

## INTERNAL REVENUE SERVICE

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### MEMORANDUM FOR CHIEF, CRIMINAL INVESTIGATION

FROM: Barry J. Finkelstein  
Assistant Chief Counsel (Criminal Tax)

SUBJECT: Civil Asset Forfeiture Reform Act of 2000

On April 25, 2000, President Clinton signed into law the Civil Asset Forfeiture Reform Act of 2000,<sup>1</sup> (hereinafter referred to as "CAFRA"). CAFRA represents the culmination of a seven year effort to reform the United States' civil asset forfeiture laws<sup>2</sup> to make the procedures fair and more equitable. The intent is to strike an appropriate balance between the needs of law enforcement and the rights of individuals to not have their property forfeited without proper safeguards. CAFRA, as enacted, amends multiple statutes and creates four new statutory provisions which streamline seizure and forfeiture procedures. Most of the statutory changes apply prospectively and take effect on August 23, 2000, 120 days from date of enactment.

The new general rules relating to civil forfeiture created by CAFRA, encompassed in 18 U.S.C. § 983, apply to all civil forfeitures except forfeitures which occur under Titles 19 and 26, the Federal Food, Drug and Cosmetic Act, the Trading with the Enemy Act and 22 U.S.C. § 401. Despite these exceptions, there are several provisions which apply to all civil forfeiture actions under federal law. Consequently, these sections apply to forfeitures under Title 26 as well as Title 18. Sections of CAFRA amend provisions within sections of Titles 8, 18, 19, 21, 28, and 42. Categorically, the IRS seizes and forfeits property under 18 U.S.C. § 981 et.seq., and 26 U.S.C. §§ 7301 et seq., (hereinafter referred to as "Code" forfeitures).

As set forth in more detail in the attachment to this document, the most significant reforms affect Title 18 forfeitures. CAFRA affects Code forfeitures primarily with respect to ancillary issues not addressed in the Code forfeiture statute. Specifically, we believe certain CAFRA sections apply to Code forfeitures in the absence of specific

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<sup>1</sup> Civil Asset Forfeiture Reform Act of 2000, Pub. L. No. 106-185.

<sup>2</sup> 146 Cong. Rec. H2046 (daily ex. April 11, 2000) (statement of Rep. Hyde).

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provisions within Title 26, the Code of Federal Regulations, and the regulations to the internal revenue code which encompass the procedures for seizing and forfeiting property. These CAFRA sections would work in conjunction with existing Code forfeiture provisions to insure fairness to individuals whose property may be seized and forfeited. There are several provisions which do not fall within the jurisdiction of the IRS, thus they are not included in this discussion. They include forfeitures related to alien smuggling offenses and amendments to the Controlled Substances Act relating to forfeitures, 21 U.S.C. § 881.

The changes instituted by CAFRA affect, in varying degrees, every agency which seizures and forfeitures property. While some changes are favorable to law enforcement generally, several may restrain seizures and hamper the asset forfeiture program. Many of the provisions in CAFRA will not affect the way the IRS currently conducts administrative seizures and forfeitures. These provisions apply predominantly to judicial forfeitures and would encompass administrative forfeitures converted into judicial forfeiture actions by the filing of a claim.

Should you have any questions concerning this matter, please feel free to contact Marta Yanes of the Criminal Tax Division on (202) 622-4470.

cc: Assistant Regional Counsel (Criminal Tax)

Attachment

MYANES7/5-18-00/CAFRAmemo2.wpd

<b>CAFRA SECTION</b>	<b>TITLE 18 FORFEITURES</b>	<b>CODE FORFEITURES</b>
<p>Notice 18 U.S.C. § 983(a)(1)</p> <p>Notice is required within 60 days unless an extension is granted by an agency HQ supervisor or the court. Contraband or other illegal property will not be returned. If notice not provided, property must be returned (without prejudice to government to re-seize and start process anew).</p> <p>Notice is not required if, before the 60 day period expires, the government files a civil judicial forfeiture action or obtains a criminal indictment containing an allegation the property is subject to forfeiture.</p>	<p><i>Current Process</i> Notice (seizure letter) sent within 5 days of seizure to known interested parties. Within 10 days, seized property package sent to District Counsel who prepares a Law and Fact Memo to District Director (DD). Treasury policy requires notice to be provided within 60 days of seizure. If notice not provided and certain other factors are not present, the property is returned.</p> <p><i>New Process</i> Notice statutorily required within 60 days or property must be returned without prejudice. HQ supervisor may grant one 30 day extension if notice may have an adverse affect. Court may grant further extensions for good cause. CT field attorneys should continue to prepare Law and Fact Memoranda. Since there will be no DD, it may be that the Law and Fact Memo is addressed to the Special Agent in Charge (SAC).</p> <p><u>Notice in Seizures for Evidence</u> When property is seized for evidence without an intent to forfeit, the 60 day is period not applicable. The 60 day period begins earliest moment the IRS, AUSA or TEOAF determine property no longer has evidentiary value. Notice provision does not cover seizures for evidence which may or may not ultimately be forfeited.</p>	<p><i>Current Process</i> Notice (seizure letter) sent within 5 days of seizure to known interested parties. Within 10 days, seized property package sent to District Counsel who prepares a Law and Fact Memo to DD. Treasury policy requires notice within 60 days of seizure. If notice not provided and certain other factors are not present, the property is returned.</p> <p><i>New Process</i> No change, § 983 expressly excludes Title 26 forfeitures from its coverage. However, new procedures need to be developed in view of the fact there is no longer a District Director.</p>

<b>CAFRA SECTION</b>	<b>TITLE 18 FORFEITURES</b>	<b>CODE FORFEITURES</b>
<p>Claims 18 U.S.C. § 983(a)(2)</p> <p>Cost bond eliminated. Anyone may file a claim. Claimants have 30 days from final publication or 35 days from mailing of notice. CAFRA requires each agency to provide forms for claimants. Court may impose fine for frivolous claim.</p>	<p><i>Current Process</i> Claimant has 20 days from first publication of notice to file a claim and cost bond. Bond is the lesser of \$5,000.00 or 10% of the value of the property seized merely for right to contest a civil forfeiture in court.</p> <p><i>New Process</i> Cost bond eliminated. Any claimant having an interest may file a claim under penalties of perjury. Claimant must file claim within 30 days from date of last publication of notice or 35 days from the date notice letter is mailed. Despite the elimination of the cost bond, a court may impose a civil fine if it finds the claimant's assertion of an interest was frivolous.</p>	<p><i>Current Process</i> Claimant has 30 days from first publication of notice to file a claim and cost bond. Bond is \$2,500.00 (in most cases), for the right to contest a civil forfeiture in court.</p> <p><i>New Process</i> No change, § 983 expressly excludes Title 26 forfeitures from its coverage.</p>
<p>Complaint 18 U.S.C. § 983(a)(3)</p> <p>Government has 90 days from the filing of a claim to file a civil complaint, start criminal forfeiture or return property. Court can extend 90 day period for good cause or by parties' agreement. May not re-seize property to forfeit for same crime.</p>	<p><i>Current Process</i> No provision, however, there is a statute of limitations and possible due process violation if delay in commencing action is not reasonable.</p> <p><i>New Process</i> Government must file a civil complaint or commence criminal forfeiture within 90 days or the property must be returned. If no action is taken within the 90 day period, then civil forfeiture is barred in connection with that underlying offense. The 90 day period may be extended by a court for good cause shown or by agreement of the parties.</p>	<p><i>Current Process</i> No provision, however, there is a statute of limitations and possible due process violation if delay in commencing action is not reasonable.</p> <p><i>New Process</i> No change, § 983 expressly excludes Title 26 forfeitures from its coverage.</p>

<b>CAFRA SECTION</b>	<b>TITLE 18 FORFEITURES</b>	<b>CODE FORFEITURES</b>
<p>Representation 18 U.S.C. § 983(b)</p> <p>Provides representation for indigents under certain circumstances.</p>	<p><i>Current Process</i> Claimants have no right to representation in a civil forfeiture proceeding.</p> <p><i>New Process</i> Court may appoint counsel to represent indigent claimant if real property subject to forfeiture is used as primary residence, or claimant represented by court appointed counsel in a related criminal case.</p>	<p><i>Current Process</i> Claimants have no right to representation in a civil forfeiture proceeding.</p> <p><i>New Process</i> No change, § 983 expressly excludes Title 26 forfeitures from its coverage.</p>
<p>Burden of Proof 18 U.S.C. § 983(c)</p> <p>Government bears burden of proof by a preponderance of the evidence. Hearsay evidence no longer acceptable. Government may use evidence gathered after filing complaint. If forfeiture theory is that property was used to commit offense, a substantial connection must be established.</p>	<p><i>Current Process</i> Government required to make initial showing of probable cause the property is subject to forfeiture. Burden then shifts to owner to establish property's innocence and prove, by a preponderance of the evidence, property is not subject to forfeiture.</p> <p><i>New Process</i> The burden is on the government by a preponderance of the evidence. Probable cause needed for seizure but will not suffice for forfeiture. Only burden on the claimant is to prove he/she is an innocent owner. See next section.</p>	<p><i>Current Process</i> Need proof by a preponderance of the evidence.</p> <p><i>New Process</i> No change, § 983 expressly excludes Title 26 forfeitures from its coverage.</p>

CAFRA SECTION	TITLE 18 FORFEITURES	CODE FORFEITURES
<p>Innocent Owner Defense 18 U.S.C. § 983(d)</p> <p>All other innocent owner defenses repealed. Protects innocent owners and bona fide purchaser and heirs who inherit estates from claimants. Person presumed innocent if alerts law enforcement.</p>	<p><i>Current Process</i> Claimant bears the burden to prove he/she was not wilfully negligent, lacked the intent to violate the law or defraud in allowing the property’s illegal use; was a subsequent innocent purchaser; or show the property was not in fact used unlawfully.</p> <p><i>New Process</i> One innocent owner provision to apply to Title 18 forfeitures. Makes distinction between current owners and subsequent owners of seized property. Property owners presumed innocent if they alert law enforcement or do all that is reasonable to prevent the property’s illegal use, including revoking third party consent. Provision applicable when evaluating merits of a petition for remission or mitigation.</p>	<p><i>Current Process</i> No statutory provision. Case law provides good faith purchaser can assert innocent owner defense prior to government obtaining a judgment.</p> <p><i>New Process</i> No change, § 983 expressly excludes Title 26 forfeitures from its coverage.</p>
<p>Motion to Set Aside Forfeiture 18 U.S.C. § 983(e)</p> <p>Limitation period to challenge completed forfeitures. Remedy for defective or lack of notice.</p>	<p><i>Current Process</i> No statutory provision. Case law gives claimant eleven years to contest the forfeiture. Case may be reopened if statute of limitations has not expired.</p> <p><i>New Process</i> Claimant may motion to set aside declaration of forfeiture. If court grants motion, government must commence subsequent proceeding within 60 days for administrative forfeitures; within 6 months for judicial forfeitures. Claimant now has up to 5 years from the date of final publication of notice of seizure to contest the forfeiture. This is claimant’s exclusive remedy.</p>	<p><i>Current Process</i> Petition for restoration of proceeds required within 90 days from date property is sold or disposed of. If not, IRS may deny petition.</p> <p><i>New Process</i> No change, § 983 expressly excludes Title 26 forfeitures from its coverage.</p>

CAFRA SECTION	TITLE 18 FORFEITURES	CODE FORFEITURES
<p>Release of Seized Property 18 U.S.C. § 983(f)</p> <p>Procedure for enabling claimant to request immediate release of seized property pending trial.</p>	<p><i>Current Process</i> No statutory provision; case law allows claimant to file a motion under Federal Rules of Criminal Procedure 41(e) for release of property if no forfeiture action is pending.</p> <p><i>New Process</i> Claimant entitled to release of seized property, other than contraband, cash evidence, or property suited for illegal activity or likely to be used to commit additional crimes, pending trial upon showing of hardship. Government must respond and release the property within 15 days of receiving request for release. If no response, claimant can petition the court for the release.</p>	<p><i>Current Process</i> 26 U.S.C. § 7324(3) provides for return of property to owner upon giving a bond in an amount equal to the appraised value of property.</p> <p><i>New Process</i> No change, § 983 expressly excludes Title 26 forfeitures from its coverage.</p>
<p>Proportionality 18 U.S.C. § 983(g)</p> <p>Claimant may petition the court to determine whether the forfeiture was constitutionally excessive.</p>	<p><i>Current Process</i> Successful use of the Eighth Amendment argument to challenge forfeiture limited until <u>Bajakajian</u> decision.</p> <p><i>New Process</i> Codifies the <u>Bajakajian</u> decision. The court may make a determination, in a hearing without a jury, whether the forfeiture is “grossly disproportional to the offense.”</p>	<p><i>Current Process</i> No mitigation provision. Can file a claim, submit a petition or an offer in compromise</p> <p><i>New Process</i> No change, § 983 expressly excludes Title 26 forfeitures from its coverage.</p>

<b>CAFRA SECTION</b>	<b>TITLE 18 FORFEITURES</b>	<b>CODE FORFEITURES</b>
<p>Civil Fines 18 U.S.C. § 983(h)</p> <p>Court can fine claimant 10% forfeited property's value for frivolous claim, fine limit \$250 to \$5,000.</p>	<p><i>Current Process</i> No provision for imposing civil fines nor limiting actions by prisoners.</p> <p><i>New Process</i> Provides means to limit frivolous claims as alternative to the cost bond requirement.</p>	<p><i>Current Process</i> No provision for imposing civil fines nor limiting actions by prisoners.</p> <p><i>New Process</i> No change, § 983 expressly excludes Title 26 forfeitures from its coverage.</p>
<p>Restraining Orders and Protective Orders 18 U.S.C. § 983(j)</p> <p>Method for obtaining order to secure availability of property subject to forfeiture.</p>	<p><i>Current Process</i> A temporary restraining order is only available in criminal forfeitures. No existing provision for obtaining civil restraining orders.</p> <p><i>New Process</i> A court may now enter a restraining order or take other action to preserve the availability of property for forfeiture. The order is good for ten days after the date it is entered, unless extended for good cause shown or unless the affected party consents to an extension. Hearsay evidence is allowed.</p>	<p><i>Current Process</i> No existing provision for obtaining civil restraining orders.</p> <p><i>New Process</i> No change, § 983 expressly excludes Title 26 forfeitures from its coverage.</p>



<b>CAFRA SECTION</b>	<b>TITLE 18 FORFEITURES</b>	<b>CODE FORFEITURES</b>
<p>Real Property New 18 U.S.C. § 985</p> <p>Requirements for forfeiture of all real property interests.</p>	<p><i>Current Process</i> Treasury policy and case law requires notice and a hearing prior to seizure. Department of Justice policy requires real property forfeitures to proceed judicially.</p> <p><i>New Process</i> Notice and hearing required statutorily. May seize prior to notice and hearing under specific circumstances. All civil forfeitures must proceed as judicial forfeitures.</p>	<p><i>Current Process</i> Requirement that Assistant Chief Counsel (CT) approve seizures of real property. DOJ policy requires real property forfeitures to proceed judicially.</p> <p><i>New Process</i> Code forfeitures of real property are rare and still require the approval of Division Counsel/Associate Chief Counsel (CT). Notice and hearing required statutorily. May seize prior to notice and hearing under specific circumstances. All civil forfeitures must proceed as judicial forfeitures.</p>
<p>Proceeds 18 U.S.C. § 981(a)(1)(C)</p> <p>Expands definition of proceeds.</p>	<p><i>Current Process</i> Only the proceeds traceable to violations of certain offenses are forfeitable.</p> <p><i>New Process</i> Offenses constituting SUAs as defined in 18 U.S.C. § 1956(c)(7) are now included in the types of violations which subject their traceable proceeds to forfeiture.</p>	<p><i>Current Process</i> Only the instrumentalities of a Title 26 offense are forfeitable. No proceeds are forfeitable under Title 26.</p> <p><i>New Process</i> No change, statute not applicable because subsection does not include Title 26 offenses.</p>

CAFRA SECTION	TITLE 18 FORFEITURES	CODE FORFEITURES
<p>Seizure Warrants 18 U.S.C. § 981(b)</p> <p>Permissible methods to effect seizure.</p>	<p><i>Current Process</i> Treasury policy encourages use of seizure warrants to seize property. Seizures based on probable cause, without warrant allowed incident to lawful arrest or search; warrants of arrest in rem; and adoptive seizures.</p> <p><i>New Process</i> No change in current practice. Seizure warrants required for all seizures of forfeitable property.</p>	<p><i>Current Process</i> Treasury policy encourages use of seizure warrants to seize property. Seizures based on probable cause, without warrant allowed incident to lawful arrest or search; warrants of arrest in rem; and adoptive seizures.</p> <p><i>New Process</i> No change in current practice. Seizure warrants required for all seizures of forfeitable property.</p>
<p>Restitution 18 U.S.C. § 981(e)</p> <p>Enables the government to use forfeited funds to restore a victim's loss.</p>	<p><i>Current Process</i> There is limited authority to use forfeited property for restitution to victims of crimes.</p> <p><i>New Process</i> Permits the use of forfeited property to pay restitution to victims. This provision also allows the proceeds of a money laundering specified unlawful activity (SUA) to be restored to the victim of the underlying crime.</p>	<p><i>Current Process</i> The proceeds of Code forfeitures are deposited into the General Fund. Disposed of property, or the proceeds of forfeited property, may be returned to an owner, claimant or petitioner.</p> <p><i>New Process</i> No change, statute does not apply as property seized under Title 26 not forfeited pursuant to this statute (18 U.S.C. § 981).</p>

<b>CAFRA SECTION</b>	<b>TITLE 18 FORFEITURES</b>	<b>CODE FORFEITURES</b>
<p>Stay of Civil Forfeiture 18 U.S.C. § 981(g)</p> <p>Procedures for halting continuation of civil action pending completion of criminal case.</p>	<p><i>Current Process</i> Government can motion for stay of related forfeiture proceeding upon filing of indictment or information for good cause.</p> <p><i>New Process</i> Either party may motion court to stay civil forfeiture proceeding. Government must show ability to conduct related criminal investigation or to prosecute criminal case will be adversely affected. No file indictment or information is required. Claimant must show continuation of civil action will burden his right against self-incrimination. Court may enter protective order limiting discovery without granting stay.</p>	<p><i>Current Process</i> Government can motion for stay of related forfeiture proceeding upon filing of indictment or information for good cause.</p> <p><i>New Process</i> No change, statute does not apply because this subsection is specific to forfeitures under 18 U.S.C. § 981.</p>
<p>Access to Records in Bank Secrecy Jurisdictions 18 U.S.C. § 986</p> <p>Method to enable government to obtain banking information from foreign jurisdictions.</p>	<p><i>Current Process</i> Case law holds claimant may not refuse to sign consent for release of records allowing government access to foreign financial records because signature is not testimonial and thus not incriminating.</p> <p><i>New Process</i> Codifies current case law. Authorizes the court to dismiss a claim where claimant refuses to produce material records or waive secrecy unless, there is a Constitutional privilege or statutory basis for the refusal.</p>	<p><i>Current Process</i> Case law holds claimant may not refuse to sign consent for release of records allowing government access to foreign financial records because signature is not testimonial and thus not incriminating.</p> <p><i>New Process</i> ‡ Codifies current case law. There is a basis to believe this section will apply to authorize the court to dismiss a civil claim where claimant refuses to produce material records or waive secrecy unless, there is a Constitutional privilege or statutory basis for the refusal.</p>

CAFRA SECTION	TITLE 18 FORFEITURES	CODE FORFEITURES
<p>Fungible Property in Bank Accounts 18 U.S.C. § 984</p> <p>Permits the government to seize and forfeit identical property provided it is cash, monetary instruments in bearer form, funds on deposit in a financial institution or precious metals, found in the same place or account as offending property.</p>	<p><i>Current Process</i> Forfeiture of fungible property authorized in certain civil cases when no property traceable to the underlying offense is available.</p> <p><i>New Process</i> Forfeiture of fungible property is authorized in all civil forfeiture cases when no property traceable to the underlying offense is available. Forfeiture actions must still be commenced within one year of the offense.</p>	<p><i>Current Process</i> No tracing provision.</p> <p><i>New Process</i> Unsure whether provision will apply. Prior to CAFRA, forfeiture of fungible property was limited to actions for forfeitures in connection with any offense under 18 U.S.C. §§ 1956, 1957, or 1960 or 31 U.S.C. §§ 5322 or 5324. Limitation removed and amended language makes section apply to “any forfeiture action in rem.” May apply to situations where cash is used to commit an offense but can not forfeit the cash because it has been deposited and spent. May be able to seize cash found in the same place as the offending cash was originally placed.</p>
<p>Destruction or Removal of Property to Prevent Seizure 18 U.S.C. § 2232</p> <p>Criminal penalty for destruction, removal, impairment of jurisdiction; or for providing notice of search or warrant.</p>	<p><i>Current Process</i> IRS does not have existing procedures for determining whether violation of this section has occurred nor whether to charge individual for violating it.</p> <p><i>New Process</i> Decision whether to charge a violation of this statute within purview of DOJ.</p>	<p><i>Current Process</i> IRS does not have existing procedures for determining whether violation of this section has occurred nor whether to charge individual for violating it.</p> <p><i>New Process</i> Decision whether to charge a violation of this statute within purview of DOJ.</p>

<b>CAFRA SECTION</b>	<b>TITLE 18 FORFEITURES</b>	<b>CODE FORFEITURES</b>
<p>Cooperation Among Federal Prosecutors 18 U.S.C. § 3322(a)</p> <p>Procedures for use of grand jury material for civil forfeiture purposes.</p>	<p><i>Current Process</i> Only grand jury material relating to banking law violations can be disclosed for use in civil forfeiture actions.</p> <p><i>New Process</i> Allows disclosure of grand jury material to government attorneys for use in any civil forfeiture action.</p>	<p><i>Current Process</i> Only grand jury material relating to banking law violations can be disclosed for use in civil forfeiture actions.</p> <p><i>New Process</i> Allows disclosure of grand jury material to government attorneys for use in any civil forfeiture action.</p>
<p>Statute of Limitations 19 U.S.C. § 1621</p> <p>Provides the time limit in which the government can bring an action for forfeiture.</p>	<p><i>Current Process</i> Action for civil forfeiture must be commenced within five years of the discovery of the offense giving rise to forfeiture.</p> <p><i>New Process</i> Same five year limitation, but adds provision requiring the commencement of the proceeding within two years of when property's involvement in the crime was discovered, which ever is later. Expands reach of civil forfeiture of property whose involvement in the criminal offense is discovered after the five year limit.</p>	<p><i>Current Process</i> 28 U.S.C. § 2462 states forfeiture must be commenced within 5 years from date the claim first accrued.</p> <p><i>New Process</i> Statute does not apply as Title 26 has its own governing statute, 28 U.S.C. § 2462</p>

<b>CAFRA SECTION</b>	<b>TITLE 18 FORFEITURES</b>	<b>CODE FORFEITURES</b>
<p>Criminal Forfeiture Alternative to Civil Forfeiture 28 U.S.C. § 2461</p> <p>If forfeiture authorized in connection with a violation of a Congressional Act, then may include forfeiture in indictment or information if there is no specific statutory provision for criminal forfeiture upon conviction.</p>	<p><i>Current Process</i> Civil forfeiture of proceeds of an SUA without statutory criminal forfeiture provision is required. Statutes authorize only civil forfeiture for numerous crimes.</p> <p><i>New Process</i> Allows civil forfeitures to be perfected in a criminal arena.</p>	<p><i>Current Process</i> No provision. DOJ policy precludes forfeitures for violations of Title 26 not specifically authorized within Title 26.</p> <p><i>New Process</i> May now criminally forfeit any property subject to civil forfeiture under Title 26 as part of the criminal tax case because the statutory language includes any forfeiture in connection with a violation of an Act of Congress.</p>
<p>Attorneys Fees and Costs 28 U.S.C. § 2465</p> <p>Provides compensation to prevailing parties for incurred attorney's fees and costs including payment of pre judgment and post judgment interest. If no interest actually earned, then liable for interest at an imputed rate.</p>	<p><i>Current Process</i> Case law awarded successful claimants attorneys fees under the Equal Access to Justice Act.</p> <p><i>New Process</i> The government is liable for attorney's fees and costs if a claimant substantially prevails in the forfeiture action, with some exceptions. The government must also pay prejudgment interest actually earned or at an imputed rate.</p>	<p><i>Current Process</i> Case law awarded successful claimants attorneys fees.</p> <p><i>New Process</i> The government is liable for attorney's fees and costs if a claimant substantially prevails in the forfeiture action, with some exceptions. The government must also pay prejudgment interest actually earned or at an imputed rate.</p>

<b>CAFRA SECTION</b>	<b>TITLE 18 FORFEITURES</b>	<b>CODE FORFEITURES</b>
<p>Fugitive Disentitlement New 28 U.S.C. § 2466</p> <p>Bars a fugitive’s use of the court system.</p>	<p><i>Current Process</i> There is nothing statutorily to prevent fugitives from challenging forfeitures without having to surrender on criminal charges.</p> <p><i>New Process</i> Authorizes the court to dismiss claims filed by fugitives who purposely leave the jurisdiction. Fugitive claimants will not be able to challenge IRS forfeitures under these circumstances.</p>	<p><i>Current Process</i> There is nothing to prevent fugitives from challenging forfeitures without having to surrender on criminal charges.</p> <p><i>New Process</i> Authorizes court to dismiss claims filed by fugitives who purposely leave the jurisdiction to avoid prosecution. Fugitives will not be able to challenge related IRS civil forfeitures under these circumstances.</p>
<p>Enforcement of Foreign Forfeiture Judgment New 28 U.S.C. § 2467</p> <p>United States may enforce a forfeiture judgment obtained against an individual in a foreign country against his/her property in the United States.</p>	<p><i>Current Process</i> No current provision.</p> <p><i>New Process</i> Provision does not directly affect the IRS and may only impact seizures for forfeitures if the property sought by the foreign jurisdiction is in the custody of the IRS.</p>	<p><i>Current Process</i> No current provision.</p> <p><i>New Process</i> Provision does not directly affect the IRS and may only impact seizures for forfeitures if the property sought by the foreign jurisdiction is in the custody of the IRS.</p>

CAFRA SECTION	TITLE 18 FORFEITURES	CODE FORFEITURES
<p>Federal Tort Claims Act 28 U.S.C. § 2680(c)</p> <p>Act passed to provide compensation for damage to seized property.</p>	<p><i>Current Process</i> The government is exempt from liability for damage caused during the handling or storage of property in the custody of law enforcement officers.</p> <p><i>New Process</i> Expands the types of eligible claims under the Act, to allow claims against the government for injury or loss of goods, merchandise or other property while in the possession of any law enforcement officer. TEOAF believes the property owner must still show the law enforcement officers were negligent.</p>	<p><i>Current Process</i> The government is exempt from liability for damage caused during the handling or storage of property in the custody of law enforcement officers.</p> <p><i>New Process</i> Expands the types of eligible claims under the Act. TEOAF believes the property owner must still show the law enforcement officers were negligent. Code forfeitures are included within its reach as the amendment makes the Act applicable to forfeitures under “any provision of Federal Law.”</p>

‡ We believe 18 U.S.C. § 986 applies to Code forfeitures as Title 26 does not have an applicable provision which governs access to foreign records and is silent with respect to access to foreign records.