

Internal Revenue Service, Treasury

§ 301.9001

officer or employee to refuse to disclose the internal revenue records or information sought. If instructions have not been received from the Commissioner at the time when the officer or employee is required to appear before the court, administrative agency, or other authority in response to the demand, the U.S. attorney, his assistant, or other appropriate legal representative shall be requested to appear with the officer or employee upon whom the demand has been served and request additional time in which to receive such instructions. In the event the court, administrative agency, or other authority rules adversely with respect to the refusal to disclose the records or information pursuant to the instructions of the Commissioner, or declines to defer a ruling until instructions from the Commissioner have been received, the officer or employee upon whom the demand has been served shall, pursuant to this section, respectfully decline to disclose the internal revenue records or information sought.

(e) *Record of seizure and sale of real estate.* Record 21, "Record of seizure and sale of real estate", is open for public inspection in offices of district directors of internal revenue and copies are furnished upon application.

(f) *State liquor, tobacco, firearms, or explosives cases.* Assistant Regional Commissioners (alcohol, tobacco and firearms) or the Director, Bureau of Alcohol, Tobacco and Firearms Division may, in the interest of Federal and State law enforcement, upon receipt of demands or requests of State authorities, and at the expense of the State, authorize special investigators and other employees under their supervision to attend trials and administrative hearings in liquor, tobacco, firearms, or explosives cases in which the State is a party, produce records, and testify as to facts coming to their knowledge in their official capacities: *Provided*, That such production or testimony will not divulge information contrary to section 7213 of the Code, nor divulge information subject to the restrictions in section 5848. See also 18 U.S.C. 1905.

(g) *Penalties.* Any officer or employee of the Internal Revenue Service who disobeys the provisions of this section

will be subject to dismissal and may incur criminal liability.

(h) *Disclosure of economic stabilization matters.* (1) The Commissioner, in his discretion, is specifically authorized to divulge or disclose to a complainant or to an individual with specific knowledge of a complaint, the nature and result of the investigation of said complaint in circumstances where no violation has been found.

(2) The provisions of this paragraph are prescribed under the authority of the Economic Stabilization Act of 1970, as amended, Pub. L. 91-379, 84 Stat. 799; Pub. L. 91-558, 84 Stat. 1468; Pub. L. 92-8, 85 Stat. 13; Pub. L. 92-15, 85 Stat. 38; Pub. L. 92-210, 85 Stat. 743; Executive Order No. 11627, as amended; Cost of Living Council Order No. 5, 36 FR 21798; Pay Board Order No. 1, 36 FR 21798; Price Commission Order No. 1, 36 FR 21798, §102.4 of chapter I of title 6.

(i) *Effective date.* The provisions of this section are applicable to any request or demand for internal revenue records or information received by any officer or employee of the Internal Revenue Service after June 15, 1967 (except for paragraph (h) of this section, the provisions of which shall be applicable after January 31, 1972).

[32 FR 15241, Nov. 3, 1967, as amended by 37 FR 2481, Feb. 1, 1972; T.D. 7188, 37 FR 12797, June 29, 1972; T.D. ATF-33, 41 FR 44038, Oct. 6, 1976]

§ 301.9001 Statutory provisions; Outer Continental Shelf Lands Act Amendments of 1978.

Section 302 of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629) provides as follows:

Sec. 302. (a) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund in an amount not to exceed \$200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) of this section to be paid into the Fund. The Fund shall be administered by the Secretary¹ and the Secretary of the Treasury as specified in this title. The Fund may sue and be sued in its own name.

(b) The Fund shall be composed of—

¹"Secretary" wherever used in this section means the Secretary of Transportation.

(1) All fees collected pursuant to subsection (d) of this section; and

(2) All other moneys recovered or collected on behalf of the Fund under section 308 or any other provision of this title.

(c) The Fund shall be immediately available for—

(1) Removal costs described in section 301(22);

(2) The processing and settlement claims under section 307 of this title (including the costs of assessing injury to, or destruction of, natural resources); and

(3) Subject to such amounts as are provided in appropriation Acts, all administrative and personnel costs of the Federal Government incident to the administration of this title, including, but not limited to, the claims settlement activities and adjudicatory and judicial proceedings, whether or not such costs are recoverable under section 308 of this title.

The Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the Fund for such purposes.

(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable regulations relating to the collection of the fees authorized by paragraph (1) of this subsection and, from time to time, the modification thereof. Any modification shall become effective on the date specified in the regulation making such modification, but no earlier than the ninetieth day following the date such regulation is published in the FEDERAL REGISTER. Any modification of the fee shall be designed to insure that the Fund is maintained at a level of not less than \$100,000,000 and not more than \$200,000,000. No regulation that sets or modifies fees, whether or not in effect, may be stayed by any court pending completion of judicial review of such regulation.

(3)(A) Any person who fails to collect or pay any fee as required by any regulation promulgated under paragraph (2) of this subsection shall be liable for a civil penalty not to exceed \$10,000, to be assessed by the Secretary of the Treasury, in addition to the fee required to be collected or paid and the interest on such fee at the rate such fee would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2) of this section. Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the Fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such records and documents for the purpose of audit and examination.

(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the Fund.

(2) The Secretary of the Treasury may invest any excess in the Fund above the level determined under paragraph (1) of this subsection, in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the Fund shall be deposited in and credited to the Fund.

(f) If at any time the moneys available in the Fund are insufficient to meet the obligations of the Fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or other obligations shall be made by the Secretary from moneys in the Fund. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of such notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations

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shall be treated as public debt transactions of the United States.

(Sec. 302(d) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 672) and sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[T.D. 7697, 45 FR 33974, May 21, 1980]

§ 301.9001-1 Collection of fee.

(a) *Imposition of fee*—(1) *In general.* Under section 302(d) of the Outer Continental Shelf Lands Act Amendments of 1978 (Act), the Internal Revenue Service is authorized to collect a fee of not more than 3 cents per barrel on oil that is obtained from the Outer Continental Shelf. This fee is established by the Commandant, United States Coast Guard, and is imposed on the owner of the oil as defined in paragraph (a)(2) of this section. The barrels subject to the fee shall be those barrels reported by the owner of the oil (§301.9001-1 (a)(2)), or a person authorized to act for the owner, on the monthly royalty reports, Form 9-153, filed with the U.S. Geological Survey as required by 30 CFR 250.94. For the purpose of computing this fee, the owner of the oil shall measure the Outer Continental Shelf oil production by employing the criteria of the U.S. Geological Survey contained in 30 CFR 250.60 and Outer Continental Shelf Gulf of Mexico Order 13. No reduction in the amount due will be permitted by reason of theoretical or actual oil lost in transit. To ensure that the Fund is maintained at a level of not less than \$100,000,000 and not more than \$200,000,000, the Commandant, United States Coast Guard, may modify the amount of this fee.

(2) *Owner of oil.* For the purposes of §§301.9001-1, 301.9001-2, and 301.9001-3, the owner of oil is the person in whom is vested ownership of the oil as it is produced at the wellhead without regard to the existence of contractual arrangements for the sale or other disposition of the oil between such a person and third parties. Under this rule, the Federal government entitlement to royalty oil does not constitute ownership of oil by the Federal government at the time of production.

(3) *Example.* The provisions of paragraph (a)(2) of this section may be illustrated by the following example:

Example. X is the owner of oil produced on the Outer Continental Shelf. During one reporting period, 10,000 barrels of oil were obtained from this location. X will use a portion of this oil to make a royalty payment to the United States government. X also has a contract with Y to sell Y the remaining barrels of oil. For the purpose of the Act, X is the owner of the oil and must pay a fee of 3 cents per barrel on all 10,000 barrels of oil.

(4) *Cross-references.* See §301.9001-2(a) for the definition of barrel, §301.9001-2(b) for the definition of oil, and §301.9001-2(c) for the definition of person.

(5) *Effective Date.* The provisions of §§301.9001-1, 301.9001-2, and 301.9001-3 are effective on July 25, 1979, at 7:00 a.m., local time. If, however, the established practice has been to gauge oil production at a time other than 7:00 a.m., the effective date is July 25, 1979, at the time production has been gauged.

(b) *Collection of fee.* The Internal Revenue Service shall collect the fee imposed by section 302(d) of the Act. Administrative procedures for the collection of this fee shall be prescribed from time to time by the Commissioner. The Commissioner may designate the reasonably necessary records and documents to be kept by the person or persons from whom the fee is collected. See also the regulations under 33 CFR 135.103 for additional rules relating to the implementation of the Act.

(c) *Time and place for payment of the fee*—(1) *In general.* Payment of the fee shall be made in accordance with the rules established in paragraph (c)(2), (3) and (4) of this section. When a deposit is required by these rules, it must be filed with the Internal Revenue Service Center, Austin, Texas 73301 using Form 6008, Fee Deposit for Offshore Oil. Adjustments required in the amount paid during the calendar quarter to reflect the actual amount due for the quarter shall be made on Form 6009, Quarterly Report of Fees Due. Form 6009 must be filed on or before the last day of the month following the end of the calendar quarter with the Austin Service Center. The rules under section 7502, relating to the treatment of timely mailing as timely filing and paying, and section 7503, relating to the time for performance of acts where the last day falls on Saturday, Sunday, or legal