

# IRS' Holy Rollers

## TAX DIVISION

UNITED STATES DEPARTMENT OF JUSTICE



**IRS's Most Wanted**

**1040** Department of the Treasury—Internal Revenue Service  
**U.S. Individual Income Tax Return**  
 For the year Jan. 1-Dec. 31, 2009, or other tax year beginning

**Label**  
 (See instructions on page 14.)  
 Use the IRS label. Otherwise, please print or type.

L	Your first name and initial	LA
A		
S	If a joint return, spouse's first name and initial	LS
E		
L	Home address (number and street). If you have a P.O. box, use that address.	
H		
S	City, town or post office, state, and ZIP code. If you have a ZIP+4 code, enter it.	
P		
E		

**Presidential Election Campaign**  Check here if you, or your spouse if filing jointly

**Filing Status**

1	<input type="checkbox"/> Single
2	<input type="checkbox"/> Married filing jointly (even if only one has income)
3	<input type="checkbox"/> Married filing separately. Enter spouse's name on separate return.

**Report Tax Fraud**  
[www.irsrewards.com](http://www.irsrewards.com)  
 Call Toll Free 1-888-482-6825



### INCOME TAX AMENDMENT.... HAS NO ENFORCEMENT CLAUSE

The Sixteenth Amendment has **no power of enforcement** clause, however seven other constitutional amendments do.

The **Thirteenth Amendment** (Amendment XIII) to the United States Constitution abolished slavery and involuntary servitude, except as punishment for a crime.

**Section 2.** Congress shall have power to enforce this article by appropriate legislation.

The **Fourteenth Amendment** (Amendment XIV) to the United States Constitution was adopted on July 9, 1868, as one of the Reconstruction Amendments.

**Section 5.** The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

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The **Fifteenth Amendment (Amendment XV)** to the United States Constitution prohibits the federal and state governments from denying a citizen the right to vote based on that citizen's "race, color, or previous condition of servitude." It was ratified on February 3, 1870, as the third and last of the Reconstruction Amendments.

**Section 2.** The Congress shall have power to enforce this article by appropriate legislation.

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The **Nineteenth Amendment (Amendment XIX)** to the United States Constitution prohibits any United States citizen from being denied the right to vote on the basis of sex. It was ratified on August 18, 1920.

Congress shall have power to enforce this article by appropriate legislation.

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The **Twenty-third Amendment (Amendment XXIII)** to the United States Constitution extends the right to vote in the presidential election to citizens residing in the District of Columbia by granting the District electors in the Electoral College, as if it were a state.

**Section 2.** The Congress shall have power to enforce this article by appropriate legislation.

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The **Twenty-fourth Amendment (Amendment XXIV)** of the United States Constitution prohibits both Congress and the states from conditioning the right to vote in federal elections on payment of a poll tax or other types of tax.

**Section 2.** The Congress shall have power to enforce this article by appropriate legislation.

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The **Twenty-sixth Amendment (Amendment XXVI)** to the United States Constitution prohibits the states and the federal government from using age as a reason for denying citizens of the United States who are at least eighteen years old the right to vote.

**Section 2.** The Congress shall have the power to enforce this article by appropriate legislation.

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*What makes a person or the Tax Division of Justice Department IRS' Holy Rollers?*

There are numerous reasons, however 26 U.S. Code §§ 7410 and 7806 are a good starting point.

# TITLE 26 / Subtitle F / CHAPTER 76 / **Subchapter A**

## **Subchapter A—Civil Actions by the United States**

Sec.

7401. Authorization.

7402. Jurisdiction of district courts.

7403. Action to enforce lien or to subject property to payment of tax.

7404. Authority to bring civil action for estate taxes.

7405. Action for recovery of erroneous refunds.

7406. Disposition of judgments and moneys recovered.

7407. Action to enjoin tax return preparers.

7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.

7409. Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.

### **7410. Cross references.**

[<< Previous](#) [TITLE 26 / Subtitle F / CHAPTER 76 / Subchapter A / § 7410](#) [Next >>](#)

## **26 USC 7410: Cross references**

Text contains those laws in effect on May 21, 2016

### **From Title 26-INTERNAL REVENUE CODE**

Subtitle F-Procedure and Administration

CHAPTER 76-JUDICIAL PROCEEDINGS

Subchapter A-Civil Actions by the United States

### **§7410. Cross references**

(1) For provisions for collecting taxes in general, **see chapter 64.**

(2) For venue in a civil action for the collection of any tax, **see section 1396 of Title 28** of the United States Code.

(3) For venue of a proceeding for the recovery of any fine, penalty, or forfeiture, **see section 1395 of Title 28** of the United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 875 , §7407; renumbered §7408, Pub. L. 94-455, title XII, §1203(g), Oct. 4, 1976, 90 Stat. 1693 ; renumbered §7409, Pub. L. 97-248, title III, §321(a), Sept. 3, 1982, 96 Stat. 612 ; renumbered §7410, Pub. L. 100-203, title X, §10713(a)(1), Dec. 22, 1987, 101 Stat. 1330-468 .)

[http://uscode.house.gov/view.xhtml?req=\(title:26 section:7410 edition:prelim\) OR \(granuleid:USC-prelim-title26-section7410\)&f=treesort&edition=prelim&num=0&jumpTo=true](http://uscode.house.gov/view.xhtml?req=(title:26 section:7410 edition:prelim) OR (granuleid:USC-prelim-title26-section7410)&f=treesort&edition=prelim&num=0&jumpTo=true)

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**§7410. Cross references** are made only for convenience; and in so doing, chapter 64 and section 1396 of Title 28 & section 1395 of Title 28 of the United States Code shall be given no legal effect pursuant to 26 U.S. Code § 7806(a).

## 26 USC 7806: Construction of title

Text contains those laws in effect on May 21, 2016

### From Title 26-INTERNAL REVENUE CODE

Subtitle F-Procedure and Administration

CHAPTER 80-GENERAL RULES

Subchapter A-Application of Internal Revenue Laws

### §7806. Construction of title

#### (a) Cross references

The cross references in this title to other portions of the title, or other provisions of law, where the word "see" is used, are made only for convenience, and shall be given no legal effect.

#### (b) Arrangement and classification

No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect. The preceding sentence also applies to the sidenotes and ancillary tables contained in the various prints of this Act before its enactment into law.

(Aug. 16, 1954, ch. 736, 68A Stat. 917 .)

#### REFERENCES IN TEXT

This Act, referred to in subsec. (b), is act Aug. 16, 1954.

### Pursuant to 26 U.S. Code § 7806(a) Construction of title:

Where the word "see" is used in the cross reference of 26 U.S. Code § 7410 are made only for convenience, and in so doing for the collecting taxes in general, as set forth in, 26 U.S. Code, CHAPTER 64 shall be given no legal effect pursuant to 26 U.S. Code § 7806(a).

Where the word "see" is used in the cross reference of 26 U.S. Code § 7410 are made only for convenience, and in so doing the venue in a civil action for the collection of any tax, as set forth in, 28 U.S. Code § 1396 shall be given no legal effect pursuant to 26 U.S. Code § 7806(a).

Where the word "see" is used in the cross reference of 26 U.S. Code § 7410 are made only for convenience, and in so doing the venue of a proceeding for the recovery of any fine, penalty, or forfeiture as set forth in, 28 U.S. Code § 1395 shall be given no legal effect pursuant to 26 U.S. Code § 7806(a).

Plaintiff [believes] any law established or "*made only for convenience and shall be given no legal effect*"... is the same as law respecting an establishment of religion or the exercise of religious beliefs & practices.

# Law Respecting an Establishment of Religion

IRS religious indoctrination being “*made only for convenience and shall be given no legal effect*”

Where the word “see” is used in the cross reference of **26 U.S. Code § 7410** *are made only for convenience, and in so doing* , for the collecting taxes in general, as set forth in, 26 U.S. Code, **CHAPTER 64** *shall be given no legal effect pursuant to 26 U.S. Code § 7806(a).*

## Subtitle F— Procedure and Administration

### CHAPTER 64— COLLECTION (sections 6301 to 6344)

CHAPTER 64—Front Matter

Subchapter A—General Provisions (sections 6301 to 6307)

Subchapter B—Receipt of Payment (sections 6311 to 6317)

Subchapter C—Lien for Taxes (sections 6321 to 6327)

Subchapter D—Seizure of Property for Collection of Taxes (sections 6331 to 6344)

Subchapter E—Repealed (sections 6361 to 6365)

<http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title26-chapter64-front&num=0&edition=prelim>

**§6301. Collection authority shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

#### §6301. Collection authority

The Secretary shall collect the taxes imposed by the internal revenue laws.

(Aug. 16, 1954, ch. 736, 68A Stat. 775 ; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834 .)

**§6303. Notice and demand for tax shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

#### §6303. Notice and demand for tax

##### (a) General rule

Where it is not otherwise provided by this title, the Secretary shall, as soon as practicable, and within 60 days, after the making of an assessment of a tax pursuant to section 6203, give notice to each person liable for the unpaid tax, stating the amount and demanding payment thereof. Such notice shall be left at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address.

##### (b) Assessment prior to last date for payment

Except where the Secretary believes collection would be jeopardized by delay, if any tax is assessed prior to the last date prescribed for payment of such tax, payment of such tax shall not be demanded under subsection (a) until after such date.

(Aug. 16, 1954, ch. 736, 68A Stat. 775 ; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834 .)

**§6305. Collection of certain liability** shall be given no legal effect...  
pursuant to 26 U.S. Code § 7806(a).

### **§6305. Collection of certain liability**

#### **(a) In general**

Upon receiving a certification from the Secretary of Health and Human Services, under section 452(b) of the Social Security Act with respect to any individual, the Secretary shall assess and collect the amount certified by the Secretary of Health and Human Services, in the same manner, with the same powers, and (except as provided in this section) subject to the same limitations as if such amount were a tax imposed by subtitle C the collection of which would be jeopardized by delay, except that-

- (1) no interest or penalties shall be assessed or collected,
- (2) for such purposes, paragraphs (4), (6), and (8) of section 6334(a) (relating to property exempt from levy) shall not apply,
- (3) there shall be exempt from levy so much of the salary, wages, or other income of an individual as is being withheld therefrom in garnishment pursuant to a judgment entered by a court of competent jurisdiction for the support of his minor children,
- (4) in the case of the first assessment against an individual for delinquency under a court or administrative order against such individual for a particular person or persons, the collection shall be stayed for a period of 60 days immediately following notice and demand as described in section 6303, and
- (5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor.

#### **(b) Review of assessments and collections**

No court of the United States, whether established under article I or article III of the Constitution, shall have jurisdiction of any action, whether legal or equitable, brought to restrain or review the assessment and collection of amounts by the Secretary under subsection (a), nor shall any such assessment and collection be subject to review by the Secretary in any proceeding. This subsection does not preclude any legal, equitable, or administrative action against the State by an individual in any State court or before any State agency to determine his liability for any amount assessed against him and collected, or to recover any such amount collected from him, under this section.

(Added Pub. L. 93-647, §101(b)(1), Jan. 4, 1975, 88 Stat. 2358 ; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834 ; Pub. L. 97-35, title XXIII, §2332(g), Aug. 13, 1981, 95 Stat. 862 ; Pub. L. 104-193, title III, §361(a), Aug. 22, 1996, 110 Stat. 2242 .)

### **§6321. Lien for taxes**

**§6321. Lien for taxes** shall be given no legal effect...  
pursuant to 26 U.S. Code § 7806(a).

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person.

(Aug. 16, 1954, ch. 736, 68A Stat. 779.)



## Subtitle F— Procedure and Administration

### CHAPTER 64— COLLECTION

#### Subchapter D— Seizure of Property for Collection of Taxes

#### §6331. Levy and distraint

**§6331. Levy and distraint shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

##### (a) Authority of Secretary

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

##### (b) Seizure and sale of property

The term "levy" as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

##### (c) Successive seizures

Whenever any property or right to property upon which levy has been made by virtue of subsection (a) is not sufficient to satisfy the claim of the United States for which levy is made, the Secretary may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

##### (e) Continuing levy on salary and wages

The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 6343.

(Aug. 16, 1954, ch. 736, 68A Stat. 783 ; Pub. L. 89-719, title I, §104(a), Nov. 2, 1966, 80 Stat. 1135 ; Pub. L. 92-178, title II, §211(a), Dec. 10, 1971, 85 Stat. 520 ; Pub. L. 94-455, title XII, §1209(d)(1), (2), (4), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1710 , 1711, 1834; Pub. L. 97-248, title III, §349(a), Sept. 3, 1982, 96 Stat. 639 ; Pub. L. 98-369, div. A, title VII, §714(o), July 18, 1984, 98 Stat. 964 ; Pub. L. 100-647, title VI, §6236(a), (b), (d), Nov. 10, 1988, 102 Stat. 3737 , 3739; Pub. L. 105-34, title X, §1024(a), Aug. 5, 1997, 111 Stat. 923 ; Pub. L. 105-206, title III, §§3433(a), 3444(a), 3462(b), title VI, §6010(f), July 22, 1998, 112 Stat. 759 , 762, 765, 814; Pub. L. 106-554, §1(a)(7) [title III, §313(b)(3)], Dec. 21, 2000, 114 Stat. 2763 , 2763A-642; Pub. L. 107-147, title IV, §416(e)(1), Mar. 9, 2002, 116 Stat. 55 ; Pub. L. 108-357, title VIII, §887(a), Oct. 22, 2004, 118 Stat. 1641 ; Pub. L. 112-56, title III, §301(a), Nov. 21, 2011, 125 Stat. 733 ; Pub. L. 113-295, div. B, title II, §209(a), Dec. 19, 2014, 128 Stat. 4074 ; Pub. L. 114-10, title IV, §413(a), Apr. 16, 2015, 129 Stat. 162 ; Pub. L. 114-94, div. C, title XXXII, §32101(b)(2), Dec. 4, 2015, 129 Stat. 1731 .)

**Subtitle F—Procedure and Administration**  
**CHAPTER 64— COLLECTION**  
**Subchapter D—Seizure of Property for Collection of Taxes**  
**PART II - LEVY**

**§6332. Surrender of property subject to levy shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

**§6332. Surrender of property subject to levy**

**(a) Requirement**

Except as otherwise provided in this section, any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary, surrender such property or rights (or discharge such obligation) to the Secretary, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

**(b) Special rule for life insurance and endowment contracts**

**(1) In general**

A levy on an organization with respect to a life insurance or endowment contract issued by such organization shall, without necessity for the surrender of the contract document, constitute a demand by the Secretary for payment of the amount described in paragraph (2) and the exercise of the right of the person against whom the tax is assessed to the advance of such amount. Such organization shall pay over such amount 90 days after service of notice of levy. Such notice shall include a certification by the Secretary that a copy of such notice has been mailed to the person against whom the tax is assessed at his last known address.

**(2) Satisfaction of levy**

Such levy shall be deemed to be satisfied if such organization pays over to the Secretary the amount which the person against whom the tax is assessed could have had advanced to him by such organization on the date prescribed in paragraph (1) for the satisfaction of such levy, increased by the amount of any advance (including contractual interest thereon) made to such person on or after the date such organization had actual notice or knowledge (within the meaning of section 6323(i)(1)) of the existence of the lien with respect to which such levy is made, other than an advance (including contractual interest thereon) made automatically to maintain such contract in force under an agreement entered into before such organization had such notice or knowledge.

**(3) Enforcement proceedings**

The satisfaction of a levy under paragraph (2) shall be without prejudice to any civil action for the enforcement of any lien imposed by this title with respect to such contract.

**(c) Special rule for banks**

Any bank (as defined in section 408(n)) shall surrender (subject to an attachment or execution under judicial process) any deposits (including interest thereon) in such bank only after 21 days after service of levy.



**(d) Enforcement of levy**

**(1) Extent of personal liability**

Any person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the Secretary, 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 taxes for the collection of which such levy has been made, together with costs and interest on such sum at the underpayment rate established under section 6621 from the date of such levy (or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer). Any amount (other than costs) recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

**(2) Penalty for violation**

In addition to the personal liability imposed by paragraph (1), if any person required to surrender property or rights to property fails or refuses to surrender such property or rights to property without reasonable cause, such person shall be liable for a penalty equal to 50 percent of the amount recoverable under paragraph (1). No part of such penalty shall be credited against the tax liability for the collection of which such levy was made.

**(e) Effect of honoring levy**

Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the Secretary, surrenders such property or rights to property (or discharges such obligation) to the Secretary (or who pays a liability under subsection (d)(1)) shall be discharged from any obligation or liability to the delinquent taxpayer and any other person with respect to such property or rights to property arising from such surrender or payment.

**(f) Person defined**

The term "person," as used in subsection (a), 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 surrender the property or rights to property, or to discharge the obligation.

(Aug. 16, 1954, ch. 736, 68A Stat. 784 ; Pub. L. 89-719, title I, §104(b), Nov. 2, 1966, 80 Stat. 1135 ; Pub. L. 93-625, §7(a)(2)(D), Jan. 3, 1975, 88 Stat. 2115 ; Pub. L. 94-455, title XII, §1209(d)(3), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1710 , 1834; Pub. L. 99-514, title XV, §1511(c)(9), Oct. 22, 1986, 100 Stat. 2745 ; Pub. L. 100-647, title I, §1015(t)(1), title VI, §6236(e), Nov. 10, 1988, 102 Stat. 3573 , 3739; Pub. L. 101-508, title XI, §11704(a)(27), Nov. 5, 1990, 104 Stat. 1388-519 .)

**§6332. Surrender of property subject to levy shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

**Subtitle F—Procedure and Administration**  
**CHAPTER 64— COLLECTION**  
**Subchapter D—Seizure of Property for Collection of Taxes**  
**PART II – LEVY**

**§6333. Production of books shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

**§6333. Production of books**

If a levy has been made or is about to be made on any property, or right to property, any person having custody or control of any books or records, containing evidence or statements relating to the property or right to property subject to levy, shall, upon demand of the Secretary, exhibit such books or records to the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 784 ; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834 .)

**§6334. Property exempt from levy**

**§6334. Property exempt from levy shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

**(a) Enumeration**

There shall be exempt from levy-

**(1) Wearing apparel and school books**

Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of his family;

**(2) Fuel, provisions, furniture, and personal effects**

So much of the fuel, provisions, furniture, and personal effects in the taxpayer's household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed \$6,250 in value;

**(3) Books and tools of a trade, business, or profession**

So many of the books and tools necessary for the trade, business, or profession of the taxpayer as do not exceed in the aggregate \$3,125 in value.

**(4) Unemployment benefits**

Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State, or of the District of Columbia or of the Commonwealth of Puerto Rico.

**(5) Undelivered mail**

Mail, addressed to any person, which has not been delivered to the addressee.

**(6) Certain annuity and pension payments**

Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 1562), and annuities based on retired or retainer pay under chapter 73 of title 10 of the United States Code.

**(7) Workmen's compensation**

Any amount payable to an individual as workmen's compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.

**(8) Judgments for support of minor children**

If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to comply with such judgment.

**(9) Minimum exemption for wages, salary, and other income**

Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of such amounts payable to or received by him during such period does not exceed the applicable exempt amount determined under subsection (d).

**(10) Certain service-connected disability payments**

Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code) disability benefit under-

- (A) subchapter II, III, IV, V,<sup>1</sup> or VI of chapter 11 of such title 38, or
- (B) chapter 13, 21, 23, 31, 32, 34, 35, 37, or 39 of such title 38.

**(11) Certain public assistance payments**

Any amount payable to an individual as a recipient of public assistance under-

- (A) title IV or title XVI (relating to supplemental security income for the aged, blind, and disabled) of the Social Security Act, or
- (B) State or local government public assistance or public welfare programs for which eligibility is determined by a needs or income test.

**(12) Assistance under Job Training Partnership Act**

Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) from funds appropriated pursuant to such Act.

**(13) Residences exempt in small deficiency cases and principal residences and certain business assets exempt in absence of certain approval or jeopardy**

**(A) Residences in small deficiency cases**

If the amount of the levy does not exceed \$5,000-

- (i) any real property used as a residence by the taxpayer; or
- (ii) any real property of the taxpayer (other than real property which is rented) used by any other individual as a residence.

**(B) Principal residences and certain business assets**

Except to the extent provided in subsection (e)-

- (i) the principal residence of the taxpayer (within the meaning of section 121);

**§6334. Property exempt from levy shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

**(b) Appraisal**

The officer seizing property of the type described in subsection (a) shall appraise and set aside to the owner the amount of such property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, the Secretary shall summon three disinterested individuals who shall make the valuation.

**(c) No other property exempt**

Notwithstanding any other law of the United States (including section 207 of the Social Security Act), no property or rights to property shall be exempt from levy other than the property specifically made exempt by subsection (a).

**(d) Exempt amount of wages, salary, or other income**

**(1) Individuals on weekly basis**

In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be the exempt amount.

**(2) Exempt amount**

For purposes of paragraph (1), the term "exempt amount" means an amount equal to-

(A) the sum of-

(i) the standard deduction, and

(ii) the aggregate amount of the deductions for personal exemptions allowed to the taxpayer under section 151 in the taxable year in which such levy occurs,

**§6334. Property exempt from levy shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

Unless the taxpayer submits to the Secretary a written and properly verified statement of the facts necessary to determine the proper amount under subparagraph (A), subparagraph (A) shall be applied as if the taxpayer were a married individual filing a separate return with only 1 personal exemption.

**(3) Individuals on basis other than weekly**

In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him during any applicable pay period or other fiscal period (as determined under regulations prescribed by the Secretary) which is exempt from levy under subsection (a)(9) shall be an amount (determined under such regulations) which as nearly as possible will result in the same total exemption from levy for such individual over a period of time as he would have under paragraph (1) if (during such period of time) he were paid or received such wages, salary, and other income on a regular weekly basis.

**(e) Levy allowed on principal residences and certain business assets in certain circumstances**

**(1) Principal residences**

**(A) Approval required**

A principal residence shall not be exempt from levy if a judge or magistrate of a district court of the United States approves (in writing) the levy of such residence.

**(B) Jurisdiction**

The district courts of the United States shall have exclusive jurisdiction to approve a levy under subparagraph (A).

**(2) Certain business assets**

Property (other than a principal residence) described in subsection (a)(13)(B) shall not be exempt from levy if-

(A) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property; or

(B) the Secretary finds that the collection of tax is in jeopardy.

An official may not approve a levy under subparagraph (A) unless the official determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.

**(f) Levy allowed on certain specified payments**

Any payment described in subparagraph (B) or (C) of section 6331(h)(2) shall not be exempt from levy if the Secretary approves the levy thereon under section 6331(h).

**(g) Inflation adjustment**

**(1) In general**

In the case of any calendar year beginning after 1999, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to-

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting "calendar year 1998" for "calendar year 1992" in subparagraph (B) thereof.

**(2) Rounding**

If any dollar amount after being increased under paragraph (1) is not a multiple of \$10, such dollar amount shall be rounded to the nearest multiple of \$10.

(Aug. 16, 1954, ch. 736, 68A Stat. 784 ; Pub. L. 85-840, title IV, §406, Aug. 28, 1958, 72 Stat. 1047 ; Pub. L. 89-44, title VIII, §812(a), June 21, 1965, 79 Stat. 170 ; Pub. L. 89-719, title I, §104(c), Nov. 2, 1966, 80 Stat. 1137 ; Pub. L. 91-172, title IX, §945(a), Dec. 30, 1969, 83 Stat. 729 ; Pub. L. 94-455, title XII, §1209(a)-(c), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1709 , 1710, 1834; Pub. L. 97-248, title III, §347(a), Sept. 3, 1982, 96 Stat. 638 ; Pub. L. 98-369, div. B, title VI, §2661(o)(5), July 18, 1984, 98 Stat. 1159 ; Pub. L. 99-514, title XV, §1565(a), Oct. 22, 1986, 100 Stat. 2763 ; Pub. L. 100-647, title I, §1015(o), title VI, §6236(c), Nov. 10, 1988, 102 Stat. 3572 , 3738; Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406 ; Pub. L. 104-168, title V, §502(a)-(c), July 30, 1996, 110 Stat. 1461 ; Pub. L. 104-193, title I, §110(l)(3), formerly §110(l)(6), Aug. 22, 1996, 110 Stat. 2173 , renumbered and amended Pub. L. 105-33, title V, §5514(a)(2), (3), Aug. 5, 1997, 111 Stat. 620 ; Pub. L. 105-34, title III, §312(d)(1), title X, §1025(a), Aug. 5, 1997, 111 Stat. 839 , 924; Pub. L. 105-206, title III, §3445(a), (b), July 22, 1998, 112 Stat. 758 , 762, 763.)

**§6334. Property exempt from levy shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

**Subtitle F—Procedure and Administration**  
**CHAPTER 64— COLLECTION**  
**Subchapter D—Seizure of Property for Collection of Taxes**  
**PART II – LEVY**

**§6335. Sale of seized property shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

**§6335. Sale of seized property**

**(a) Notice of seizure**

As soon as practicable after seizure of property, notice in writing shall be given by the Secretary to the owner of the property (or, in the case of personal property, the possessor thereof), or shall be left at his usual place of abode or business if he has such within the internal revenue district where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such district, the notice may be mailed to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

**(b) Notice of sale**

The Secretary shall as soon as practicable after the seizure of the property give notice to the owner, in the manner prescribed in subsection (a), and shall cause a notification to be published in some newspaper published or generally circulated within the county wherein such seizure is made, or if there be no newspaper published or generally circulated in such county, shall post such notice at the post office nearest the place where the seizure is made, and in not less than two other public places. Such notice shall specify the property to be sold, and the time, place, manner, and conditions of the sale thereof. Whenever levy is made without regard to the 10-day period provided in section 6331(a), public notice of sale of the property seized shall not be made within such 10-day period unless section 6336 (relating to sale of perishable goods) is applicable.

**(c) Sale of indivisible property**

If any property liable to levy is not divisible, so as to enable the Secretary by sale of a part thereof to raise the whole amount of the tax and expenses, the whole of such property shall be sold.

**(d) Time and place of sale**

The time of sale shall not be less than 10 days nor more than 40 days from the time of giving public notice under subsection (b). The place of sale shall be within the county in which the property is seized, except by special order of the Secretary.

**(e) Manner and conditions of sale**

**(1) In general**

**(A) Determinations relating to minimum price**

Before the sale of property seized by levy, the Secretary shall determine-

- (i) a minimum price below which such property shall not be sold (taking into account the expense of making the levy and conducting the sale), and



(ii) whether, on the basis of criteria prescribed by the Secretary, the purchase of such property by the United States at such minimum price would be in the best interest of the United States.

**(B) Sale to highest bidder at or above minimum price**

If, at the sale, one or more persons offer to purchase such property for not less than the amount of the minimum price, the property shall be declared sold to the highest bidder.

**(C) Property deemed sold to United States at minimum price in certain cases**

If no person offers the amount of the minimum price for such property at the sale and the Secretary has determined that the purchase of such property by the United States would be in the best interest of the United States, the property shall be declared to be sold to the United States at such minimum price.

**(D) Release to owner in other cases**

If, at the sale, the property is not declared sold under subparagraph (B) or (C), the property shall be released to the owner thereof and the expense of the levy and sale shall be added to the amount of tax for the collection of which the levy was made. Any property released under this subparagraph shall remain subject to any lien imposed by subchapter C.

**(2) Additional rules applicable to sale**

The Secretary shall by regulations prescribe the manner and other conditions of the sale of property seized by levy. If one or more alternative methods or conditions are permitted by regulations, the Secretary shall select the alternatives applicable to the sale. Such regulations shall provide:

(A) That the sale shall not be conducted in any manner other than-

(i) by public auction, or  
(ii) by sealed bids.

**§6335. Sale of seized property shall be given no legal effect... pursuant to 26 U.S. Code § 7806(a).**

(B) Whether the sale shall be by public auction or by sealed bids, and whether such property shall be sold in whole or in parcels, and whether such property shall be sold under whichever method produces the highest aggregate amount.

(C) Whether the announcement of the minimum price determined by the Secretary may be delayed until the receipt of the highest bid.

(D) Whether payment in full shall be required at the time of acceptance of a bid, or whether a part of such payment may be deferred for such period (not to exceed 1 month) as may be determined by the Secretary to be appropriate.

(E) The extent to which methods (including advertising) in addition to those prescribed in subsection (b) may be used in giving notice of the sale.

(F) Under what circumstances the Secretary may adjourn the sale from time to time (but such adjournments shall not be for a period to exceed in all 1 month).

**(3) Payment of amount bid**

If payment in full is required at the time of acceptance of a bid and is not then and there paid, the Secretary shall forthwith proceed to again sell the property in the manner provided in this subsection. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid within the prescribed period, suit

may be instituted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of 6 percent per annum from the date of the sale; or, in the discretion of the Secretary, the sale may be declared by the Secretary to be void for failure to make full payment of the purchase price as provided in subsections (b) and (c) and the purchaser shall receive such rights to property, or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited.

**§6335. Sale of seized property shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

**(4) Cross reference**

**For provision providing for civil damages for violation of paragraph (1)(A)(i), see section 7433.**

**(f) Right to request sale of seized property within 60 days**

The owner of any property seized by levy may request that the Secretary sell such property within 60 days after such request (or within such longer period as may be specified by the owner). The Secretary shall comply with such request unless the Secretary determines (and notifies the owner within such period) that such compliance would not be in the best interests of the United States.

**(g) Stay of sale of seized property pending Tax Court decision**

**For restrictions on sale of seized property pending Tax Court decision, see section 6863(b)(3).**

(Aug. 16, 1954, ch. 736, 68A Stat. 785 ; Pub. L. 89-719, title I, §104(d), Nov. 2, 1966, 80 Stat. 1137 ; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834 ; Pub. L. 99-514, title XV, §1570(a), Oct. 22, 1986, 100 Stat. 2764 ; Pub. L. 100-647, title VI, §6236(g), Nov. 10, 1988, 102 Stat. 3740 ; Pub. L. 105-206, title III, §3441(a), (b), July 22, 1998, 112 Stat. 761 .)

**Subtitle F—Procedure and Administration**

**CHAPTER 64— COLLECTION**

**Subchapter D—Seizure of Property for Collection of Taxes**

**PART II – LEVY**

**§6338. Certificate of sale; deed of real property shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

**§6338. Certificate of sale; deed of real property**

**(a) Certificate of sale**

In the case of property sold as provided in section 6335, the Secretary shall give to the purchaser a certificate of sale upon payment in full of the purchase price. In the case of real property, such certificate shall set forth the real property purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor.

**(b) Deed to real property**

In the case of any real property sold as provided in section 6335 and not redeemed in the manner and within the time provided in section 6337, the Secretary shall execute (in accordance with the laws of the State in which such real property is situated pertaining to sales of real

§6338. Certificate of sale; deed of real property shall be given no legal effect... pursuant to 26 U.S. Code § 7806(a).

**(c) Real property purchased by United States**

If real property is declared purchased by the United States at a sale pursuant to section 6335, the Secretary shall at the proper time execute a deed therefor; and without delay cause such deed to be duly recorded in the proper registry of deeds.

(Aug. 16, 1954, ch. 736, 68A Stat. 787 ; Pub. L. 85-866, title I, §78, Sept. 2, 1958, 72 Stat. 1662 ; Pub. L. 89-719, title I, §104(f), Nov. 2, 1966, 80 Stat. 1137 ; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834 .)

**Subtitle F—Procedure and Administration**

**CHAPTER 64— COLLECTION**

**Subchapter D—Seizure of Property for Collection of Taxes**

**PART II – LEVY**

**§6339. Legal effect of certificate of sale of personal property and deed of real property**

**(a) Certificate of sale of property other than real property**

In all cases of sale pursuant to section 6335 of property (other than real property), the certificate of such sale-

§6339. Legal effect of certificate of sale of personal property and deed of real property shall be given no legal effect... pursuant to 26 U.S. Code § 7806(a).

**(2) As conveyances**

Shall transfer to the purchaser all right, title, and interest of the party delinquent and to the property sold; and

**(3) As authority for transfer of corporate stock**

If such property consists of stocks, shall be notice, when received, to any corporation, company, or association of such transfer, and shall be authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not; and

**(4) As receipts**

If the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of such securities or other evidences of debt; and

**(5) As authority for transfer of title to motor vehicle**

If such property consists of a motor vehicle, shall be notice, when received, to any public official charged with the registration of title to motor vehicles, of such transfer

and shall be authority to such official to record the transfer on his books and records in the same manner as if the certificate of title to such motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not.

**(b) Deed of real property**

In the case of the sale of real property pursuant to section 6335-

**(1) Deed as evidence**

The deed of sale given pursuant to section 6338 shall be prima facie evidence of the facts therein stated; and

**(2) Deed as conveyance of title**

If the proceedings of the Secretary as set forth have been substantially in accordance with the provisions of law, such deed shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real property thus sold at the time the lien of the United States attached thereto.

**(c) Effect of junior encumbrances**

A certificate of sale of personal property given or a deed to real property executed pursuant to section 6338 shall discharge such property from all liens, encumbrances, and titles over which the lien of the United States with respect to which the levy was made had priority.

**(d) Cross references**

**(1) For distribution of surplus proceeds, see section 6342(b).**

**(2) For judicial procedure with respect to surplus proceeds, see section 7426(a)(2).**

(Aug. 16, 1954, ch. 736, 68A Stat. 788 ; Pub. L. 85-866, title I, §79, Sept. 2, 1958, 72 Stat. 1662 ; Pub. L. 89-719, title I, §104(g), Nov. 2, 1966, 80 Stat. 1137 ; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834 .)

**Subtitle F—Procedure and Administration**

**CHAPTER 64— COLLECTION**

**Subchapter D—Seizure of Property for Collection of Taxes**

**PART II – LEVY**

**§6340. Records of sale**

**(a) Requirement**

The Secretary shall, for each internal revenue district, keep a record of all sales of property under section 6335 and of redemptions of such property. The record shall set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making such sale, the amount of expenses, the names of the purchasers, and the date of the deed or certificate of sale of personal property.

**(b) Copy as evidence**

A copy of such record, or any part thereof, certified by the Secretary shall be evidence in any court of the truth of the facts therein stated.

**§6340. Records of sale shall be given no legal effect... pursuant to 26 U.S. Code § 7806(a).**

**(c) Accounting to taxpayer**

The taxpayer with respect to whose liability the sale was conducted or who redeemed the property shall be furnished-

- (1) the record under subsection (a) (other than the names of the purchasers);
- (2) the amount from such sale applied to the taxpayer's liability; and
- (3) the remaining balance of such liability.

(Aug. 16, 1954, ch. 736, 68A Stat. 789 ; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834 ; Pub. L. 105-206, title III, §3442(a), July 22, 1998, 112 Stat. 761 .)

**Subtitle F—Procedure and Administration**

**CHAPTER 64— COLLECTION**

**Subchapter D—Seizure of Property for Collection of Taxes**

**PART II – LEVY**

**§6341. Expense of levy and sale**

**§6341. Expense of levy and sale shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

The Secretary shall determine the expenses to be allowed in all cases of levy and sale.

(Aug. 16, 1954, ch. 736, 68A Stat. 789 ; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834 .)

**§6342. Application of proceeds of levy**

**§6342. Application of proceeds of levy shall be given no legal effect...**  
pursuant to 26 U.S. Code § 7806(a).

**(a) Collection of liability**

Any money realized by proceedings under this subchapter (whether by seizure, by surrender under section 6332 (except pursuant to subsection (c)(2) <sup>1</sup> thereof), or by sale of seized property) or by sale of property redeemed by the United States (if the interest of the United States in such property was a lien arising under the provisions of this title) shall be applied as follows:

**(1) Expense of levy and sale**

First, against the expenses of the proceedings;

**(2) Specific tax liability on seized property**

If the property seized and sold is subject to a tax imposed by any internal revenue law which has not been paid, the amount remaining after applying paragraph (1) shall then be applied against such tax liability (and, if such tax was not previously assessed, it shall then be assessed);

**(3) Liability of delinquent taxpayer**

The amount, if any, remaining after applying paragraphs (1) and (2) shall then be applied against the liability in respect of which the levy was made or the sale was conducted.

**(b) Surplus proceeds**

Any surplus proceeds remaining after the application of subsection (a) shall, upon application and satisfactory proof in support thereof, be credited or refunded by the Secretary to the person or persons legally entitled thereto.

(Aug. 16, 1954, ch. 736, 68A Stat. 789 ; Pub. L. 89-719, title I, §104(h), Nov. 2, 1966, 80 Stat. 1137 ; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834 .)

Where the word “see” is used in the cross reference of **26 U.S. Code § 7410** *are made only for convenience*, and in so doing the venue in a civil action for the collection of any tax, as set forth in, **28 U.S. Code § 1396** *shall be given no legal effect pursuant to 26 U.S. Code § 7806(a)*.

[<< Previous](#) [TITLE 28 / PART IV / CHAPTER 87 / § 1396](#) [Next >>](#)

## 28 USC 1396: Internal revenue taxes

Text contains those laws in effect on September 7, 2016

### Title 28 - JUDICIARY AND JUDICIAL PROCEDURE PART IV- JURISDICTION AND VENUE CHAPTER 87-DISTRICT COURTS; VENUE

#### §1396. Internal revenue taxes

Any civil action for the collection of internal revenue taxes may be brought in the district where the liability for such tax accrues, in the district of the taxpayer's residence, or in the district where the return was filed.

(June 25, 1948, ch. 646, 62 Stat. 936 .)

**§1396. Internal revenue taxes shall be given no legal effect... pursuant to 26 U.S. Code § 7806(a).**

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §105, and section 3744 of title 26, U.S.C., 1940 ed., Internal Revenue Code (Mar. 3, 1911, ch. 231, §44, 36 Stat. 1100 ; Feb. 10, 1939, ch. 2, §3744, 53 Stat. 460 ).

Section consolidates section 3744 of title 26, U.S.C., 1940 ed., Internal Revenue Code, with section 105 of title 28, U.S.C., 1940 ed.

Words "or in the district where the return was filed" are new. This extension of venue will permit of an action in a district easily determinable for collection of revenue earned in several districts, or States, but the return for which is filed with one collector.

Changes were made in phraseology.

#### SENATE REVISION AMENDMENT

While section 3744 of Title 26, U.S.C., Internal Revenue Code [1939], is one of the sources of this section, it was eliminated from the schedule of repeals by Senate amendment. Therefore, it remains in Title 26 [I.R.C. 1939]. See 80th Congress Senate Report No. 1559.



Where the word “see” is used in the cross reference of **26 U.S. Code § 7410** *are made only for convenience*, and in so doing for the venue of a proceeding for the recovery of any fine, penalty, or forfeiture as set forth in, **28 U.S. Code § 1395** *shall be given no legal effect pursuant to 26 U.S. Code § 7806(a)*.

## U.S. Code › Title 28 › Part IV › Chapter 87 › § 1395

### 28 U.S. Code § 1395 - Fine, penalty or forfeiture

Text contains those laws in effect on September 7, 2016

#### Title 28-JUDICIARY AND JUDICIAL PROCEDURE

#### PART IV-JURISDICTION AND VENUE

#### CHAPTER 87-DISTRICT COURTS; VENUE

#### § 1395 - Fine, penalty or forfeiture

**§ 1395 - Fine, penalty or forfeiture** shall be given no legal effect... pursuant to 26 U.S. Code § 7806(a).

(a) A civil proceeding for the recovery of a pecuniary fine, penalty or forfeiture may be prosecuted in the district where it accrues or the defendant is found.

(b) A civil proceeding for the forfeiture of property may be prosecuted in any district where such property is found.

(c) A civil proceeding for the forfeiture of property seized outside any judicial district may be prosecuted in any district into which the property is brought.

(d) A proceeding in admiralty for the enforcement of fines, penalties and forfeitures against a vessel may be brought in any district in which the vessel is arrested.

(e) Any proceeding for the forfeiture of a vessel or cargo entering a port of entry closed by the President in pursuance of law, or of goods and chattels coming from a State or section declared by proclamation of the President to be in insurrection, or of any vessel or vehicle conveying persons or property to or from such State or section or belonging in whole or in part to a resident thereof, may be prosecuted in any district into which the property is taken and in which the proceeding is instituted.

(June 25, 1948, ch. 646, 62 Stat. 936 .)