MANUAL TRANSMITTAL

9.7.13

Department of the Treasury
Internal Revenue Service

MAY 16, 2012

EFFECTIVE DATE

(05-16-2012)

PURPOSE

(1) This transmits revised IRM 9.7.13, Title 26 Seizures for Forfeiture

MATERIAL CHANGES

(1) Subsection 9.7.13.4.4.(2) is revised to reflect that the use of forfeitures in tax and tax-related investigations may require approval by the Department Of Justice, Tax Division.

(2) Subsection 9.7.13.4.4.1(3) is revised to update the procedures for handling seizures for forfeiture in judicial cases.

(3) Subsection 9.7.13.4.4.3 is revised to update the process for requesting approval for forfeitures pursued under Title 18.

(4) Subsections 9.7.13.6.1(2) and 9.7.13.8.2.1(b) are revised to delete all references to obsolete Form 4008, Seized Property Report.

(5) Position titles have been updated throughout the section to reflect the new organizational titles that were effective with the October 1, 2011, reorganization of Criminal Investigation.

(6) Additional revisions, deletions, and grammatical changes were made throughout the section, that did not result in substantive changes but contributed to procedural clarity of the subject matter.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 9.7.13, dated May 15, 2008.

AUDIENCE

CI

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9.7.13
Title 26 Seizures for Forfeiture

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9.7.13-1 Notice of Intent to Forfeit Letter
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9.7.13.1
(05-15-2008)
Overview

(1) There are only two methods of forfeiture under the Internal Revenue Code (Title 26), administrative and civil judicial. These methods are commonly referred to as "code forfeitures" or "Title 26 forfeitures." There is no provision for criminal forfeiture. Only property used, or intended to be used, to violate the Internal Revenue laws can be forfeited. Proceeds of such a violation is not forfeitable. In addition, there are no "tracing" provisions with code forfeitures. Accordingly, the property purchased with proceeds is also not forfeitable.

(2) This section deals only with Title 26 forfeitures. Because these forfeitures must involve violations of the Internal Revenue laws, the guidelines and requirements that have to be followed differ in many ways from those involving Title 18 forfeitures. This section provides information on the authority of the special agents to seize, the type of property authorized, methods that can be used when making a seizure, and the pre-seizure issues that must be considered. It also explains the steps necessary to process a forfeiture, the types of actions that can be filed by claimants prior to forfeiture, and the means available for disposing of forfeited assets.

9.7.13.2
(05-15-2008)
Authority to Seize and Forfeit Assets

(1) The authority to seize property subject to forfeiture under any provision of Title 26 is granted to the Secretary of the Treasury in 26 USC §7321. The Secretary's authority is then delegated to the Commissioner of Internal Revenue Service in Treasury Order 150-10. Delegation Order 9-1, Seizure and Forfeiture of Personal Property, further delegates seizure authority to special agents.

(2) The two primary statutes under the Internal Revenue Code (IRC) by which property can be forfeited are IRC §7301 and §7302.

9.7.13.2.1
(05-15-2012)
Authority Granted in Title 26 USC §7301

(1) Title 26 USC §7301 provides for the forfeiture of taxable property which is in the custody of any person intending it to be sold, removed, concealed, or deposited to defraud the United States of the tax, or is possessed with the intent to avoid payment of the tax. It also provides for the forfeiture of assets used to manufacture, contain, or transport the taxable property that is the object of the fraud or evasion scheme.

(2) As an example, 26 USC §7301 has been used to seize property for violations of the motor fuels excise tax laws. Motor fuels are considered a taxable property under 26 USC §7301(a). Accordingly, it follows that any equipment that is used (such as computers used to track sales) under 26 USC §7301(c), any storage facilities for fuel under 26 USC §7301(d), and any trucks that are used to transport fuel under 26 USC §7301(e), are all forfeitable if the fuel excise tax has been, or is intended to be, evaded.

9.7.13.2.2
(05-15-2012)
Authority Granted in Title 26 USC §7302

(1) Title 26 USC §7302 provides for the forfeiture of any property used, or intended for use, in violation of the provisions of the Internal Revenue laws or regulations prescribed under such laws. It is the more commonly used statute for a Title 26 forfeiture. The wording of 26 USC §7302 is very broad. Although 26 USC §7302 authorizes the seizure and forfeiture of any property used, or intended to be used to violate any of the Internal Revenue laws, it is not to be used as a substitute to the collection of taxes. Consequently, most Title 26 forfeitures have involved property used to violate the provisions of the wagering tax laws (26 USC §4401, §4411, and §4412), the sale of motor fuels (26 USC §4081 and §4091), and, to a lesser degree, the equipment used in these tax fraud schemes. Forfeiture can also apply to other sections, such as the sale of tires (26 USC §4071).

(2) The same assets listed in subsection 9.7.13.2.1(2) above, can also be forfeited under 26 USC §7302 as property intended to be used to facilitate a violation of the Internal Revenue laws or its regulations. In addition, other applications of 26 USC §7302 have occasionally occurred. For example:

a. A luxury car was forfeited because it was the investment object of a fraudulent tax shelter.
b. In false refund investigations, computers and other equipment have been forfeited because they were used in the false refund operation.
c. In wagering investigations, the currency or "bank" that was maintained by the operator of the business, was forfeited since the currency was needed in order to provide a sufficient supply of ready cash to meet the demands of the wagering business, that is, to pay off its winners.

(3) Theoretically, 26 USC §7302 can be used to forfeit assets attributable to violations of IRC 6050I (Form 8300, Report of Cash Payment over $10,000 Received in a Trade or Business, filing requirements). However, as explained in subsection 9.7.13.3.1 below, the absence of a tracing provision in 26 USC §7302 makes these forfeitures very difficult to support. Unless the seizure occurs immediately after the transaction requiring the filing of a Form 8300, the money involved in the transaction would typically have already been deposited into the bank or else used in a subsequent transaction that would necessitate tracing.

9.7.13.3
(05-15-2008)
Property Subject to Seizure

(1) In order to determine what type of property is subject to seizure, you must first look at the type of property that can be forfeited under Title 26. The language of 26 USC §7301 and §7302 does not specifically limit what type of property can be forfeited; however, the Title 26 forfeiture regulation, 26 CFR Part 403.1, only addresses forfeiture of personal property. In addition, Delegation Order 9-1 only authorizes special agents to seize personal property. Since 26 USC §7301 and §7302 do not have a tracing provision, only the actual property used or intended to be used in violation of Internal Revenue laws is forfeitable. If the property is sold, traded, or exchanged for other property, then that other property is not forfeitable under Title 26. In addition, other property not subject to Title 26 forfeiture includes:

a. assets that are the proceeds of the Title 26 violation (i.e., fraudulent refund checks)
b. non-gaming amusement machines because there is no annual special occupational tax imposed on such machines
c. evidentiary records, such as books, ledgers, papers, and similar property
d. leased property, since the lessor will generally be an innocent owner

(2) Property seized under Title 26 can be either non-divisible or divisible. An example of non-divisible property would be an automobile. Once an automobile has been used to facilitate a violation of Title 26, the entire automobile is forfeitable. The owner cannot argue that the automobile was only used 50 percent of the time, thereby requesting that 50 percent of the value be returned. Divisible property, on the other hand, is property that can be divided into smaller parts yet still retain the characteristics of the larger asset. Examples would be currency, gasoline, and diesel fuel. In order to seize divisible property, the government is only required to present a prima facie case as to the forfeitability of a portion of the property. However, the owner has the opportunity to provide some basis upon which the government can separate a portion of the property that was not used or intended to be used to

violate the Internal Revenue laws. If the owner is able to show this, then that portion of the property must be returned. This possibility should be considered in the pre-seizure planning stage of the seizure.

9.7.13.3.1
(05-15-2012)
Seizures Pertaining to Internal Revenue Code §6050I

(1) In transactions that violate IRC §6050I, the purchased item is not forfeitable because it is not an instrument of the crime.

Note: Forfeiture might be possible under 18 USC §981 or §982 if the property used in the transaction represented proceeds from a specified unlawful activity. The money involved in the transaction that required the filing of the Form 8300, Report of Cash Payment over $10,000 Received in a Trade or Business, would also be difficult to forfeit. Typically, this money is deposited into the bank or used in a subsequent transaction. Absent a tracing provision, this money cannot be seized.

(2) A business could be forfeitable if it could be shown that the primary reason for the existence of the business is to facilitate IRC §6050I violations. This would be very rare and would require advance pre-seizure planning with Area Counsel (Criminal Tax) assigned to your field office.

9.7.13.3.2
(08-11-2003)
Burden of Proof

(1) The burden of proof to seize property under Title 26 is probable cause. Although probable cause is technically all that is needed to forfeit property, several court cases have ruled that a preponderance of evidence is required before the asset can be forfeited.

9.7.13.4
(05-15-2008)
Pre-Seizure Considerations

(1) Pre-seizure planning for a Title 26 seizure is, in many respects, similar to the pre-seizure planning that is conducted for a Title 18 seizure. Since IRM 9.7.4, Pre-Seizure Planning, specifically addresses procedures relative to Title 18 seizures, a review of its material would be beneficial. However, there are differences in a Title 26 seizure that require different procedures to be followed.

(2) As is the case with any seizure action, the first determination to make is whether the United States is likely to prevail in the ensuing forfeiture action. One step that will help achieve this goal is properly planning the seizure and anticipating any potential weaknesses and pitfalls that could prevent a successful forfeiture. Early consultation with Area Counsel and the United States Attorney's Office (USAO), subject to appropriate disclosure limitations contained in subsection 9.7.13.4.2 below, will assist in laying the proper groundwork for our actions. With Title 26 forfeitures, the seized property contractor utilized in our Title 18 seizures cannot be used. Therefore, the steps taken to secure, store, maintain, and dispose of seized and forfeited property differ from the Title 18 seizures that result from our investigations. In addition, as with other areas of Title 26 seizures, guidance and instructions come from existing Federal regulations, and not from other sources, such as the Treasury Executive Office for Asset Forfeiture.

(3) Property that is seized and eventually forfeited in a Title 26 forfeiture belongs solely to the Internal Revenue Service. Proceeds must be deposited into the General Fund and are not subject to sharing with other law enforcement agencies. Arrangements for obtaining services and paying expenses will be up to the individual field office and should be addressed in the pre-seizure stage of the action. For example, most expenses (i.e., towing, locksmiths, etc.) can be paid with a government issued credit card. Also, in some cases, other arrangements can be made. For example, Agency Wide Shared Services

(AWSS) will likely be able to help locate existing government space for storage. Expenses incurred relative to a Title 26 forfeiture are not subject to reimbursement by the Treasury Forfeiture Fund.

9.7.13.4.1
(05-15-2008)
Pre-Seizure Involvement of Area Counsel

(1) Area Counsel must be involved in all Title 26 forfeitures at the pre-seizure stage of the potential action.

(2) For administrative seizures, they will review the affidavit for the seizure warrant and related Enforcement Action Review form prior to providing written advice to the SAC.

(3) Area Counsel can also assist by determining such things as whether an existing IRS lien affects the seizure, and if it should be released or enforced.

(4) Although Area Counsel can recommend that a forfeiture action be initiated, most have to be referred to Division Counsel for approval.

9.7.13.4.2
(08-11-2003)
Disclosure of Tax Return or Return Related Information

(1) Title 26 forfeitures are related to tax administration and are subject to the disclosure restrictions contained in 26 USC §6103. Therefore, in Title 26 forfeiture investigations special agents may access tax information pursuant to 26 USC §6103(h)(1). Disclosure to the Department of Justice (DOJ) and the USAO for the purpose of obtaining a Title 26 seizure warrant is permitted pursuant to 26 USC §6103(h)(2) and (3).

(2) Tax return or tax return information may be disclosed to appropriate contract employees for the purpose of carrying out the provisions of its contract with the IRS (Statement of Work H.2, IRSAP 1052.224-70(c) Disclosure of Information).

9.7.13.4.3
(05-15-2008)
Contacts with Small Business Self Employed Unit

(1) The special agent responsible for the proposed seizure is also responsible for coordinating any action that might be anticipated by the Small Business Self Employed Unit (SBSE). Some determinations that can be made include:

a. explaining that once forfeited, the proceeds cannot be used to satisfy an outstanding tax liability
b. ensuring that SBSE does not file any liens after the seizure without Criminal Investigation's (CI's) knowledge
c. requesting that SBSE release any liens filed prior to the seizure, if appropriate, pursuant to the Relation Back Doctrine

9.7.13.4.4
(05-15-2012)
Title 18 Forfeitures in Tax or Tax-Related Investigations

(1) It is the general practice of CI that Title 18 seizure/forfeiture authority will not be used in tax or tax-related investigations. However, there may be instances where Title 18 seizure/forfeiture provisions are appropriate in tax or tax-related investigations. The purpose of this section is to provide guidance on the use of these statutes in tax investigations.

(2) Additionally, the use of such forfeitures in tax and tax-related investigations may require approval by the DOJ, Tax Division pursuant to the provisions of Tax Division Directive 128.

9.7.13.4.4.1
(05-15-2012)
General Provisions

(1) The use of Title 18 seizure/forfeiture authority in tax or tax-related investigations will be limited to egregious situations where no reasonable alternative is available. These situations typically arise in, but are not limited to, refund fraud investigations.

(2) Title 18 forfeiture authority in tax or tax-related investigations is applicable through use of the money laundering statutes (18 USC §1956 or §1957); alleging mail, wire or bank fraud as the underlying specified unlawful activity. This application of the money laundering statutes is predicated on the fact that virtually all tax returns or refunds involve use of the US Postal Service (USPS), electronic transmission by wire, or a financial institution (e.g., Refund Anticipation Loans).

(3) Seizures for forfeiture in tax or tax-related investigations must be reviewed by Area Counsel, have the concurrence of the Director, Field Operations, and be approved by the Chief, CI. If approved, the Chief, CI will then refer the matter to the requesting SAC. If a judicial case, the field office will prepare a transmittal memorandum and forward the request to Tax Division for authorization to pursue a judicial forfeiture action pursuant to Directive 128.

9.7.13.4.4.2
(08-11-2003)
Appropriate Application of Title 18 Forfeiture Provisions in Tax or Tax-Related Investigations

(1) The use of Title 18 forfeiture provisions in tax or tax-related investigations must be limited to egregious circumstances where:

- significant assets have been identified
- IRS civil collection methods cannot adequately protect the assets subject to forfeiture
- Title 26 seizure/forfeiture provisions are not applicable

9.7.13.4.4.3
(05-15-2012)
Requesting Approval for Title 18 Forfeitures in Tax or Tax-Related Investigations

(1) It is generally acknowledged that, in many instances, time is of the essence when considering a seizure action. This is due to the fact that some types of assets (particularly currency or cash on deposit) can easily be placed outside the reach of the government. In addition, in some instances a decision to utilize Title 18 forfeiture provisions is made subsequent to the seizure of an asset (e.g. search warrants). Given these considerations, it is understood that it may sometimes be impractical or impossible to forward a request for approval prior to seizure. However, in no case should forfeiture proceed without the required approval. Therefore, in any case where it is anticipated that forfeiture will be pursued under Title 18, approval will be sought prior to forfeiture, and as early as practicable. The process for making this request is contained below in paragraphs (2), (3) and (4).

(2) A memorandum from the Special Agent in Charge (SAC); through the Director, Field Operations; to the Associate Director, Warrants and Forfeiture will be prepared. The memorandum will contain the following information:

a. a summary of the investigation
b. an explanation as to why IRS collection methods cannot adequately protect the asset(s) subject to forfeiture and why the assets are at immediate risk
c. an explanation as to why Title 26 seizure/forfeiture provisions are inapplicable
d. sufficient facts and information to determine the potential application of the Title 18 seizures/forfeiture provisions, and
e. in those situations where a Title 18 seizure warrant has already been executed, an explanation of the circumstances that prevented the request for approval from being forwarded prior to the seizure execution date

(3) A Law and Fact Memorandum will be obtained from local Area Counsel and will be forwarded with the field office request. Where judicial forfeiture is antici-

pated, a memorandum of support will be obtained from the appropriate USAO. This advice will be sought within the confines of IRC §6103.

(4) The SAC will forward the above documents, together with a copy of the seizure warrant and affidavit (if a seizure has already been made) to his/her Director, Field Operations for concurrence. The Director, Field Operations will forward the request to the Associate Director, Warrants and Forfeiture. The Associate Director, Warrants and Forfeiture will seek the advice and recommendation of Division Counsel regarding the request.

(5) The Associate Director, Warrants and Forfeiture will prepare a memorandum to the Chief, CI through the Director, Operations Policy and Support. If approved, the Chief, CI, will refer the matter to the requesting SAC. If a judicial case, the field office will prepare a transmittal memorandum and forward the package to DOJ, Tax Division to pursue a judicial forfeiture.

(6) Upon approval by the Chief, CI, the administrative forfeiture action may commence.

9.7.13.4.5
(05-15-2008)
The Relation Back Doctrine

(1) The Relation Back Doctrine maintains that the government's interest in a particular piece of property is established at the time it is used illegally, unless the statute states otherwise. Technically, at that instant, all rights and legal title to the asset pass to the government. Seizure and forfeiture proceedings, which must be undertaken, simply formalize the transfer of ownership that has already taken place. Accordingly, any liens placed on the property after the date the asset is used illegally are technically liens filed against government property. While third parties generally cannot acquire a legally recognizable interest in the asset after its illegal use, the Supreme Court has ruled that a good faith purchaser for value can assert an innocent owner defense prior to the government obtaining a judgment of forfeiture. In all instances, Area Counsel shall be consulted prior to releasing a tax lien or to releasing the seized property to satisfy a tax lien.

9.7.13.4.6
(08-11-2003)
Seizing Potentially Contaminated Property

(1) Since Title 26 seizures include motor fuel excise tax violations, it is possible that potentially contaminated property, such as a motor fuel tank, farm, barges, gasoline stations, fuel trucks, etc., could be seized. Pre-seizure planning is imperative because of the potential liability and poor marketability of this type of property. It is the policy of the Department of Treasury and DOJ that property contaminated, or potentially contaminated, can only be seized and forfeited with the approval of the USAO in the judicial district where the property is located. The decision whether to seize should be made in consultation with Area Counsel and AWSS. Further information relative to this topic is contained in subsection 9.7.13.9 below.

9.7.13.4.7
(08-11-2003)
Seizing Perishable Goods

(1) Procedures relative to the seizure of perishable goods are explained in 26 USC §7324. If perishable goods are seized, special concessions are made to the owner of the property who can have the property returned in lieu of having it sold by the government. These concessions should be considered as part of pre-seizure planning. Area Counsel and AWSS should also be consulted prior to seizure. Further information is contained in subsection 9.7.13.9 below.

9.7.13.5
(08-11-2003)
Methods of Seizure

(1) The methods to effect seizures for Title 26 forfeiture are:

a. warrant of arrest *in rem*
b. seizure warrant
c. seizure incident to a lawful arrest or search
d. adoptive seizures

(2) In very unusual circumstances, property taken from its lawful owner by another individual and then turned over to IRS, can possibly be seized. However, the matter should first be reviewed by Area Counsel and will likely require the issuance of a seizure warrant or a warrant of arrest *in rem*.

9.7.13.5.1
(08-11-2003)
Warrant of Arrest *In Rem*

(1) A Warrant of Arrest *in rem* is used to seize property for Title 26 forfeitures when the proceedings are civil judicial. Proceedings *in rem* are governed by the Supplemental Rules for Admiralty and Maritime Claims. In addition to the USAO, Area Counsel must also be consulted so that they can review the affidavit for the warrant. They must also obtain concurrence from Division Counsel before a forfeiture action can be initiated.

9.7.13.5.2
(08-11-2003)
Seizure Warrant

(1) A seizure warrant is another viable method for making a Title 26 seizure. Consult with Area Counsel since most Title 26 seizures will require the advice of Division Counsel. In a judicial matter involving return information in which no Ex Parte Order has been obtained, Area Counsel can assist in preparing the affidavit for the warrant. This is to ensure compliance with the disclosure provisions of 26 USC §6103.

9.7.13.5.3
(05-15-2008)
Title 26 Seizures Incident To Lawful Arrest or Search

(1) Title 26 USC §7302 explicitly provides for forfeiture of property seized pursuant to search warrants issued as authorized in 18 USC Chapter 205 and the Federal Rules of Criminal Procedure. While 26 USC §7301 is silent on the use of search or seizure warrants, they are the preferred methods.

(2) If a determination is made that property seized incident to an arrest or a lawful search is subject to forfeiture, the matter must be referred to Area Counsel for their advice. A memorandum, stating the facts and circumstances and fully detailing the evidence that supports forfeiture should be included in the advisory request to Area Counsel. Equally applicable to Title 26 action the Treasury Executive Office of Asset Forfeiture recommends that property seized incident to an arrest or search warrant, be re-seized utilizing a seizure warrant if it is subsequently determined the property is subject to forfeiture.

9.7.13.5.4
(08-11-2003)
Adoptive Seizures

(1) Although possible, adoptive seizures will be rare since there are no provisions for sharing with state, local, or Federal agencies. In Title 26 forfeitures, adoption requests must be reviewed by Area Counsel and are subject to the same review and approval as with Title 18 adoptions.

9.7.13.6
(08-11-2003)
Processing Seized Assets

(1) The following subsections are the procedures to be followed when processing seized assets for Title 26 forfeiture. The procedures are similar to those for Title 18 forfeitures, except as noted below.

9.7.13.6.1
(05-15-2012)
Currency

(1) The majority of case law that addresses Title 26 forfeiture of currency involves the seizure of currency from wagering operations. The courts have upheld the forfeiture of currency when it could be shown the currency was involved in illegal gambling and that it was being used to further the illegal activity, and not merely the proceeds of the activity. It must be shown that it was an "active aid" in the violation. This same logic should be used for other Title 26 forfeiture situations.

(2) Domestic and foreign currency seized for Title 26 forfeiture, except when held as evidence or a collectible asset, is to be deposited into the IRS suspense account within five days of seizure. The currency should be converted into a cashier's check or money order made payable to the "Internal Revenue Service" and forwarded to Internal Revenue Service, Beckley Finance Center, 110 N. Heber St., Beckley WV 25802, Attention: Seized Asset Accountant. A copy of the AFTRAK Seizure Asset Transcript Report, used to record the seizure on AFTRAK should accompany the check.

(3) The use of safe deposit boxes or other similar methods of storing seized currency is no longer acceptable, except when necessary for temporary storage or in storing currency to be held for evidentiary purposes.

(4) If currency is seized solely for evidentiary purposes or as part of a Title 26 investigation, written approval must be obtained in order to retain the currency in IRS custody. If the amount is less than $5,000.00, a written request from the USAO, or a memorandum signed by the SAC, must be obtained and maintained in the seizure file. If the amount equals or exceeds $5,000.00, written approval must be obtained from the Director, Operations Policy and Support and maintained in the seizure file. If only a portion of the seized currency has evidentiary value, only that portion with the evidentiary value should be retained.

(5) If seized currency being held as evidence is later deposited to the IRS suspense account, then its evidentiary value no longer exists and some action needs to be taken within 60 days of the date of deposit.

9.7.13.6.2
(08-11-2003)
Financial Accounts

(1) Financial accounts include checking, savings, money market, mutual funds, and brokerage accounts. They can be either seized or frozen at the financial institution.

(2) Unless the account is frozen, immediately upon seizure of the account, the financial institution should be directed to prepare a cashier's check for the value of the account, made payable to the "Internal Revenue Service". The check should be deposited into the IRS suspense account by following the procedures listed in subsection 9.7.13.6.1(2) above.

9.7.13.6.3
(08-11-2003)
Financial Instruments

(1) Unlike Title 18 forfeitures in which financial instruments, promissory notes, and currency are typically forfeited as proceeds of a specified unlawful activity, Title 26 forfeitures require that the asset be used, or intended to be used, to facilitate the crime (i.e., to be an active aid in furtherance of the crime). This requirement and the lack of a tracing provision have made it very difficult to forfeit financial instruments (i.e., postal money orders, personal or business checks, stocks and bonds, etc.) and cashier's checks, using Title 26 statutes.

(2) If business, personal, or bank checks are seized, the seizing agent should act expeditiously to ensure the funds are preserved. In addition to notifying the drawee bank, the following procedures should be followed:

a. When the check is made payable to cash or the payee is left blank, the instrument shall be photocopied and the check should be forwarded to the Director, Field Operations with a request that it be endorsed in his/her capacity. The check will be presented to the drawee bank, if possible, or to a cooperating financial institution and utilized to purchase a cashier's check made payable to the "Internal Revenue Service". The cashier's check should then be deposited to the IRS suspense account by following the procedures listed in subsection 9.7.13.9.1(2) below.

b. When the check is made payable to a designated payee, a letter should be sent from the Director, Field Operations to the drawee's financial institution advising that the check being presented was seized pursuant to 26 USC §7302. The letter should also request that the check be certified until completion of the forfeiture proceedings. The cashier's check written for seized postal money orders, traveler's checks, stocks and bonds, and airline tickets, and for US savings bonds should be made payable to the " Internal Revenue Service" instead of the "US Treasury Department".

9.7.13.6.4
(08-11-2003)
Personal Property

(1) Unlike Title 18 seizures, personal property that is seized cannot be placed in the custody of the seized property custodian. Arrangements must be made to store the assets in CI space, preferably in a secure evidence room. For small items such as jewelry, collector coins, etc. a safe deposit box is preferred. For larger items such as vehicles, contact AWSS to determine if any low or no-cost storage is available.

9.7.13.6.5
(08-11-2003)
Real Estate - Title 26 Forfeiture

(1) If real property is authorized to be seized for forfeiture, follow the same real estate transfer and handling procedures as with Title 18 seizures except AWSS will be involved instead of the seized property contractor.

9.7.13.6.6
(05-15-2008)
Appraisal of Seized Property

(1) Upon seizure for Title 26 forfeiture, all assets must be appraised to assess their current fair market value. Delegation Order 9-1 authorizes special agents to estimate the value of seized personal property, and if valued at $100,000 or less, to cause a listing of the seized property to be prepared and to obtain an appraisal.

Note: If the seized property is valued at more than $100,000, Division Counsel may initiate the authorization for judicial Title 26 forfeiture proceedings through DOJ).

(2) If multiple assets are seized, the special agent must aggregate the value of all the property seized from one owner at one location in determining the $100,000 criteria.

(3) If the seized property is valued at $100,000 or less, 26 USC §7325(1) and 26 CFR 403.26 require that a list of the assets, including a description, be prepared. Each item must be appraised by three sworn appraisers, who are respectable and disinterested citizens of the United States residing within the IRS field office wherein the seizure was made.

(4) Appraisers can be paid with a government issued credit card or through the normal procurement process using Form 1334, Requisition for Equipment, Supplies, or Services.

(5) If a petition is filed, the relief allowed will be based upon the value of the property as determined by the three appraisals. Should the petitioner request that the property be reappraised, he must make a written request and pay for the costs of such reappraisal.

9.7.13.7
(08-11-2003)
Processing a Forfeiture

(1) Once an asset has been identified, pre-seizure steps have been taken, and the seizure occurs, an authorization for forfeiture must be obtained. The process, although similar, differs in many ways from the forfeiture process utilized in Title 18 forfeitures. Because Title 26 forfeitures relate specifically to violations of the Internal Revenue laws, the approval process and disposition procedures also follow Internal Revenue statutes, regulations, and resources.

9.7.13.7.1
(08-11-2003)
Statute of Limitations

(1) For Title 26 forfeitures, the statute of limitations is governed by 28 USC §2462, which states that civil forfeiture proceeding must be commenced within five years from the date "when the claim first accrued." There have been conflicting court decisions on the issue of defining that term, so it is best to interpret this date as the date when the violation occurred.

9.7.13.7.2
(05-15-2008)
Property Subject To Judicial Forfeiture Under Title 26

(1) The method by which a forfeiture is processed primarily depends on the value of the asset that was seized. If the value is $100,000 or less, then the asset should be forfeited administratively. Judicial proceedings are used for Title 26 forfeitures when:

a. The asset is valued in excess of $100,000.
b. An acceptable claim and cost bond has been filed.
c. The asset is real property.
d. Other policy considerations dictate initiation of judicial forfeiture; for example, the use of grand jury derived information where such information is governed by the secrecy provisions of Federal Rules of Criminal Procedure Rule 6(e) (USCS Fed. R. Crim. P. R6(e)).

9.7.13.7.3
(05-15-2008)
Obtaining Approval to Forfeit

(1) Within ten days following seizure, a referral should be forwarded to Area Counsel assigned to your area. It is the responsibility of the Asset Forfeiture Coordinator (AFC) to ensure that all necessary documents and information are obtained from the case agent and included in the referral to Area Counsel.

(2) After receiving the referral, Area Counsel will review the facts and circumstances of the seizure and the documents provided. If the proposed forfeiture is administrative and pertains to either a violation of IRC §6050I or the wagering tax provisions of 26 USC §4401, §4411, and/or §4412, then Area Counsel can recommend that a forfeiture action be initiated. If it pertains to any other Title 26 matter, then it has to be referred to Division Counsel, who will review the matter within three days. If they concur, then the matter is forwarded to DOJ, Tax Division.

(3) Within 30 calendar days after receipt of the referral, Area Counsel will provide a Law and Fact Memorandum to the SAC. This period will include the time for review by Division Counsel. Area Counsel's memorandum will render an

opinion on the legal basis, or lack thereof, for forfeiture and provide the SAC with a recommendation whether or not the property should be forfeited.

(4) If Area Counsel's Law and Fact Memorandum recommends against forfeiture and the SAC disagrees, a conference will be arranged so that both parties can discuss the matter. If Area Counsel's position is unchanged, the SAC will again be notified by memorandum.

(5) The SAC may protest Area Counsel's position by preparing a report setting forth the reasons for disagreement, and forwarding it for the concurrence of the Director, Field Operations. This report will be forwarded to the Chief, CI, and a copy sent to Area Counsel. The Chief, CI, will negotiate the matter with Division Counsel and notify the SAC of the final decision.

9.7.13.7.4
(05-15-2008)
Notice of Intent to Forfeit

(1) If an administrative forfeiture is recommended by either Area Counsel or Division Counsel, the field office AFC will mail a Notice of Intent to Forfeit Letter (Exhibit 9.7.13-1) to all potential claimants within ten days of receipt of the recommendation. The letter must be mailed within 60 days of the date of seizure.

(2) The Notice of Intent to Forfeit Letter will be mailed by certified or registered mail to all known potential claimants. The letter will explain the claimant's right to file a Petition for Remission or Mitigation of Forfeiture, a Claim and a Cost Bond, or an Offer in Compromise. The notice will also specify the IRS statute upon which the forfeiture is based, the newspaper in which the notice of seizure will be published, the dates of publication, the final claim date, and the forfeiture date.

9.7.13.7.5
(05-15-2008)
Notice of Seizure

(1) The Law and Fact Memorandum from Area Counsel that recommends administrative forfeiture of the property will instruct that a notice of seizure must be placed in a newspaper of general circulation in the judicial district where the seizure occurred. The field office AFC is responsible for ensuring that the notice is published within 60 days of the date of seizure.

(2) The notice must be published once a week for three consecutive weeks and the first notice must be coordinated to be published at the same time as the mailing of the Notice of Intent to Forfeit Letter. The notice must describe the items seized, and state the time, place, and cause for the seizure.

(3) The final claim date will be 30 days from the first date of publication of the notice of seizure.

9.7.13.7.6
(05-15-2008)
Administrative Forfeiture

(1) Provided no petitions or claims are received, the forfeiture date is 30 days after the first day of publication of the Notice of Seizure.

(2) In an administrative forfeiture case, a completed Form 1570, Declaration of Forfeiture (Exhibit 9.7.5-1), will be sent to the Director, Field Operations, who is authorized by Delegation Order 9-1 to execute the declaration and forfeit property administratively on behalf of the Internal Revenue Service.

(3) The original Form 1570, Declaration of Forfeiture, signed by the Director, Field Operations will be maintained in the seizure file and a copy will be forwarded to Area Counsel.

9.7.13.7.7
(05-15-2008)
Judicial Forfeiture

(1) In a judicial forfeiture case, a Decree of Forfeiture will be issued by the court as a result of a civil judicial proceeding. Although the processing of the judicial forfeiture will be handled by the USAO, it should be undertaken in consultation with the AFC and should parallel IRS guidelines.

(2) If the IRS intends to sell the forfeited property, the Final Order of Forfeiture signed by the court should reflect this provision.

9.7.13.8
(05-15-2008)
Restraining Actions

(1) The following procedures for relief are available to persons holding an interest in seized property to be forfeited pursuant to Title 26 Forfeiture statutes:

a. Claim and Cost Bond
b. Petition for Remission or Mitigation of Forfeiture
c. Offer in Compromise

9.7.13.8.1
(05-15-2012)
Petitions for Remission or Mitigation of Forfeiture

(1) Although there is no standard format for a petition, it must meet the standards set forth in 26 CFR 403.37 and 403.38.

(2) In addition, the petition:

a. should contain an acknowledgment to pay any costs assessed as a condition of its approval (26 CFR 403.38(f) sets forth some potential costs)
b. must be filed in triplicate with the SAC for the field office in which the property was seized
c. must be filed no later than three months after the disposition of the seized property, e.g., sold or placed into official use

(3) If the SAC believes the petition is deficient in any manner, the SAC will allow the petitioner a reasonable time to submit a corrected petition.

(4) Upon receipt of a petition, it should be referred to Area Counsel, who will review the petition and will forward it to Division Counsel for review and recommendation to the Chief, CI.

(5) Where the remission of forfeiture is granted, the recipient can, within 20 days after notice is received, pay the costs and expenses of the seizure and forfeiture as directed by the Director, Operations Policy and Support and obtain possession of the property.

(6) If the petitioner does not comply with the conditions imposed for the release of the property pursuant to 19 USC §1613 and §1618, the property may be sold after forfeiture. Following the sale, the proceeds shall be used to pay all costs of the seizure and forfeiture. Any remaining balance shall be paid to the petitioner. If the petitioner is a creditor, then the petitioner would only receive the remaining balance up to the outstanding balance of the loan. The remainder will be deposited to the General Fund.

(7) The Director, Operations Policy and Support can also enter into an agreement with the petitioner to place the forfeited asset into official use. In those instances, the IRS will pay the petitioner the appraised value of the asset less the amount of any costs. Similarly, if the petitioner is a creditor, the payment will be up to the remaining balance of the loan.

9.7.13.8.2
(05-15-2008)
Claim and Cost Bond

(1) Pursuant to 26 USC §7325 and 26 CFR 403.26, any person claiming an interest in the property seized may file a claim and post a cost bond prior to the final claim date.

(2) Although there are no provisions in the Title 26 statutes or regulations for foregoing the filing of a cost bond, there is sufficient case law that allows a claimant to proceed *In Forma Pauperis*. Internal Revenue Service policy is to afford any potential claimant the maximum opportunity to retrieve their property. Therefore, the Notice of Intent to Forfeit Letter sent to potential claimants shall reference this proceeding as an option. Form 9365, Application to Proceed In Forma Pauperis, (Exhibit 9.7.13-2) will also be included with the forfeiture letter.

(3) The sureties of a cost bond must meet these requirements:

a. The bond amount shall be in the amount of $2,500.
b. The bond must be conditioned that in the case of condemnation of the property seized, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation.
c. The bond may be in cash, certified check, cashier's check, postal money order, or satisfactory surety bonds. Checks and money orders are to be made payable to the Internal Revenue Service.
d. United States bonds, notes, or other obligations on which the interest and principal are unconditionally guaranteed by the United States (US bonds which are not transferable are not acceptable, see Treasury Department Circular 154 and 31 CFR Part 225) are also acceptable.
e. A corporate surety bond may be filed only if the surety company issuing the bond holds a Certificate of Authority from the Secretary of Treasury as being an acceptable surety. Corporate surety bonds are subject to the limitations prescribed by Treasury Department Circular 570, as amended.
f. If a claim is received, it should be forwarded to Area Counsel, who will review the matter, and, if required, will forward it to Division Counsel.

9.7.13.8.2.1
(05-15-2012)
Processing a Cost Bond

(1) The following procedures will be used to process cost bonds:

a. When transmitting the claim to Area Counsel, advise them that a cost bond was received from a claimant. A copy of the bond should accompany the claim and Area Counsel should be asked if they have any objection to the deposit of the bond.
b. Unless Area Counsel directs otherwise, the cash, check, or money order that is received for the bond, should be forwarded to the Beckley Finance Center, 110 N. Heber St., Beckley WV 25802 and deposited into the IRS Suspense Account following the procedures explained in subsection 9.7.13.6.1(2) above. The AFTRAK Seizure Asset Transcript Report, pertaining to the original seizure should accompany the deposit. The memorandum that transmits the check and AFTRAK Seizure Asset Transcript Report should explain that the check represents a bond that was posted relative to a previously seized asset. The bond should remain on deposit until such time as instructions are received from the USAO at the conclusion of the judicial forfeiture action.

(2) If any of the property for which a cost bond was filed is judicially forfeited:

a. A judgment for allowed costs should be included in the judgment of forfeiture, or sought by separate motion and order.

b. The costs allowed should be recovered from the amount of the cost bond and any amount remaining from the bond should be returned to the claimant.

(3) The USAO has the authority to waive the costs incurred in the settlement of judicial forfeiture cases and to return the full bond to the claimant.

(4) If the property for which the cost bond was filed is not forfeited, the entire amount of the bond should be returned to the claimant with the property.

9.7.13.8.3
(05-15-2012)
Offers in Compromise

(1) An Offer in Compromise is an offer proposed by the owner of the property subject to forfeiture, who wishes to negotiate the forfeiture. It can only be proposed in an administrative forfeiture action. It cannot be considered once a case has been referred to DOJ or USAO.

(2) When an Offer in Compromise is received, the forfeiture process will continue as scheduled. However, the forfeited property is not to be placed into official use, transferred, or sold until final action occurs on the Offer in Compromise.

(3) Pursuant to Delegation Order 9-1, the Director, Operations Policy and Support is the deciding or determining official on whether or not to accept any Offer in Compromise. Upon receipt of an offer, it should be reviewed by the field office and by Area Counsel and then forwarded to Headquarters.

9.7.13.9
(08-11-2003)
Disposition of Forfeited Assets

(1) Property disposed of either administratively or judicially under the provisions of Title 26 may be disposed of as follows:

a. deposited into the General Fund (currency, negotiable instruments, proceeds of any financial account or proceeds from the sale of seized property)
b. placed into official use
c. returned to owner, claimant, or petitioner
d. destroyed pursuant to court order, or in the case of coin-operated gaming devices, by order of the Director, Field Operations
e. transferred to GSA for disposition

9.7.13.9.1
(08-11-2003)
Disposition Instructions for Assets Other than Currency

(1) Property administratively forfeited may be sold at public auction and shall be the responsibility of AWSS. Upon forfeiture, the AFC should contact AWSS and arrange for their assistance in disposing of the assets or in transferring them to GSA for disposal.

(2) The procedures and terms of the sale shall be in accordance with 26 CFR 403.55 through 403.62. These regulations state that:

a. A notice of sale must be placed in a newspaper of general circulation published in the judicial district wherein the seizure was made.
b. The sale shall not occur sooner than ten days from the date of the publication of the notice.
c. Each asset must be sold separately if competitive bids are solicited.
d. All personal property is to be sold “ as is” and with no guarantee or warranty implied or expressed.
e. The United States reserves the right to reject any bid.
f. All prospective bidders must complete a Bidder Registration Form (at the time of registration if auctioned, or with the submission of the bid if a negotiated sale or sealed bid). Completion of this form represents the

bidder's certification that the bidder and/or the party(s) that the bidder may represent are not the individual(s) from whom the property was seized.

g. The only acceptable forms of payment shall be cash, cashier's check, certified check, or postal money order, in the amount of the accepted bid.

(3) The sale of judicially forfeited property would normally be the responsibility of the US Marshal Service. However, they will most likely request that the IRS maintain custody of the forfeited property and conduct the public sale. If this occurs, AFCs and agents must work closely with the USAO to ensure that the order issued by the court reflects that the property is to be sold by the IRS. The AFC can also contact AWSS and request their assistance.

(4) Although there is no provision for equitable sharing with other Federal law enforcement agencies, once an asset has been placed into official use and subsequently removed from service, interested agencies can apply for the property through standard GSA regulations.

9.7.13.9.2
(08-11-2003)
Funds Generated from the Sale of Forfeited Assets

(1) Net proceeds (sale proceeds less storage, maintenance, and other management costs) from the sale of personal or real property which have been forfeited pursuant to Title 26 are deposited into the General Fund.

9.7.13.9.3
(05-15-2012)
Official Use of Forfeited Property

(1) Property forfeited under Title 26 can be put into official use by following the procedures set forth in IRM 9.7.8, Disposition of Seized and Forfeited Property. The following differences should be noted:

a. The restriction for "law enforcement purposes only" does not apply; the property may be placed into use by CI or by any other IRS function.
b. The payment of any outstanding liens or costs associated with placing the forfeited property into official use will be paid from agency funds and is not reimbursed by the Treasury Forfeiture Fund.

9.7.13.9.4
(05-15-2008)
Disposition of Contaminated Property

(1) As with any other Title 26 forfeiture, all costs to clean up and dispose of contaminated property will be the responsibility of the IRS. Once potentially contaminated property has been seized, an environmental study should be immediately initiated. If it is determined that the cost to correct any problems exceeds the property's net equity, then the SAC should quick release the property. The exception to this rule would be if there is an overriding law enforcement purpose.

9.7.13.9.5
(05-15-2008)
Disposition of Perishable Goods

(1) When property seized under any provision of 26 USC §7301 or §7302 is liable to perish or become greatly reduced in price or value, special considerations are made in accordance with 26 USC §7324. If perishable goods are seized, the owner of the property can have the property returned in lieu of having it sold by the government by posting a bond equal to its appraised value. The bond should be a corporate surety bond. However, if the owner is able to show the inability to furnish a corporate surety bond, it may be made with individual sureties or with collateral such as currency, postal money orders, certified or cashier's checks, or other monetary instruments. If the bond is not posted, then the property can be sold. Pursuant to Delegation Order 9-1, the authority to dispose of property was delegated to the Director, Field Operations. The sale should be as soon as practical and should be a public sale. In lieu of a

public sale, an asset may be disposed of immediately after seizure by a stipulated sale between parties or by an interlocutory sale ordered by the court.

9.7.13.10
(08-11-2003)
Expenses Incidental to Forfeiture

(1) IRS is responsible for all expenses associated with a Title 26 forfeiture. These amounts are not reimbursable from the Treasury Forfeiture Fund. The AFC is responsible for coordinating, at the earliest date possible, with the field office's fiscal function to ensure proper funding options.

(2) Expenses may not be obligated by contract personnel.

(3) Payments to informants for information and rewards relating to Title 26 forfeitures are governed by the procedures set forth in IRM 9.4.2, Sources of Information.

Exhibit 9.7.13-1 (08-11-2003)
Notice of Intent to Forfeit Letter

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Criminal Investigation (Insert Date)

(Insert Name of Receiver)
(Insert Street Address or PO Box)
(Insert City, State, Zip)

Dear (Insert Name of Receiver):

The records of this office indicate that you might have an interest in certain property, which was seized for forfeiture by the Internal Revenue Service at (Insert Place of Seizure) on (Insert Date of Seizure). The property is forfeitable because it was used, or was intended for use, in violation of Internal Revenue laws, specifically (Insert Code Section) of the Internal Revenue Code. Under IRC §7302, it is unlawful to have or possess property used or intended for use in violation of Internal Revenue laws, and no property rights exist in any such property.

Administrative forfeiture proceedings in accordance with 26 USC §7325 and 26 CFR 403.26 have been initiated on the property described below:

(Insert Complete Description of Property)
The value of the property is (Insert Appraised $ Amount)

Notice of these proceedings, as required by law, is scheduled for publication beginning on (Insert First Publication Date), in the (Insert Name of Publication). A copy of the notice is enclosed for your information. **THIS PROPERTY IS SCHEDULED FOR FORFEITURE BY THE INTERNAL REVENUE SERVICE, ON THE 30TH DAY AFTER THE 1ST PUBLICATION DATE. THE FORFEITURE DATE IS (Insert Forfeiture Date).**

If you have an interest in the seized property, you may obtain administrative review from the Internal Revenue Service or a judicial determination in a court of law. If you desire a judicial determination of the matter (by having the forfeiture transferred to a United States District Court), a claim of ownership and cost bond must be received by this office before the close of business on (Insert the Final Claim Date). You are cautioned that the timely filing of a claim of ownership is a necessary condition for obtaining a judicial determination. The claim of ownership and cost bond should be executed in triplicate.

Exhibit 9.7.13-1 (Cont. 1) (08-11-2003)
Notice of Intent to Forfeit Letter

2

TO CONTEST THE ADMINISTRATIVE FORFEITURE BY THE INTERNAL REVENUE SERVICE

Without the timely filing of a claim of ownership and cost bond by you or any other person, transferring the case to US District Court, the property will be forfeited administratively by the Internal Revenue Service, (Insert Name of Field Office) Field Office on (Insert Date of Forfeiture).

The claim of ownership must include the seizure number, description of the property seized, the date of the seizure, the location of the seizure, and a statement setting forth your ownership interest in the property for each item claimed.

The cost bond amount must be in the amount of $2,500.00 (26 USC §7325(3)). The bond should be one of the following:

1. A certified check, cashier's check, or postal money order made payable to the "Internal Revenue Service".
2. US bonds, notes, or other obligations on which the interest and principal are unconditionally guaranteed by the United States. US bonds that are not transferable are not acceptable.
3. A corporation holding a certificate of authority from the Secretary of the Treasury as being an acceptable surety, and which has process agents in the judicial district where the person resides or the obligation is to be performed, and where the bond is returnable or filed.

The claim of ownership and cost bond should be sent to the following:

(Insert Name of AFC), Asset Forfeiture Coordinator
Criminal Investigation
Internal Revenue Service
(Insert Street Address)
(Insert City, State, and Zip)

ADMINISTRATIVE REVIEW

Administrative review is obtained by filing with this office, a written petition for remission or mitigation of forfeiture of the property under 26 USC §7327 and 19 USC §1618. This request may be filed at any time before the final disposition of the property. You may also file with this office, by (Insert Final Claim Date), the final claim date, and Offer in Compromise under 26 USC §7122 to settle the forfeiture liability incurred by the property. The petition must include the seizure number, description of the property seized, the date of seizure, proof of your ownership interest in the property, the facts and circumstances that you believe justify the return of the property, and must be signed and sworn to under oath by you. You are advised that any petition or Offer in Compromise filed is subject to investigation.

Exhibit 9.7.13-1 (Cont. 2) (08-11-2003)
Notice of Intent to Forfeit Letter

3

Should the Chief, Criminal Investigation, find that the forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such forfeiture, the Chief, Criminal Investigation, may remit or mitigate the same upon such terms and conditions as he/she deems reasonable and just.

WARNING CONCERNING FORFEITURE PROCEDURE

The administrative forfeiture is not normally subject to judicial review. If a claim of ownership and cost bond are timely filed, any pending petition for remission or mitigation of forfeiture of the property or an Offer in Compromise to settle forfeiture liability will be transferred to the Department of Justice for the appropriate action. You are cautioned that the timely filing of a petition for remission or mitigation of forfeiture does not extend the time for filing a valid claim of ownership and a cost bond.

Should you have any questions concerning this matter, please contact (Insert Name of AFC), Asset Forfeiture Coordinator at (Insert Phone Number).

Sincerely,

(Insert Name of SAC)
Special Agent in Charge
Criminal Investigation
(Insert Name of Field Office)

Enclosure: Copy of public notice

cc: Full Name

Exhibit 9.7.13-2 (08-11-2003)
Form 9365, Application to Proceed In Forma Pauperis

Application to Proceed In Forma Pauperis

(Waive Bond Based on Poverty)

General Instructions

1. Complete all items, marking "none", "inapplicable", or "unknown", as appropriate.
2. Type or print the description of each item and amounts or values in the appropriate space.
3. Number each separate item within a specific heading, for example, Assets, 1. Cash Accounts.
4. If additional space is required use a separate sheet showing name of claimant and SSN, and referring to the category, section, letter, and/or number and incorporate the sheet by specific reference within the appropriate section. For example, Assets, 2. Securities.
5. Under "Joint" column check if jointly owned with others.
6. Under "Amount" column insert total estimated present market value of asset.
7. Under "My Share" column insert the dollar figure of the asset owned by claimant.
8. Attach accurate and complete copies of your federal and state income tax returns, including all supporting schedules, for the last three years. If you do not have access to such copies, then sign the relevant consent form or forms annexed to this affidavit. This form will not be accepted without either the tax returns or the relevant consents.

Exhibit 9.7.13-2 (Cont. 1) (08-11-2003)
Form 9365, Application to Proceed In Forma Pauperis

Application to Proceed In Forma Pauperis
(Waive Bond Based on Poverty)

1. Case Number	2. Seizure Number

3. Description of Seized Property

4. Vehicle Identification (VIN) or Serial Number

5. Full Name of Claimant

6. Certification

As the claimant in the above entitled case, I certify that I am impoverished and therefore unable to post the required statutory bond which would enable me to contest the forfeiture of the above described property. In support of this application, I voluntarily submit the Affidavit of Financial Information on pages 2-8 of this form.

Employment Status *(Check one and complete the necessary information)*	
☐ I am presently employed.	☐ I am not presently employed.
Name of Current Employer	Date of Last Employment *(Month and year)*
Amount of Current Salary or Wages Per Month $	Amount of Salary or Wages Per Month Received $

I certify that the foregoing is true and correct.

Executed on _____ _____
(Date) *(Signature of claimant)*

7. Prisoner Accounts Only

If claimant is incarcerated, the following certification must be completed by an authorized official of the institution.

I certify that the sum of $ _____ is in the account of the claimant named in Item 5 at the _____
(Name of Institution)
where the claimant is confined. I further certify that, according to the records of said institution, the following securities are likewise credited to the claimant: _____

Executed on _____ _____
(Date) *(Signature of authorized official at institution)*

The furnishing o[illegible] 'ormation on this form may result in a fine of not more than $10,000 or imprisonment of not more than 5 years, or both (18 USC 1001).

Form **9365** (7-91) (Page 1 of 8) Catalog No. 13444G Department of the Treasury-Internal Revenue Service

Exhibit 9.7.13-2 (Cont. 2) (08-11-2003)
Form 9365, Application to Proceed In Forma Pauperis

Affidavit of Financial Information

STATE OF _____)
_____) S.S.:
COUNTY OF _____)

_____ being duly sworn, deposes and says:

My primary residence is _____

and my social security number is _____-_____-_____.The following is an accurate statement, as of _____,

of my net worth (assets of whatsoever kind and nature and, wherever situated, minus liabilities), income from all sources, and statement of assests

transferred of whatsoever kind and nature wherever situated. In completing this form I have followed the instructions set out herein.

Assets

1. Cash Accounts-*Cash, checking, savings, certificates of deposit, treasury notes, etc.*

List Financial Institution and Address	Account No.	Account Type	Joint ✓	Amount	My Share (%)
Total Cash Accounts					

2. Securities-*Bonds, notes, mortgages, loans, and accounts receivable*

Obligor	Maturity Date	Principal Amount	Joint ✓	Amount	My Share (%)
a. Total Bonds, Notes, Mortgages, Loans, and Accounts Receivable					

Equity securities, options, and and commodities contracts (at present market value)

Issuer and Type	No of Shares	Cost	Joint ✓	Amount	My Share (%)
b. Total Equity Securities, Options, a[illegible] [illegible]odities, Contracts					
Total Securities *(Add a and b above)*					

(Page 2 of 8) Form **9365** (7-91)

Exhibit 9.7.13-2 (Cont. 3) (08-11-2003)
Form 9365, Application to Proceed In Forma Pauperis

3. Value of Interest In Any Business-*Describe investment, giving name and address of company, whether it is a corporation, partnership, sole proprietorship, or trust, your capital contribution, net worth of the business, percent of your interest, and any other information bearing upon valuation including the measure of value used for determination.*

Investment Type	Net Worth	Value Measure Used	My Share (%)	Amount ($)
Total Value of Interest In Any Business				

4. Life Insurance - *Identify whether Term or Whole Life*

Carrier, Policy No.	Beneficiary	Owner	Face Value	Cash Surrender Value
Total Life Insurance Cash Surrender Value				

5. Vehicles - *Automobiles, boats, planes, trucks, campers, etc.*

Make	Model	Year	Serial No.	Joint ✓	Amount	My Share (%)
Total Vehicles						

6. Real Estate - *Include all types of interests such as leaseholds, life estates, etc., at market value; do not deduct any mortgage.*

Location and Description	Basis	Joint ✓	Amount	My Share (%)
Total Real Estate				

7. Vested and Contingent Interests - *For example, pension (including Individual Retirement Accounts and Keogh Accounts), profit sharing, legacies principal amount, to include stock options, interests subject to life estates, prospective inheritances, description and basis of valuation, date of vesting.*

Location and Description	Basis	Joint ✓	Amount	My Share (%)
Total Vested and Contingent Interests				

8. Jewelry, Art, Antiques, Precious Objects - *Describe all items which cost more than $500.*

Item Description	Cost	Joint ✓	Amount	My Share (%)
Total Jewelry, Art, Antiques, Precious Objects				

9. Household Furnishings - *List all residences by address and give market value of furnishings at each residence.*

Residence Address	Joint ✓	Amount	My Share (%)
Total Household Furnishings			

10. Gold and Other Precious Metals

Metal and Form	Joint ✓	Amount	My Share (%)
Total Gold and Other Precious Metals			

(Page 3 of 8) Form **9365** (7-91)

Exhibit 9.7.13-2 (Cont. 4) (08-11-2003)
Form 9365, Application to Proceed In Forma Pauperis

11. Other Assets - *For example, tax shelter investments, collections, hobbies, judgments, causes of action, patents, trademarks, copyrights, contract rights, and any other assets not itemized above, at market value.*

Description	Joint ✓	Amount	My Share (%)
Total Other Assets			
Grand Total Assets *(Enter total amounts from items 1-11.)*			$

Liabilities

If jointly with spouse or another, check "Joint" column, and indicate your share. Attach additional sheets, if needed. If payments are due on other than a monthly basis, indicate due dates.

Accounts Payable - *Include notes payable, installment accounts payable, broker's margin accounts, real estate mortgages, interest payable, taxes payable, loans on life insurance policies, and any other liabilities.*

Creditor and Type of Payable	Date Incurred	Purpose of Debt	Original Amount	Current Amount	Monthly Payment	Joint ✓	My Share (%)
Grand Total Liabilities							$

Gross Income From All Sources

State sources of income. Attach additional sheets, if needed. For each category of income, state the total income for all of last year and to date this year. Where the form calls for it, answer separately for last year and for this year.

1. Total Income

Gross Income Last Year	Gross Income This Year *(Specify period in months)*

2. Employer Information - *Set forth names and addresses of all employers during the last year and this year and total wages paid by each. Indicate overtime earnings separately. Attach previous year's Forms W-2.*

Employer and Address	Period of Employment	Amount

3. Current Salary or Wages

Payment Schedule *(Check one)*	Gross Salary and Wages Per Pay Period
☐ Weekly ☐ Biweekly ☐ Monthly	$

Current Payroll Deductions (per pay period)	Current Amount	Amount
Social Security Withheld		
State Tax Withheld		
Federal Tax Withheld		
Other Payroll Deductions (Specify):		
Total Current Deductions		
Total Take Home Pay *(Gross salary and wages per period - total deductions x number of pay periods)*		$

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Exhibit 9.7.13-2 (Cont. 5) (08-11-2003)
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4. Dependents

Dependent Name	Relationship	Dependent Social Security No.
Total Number of Dependents Claimed		

5. Bonuses, Commissions, Fringe Benefits - *Use of auto, club memberships, etc.*

Description	Last Year's Amount	Estimated Current Value
Total Bonuses, Commissions, Fringe Benefits		

6. Partnership Income, Royalties, Sales of Assets - *Including installment payments*

Description	Last Year's Amount	Estimated Current Value
Total Partnership Income, Royalties, Sales of Assets		

7. Dividends and Interest

Type	Last Year's Amount	Current Amount
Taxable		
Tax-Free		
Total Dividends and Interest		

8. Real Estate Income

Description	Last Year's Amount	Estimated Current Value
Total Real Estate Income		

9. Income From Trusts *(Including Individual Retirement Accounts and Keogh Accounts)*, **Profit-Sharing, or Annuities**

Type	Last Year's Amount	Current Amount
Taxable		
Tax-Free		
Total Income From Trusts, Profit-Sharing, or Annuities		

10. Pension Income

Type	Last Year's Amount	Current Amount
Taxable		
Tax-Free		
Total Pension Income		

11. Awards, Prizes, Grants

Type	Last Year's Amount	Current Amount
Taxable		
Tax-Free		
Total Awards, Prizes, Grants		

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Exhibit 9.7.13-2 (Cont. 6) (08-11-2003)
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12. Income From Bequests, Legacies, and Gifts

Description	Last Year's Amount	Current Amount
Total Income From Bequests, Legacies, and Gifts		

13. Tax Preference Items *(Describe source)*

Type and Source	Last Year's Amount	Current Amount
Long-Term Capital Deduction		
Depreciation, Amortization, or Depletion		
Stock Options - Excess of Fair Market Value Over Amount Paid		
Total Tax Preference Items		

14. Other Household Income

Household Member's Name	Last Year's Amount	Current Amount
Total Other Household Income		

15. Other Income

Description	Last Year's Amount	Current Amount
Social Security Income		
Disability Benefits		
Public Assistance		
Income From All Other Sources *(State source)*		
Total Other Income		
Grand Total Income (Enter total amount from Items 3 and 5-15.)		$

Assets Transferred

List all assets transferred in any manner on or after *(date)*_____. Transfers in the routine course of business which resulted in an exchange of assets of substantially equivalent value need not be specifically disclosed where such assets are otherwise identified in the statement of net worth.

Description of Property	To Whom Transferred and Relationship to Transferee	Date of Transfer	Value

I have carefully read the foregoing statements and a rider consisting of _____ pages annexed hereto and made part hereof; they are true and correct.

_____
Print Name

_____ _____
Signature

Sworn to before me this _____ day of _____, _____

Signature _____

Title _____

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Exhibit 9.7.13-2 (Cont. 7) (08-11-2003)
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Authorization to Release State Tax Information

I hereby authorize the _____ State Department of Taxation and Finance to make available to the Internal Revenue Service, *(Division Address)* _____ _____, copies of my income tax returns and any other papers I have filed with the _____ State Department of Taxation and Finance for the following years: _____.

_____
Date

_____
Print Name

_____
Signature

SSN: _____

STATE OF _____, COUNTY OF _____ S.S.:

On _____ _____, _____ before me personally came _____ to me known, and known to me to be the individual described in, and who executed the foregoing **Authorization to Release State Tax Information**, and duly acknowledged to me that she/he executed the same.

_____
NOTARY PUBLIC

(Page 7 of 8) Form **9365** (7-91)

Exhibit 9.7.13-2 (Cont. 8) (08-11-2003)
Form 9365, Application to Proceed In Forma Pauperis

Authorization to Release Federal Tax Information

I hereby authorize the United States Internal Revenue Service to make available to the Internal Revenue Service,

(Division Address) _____ , copies of my

income tax returns, and any other papers I have filed with the Internal Revenue Service for the following years:

_____ .

_____ Date

_____ Print Name

_____ Signature

SSN: _____

STATE OF _____ , COUNTY OF _____ S.S.:

On _____ _____ , _____ before me personally came _____

to me known, and known to me to be the individual described in, and who executed the foregoing **Authorization to Release Federal Tax Information**, and duly acknowledged to me that she/he executed the same.

_____ NOTARY PUBLIC

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