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time the tax became due until paid.

SEC. 3470. PAYMENT OF TAXES.

* * * If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time the tax became due until paid.

SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR.

* * * * *

(d) ADDITIONS TO TAX.—

(1) FAILURE TO FILE RETURN.—In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax: *Provided*, That in the case of a failure to make and file a return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after August 30, 1935, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

(2) FRAUD.—In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

* * * * *

(e) COLLECTION OF ADDITIONS TO TAX.—The amount added to any tax under paragraphs (1) and (2) of subsection (d) shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

SEC. 3655. 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.

(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 6 per centum per annum from the date of such notice to the date of payment; * * *

* * * * *

SEC. 1718. PENALTIES.

(a) Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this chapter to collect, account for and pay over any tax imposed by this chapter who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this chapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by this chapter, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subsection for any offense for which a penalty may be assessed under authority of section 3612.

(d) 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.

SEC. 143.62. PENALTIES AND INTEREST.—In case of failure to file a return within the prescribed time, a certain percentage of the amount of the tax is added to the tax, unless the return is later filed and failure to file the return within the prescribed time is shown to the satisfaction of the Commissioner to be due to a reasonable cause and not to willful neglect. The amount to be added to the tax is 5 per cent if the failure is for not more than 30 days, with an additional 5 per cent for each additional 30 days or fraction thereof during which the failure continues, but not to exceed 25 per cent in the aggregate.

Failure to pay tax within the time fixed for filing returns causes interest to accrue automatically, without assessment of the tax by the Commissioner or notice to the taxpayer, to the date of payment or

assessment, whichever is prior. The due date of the tax for the purpose of computing interest is the last day of the month within which the return is required to be filed and the tax paid.

Where assessment is made, and payment is not made within 10 days after the issuance of the first notice and demand (Form 17), there will accrue, under section 3655, a 5 per cent penalty and interest at the rate of 6 per cent per annum computed upon the entire assessment from the date of issuance of Form 17 until date of payment. Where assessment is settled by partial payments, interest shall be computed on the total assessment at the above-prescribed rate from the date of the first 10-day notice through the date of first payment, and on the balance interest shall be computed from the next succeeding day to the date of the next payment, and so on until the assessment is paid in full.

If a claim for abatement is filed with the collector within 10 days after the date of the issuance of the first notice and demand, the 5 per cent penalty does not attach. If the assessment is not paid within 10 days after receipt of notice of rejection of the claim, the 5 per cent penalty applies. The filing of the claim does not affect the accrual of interest, which continues to run for the full period from the date of the first notice and demand through the date of payment.

If a false or fraudulent return is willfully made, the penalty under section 3612(d)(2) is 50 per cent of the total tax due for the entire period involved, including any tax previously paid for such period.

Any person who willfully fails to pay or collect any tax due, file return, or keep records, or who attempts in any manner to evade or defeat the tax, is subject to a fine of \$10,000, or imprisonment, or both, with costs of prosecution, and is also liable to a penalty equal to the amount of the tax not collected or paid. These penalties apply to any officer or employee who, as such officer or employee, is under a duty to perform the act in respect of which the violation occurs, as well as to any other person who fails or refuses to perform any of the duties imposed by the Code, i. e., pay or collect the tax, make return, keep records, supply information, etc.*

SEC. 3710. 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.

(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.

(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.

SEC. 3793. PENALTIES AND FORFEITURES.

* * * * *
(b) FRAUDULENT RETURNS, AFFIDAVITS, AND CLAIMS.—

(1) ASSISTANCE IN PREPARATION OR PRESENTATION.—Any person who willfully aids or assists in, or procures, counsels, or advises 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, shall (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) be guilty of a felony, and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(2) PERSON DEFINED.—The term "person" as used in this subsection 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.

* * * * *
SEC. 35. CRIMINAL CODE OF THE UNITED STATES, AS AMENDED BY THE ACT APPROVED APRIL 4, 1938 (52 STAT., 197).

(A) Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder; or whoever shall enter into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim; * * * shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.

* * * * *

AUTHORITY FOR REGULATIONS

SEC. 3791. RULES AND REGULATIONS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—* * * the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

(2) IN CASE OF CHANGE IN LAW.—The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

(b) RETROACTIVITY OF REGULATIONS OR RULINGS.—The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

SEC. 143.63. PROMULGATION OF REGULATIONS.—In pursuance of the provisions of the law, the foregoing regulations are hereby prescribed.*

NORMAN D. CANN,

Acting Commissioner of Internal Revenue.

Approved: February 1, 1943.

JOHN L. SULLIVAN,

Acting Secretary of the Treasury.

(Filed with the Division of the Federal Register February 1, 1943, 4:42 p. m.)

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