(3) *Return of property*—(i) *Without security*. Vested property, the subject of a suit or proceeding pursuant to the Trading With the Enemy Act, may be returned without security prior to determination of applicable internal revenue taxes and prior to the judgment of the court or publication of the order of the Attorney General directing such return, to the following described claimants under the conditions hereinafter stated:

(*a*) *Residents and domestic enterprises.* In the case of claimants who at the time of return are *(1)* individuals permanently resident in the United States since December 7, 1941, or *(2)* corporations or other business enterprises organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, or doing business in the United States, the Attorney General may return the property at any time without notice to the Commissioner of such return.

(*b*) *Nonresidents, etc.* In the case of claimants who at the time of return are *(1)* individuals not permanently resident of the United States since December 7, 1941, or *(2)* nondomestic corporations or other nondomestic business enterprises not doing business within the United States, the property may be returned not less than 90 days after notice by the Attorney General to the Commissioner in a case within subparagraph (2)(i) of this paragraph (a), or not less than 60 days after notice in a case within subparagraph (2)(ii) of this paragraph (a), unless within such time the Attorney General is advised otherwise by the Commissioner.

(ii) *When security required.* Except as provided in subdivision (i) of this subparagraph vested property shall not be released prior to determination of tax liability without security satisfactory to the Commissioner, but determination of tax liability will be expedited in order that release of the property or of the security shall not be unnecessarily delayed.

(4) *Security*. Security when required shall be such of the following as shall, in the judgment of the Commissioner, be appropriate:

(i) *Bond*. A bond of the claimant conditioned upon payment of the full amount of internal revenue taxes determined to be due, filed with the district director in such amount, and with such sureties, as the Commissioner deems necessary. Only surety companies holding a certificate of authority from the Secretary of the Treasury may be used.

(ii) *Collateral security*. Collateral authorized by law deposited by the claimant in lieu of surety conditioned upon the payment of the full amount of internal revenue taxes determined to be due.

(iii) *Reservation of assets.* Moneys, or if the moneys are insufficient, so much of the other property involved, to be reserved by the Attorney General, as will be sufficient in the judgment of the Attorney General to cover any internal revenue tax liability determined by the Commissioner.

(b) *Vested property subject to debt claims*—(1) *Notice to Commissioner.* With respect to vested property available for the payment of debt claims under section 34 of the Act, and with respect to which debt claims have been filed, prior to the allowance of any such claims the Attorney General shall, in writing, notify the Commissioner of the property involved, the citizenship, residence, business organization, and other necessary information concerning the debtor and the aggregate of debt claims filed in respect thereof.

(2) *Action by Commissioner.* Upon receipt of the notice provided in subparagraph (1) of this paragraph (a), the Commissioner shall, as soon as practicable and not later than 120 days after receipt of notice, unless the time is extended by the Commissioner after notice to the Attorney General—

(i) Determine the taxes payable by the Attorney General in respect of the debtor, or

(ii) Advise the Attorney General of the provision, if any, to be made by him for payment of taxes in respect of the debtor.

§ 303.1–4 Computation of taxes.

(a) *Detail of employees of the Internal Revenue Service.* The Commissioner will detail for the assistance of the Attorney General such employees of the Internal Revenue Service as may be necessary to make the computations

under this part promptly and accurately.

(b) *Relationship of Attorney General and former owner.* In the computation of tax liability under this part, except as otherwise provided in this part, the vesting of property shall not be considered as affecting the ownership thereof; and any act of the Attorney General in respect of such property (including the collection or operation thereof and any investment, sale, or other disposition and any payment or other expenditure) shall be considered as the act of the owner. Nevertheless, except as otherwise provided in the Act or this part, insofar as taxes are incident to vested property during the period of vesting, they shall be payable by the Attorney General, except that to the extent of the value of any of the property returned to the former owner the latter shall be liable for such tax not paid by the Attorney General. While tax incident to nonvested property is collectible out of both vested and nonvested property, the nonvested property will be regarded as the primary source of collection of such tax. In determining the amount of the liability to be paid out of property not vested by the Attorney General a computation shall be made covering the taxpayer's full period of liability, but without regard to the vested property, or the income received by, or the operations of, the Attorney General. The amount so computed shall be first asserted against and collected so far as practicable from the taxpayer or out of his property which is not vested. Such part of the total tax liability as is not paid by the taxpayer or collected out of property not vested shall be asserted against the vested property. See § 303.1–5, relating to payment of taxes, and § 303.1–7, relating to claims for refund or credit.

(c) *Laws applicable to computation.* Except as otherwise specifically provided in this part, the computation under this part of any internal revenue tax liability shall be in accordance with the internal revenue laws and regulations applicable thereto, including all amendments of such laws or regulations enacted or promulgated prior to determination of the tax.

(d) *Periods for which computations made.* The amount of income, employment, and excise taxes under the internal revenue laws will be computed for each taxable year or period during all or part of which property is vested prior to the return of the property. In the case of a return of property prior to computation of tax, see § 303.1–3. Where vesting occurs during a taxable year or taxable period, any return filed or computation made covering vested or nonvested property should nevertheless be for the entire year or period. See paragraph (b) of this section. Unless facts are available indicating a liability for taxes for a taxable year or period occurring wholly prior or subsequent to the period of vesting of the property by the Attorney General, the computations under this part, both tentative and final, will be made only in respect of years and periods during all or part of which the property is held by the Attorney General.

(e) *Tentative computation.* In order that the return of property or other appropriate action may not be delayed until the amount of taxes payable is finally computed and paid, a tentative computation of such amount will be made in every case, unless there are circumstances appearing to make such action inappropriate. Such circumstances would include (1) return of the property in accordance with § 303.1–3, (2) notice to the Commissioner of Internal Revenue by the person to whom the property is returnable or by the Attorney General that such person or the Attorney General, as the case may be, prefers that the return of the property be postponed until the amount of such taxes can be finally computed, or (3) belief on the part of the Commissioner that a final computation will not unduly delay the return of, or other appropriate action with respect to, the property. In making any such tentative computation of income or estate tax, the gross income or the gross estate, as the case may be, as shown by the records of the Attorney General (excluding therefrom items exempt from taxation) shall be considered as the taxable income or taxable estate, respectively, unless a tax return has been filed or facts are available upon which a more accurate computation can be

made. In any case in which a duly authorized officer or employee of the Internal Revenue Service has otherwise computed the amount of taxes payable in respect of any period, such computation will be accepted as a tentative computation, unless the facts clearly indicate that a more accurate computation can be made.

(f) *Final computation*—(1) *General.* A final computation of the amount of taxes payable by the person to whom property is returnable, or out of property to be returned, will be made as soon as practicable in every case. In any case in which the amount shown by a tentative computation has been paid, refund or credit of any amount paid in excess of the amount properly due will be made in accordance with the final computation, even though a claim therefor has not been filed, if the period of limitation applicable to the filing of such claim has not expired. However, if it is desired to protect the right to any credit or refund determined to be due, a claim for credit or refund should be filed. The sufficiency of any such claim in respect of an amount paid in accordance with a tentative computation under this part will not be questioned solely because facts upon which a more accurate computation could be made are not available or cannot be established at the time such claim is filed. Any such claim in respect of an amount paid in accordance with a final computation must, however, clearly set forth in detail under the penalties of perjury all the facts relied upon in support of the claim and must conform to the regulations applicable to an ordinary claim for refund or credit. See § 301.6402–2 of this chapter and § 303.1–7, relating to claims for refund or credit.

(2) *Information required*—(i) *Income taxes.* The following information submitted under the penalties of perjury by or for the taxpayer is necessary in each case for a final computation, for each taxable year for which the computation is to be made:

(*a*) All income (other than income received by the Attorney General) from sources within the United States, or if no such income has been received, then a statement to that effect, except that in the case of a citizen or resident of the United States, income from sources without as well as within the United States must be shown.

(*b*) If a return of such income has been made, then the following data in respect of such return:

(*1*) The taxable year for which the return was made and the tax paid;

(*2*) The name of the taxpayer for whom the return was made;

(*3*) The name of the agent or other person (if any) by whom such return was made;

(*4*) The office of the district director in which the return was filed.

(*c*) Such other facts as may be required, from time to time, by the Commissioner.

(ii) *Other taxes.* Except as otherwise provided in subdivision (i) of this subparagraph, in order to make a final computation of the amount of any internal revenue tax payable by return in any case, the usual return should be filed, together with the supporting documents required by the regulations pertaining to the tax.

(g) *Tax returns*—(1) *General.* In many cases allowance of deductions and credits is contingent upon the making of a return in accordance with the applicable internal revenue law. The submission of evidence relative to income tax in accordance with subdivisions *(a)* and *(c)* of paragraph (f)(2)(i) of this section will be considered as the making of the return required by any such law, only (i) for any taxable period, ending on or before December 31, 1946, during all or part of which all or part of the property of the taxpayer was held by the Attorney General, or (ii) for any taxable period ending within one year from the date of the first return to the taxpayer, of any part of the property held by the Attorney General, whichever period ends later. In all other cases a return will be required in accordance with the applicable internal revenue laws and regulations. In the case of returns where property is vested during a taxable year or period, see paragraph (d) of this section.

(2) *Estates and trusts.* In the case of estates and trusts the fiduciaries shall file returns, including information returns as required by section 6041 of the Internal Revenue Code of 1954.

(3) *Income tax forms to be used.* In the case of taxpayers engaged in trade or business in the United States Forms 1040B and 1120, as may be appropriate, shall be used. Where the taxpayer is not engaged in trade or business in the United States, Form M797 may be used in lieu of Forms 1040NB, 1040NB–a and 1120NB.

§ 303.1–5 Payment of taxes.

(a) *Pursuant to tentative computations.* The amount of taxes shown by a tentative computation shall be paid by the Attorney General or the taxpayer, as the case may be, to the district director as soon as practicable after the tentative computation has been made. It will not be necessary, however, for the payment by the Attorney General to be made prior to the return of property if an amount sufficient to cover all internal revenue taxes is retained from the property by the Attorney General.

(b) *Pursuant to final computations.* Upon a final computation of internal revenue taxes properly payable, the amount thereof remaining unpaid shall be paid by the Attorney General to the district director as soon as practicable after the final computation has been made, or, in case the property has been returned to the former owner, by such owner. If the final computation shows that the full amount of internal revenue taxes properly payable is less than the amount previously paid, the difference shall be credited or refunded in accordance with the provisions of these and other applicable regulations. A final computation will not prohibit a subsequent recomputation if it is determined that the amount shown by the final computation is erroneous.

(c) *Deficiency procedure.* The Attorney General shall pay internal revenue taxes without regard to the provisions of law relating to the sending of a deficiency notice by certified or registered mail or to notice and demand.

§ 303.1–6 Interest and penalties.

(a) *Liability for interest and civil penalties.* Under subsection (d) of section 36 of the Trading With the Enemy Act there is no liability for interest or penalty on account of any act or failure of the Attorney General. Such subsection is not applicable to interest or penalties payable in respect of any act or failure during the period prior to the vesting of the property by the Attorney General, or after the return of the property, or during the period during which the property was vested by the Attorney General on account of an act or omission of any person other than the Attorney General.

(b) *Adjustment.* In case of any assessment or collection, or credit or refund, of interest or a civil penalty contrary to the provisions of section 36 (c) or (d), proper adjustment shall be made.

§ 303.1–7 Claims for refund or credit.

(a) Claims for refund or credit must be filed within the period prescribed by section 6511 of the Internal Revenue Code of 1954 as modified by section 36(c) of the Trading With the Enemy Act. Any such claim must contain a detailed statement under the penalties of perjury of all the facts relied upon in support of the claim and should be filed with the district director for the district in which the tax was paid. See paragraph (f)(1) of § 303.1–4, relating to final computation.

(b) Any act of the Attorney General for, or on behalf of, a taxpayer in respect of any claim under this part will be considered as the act of such taxpayer, unless such taxpayer notifies the Commissioner of Internal Revenue in writing, by the filing of a claim for refund or credit or otherwise, that he does not ratify such act. See paragraph (b) of § 303.1–4, relating to relationship of Attorney General and former owner.

(c) All refund of taxes paid by the Attorney General shall be made directly to that official.

PART 304 [RESERVED]

PART 305—TEMPORARY PROCEDURAL AND ADMINISTRATIVE TAX REGULATIONS UNDER THE INDIAN TRIBAL GOVERNMENTAL TAX STATUS ACT OF 1982

Sec.

305.7701–1 Definition of Indian tribal government.
305.7871–1 Indian tribal governments treated as States for certain purposes.