



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

9.7.3

NOVEMBER 20, 2025

EFFECTIVE DATE

(11-20-2025)

PURPOSE

- (1) This transmits revised IRM 9.7.3, Criminal Forfeiture.

MATERIAL CHANGES

- (1) Updated internal controls.
- (2) Created hyperlinks for IRM references throughout the IRM.
- (3) Subsection 9.7.3.2(1) updated to current procedures.
- (4) Subsection 9.7.3.2.1(4) updated “forfeited” to “forfeitable” at the end of the sentence.
- (5) Subsection 9.7.3.2.2(1) added two notes to state current procedures.
- (6) Subsection 9.7.3.5 updated to “The government cannot take possession of the assets until the defendant has been convicted and a preliminary order or forfeiture has been entered, unless a restraining order or seizure warrant for the assets subject to forfeiture in a criminal case is obtained.”
- (7) Subsection 9.7.3.5.1 updated title to “Restraining, Protective and “Housekeeping” Orders.”
- (8) Subsection 9.7.3.5.1(1) updated to current procedures.
- (9) Removed subsection 9.7.3.5.1(2).
- (10) Subsection 9.7.3.5.1(4) updated to current procedures.
- (11) Subsection 9.7.3.5.2(1) removed “Title” and added “USC”.
- (12) Subsection 9.7.3.5.2(3) removed the first sentence.
- (13) Subsection 9.7.3.5.2(4) updated to current procedures.
- (14) Subsection 9.7.3.5.2(5) updated to current procedures.
- (15) Subsection 9.7.3.5.3(3) removed “criminal complaint”.
- (16) Subsection 9.7.3.5.5 removed “there is probably no reason to” and added “it might be unnecessary to”.
- (17) Subsection 9.7.3.6.1 updated “insertion” to “inclusion”.
- (18) Added subsection 9.7.3.6.3(2) “Any plea agreement should also include a factual basis tying the property to the defendant and criminal violations.”
- (19) Subsection 9.7.3.6.4(1) removed “As soon as practicable after” and added “Once”.
- (20) Subsection 9.7.3.6.4(4) removed “it is determined that”.
- (21) Subsection 9.7.3.6.4(5) added “not already in the government’s possession” to the end of the sentence.

- (22) Editorial changes were made throughout the IRM that did not result in substantive changes only clarifying the subject matter.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 9.7.3 dated February 11, 2025.

AUDIENCE

Criminal Investigation

Justin H. Campbell
Acting Deputy Chief, Criminal Investigation
for
Guy A. Ficco
Chief, Criminal Investigation

9.7.3
Criminal Forfeiture

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9.7.3.1
(11-20-2025)
Program Scope and Objectives

- (1) Purpose: This section provides detailed guidelines for the roles and responsibilities of Criminal Investigation employees and government partners, as it relates to the procedures relating to criminally forfeitable property.
- (2) Audience: All Criminal Investigation employees.
- (3) Policy Owner: Executive Director, Global Operations Policy & Support.
- (4) Program Director: Director, Asset Recovery and Investigative Services within Global Operation Policy & Support.
- (5) Primary Stakeholders: All Criminal Investigation employees.
- (6) Contact Information: To make changes to this IRM email **CI-HQ-IRM*.

9.7.3.1.1
(02-11-2025)
Background

- (1) Criminal forfeitures are *in personam* actions that are limited to the property interests of the defendant. They are imposed as part of the defendant's sentence and are distinguished from civil forfeiture that may be pursued as an action against the property *in rem* without regard to who the owner may be. A criminal forfeiture may only be sought as part of a criminal prosecution and may not be ordered unless and until the defendant is convicted of the crime(s) for which forfeiture is to be imposed.

9.7.3.1.2
(11-20-2025)
Authority

- (1) See *IRM 9.1.2.7*, Authority to Seize Property for Forfeiture, and *IRM 1.2.2.10.1*, Delegation Order 9-1 (Formerly DO-157, Rev.7), Seizure and Forfeiture of Personal Property for the delegated authority relating to IRM 9.7.3, Criminal Forfeiture.

9.7.3.1.3
(02-11-2025)
Roles and Responsibilities

- (1) The Director, Asset Recovery and Investigative Services is responsible for developing, maintaining, and overseeing this IRM and ensuring compliance with current policies and procedures.

9.7.3.1.4
(11-20-2025)
Program Management and Review

- (1) The Director, Asset Recovery and Investigative Services will:
 - a. Review this IRM annually for procedural, operational, and editorial changes.
 - b. Ensure internal control content is complete, accurate, and reviewed annually.
 - c. Update this IRM when content is no longer accurate.
 - d. Incorporate interim guidance into the next revision of the IRM section prior to the expiration date.

9.7.3.1.5
(11-20-2025)
Program Controls

- (1) The Director, Asset Recovery and Investigative Services will review the instructions and guidelines relating to this IRM and related IRS documents for procedural, operational, and editorial changes.
- (2) The Director, Asset Recovery and Investigative Services will review and oversee their program as well as ensuring employee compliance with all applicable elements of this IRM.

9.7.3.1.6
(11-20-2025)

Acronyms and Terms

- (1) This table lists the acronyms and terms used throughout this IRM section and their definitions:

Acronym	Definition
AUSA	Assistant U.S. Attorney
CI	Criminal Investigation
CT	Criminal Tax
DOJ	Department of Justice

9.7.3.1.7
(02-11-2025)

Related Resources

- (1) *IRM 9.7.1.3.1*, United States Code and Code of Federal Regulations.
 (2) *IRM 9.7.4*, Pre-Seizure Planning.
 (3) *IRM 9.7.7*, Claims and Petitions.
 (4) *IRM 9.7.8*, Disposition of Seized and Forfeited Property.

9.7.3.2
(11-20-2025)

Criminally Forfeitable Property

- (1) The Civil Asset Forfeiture Reform Act of 2000 (CAFRA) permits criminal forfeiture on the proceeds of any specified unlawful activity without a specific statutory forfeiture provision.
 (2) In a criminal forfeiture, the government may only forfeit property in which the defendant has an interest.

9.7.3.2.1
(11-21-2001)

Traceable Property, Money Judgments, and Substitute Assets

- (1) It is important to distinguish between the concepts of traceable property, money judgments, and substitute assets as they relate to criminal forfeiture.
 (2) To forfeit traceable property, the government must directly trace the forfeited property to other property that was involved in the offense giving rise to the forfeiture.
 (3) Once it has been proven in a criminal trial that certain amount of property is forfeitable as proceeds illegally garnered by the defendant, the government is entitled to a money judgment for the amount, without tracing those proceeds to specific assets owned by the defendant at the time of the verdict. The fact that a defendant has dissipated or transferred the profits or proceeds before conviction will not prevent the government from reaching and forfeiting the full amount of the ill-gotten gains, because presumably the government can collect this money judgment against any of the assets the defendant still owns.
 (4) A similar remedy to the dissipation or transfer of otherwise forfeitable assets is provided by the statutory provision allowing forfeiture of substitute assets. The court will order the forfeiture of any other property of a defendant up to the value of any property forfeitable, as a result of any act or omission of the defendant, if the forfeitable property:
- Cannot be located upon the exercise of due diligence,
 - Has been transferred, sold to, or deposited with a third party,
 - Has been placed beyond the jurisdiction of the court,
 - Has been substantially diminished in value,

- e. Has been commingled with other property which cannot be divided without difficulty.

9.7.3.2.2
(11-20-2025)
**Property Criminally
Forfeitable**

- (1) The statutory provisions in 18 USC 982(a)(1) and 31 USC 5317(c)(1) provide that the court, in imposing sentence on a person convicted of an offense in violation of 18 USC 1956, 18 USC 1957, 18 USC 1960, 31 USC 5313(a), 31 USC 5316, and 31 USC 5324, shall order the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property.

Note: *Treasury Directive 15-42* provides delegation authority to the IRS for seizure and forfeiture authority over violations of 18 USC 981 and 31 USC 5317 relating to violations of:

- 31 USC 5313 and 31 USC 5324; and
- 18 USC 1956 and 18 USC 1957 that are within the investigatory jurisdiction of IRS pursuant to paragraph 3(a) of the directive.

Note: Criminal Judicial seizures related solely to 18 USC 1960 are not permitted.

- (2) Use the procedures for forfeiture set forth in the drug forfeiture statute, 21 USC 853, for forfeitures under 18 USC 982(a)(1) and 31 USC 5317.

9.7.3.3
(05-15-2008)
Statute of Limitations

- (1) The statute of limitations for criminal forfeiture under 18 USC 982(a)(1) and 31 USC 5317(c)(1) is the statute of limitations for the underlying crime, which is usually 5 years.

9.7.3.4
(11-21-2001)
**Pre-Indictment
Planning/Pre-Seizure
Planning**

- (1) Prior to seeking an indictment that will include a forfeiture count or allegation, the same pre-seizure planning applicable in a civil forfeiture should be conducted in a criminal forfeiture, see *IRM 9.7.4*, Pre-Seizure Planning.

9.7.3.5
(11-20-2025)
**Methods of Seizure for
Criminal Forfeiture**

- (1) The government cannot take possession of the assets until the defendant has been convicted and a preliminary order of forfeiture has been entered, unless a restraining order or seizure warrant for the assets subject to forfeiture in a criminal case is obtained.

9.7.3.5.1
(11-20-2025)
**Restraining, Protective
and "Housekeeping"
Orders**

- (1) If criminal forfeiture is the only forfeiture proceeding commenced by the government, the government's right to continued possession of the property shall be governed by the applicable criminal forfeiture statute. See 18 USC 983(a)(3)(c). Accordingly, where the government seeks to criminally forfeit an asset that was originally obtained through some process other than a criminal or dual-purpose seizure warrant and (1) civil, judicial, or administrative forfeiture proceedings against the asset were never commenced or have terminated and (2) the asset lacks sufficient evidentiary value to justify its continued retention as evidence, then to be entitled to retain custody of the asset for criminal forfeiture pending the outcome of the criminal case under 18 USC 983(a)(3)(c), the government must obtain
 - a. a criminal or dual-purpose seizure warrant,
 - b. a restraining order under 21 USC 853(e),
 - c. a "housekeeping order" under 21 USC 853(e) authorizing retention of the asset for criminal forfeiture purposes.

The government may obtain pre/post-indictment restraining orders to secure property subject to criminal forfeiture pursuant to 21 USC 853(e).

- (2) Upon application by the United States, the court may also enter a restraining order or take any other action necessary to preserve the availability of property subject to forfeiture prior to the filing of an indictment or information. If, after notice to persons with an interest in the property and opportunity for a hearing, the court determines that:
 - a. There is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and
 - b. The need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.
 - c. Provided, however, an order entered prior to the filing of an indictment or information is effective for not more than 90 days, unless extended by the court for good cause or unless an indictment or information has been filed.
- (3) A temporary restraining order may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed, if the government demonstrates that provision of notice will jeopardize the availability of the property for forfeiture.
- (4) A temporary restraining order shall expire not more than 14 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning this order shall be held prior to the expiration of the temporary order.

9.7.3.5.2
(11-20-2025)
**Criminal Seizure
Warrants**

- (1) The government may seek a warrant to seize assets subject to criminal forfeiture under 18 USC 982(b)(1) pursuant to 21 USC 853(f). Criminal seizure warrants pursuing criminal forfeiture related to 31 USC 5324, involving “legal source” structuring, refer to *IRM 9.7.1.3.1*, United States Code and Code of Federal Regulations.
- (2) The inclusion of property subject to a forfeiture count or allegation in an indictment returned by a grand jury is not a sufficient basis by itself for the issuance of a criminal seizure warrant.
- (3) In order to obtain a criminal seizure warrant, probable cause must be established to believe that:
 - a. The property is subject to forfeiture.
 - b. The issuance of a restraining order under 21 USC 853(e) would be insufficient to ensure the availability of the property for forfeiture.
- (4) For detailed information on the requirements to seize assets out of the local district courts’ jurisdiction, see the *Department of Justice (DOJ) Asset Forfeiture Policy Manual, Chapter 2: Seizure and Restraint*.
- (5) For detailed information on the requirements to seize assets located on private property, see the *DOJ Asset Forfeiture Policy Manual, Chapter 2: Seizure and Restraint, Part D - Judicial Authority Issuing Process*.

9.7.3.5.3
(05-14-2012)
Real Property

- (1) Absent exigent circumstances, real property cannot be seized without providing its owner notice and opportunity for a pre-seizure hearing. When real property is named in a forfeiture count or allegation, a notice of *lis pendens* should be prepared by the U.S. Attorney's Office and filed with the local official who is responsible for recording deeds.
- (2) A *lis pendens* is a notice that describes the real property and states that the United States has an interest in it as a result of the pending criminal litigation. The purpose of a *lis pendens* is to provide notice "to the world" that anyone who takes an interest in the property takes that interest subordinate to the interest of the United States. The effect of a *lis pendens* is to prevent a bona fide sale of the property or its refinancing pending the outcome of the criminal forfeiture litigation.
- (3) State law governs when a *lis pendens* may be filed. Most states require a pending court action involving the property. In these jurisdictions, either a civil forfeiture complaint or an indictment must be filed, and a listing obtained of the property subject to forfeiture, in order to properly file a *lis pendens*.

9.7.3.5.4
(11-20-2025)
Seizure of Substitute Assets

- (1) The local Assistant United States Attorney (AUSA) should be consulted regarding the pretrial restraint or seizure of substitute assets since most circuits have held that pretrial restraint of substitute assets is not permissible, which logically extends to the pretrial seizure of such assets.

9.7.3.5.5
(11-20-2025)
Property Already Seized

- (1) If property was seized as evidence or was turned over by the defendant voluntarily, it might be necessary to obtain a restraining order or seizure warrant. However, the Criminal Tax (CT) attorney or the local forfeiture AUSA should be consulted.

9.7.3.6
(11-21-2001)
Criminal Forfeiture Proceedings

- (1) Criminal prosecutions that seek forfeiture are brought in the district in which the predicate offense was committed.

9.7.3.6.1
(11-21-2001)
Indictment

- (1) In order to criminally forfeit a defendant's property, the indictment or information must contain a forfeiture count or allegation that alleges the extent of the defendant's interest in the property. The primary purpose of this requirement is to put the defendant on notice that their property is subject to forfeiture. In addition, the inclusion of a forfeiture count or allegation in the indictment provides a basis for the issuance of pretrial restraining orders and criminal seizure warrants, puts third parties on notice that the government has an interest in the defendant's assets that are subject to forfeiture, and may establish a factual basis for the forfeiture of the defendant's assets in connection with a guilty plea.
- (2) An indictment may include an itemized list of the property to be forfeited, or a general statement, which includes a list of each asset subject to forfeiture in a bill of particulars, that the government will seek to forfeit everything subject to forfeiture under the applicable statute.

9.7.3.6.2
(03-29-2005)
Burden of Proof

- (1) The burden of proof in a forfeiture under the statutory provisions of 18 USC 982(b)(1) is preponderance of the evidence. This is because criminal forfeiture is not a criminal offense but rather constitutes part of the defendant's sentence. The preponderance standard applies to criminal forfeiture.

9.7.3.6.3
(11-20-2025)
**Plea Bargaining/
Voluntary Forfeiture**

- (1) To forfeit a defendant's assets as part of a plea agreement, the indictment or information must include a forfeiture count or allegation, and the defendant must plead to a statutory violation that provides for forfeiture upon conviction. Otherwise, the forfeiture will be invalid even though the defendant may have been willing to agree to forfeiture in the plea agreement.
- (2) Any plea agreement should also include a factual basis tying the property to the defendant and criminal violations.

9.7.3.6.4
(11-20-2025)
**Preliminary Order of
Forfeiture**

- (1) Once a defendant is found guilty by a jury or enters a plea of guilty to any count in an indictment or information where criminal forfeiture is sought, the court will determine what property is subject to forfeiture.
- (2) If forfeiture of specific property is sought, the court, or upon the defendant's request in a case in which a jury returns a verdict of guilty, the jury, will determine whether the government has established the required connection between the property and the offense committed by the defendant. If the government seeks a money judgment against the defendant, the court or the jury will determine the amount of money the defendant will be ordered to pay.
- (3) The courts or the jury's determination may be based on evidence already in the record or, if the forfeiture is contested, on evidence or information presented by the parties at a hearing after the verdict or finding of guilt.
- (4) Once property is subject to forfeiture, the court will promptly enter a preliminary order of forfeiture setting forth the amount of any money judgment or directing the forfeiture of specific property.
- (5) The entry of a preliminary order of forfeiture authorizes the seizure of the specific property subject to forfeiture not already in the government's possession.
- (6) At sentencing—or at any time before sentencing if the defendant consents—the preliminary order of forfeiture becomes final as to the defendant's interest. However, a final order of forfeiture cannot be entered until all potential third-party claims have been settled.

9.7.3.6.5
(11-21-2001)
Ancillary Proceeding

- (1) Third party interests in criminally forfeited property are litigated by the court in an ancillary (supplementary) proceeding following the conclusion of the criminal trial and the entry of a preliminary order of forfeiture.
- (2) The notice provisions regarding the ancillary proceeding are equivalent to the notice provisions that govern civil forfeitures. Notice is published and sent to third parties that have a potential interest. If no one files a claim, or if all claims are denied following a hearing, the forfeiture becomes final, and the United States is deemed to have clear title to the property.

- 9.7.3.6.6
(11-21-2001)
**Petitions for Remission
or Mitigation**
- (1) The Attorney General has discretion to remit forfeited property to third parties after the conclusion of the ancillary hearing proceedings and the entry of the final order of forfeiture. Petitions for remission or mitigation are covered in *IRM 9.7.7*, Claims and Petitions.
- 9.7.3.6.7
(11-21-2001)
Final Order of Forfeiture
- (1) When the ancillary proceeding ends, the court will enter a Final Order of Forfeiture by amending the preliminary order as necessary to account for any third-party interests. If no third-party files a timely claim, then a Final Order of Forfeiture can be entered by the court. The property may then be disposed of according to law, see *IRM 9.7.8*, Disposition of Seized and Forfeited Property.
- (2) If a defendant appeals the conviction or order of forfeiture, the court may stay the order of forfeiture on terms appropriate to ensure that the property remains available pending appellate review.

