

No. 7432

**UNITED STATES OF AMERICA
and
AUSTRIA**

**Agreement (with schedule and annex) regarding the return
of Austrian property, rights and interests. Signed at
Washington, on 30 January 1959**

Official texts of Agreement and schedule: English and German.

Official text of annex: English.

Registered by the United States of America on 30 September 1964.

**ÉTATS-UNIS D'AMÉRIQUE
et
AUTRICHE**

**Accord (avec liste et annexe) concernant la restitution de
certains biens, droits et intérêts autrichiens. Signé à
Washington, le 30 janvier 1959**

Textes officiels de l'Accord et de la liste: anglais et allemand.

Texte officiel de l'annexe: anglais.

Enregistré par les États-Unis d'Amérique le 30 septembre 1964.

No. 7432. AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF AUSTRIA REGARDING THE RETURN OF AUSTRIAN PROPERTY, RIGHTS AND INTERESTS. SIGNED AT WASHINGTON, ON 30 JANUARY 1959

The United States of America and the Republic of Austria, in accordance with the provisions of paragraph 1 of Article 27 (Austrian Property in the Territory of the Allied and Associated Powers) of the State Treaty for the Re-establishment of an Independent and Democratic Austria, which was signed at Vienna on May 15, 1955,² have agreed as follows :

Article I

1) The property listed in the schedule³ to this agreement constitutes a complete list of property, rights and interests as they now exist in the United States, and of the proceeds arising out of the liquidation, disposal or realization of such property, rights and interests, determined to be Austrian within the meaning of paragraph 1 of Article 27 of the Austrian State Treaty and which have not yet been returned.

2) The United States agrees to return, through such officer or agency as may be designated by the President of the United States, such property, rights, interests and proceeds to the claimants listed in the schedule, or to their successors in interest by inheritance, devise, bequest or operation of law, within six months of the effective date of this agreement, subject to the provisions of Article V hereof and to the requirements regarding fees of agents, attorneys, or representatives contained in Section 20 of the Appendix to Title 50 of the United States Code, as set forth in the Annex⁴ hereto.

Article II

The Government of Austria declares that no claimant to property listed on the attached schedule was convicted of war crimes personally and by name by a court of competent jurisdiction.

¹ Came into force on 19 May 1964, upon the exchange of the instruments of ratification at Vienna, in accordance with the provisions of article VII.

² United Nations, *Treaty Series*, Vol. 217, p. 223.

³ See p. 150 of this volume.

⁴ See p. 158 of this volume.

Article III

The Government of Austria agrees that upon the return of the property listed on the attached schedule the United States shall be deemed to have complied in full with the provisions of paragraph 1 of Article 27 of the aforementioned State Treaty, provided, however, that should additional property, rights and interests, or the proceeds thereof, be determined by the Governments of the United States and Austria within one year from the effective date of the agreement to be Austrian and not claimed by persons who were convicted of war crimes personally and by name by a court of competent jurisdiction, the Government of the United States will return such property within six months of such final determination, subject to the provisions of Article V hereof and to the requirements regarding fees of agents, attorneys, or representatives contained in Section 20 of the Appendix to Title 50 of the United States Code, as set forth in the Annex hereto.

Article IV

Nothing in this agreement shall be deemed to affect any rights which any person not listed in the attached schedule may have under United States law.

Article V

The return of property, rights and interests by the United States under this agreement shall be subject to deductions for accrued taxes, expenses of administration, creditor claims and other like charges and shall be made as far as possible subject to the rights, obligations and procedures with respect to returns contained in Section 32 (a)(4), (b), (c), (d), (e), and (f), Section 34, and Section 36 of the Appendix to Title 50 of the United States Code, as set forth in the Annex to this agreement.

Article VI

The Government of Austria agrees to save harmless the Government of the United States from any responsibility and liability for acts performed by or on behalf of the United States in fulfillment of the provisions of this agreement.

Article VII

This agreement shall be ratified and the instruments of ratification shall be exchanged at Vienna as soon as possible. The agreement shall come into force upon exchange of ratifications.

IN WITNESS WHEREOF, the undersigned representatives duly authorized thereto by their respective governments have signed this agreement.

DONE at Washington, in duplicate, in the English and German languages, both texts being equally authentic, this thirtieth day of January, 1959.

For the United States
of America :

John Foster DULLES
[SEAL]

For the Republic
of Austria :

Wilfried PLATZER
[SEAL]

SCHEDULE¹

<i>Office of Alien Property Claim No.</i>	<i>Austrian Interests</i>	<i>Description of Property</i>
4.223 and 43.937 5.277	Salesianer, Don Bosco	\$36,108.13
	Wucherer, Otto a/k/a Otto Wucherer- Huldenfeld	\$ 23,043.96 and interest in a trust under the last will and testament of Sarah Maria Price, deceased
6.822	Frank, Carl Friedrich	\$ 25,000.00
11.781	Danzer, Anna	\$ 486.12
12.942	Heise, Eva	\$ 5,341.47
13.845	Margl, Josefa a/k/a Josefina	\$ 1,154.78
	Lise, & Anna a/k/a Anna Lisetz	\$ 1,154.78
15.656	Riesenhuber, Anna, as heir of Johann Reichel	\$ 251.15
	Holzmayr, Josef	\$ 251.15
28.588	Duerrigl, Karl	\$ 100.00
30.079	Pfingstl, Hilda	\$ 350.90
30.977	Stoeri, Ernst Josef	\$ 1,831.84
33.811	Mikulitsch, Johann	\$ 438.09
33.812	Masek, Maria a/k/a Marie Maschek	\$ 109.52
	Kratochwil, Franz	\$ 109.52
36.370	William Kohler, Albert E. Arent and Fidelity Philadelphia Trust Com- pany, substituted trustees under Dec- laration of Trust of Dr. Otto Rohm dated May 20, 1926 as amended	Interest of Marianne Thun-Hohenstein under the Declaration of Trust of Dr. Otto Rohm dated May 20, 1926 as amended involving a corpus in the amount of \$ 4,025,425.33

¹ All amounts listed are gross and subject to any increase or decrease resulting from the administration thereof prior to return, or to elimination from the schedule in the event that payment is made prior to ratification of the Agreement, and to the deductions specified in Article V of the Agreement.

<i>Office of Alien Property Claim No.</i>	<i>Austrian Interests</i>	<i>Description of Property</i>
36.390	Czernin, Wolfgang	\$ 9,863.17
36.768	Churfuerst, Sophie	\$ 1,000.00
36.779	Schilling, Hugo	\$ 1,287.43
	Wedl, Rosalia	\$ 1,222.83
	Worel, Rosa	\$ 965.58
	Kreuzbauer, Brigitta	\$ 122.97
	Fuerst, Anna Maria	\$ 122.97
36.893	Woseczek, August a/k/a August Woseszek	\$ 110.31
37.087	Schaefer, Wilhelm ¹	\$ 15,536.62
37.788	Teuber, Oskar	\$ 1,126,093.76; bonds and stock; interest in certain real property in Philadelphia, Pennsylvania; mortgage; interests in improved and unimproved real estate, including mineral rights in various counties in Pennsylvania; interest in a trust under the last will and testament of Brinton Coxe, deceased
37.806	Woseczek, Ernst	\$ 110.31
37.868	Seblatnigg, Hubert	\$ 1,639.04
39.409	Seedorf, Margarete a/k/a Margarete Seedorf-Oberhauser	\$ 16,992.30 and life interest in the estate of Henry W. T. Steinway, deceased
40.089	Exner, Mathilde a/k/a Adele Exner	\$ 349.20
40.652	Fink, Franz	\$ 1,023.46
	Fink, Hermann	\$ 1,023.46
41.127	Petz, Anton	\$ 6,632.74
41.128	Payr, Elsa	\$ 495.25
41.136	Stuetz, Ludwig	\$ 108.96
41.207	Weisenboeck, Magdalena a/k/a Marie Weissenboeck	\$ 483.96
41.210	Lawitschka, Mathilde	\$ 335.26
	Gruber, Maria	\$ 335.26
41.257	Gruda, Emanuel	Right, title, and interest in the estate of Joseph a/k/a Josef Gruda, deceased
41.258	Hubatsch, Hubert, individually and as natural guardian of Hannelore and Erhard Hubatsch	Right, title, and interest in the estate of Joseph a/k/a Josef Gruda, deceased
41.259	Jauernig, Maria	Right, title, and interest in the estate of Joseph a/k/a Josef Gruda, deceased
41.283	Krobot, Frank Jr.	\$ 184.58
41.349	Tiroler Glasmalerei and Mosaikanstalt	\$ 5,784.86
41.714	Hillebrand, Wilhelm	\$ 220.65
41.918	Dietlen, Otto	\$ 10,000.00

¹ This property will be held in trust by the Government of Austria for the claimant until such time as the claimant, or any successor in interest to the claimant by inheritance, devise or bequest, has established his principal dwelling place in the Republic of Austria.

<i>Office of Alien Property Claim No.</i>	<i>Austrian Interests</i>	<i>Description of Property</i>
41.973	Juran, Anna, as natural guardian of Karl Juran	\$ 442.68
42.063 and 43.013	Stuetz, Alois	\$ 1,228.24
42.071	Goertz, Helmut	\$ 317.58
42.074	Rindler, Barbara	\$ 871.88
42.336	Marischka, Carl	Patents Nos. 1,985,441 and 2,183,301
42.363	Erhard, Elizabeth	\$ 45,734.98
42.428	Lebersorger, Johanna	\$ 340.50
42.524 and 42.930	Selner, Anton	\$ 250.00
42.556	Winkelmayer, Elisabeth	Undivided interest in vested property of the firm of George Hauck & Sohn
42.607	Preuschen, Ernst	\$ 2,862.20
	Lentz, Marie a/k/a Maria von Lentz	\$ 2,862.20
42.609	Dittrich, Maria	\$ 1,395.44
42.684	Larisch, Maria Luise	\$ 21,914.78
42.773	Schleifer, Franz	\$ 342.64
42.790	Hertz, Walter	\$ 2,279.75
42.850	Sakrausky, Otto	\$ 38,290.00 plus interest in estate of Mary Martha Taylor and interest in estate of Harlan B. Tibbetts
42.889	Rozsenich, Johanna a/k/a Johanna Ro- senich	\$ 274.34
43.952	Gstach, Franz	\$ 219.91
	Zwenger, Isabella	\$ 219.91
44.722	Frey-Trauer, Maria a/k/a Mimi	\$ 2,034.32
44.785	Hardt, Thea	Fractional interest in two bonds
44.904	Strixner, Marie a/k/a Mizzi Hermann	\$ 342.64
44.961	Reinhardt, Walter	\$ 49.26 and 1/4 interest in 11 copy- rights
44.983	Willibald Kastner, guardian of Hedwig Koeroesszegi	\$ 442.81
44.999	Slaby, Antonia	\$ 2,200.04
45.000	Pauer, Hedwig	\$ 20.76
	Kohm, Gertrude, born Pauer	\$ 31.14
	Pauer, Christine	\$ 31.14
45.019	Rindler, Cyprian	\$ 871.88
46.335	Huber, Georg	\$ 727.73
56.638	Rotter, Friedrich	3 Yugoslav Government bonds
58.127	Wagner, Elisabeth, born Lotterhofer	\$ 1,267.94
58.429	Ullrich, Rudolf	2 Saxon Public Works, Dresden-Gold loan bonds
58.789	Winkler, Leopold	\$ 9,313.67
58.791	Wernert, Emma, individually and as guardian of Franz a/k/a Frank Wer- nert	\$ 1,272.58
59.004	Lewandowski, Hilde a/k/a Hildegard	\$ 1,864.46
59.412	Seewann, Theodor and Edith	\$ 256.17

<i>Office of Alien Property Claim No.</i>	<i>Austrian Interests</i>	<i>Description of Property</i>
59.647	Graf, Ernst	\$ 161.16
59.739	Stosius, Othmar	\$ 290.00
59.836	Seherr-Thoss, Hermann	\$ 50,295.76 and life interest in trust dated Feb. 29, 1932 between Margaret Muriel Seherr-Thoss, grantor, and Lewis Spencer Morris and Charles S. McVeigh Trustees
60.939	Frauendorfer, Sigmund	\$ 1,011.06
61.386	Hoedl, Maria	\$ 463.25
	Doderer, Irene	\$ 463.25
61.789	Mayr, Franz Xaver	German bonds
61.972	Uibleisen, Norman Juon	\$ 45,020.17, stock and bonds
62.364	Strongfort, Lionel	\$ 3,136.25 and a certificate of deposit
62.732	Blaschke, Margarethe, as administratrix of the estate of Maria Rygl, deceased	\$ 180.12
63.114	Singer, Vinzenz a/k/a Karl Franz Stefan Vinzenz	\$ 1,242.71
63.127	Wressig, Anna Maria	\$ 607.45
63.385	Dirscherl, Johanna widowed Hassenburger	\$ 422.41
63.459	Geiger, Wolfgang	\$ 215.29
66.626	Weissenberg, Gustav	\$ 217.75
66.729	Raith, Maria	\$ 215.28
66.765	Valcic, Eleonore ¹	\$ 3,791.83
66.910	Lechner, Lore Elisabeth	\$ 2,392.73
66.913	Foerster, Eleonore	\$ 439.85
66.914	Sweceeny, Heidi	\$ 439.85
66.915	Schindelmaier, Gerda	\$ 1,000.00
66.916	Schindelmaier, Bruno and Gerda	\$ 250.00
66.917	Endisch, Helga	\$ 250.00
66.918	Schinzel, Ludwig	\$ 6,612.09
	Klasternigg, Hermine	\$ 6,612.09

¹ This property will be held in trust by the Government of Austria for the claimant until such time as the claimant, or any successor in interest to the claimant by inheritance, devise or bequest, has established his principal dwelling place in the Republic of Austria.

A N N E X

§ 20. FEES OF AGENTS, ATTORNEYS, OR REPRESENTATIVES

No property or interest or proceeds shall be returned under this Act, nor shall any payment be made or judgment awarded in respect of any property or interest vested in or transferred to any officer or agency of the United States under this Act unless satisfactory evidence is furnished to the President or such officer or agency as he may designate, or the court, as the case may be, that the aggregate of the fees to be paid to all agents, attorneys at law or in fact, or representatives, for services rendered in connection with such return or payment or judgment does not exceed 10 per centum of the value of such property or interest or proceeds or of such payment. Any agent, attorney at law or in fact, or representative, believing that the aggregate of the fees should be in excess of such 10 per centum may, in the case of any return of, or the making of any payment in respect of, such property or interest or proceeds by the President or such officer or agency as he may designate, petition the district court of the United States for the district in which he resides for an order authorizing fees in excess of 10 per centum and shall name such officer or agency as respondent. The court hearing such petition, or a court awarding any judgment in respect of any such property or interest or proceeds, as the case may be, shall approve an aggregate of fees in excess of 10 per centum of the value of such property or interest or proceeds only upon a finding that there exist special circumstances of unusual hardship which require the payment of such excess. Any person accepting any fee in excess of an amount approved hereunder, or retaining for more than thirty days and portion of a fee, accepted prior to approval hereunder, in excess of the fee as approved, shall be guilty of a violation of this Act.

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§ 32. RETURN OF PROPERTY

(a) *Conditions precedent*

The President, or such officer or agency as he may designate, may return any property or interest vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the net proceeds thereof, whenever the President or such officer or agency shall determine—

.....

(4) that the Alien Property Custodian has no actual or potential liability under the Renegotiation Act or the Act of October 31, 1942 (56 Stat. 1013 ; 35 U.S.C. §§ 89-96), in respect of the property or interest or proceeds to be returned and that the claimant and his predecessor in interest, if any, have no actual or potential liability of any kind under the Renegotiation Act or the said Act of October 31, 1942 ; or in the alternative that the claimant has provided security or undertakings adequate to assure satisfaction of all such liabilities or that property or interest or proceeds to be retained by the Alien Property Custodian are adequate therefor ;

.....

(b) *Extension of filing time limitation for redetermination of excessive profits*

Notwithstanding the limitation prescribed in the Renegotiation Act upon the time within which petitions may be filed in the Tax Court of the United States, any person to whom any property or interest or proceeds are returned hereunder shall, for a period of ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) following return, have the right to file such a petition for a redetermination in respect of any final order of the Renegotiation Board determining excessive profits, made against the Alien Property Custodian, or of any determination, not embodied in an agreement, of excessive profits, so made by or on behalf of a Secretary.

(c) *Inventions*

Any person to whom any invention, whether patented or unpatented, or any right or interest therein is returned hereunder shall be bound by any notice or order issued or agreement made pursuant to the Act of October 31, 1942 (56 Stat. 1013 ; 35 U.S.C. §§ 89-96), in respect of such invention or right or interest, and such person to whom a licensor's interest is returned shall have all rights assertible by a licensor pursuant to section 2 of the said Act.

(d) *Rights and duties*

Except as otherwise provided herein, and except to the extent that the President or such officer or agency as he may designate may otherwise determine, any person to whom return is made hereunder shall have all rights, privileges, and obligations in respect to the property or interest returned or the proceeds of which are returned which would have existed if the property or interest had not vested in the Alien Property Custodian, but no cause of action shall accrue to such person in respect of any deduction or retention of any part of the property or interest or proceeds by the Alien Property Custodian for the purpose of paying taxes, costs, or expenses in connection with such property or interest or proceeds: *Provided*, That except as provided in subsections (b) and (c) of this section no person to whom a return is made pursuant to this section, nor the successor in interest of such person, shall acquire or have any claim or right of action against the United States or any department, establishment or agency thereof, or corporation owned thereby, or against any person authorized or licensed by the United States, founded upon the retention, sale, or other disposition, or use, during the period it was vested in the Alien Property Custodian, of the returned property, interest, or proceeds. Any notice to the Alien Property Custodian in respect of any property or interest or proceeds shall constitute notice to the person to whom such property or interest or proceeds is returned and such person shall succeed to all burdens and obligations in respect of such property or interest or proceeds which accrued during the time of retention by the Alien Property Custodian, but the period during which the property or interest or proceeds returned were vested in the Alien Property Custodian shall not be included for the purpose of determining the application of any statute of limitations to the assertion of any rights by such person in respect of such property or interest or proceeds.

(e) *Legal proceeding unaffected*

No return hereunder shall bar the prosecution of any suit at law or in equity against a person to whom return has been made, to establish any right, title, or interest, which

may exist or which may have existed at the time of vesting, in or to the property or interest, returned, but no such suit may be prosecuted by any person ineligible to receive a return under subsection (a) (2) of this section. With respect to any such suit, the period during which the property or interest or proceeds returned were vested in the Alien Property Custodian shall not be included for the purpose of determining the application of any statute of limitations.

(f) *Notice of intention*

At least thirty days before making any return to any person other than a resident of the United States or a corporation organized under the laws of the United States, or any State, territory, or possession thereof, or the District of Columbia, the President or such officer or agency as he may designate shall publish in the Federal Register a notice of intention to make such return, specifying therein the person to whom return is to be made and the place where the property or interest or proceeds to be returned are located. Publication of a notice of intention to return shall confer no right of action upon any person to compel the return of any such property or interest or proceeds, and such notice of intention to return may be revoked by appropriate notice in the Federal Register. After publication of such notice of intention and prior to revocation thereof, the property or interest or proceeds specified shall be subject to attachment at the suit of any citizen or resident of the United States or any corporation organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, in the same manner as property of the person to whom return is to be made: *Provided*, That notice of any writ of attachment which may issue prior to return shall be served upon the Alien Property Custodian. Any such attachment proceeding shall be subject to the provisions of law relating to limitation of actions applicable to actions at law in the jurisdiction in which such proceeding is brought, but the period during which the property or interest or proceeds were vested in the Alien Property Custodian shall not be included for the purpose of determining the period of limitation. No officer of any court shall take actual possession, without the consent of the Alien Property Custodian, of any property or interest or proceeds so attached, and publication of a notice of revocation of intention to return shall invalidate any attachment with respect to the specified property or interest or proceeds, but if there is no such revocation, the President or such officer or agency as he may designate shall accord full effect to any such attachment in returning any such property or interest or proceeds.

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§ 34. PAYMENT OF DEBTS

(a) *Claims allowable ; defenses*

Any property or interest vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the net proceeds thereof, shall be equitably applied by the Custodian in accordance with the provisions of this section to the payment of debts owed by the person who owned such property or interest immediately prior to its vesting in or transfer to the Alien Property Custodian. No debt claim shall be allowed under this section if it was not due and owing at the time of such vesting or transfer, or if it arose from any action or

transactions prohibited by or pursuant to this Act and not licensed or otherwise authorized pursuant thereto, or (except in the case of debt claims acquired by the Custodian) if it was at the time of such vesting or transfer due and owing to any person who has since the beginning of the war been convicted of violation of this Act, as amended, sections 1-6 of the Criminal Code, title I of the Act of June 15, 1917 (ch. 30, 40 Stat. 217), as amended; the Act of April 20, 1918 (ch. 59, 40 Stat. 534), as amended; the Act of June 8, 1934 (ch. 327, 52 Stat. 631), as amended; the Act of January 12, 1938 (ch. 2, 52 Stat. 3); title I, Alien Registration Act, 1940 (ch. 439, 54 Stat. 670); the Act of October 17, 1940 (ch. 897, 54 Stat. 1201); or the Act of June 25, 1942 (ch. 447, 56 Stat. 390). Any defense to the payment of such claims which would have been available to the debtor shall be available to the Custodian, except that the period from and after the beginning of the war shall not be included for the purpose of determining the application of any statute of limitations. Debt claims allowable hereunder shall include only those of citizens of the United States or of the Philippine Islands; those of corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia or the Philippine Islands; those of other natural persons who are and have been since the beginning of the war residents of the United States and who have not during the war been interned or paroled pursuant to the Alien Enemy Act; and those acquired by the Custodian. Legal representatives (whether or not appointed by a court in the United States) or successors in interest by inheritance, devise, bequest, or operation of law or debt claimants, other than persons who would themselves be disqualified hereunder from allowance of a debt claim, shall be eligible for payment to the same extent as their principals or predecessors would have been.

(b) *Time limit for filing claims; extension; notice*

The Custodian shall fix a date or dates after which the filing of debt claims in respect of any or all debtors shall be barred, and may extend the time so fixed, and shall give at least sixty days' notice thereof by publication in the Federal Register. In no event shall the time extend beyond the expiration of two years from the date of the last vesting in or transfer to the Custodian of any property or interest of a debtor in respect of whose debts the date is fixed, or from the date of enactment of this section [Aug. 8, 1946], whichever is later. No debt shall be paid prior to the expiration of one hundred and twenty days after publication of the first such notice in respect of the debtor, nor in any event shall any payment of a debt claim be made out of any property or interest or proceeds in respect of which a suit or proceeding pursuant to this Act for return is pending and was instituted prior to the expiration of such one hundred and twenty days.

(c) *Examination of claims*

The Custodian shall examine the claims, and such evidence in respect thereof as may be presented to him or as he may introduce into the record, and shall make a determination, with respect to each claim, of allowance, or disallowance, in whole or in part.

(d) *Funds for debt payments*

Payment of debt claims shall be made only out of such money included in, or received as net proceeds from the sale, use, or other disposition of, any property or interest owned by the debtor immediately prior to its vesting in or transfer to the Alien Property Custodian.

dian, as shall remain after deduction of (1) the amount of the expenses of the Office of Alien Property Custodian (including both expenses in connection with such property or interest or proceeds thereof, and such portion as the Custodian shall fix of the other expenses of the Office of Alien Property Custodian), and of taxes, as defined in section 36 hereof, paid by the Custodian in respect of such property or interest or proceeds, and (2) such amount, if any, as the Custodian may establish as a cash reserve for the future payment of such expenses and taxes. If the money available hereunder for the payment of debt claims against the debtor is insufficient for the satisfaction of all claims allowed by the Custodian, ratable payments shall be made in accordance with subsection (g) hereof to the extent permitted by the money available and additional payments shall be made whenever the Custodian shall determine that substantial further money has become available, through liquidation of any such property or interest or otherwise. The Custodian shall not be required through any judgment of any court, levy of execution, or otherwise to sell or liquidate any property or interest vested in or transferred to him, for the purpose of paying or satisfying any debt claim.

(e) *Amount payable ; disallowance ; notice ; review ; additional evidence ; judgment*

If the aggregate of debt claims filed as prescribed does not exceed the money from which, in accordance with subsection (d) of this section, payment may be made, the Custodian shall pay each claim to the extent allowed, and shall serve by registered mail, on each claimant whose claim is disallowed in whole or in part, a notice of such disallowance. Within sixty days after the date of mailing of the Custodian's determination, any debt claimant whose claim has been disallowed in whole or in part may file in the United States District Court for the District of Columbia a complaint for review of such disallowance naming the Custodian as defendant. Such complaint shall be served on the Custodian. The Custodian, within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings in the Office of Alien Property Custodian with respect to the claim in question. Upon good cause shown such time may be extended by the court. Such record shall include the claim as filed, such evidence with respect thereto as may have been presented to the Custodian or introduced into the record by him, and the determination of the Custodian with respect thereto, including any findings made by him. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the Custodian, or could not reasonably have been adduced before him or was not available to him. The court shall enter judgment affirming, modifying, or reversing the Custodian's determination, and directing payment in the amount, if any, which it finds due.

(f) *Pro rate payments ; notice ; review ; additional evidence ; intervention ; judgment*

If the aggregate of debt claims filed as prescribed exceeds the money from which, in accordance with subsection (d) hereof, payment may be made, the Custodian shall prepare and serve by registered mail on all claimants a schedule of all debt claims allowed and the proposed payment to each claimant. In preparing such schedule, the Custodian shall assign priorities in accordance with the provisions of subsection (g) hereof. Within sixty days after the date of mailing of such schedule, any claimant considering himself aggrieved may file in the United States District Court for the District of Columbia a complaint for review of such schedule, naming the Custodian as defendant. A copy of such complaint

shall be served upon the Custodian and on each claimant named in the schedule. The Custodian, within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings in the Office of Alien Property Custodian with respect to such schedule. Upon good cause shown such time may be extended by the court. Such record shall include the claims in question as filed, such evidence with respect thereto as may have been presented to the Custodian or introduced into the record by him, any findings or other determinations made by the Custodian with respect thereto, and the schedule prepared by the Custodian. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the Custodian or could not reasonably have been adduced before him or was not available to him. Any interested debt claimant who has filed a claim with the Custodian pursuant to this section, upon timely application to the court, shall be permitted to intervene in such review proceedings. The court shall enter judgment affirming or modifying the schedule as prepared by the Custodian and directing payment, if any be found due, pursuant to the schedule as affirmed or modified and to the extent of the money from which, in accordance with subsection (d) of this section, payment may be made. Pending the decision of the court on such complaint for review, and pending final determination of any appeal from such decision, payment may be made only to an extent, if any, consistent with the contentions of all claimants for review.

(g) *Priority of claims*

Debt claims shall be paid in the following order of priority: (1) Wage and salary claims, not to exceed \$600; (2) claims entitled to priority under sections 191 and 193 of Title 31, except as provided in subsection (h) of this section; (3) all other claims for services rendered, for expenses incurred in connection with such services, for rent, for goods and materials delivered to the debtor, and for payments made to the debtor for goods or services not received by the claimant; (4) all other debt claims. No payment shall be made to claimants within a subordinate class unless the money from which, in accordance with subsection (d) of this section, payment may be made permits payment in full of all allowed claims in every prior class.

(h) *Priority as debt due United States*

No debt of any kind shall be entitled to priority under any law of the United States or any State, Territory, or possession thereof, or the District of Columbia, solely by reason of becoming a debt due or owing to the United States as a result of its acquisition by the Alien Property Custodian.

(i) *Exclusiveness of relief*

The sole relief and remedy available to any person seeking satisfaction of a debt claim out of any property or interest which shall have been vested in or transferred to the Alien Property Custodian (other than any property or interest acquired by the United States prior to December 18, 1941), or the proceeds thereof, shall be the relief and remedy provided in this section, and suits for the satisfaction of debt claims shall not be instituted, prosecuted, or further maintained except in conformity with this section: *Provided*, That no person asserting any interest, right, or title in any property or interest or proceeds acquired

by the Alien Property Custodian, shall be barred from proceeding pursuant to this Act for the return thereof, by reason of any proceeding which he may have brought pursuant to this section ; nor shall any security interest asserted by the creditor in any such property or interest or proceeds be deemed to have been waived solely by reason of such proceeding. The Alien Property Custodian shall treat all debt claims not filed with him as claims filed pursuant to this section. Nothing contained in this section shall bar any person from the prosecution of any suit at law or in equity against the original debtor or against any other person who may be liable for the payment of any debt for which a claim might have been filed hereunder. No purchaser, lessee, licensee, or other transferee of any property or interest from the Alien Property Custodian shall, solely by reason of such purchase, lease, license, or transfer, become liable for the payment of any debt owed by the person who owned such property or interest prior to its vesting in or transfer to the Alien Property Custodian. Payment by the Alien Property Custodian to any debt claimant shall constitute, to the extent of payment, a discharge of the indebtedness represented by the claim.

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§ 36. TAXES

(a) *Liability ; exemptions*

The vesting in or transfer to the Alien Property Custodian of any property or interest (other than any property or interest acquired by the United States prior to December 18, 1941), or the receipt by him of any earnings, increment, or proceeds thereof shall not render inapplicable any Federal, State, Territorial, or local tax for any period prior or subsequent to the date of such vesting or transfer, nor render applicable the exemptions provided in title II of the Social Security Act with respect to service performed in the employ of the United States Government or of any instrumentality of the United States.

(b) *Payment by Custodian ; liability of former owner ; enforcement of tax liability ; transfer of property*

The Alien Property Custodian shall, notwithstanding the filing of any claim or the institution of any suit under this Act, pay any tax incident to any such property or interest, or the earnings, increment, or proceeds thereof, at the earliest time appearing to him to be not contrary to the interest of the United States. The former owner shall not be liable for any such tax accruing while such property, interest, earnings, increment, or proceeds are held by the Alien Property Custodian, unless they are returned pursuant to this Act without payment of such tax by the Alien Property Custodian. Every such tax shall be paid by the Alien Property Custodian to the same extent, as nearly as may be deemed practicable, as though the property or interest had not been vested in or transferred to the Alien Property Custodian, and shall be paid only out of the property or interest, or earnings, increment, or proceeds thereof, to which they are incident or out of other property or interests acquired from the same former owner, or earnings, increment, or proceeds thereof. No tax liability may be enforced from any property or interest or the earnings, increment or proceeds thereof while held by the Alien Property Custodian except with his consent. Where any property or interest is transferred, otherwise than pursuant to section 9 (a) of 32 hereof, the Alien Property Custodian may transfer the property or

interest free and clear of any tax, except to the extent of any lien for a tax existing and perfected at the date of vesting, and the proceeds of such transfer shall, for tax purposes, replace the property or interest in the hands of Alien Property Custodian.

(c) *Computation ; suspension of limitations, etc.*

Subject to the provisions of subsection (b) of this section, the manner of computing any Federal taxes, including without limitation by reason of this enumeration, the applicability in such computation of credits, deductions, and exemptions to which the former owner is or would be entitled, and the time and manner of any payment of such taxes and the extent of any compliance by the Custodian with provisions of Federal law and regulations applicable with respect to Federal taxes, shall be in accordance with regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury to effectuate this section. Statutes of limitations on assessment, collection, refund, or credit of Federal taxes shall be suspended, with respect to any vested property or interest, or the earnings, increment or proceeds thereof, while vested and for six months thereafter ; but no interest shall be paid upon any refund with respect to any period during which the statute of limitations is so suspended.

(d) *Definition*

The word "tax" as used in this section shall include, without limitation by reason of this enumeration, any property, income, excess-profits, war-profits, excise, estate and employment tax, import duty, and special assessment ; and also any interest, penalty, additional amount, or addition thereto not arising from any act, omission, neglect, failure, or delay on the part of the Custodian.

(e) *Exemptions*

Any tax exemption accorded to the Alien Property Custodian by specific provision of existing law shall not be affected by this section.
