

US Postal Laws & Regulations

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Penalties



Table Of Contents

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	<u>Pages</u>
Accounting forms (9 pages)	504-512
Accounts, postmaster (10 pages)	107-116
Advertised (3 pages)	244-245, 250
Annual reports (4 pages)	62-65
Audits (7 pages)	116-122
Backstamping (1 page)	232
Bad order (1 page)	223
Blanks (3 pages)	204-206
Boxes (2 pages)	213-214
Canada (1 page)	171
Cards (7 pages)	29, 86-88, 246-248
Carriers (15 pages)	104-105, 259-271
Clerks (4 pages)	216-219
Commercial papers (2 pages)	167-168
Contracts (3 pages)	58-60
Corner cards (7 pages)	29, 86-88, 246-248
Crimes, postal (16 pages)	487-502
Dead letter office (15 pages)	27-28, 81, 182-186, 226, 242-243, 248-251
Delivery of mail (16 pages)	236-241, 387-396
Difficiency in address supplied (1 page)	251
Domestic mail matter (27 pages)	135-161
Drop letters (3 pages)	136-138
Exchange offices (-8 pages)	254-245
Expenditures (9 pages)	99-107
Fictitious (2 pages)	241, 250
Finances (32 pages)	44-75
First-class mail matter (5 pages)	135-138, 219
Foreign mails (34 pages)	26-27, 161-182, 254-259, 324-327
Forms (3 pages)	204-206
Forwarding (5 pages)	235-236, 281, 390, 405
Fourth-class mail (4 pages)	153-156
Franking privilege (2 pages)	175-176
Fraudulent (3 pages)	159, 396-397
Free matter (9 pages)	174-182
Held for postage (3 pages)	158, 230, 251
Hotel matter (1 page)	250
Incoming mail (22 pages)	231-252
Index (71 pages)	527-597
Inquiries (2 pages)	399-400
Irrelative duties (5 pages)	76-80
Lotteries (3 pages)	158-159, 230
Mail delivery (6 pages)	236-241
Mail in transit (9 pages)	23-31
Mail matter (67 pages)	219-285
Mail messenger service (2 pages)	303-304
Mexico (2 pages)	172-173
Misdirected (3 pages)	158, 224, 230
Missent mail (1 page)	230
Money orders (6 pages)	25-26, 82, 122-124
Money orders, domestic (45 pages)	423-448, 467-485
Money orders, international/foreign (20 pages)	448-467
Newspaper stamps (2 pages)	86, 90
Obscene (4 pages)	158-160, 230

Official matter (-167 pages)	176-8
Organization (36 pages)	9-44
Out of mails (5 pages)	288-292
Outgoing mail (8 pages)	228-230, 376-380
Penalties (9 pages)	125-133
Penalty envelopes (3 pages)	176-178
Periodical stamps (1 page)	90
Post offices (10 pages)	187-188, 210-216, 220
Post roads (3 pages)	293-295
Postage due stamps (2 pages)	91, 234
Postal cards (5 pages)	83-84, 137, 167, 247
Postal notes (9 pages)	477-485
Poste restante (1 page)	404
Postmarking (1 page)	223-223
Postmasters (25 pages)	188-212
Printed matter (2 pages)	167-168
Printing (3 pages)	67-69
Railway mail service (46 pages)	21-22, 105-107, 295-303, 343-371, 419-421
Rates, fees (10 pages)	136-137, 150-151, 156, 170-173, 374
Receiving offices (22 pages)	231-252
Refused mail (3 pages)	247, 398-399
Registration, domestic mail (44 pages)	29, 373-401, 408-421
Registration, foreign mail (8 pages)	401-408
Request matter (3 pages)	246-248
Return receipt (3 pages)	377-378, 403
Returned for better direction (1 page)	230
Returned mail (2 pages)	397-398
Revenues POD (19 pages)	81-99
Safety of the mails (10 pages)	333-342
Sailers' letters (2 pages)	136-137
Samples of merchandise (2 pages)	167, 169
Second-class mail (16 pages)	138-150, 242, 247-248
Ship letters (3 pages)	327-329
Soldiers' letters (2 pages)	136-137
Special delivery service (12 pages)	271-282
Special delivery stamps (2 pages)	29, 91
Special request envelopes (3 pages)	86-88
Stamped envelopes (7 pages)	83-89
Stamps (14 pages)	82-92, 122-124
Star routes (4 pages)	220-221, 305-306
Statutes, index to (-489 pages)	515-25
Steamboat (-923 pages)	305-6, 317-8, 327-9
Table of contents (2 pages)	7, 8
Third-class mail (4 pages)	150-153
Transit mail (2 pages)	230-231
Transportation of the mails (56 pages)	287-342
Unclaimed mail (4 pages)	246-247, 249-250
Underpaid mail (5 pages)	232-235, 391
Universal Postal Union (4 pages)	162-165
Unmailable matter (12 pages)	158-161, 170-172, 224-226, 243-244
Unpaid mail (4 pages)	224, 233-234, 391
Weather reports (1 page)	221
Withdrawal of mail (4 pages)	226-228, 297
Women (1 page)	33

CHAPTER NINE.

OF LEGAL PROCEEDINGS TO COLLECT DEBTS AND PENALTIES.

Sec. 279. The Auditor's Duty.—The Sixth Auditor is required to superintend the collection of all debts due the Post-Office Department and all penalties and forfeitures imposed for any violation of the postal laws, or for unlawful acts affecting the revenues or property of the Post-Office Department. (Section 262.)

Sec. 280. Jurisdiction of State Courts.—All causes of action arising under the postal laws may be sued, and all offenders against the same may be prosecuted, before the justices of the peace, magistrates, or other judicial courts of the several States and Territories having competent jurisdiction by the laws thereof, to the trial of claims and demands of as great value, and of prosecutions where the punishments are of as great extent; and such justices, magistrates, or judiciary shall take cognizance thereof, and proceed to judgment and execution as in other cases. (R. S., § 3833.)

JURISDICTION OF THE UNITED STATES COURTS AND PROCEEDINGS
THEREIN.

Sec. 281. Circuit and District Courts. Jurisdiction under Postal Laws.—The circuit courts [of the United States] shall have original jurisdiction as follows: * * * Fourth. * * * of all causes arising under the postal laws. The district courts [of the United States] shall have jurisdiction as follows: * * * Seventh. Of all causes of action arising under the postal laws of the United States. All suits arising under the postal laws shall be brought in the name of the United States. (R. S., §§ 563, 629, 919.)

Sec. 282. Attachments in Postal Suits.—In all cases where debts are due from defaulting or delinquent postmasters, contractors, or other officers, agents, or employés of the Post-Office Department, a warrant of attachment may issue against all real and personal property and legal and equitable rights belonging to such officer, agent, or employé, and his sureties, or either of them, in the following cases:

First. When such officer, agent, or employé, and his sureties, or either of them, is a non-resident of the district where such officer, agent, or employé was appointed, or has departed from such district for the purpose of permanently residing out of the same, or of defrauding the United States, or of avoiding the service of civil process.

Second. When such officer, agent, or employé, and his sureties, or

either of them, has conveyed away, or is about to convey away, his property, or any part thereof, or has removed, or is about to remove, the same, or any part thereof, from the district wherein it is situate, with intent to defraud the United States.

And when any such property has been removed, certified copies of the warrant may be sent to the marshal of the district into which the same has been removed, under which certified copies he may seize said property and convey it to some convenient point within the jurisdiction of the court from which the warrant originally issued. And alias warrants may be issued in such cases upon due application, and the validity of the warrant first issued shall continue until the return day thereof. (R. S., § 924.)

Sec. 283. **Application for Warrant; by Whom and how Made.**—Application for such warrant of attachment may be made by any district or assistant district attorney, or any other person authorized by the Postmaster-General, before the judge, or, in his absence, before the clerk of any court of the United States having original jurisdiction of the cause of action. And such application shall be made upon an affidavit of the applicant, or of some other credible person, stating the existence of either of the grounds of attachment enumerated in the preceding section, and upon production of legal evidence of the debt. (R. S., § 925.)

Sec. 284. **Issuing Warrant; Duty of Clerk and Marshal.**—Upon any such application and upon due order of any judge of the court, or, in his absence, without such order, the clerk shall issue a warrant for the attachment of all the property of any kind belonging to the person specified in the affidavit, which warrant shall be executed with all possible dispatch by the marshal, who shall take the property attached, if personal, into his custody, and hold the same subject to all interlocutory or final orders of the court. (R. S., § 926.)

Sec. 285. **Ownership of Attached Property; Trial.**—At any time within twenty days before the return day of such warrant, the party whose property is attached may, on giving notice to the district attorney of his intention, file a plea in abatement, traversing the allegations of the affidavit, or denying the ownership of the property attached to be in the defendants or either of them; in which case the court may, upon application of either party, order an immediate trial by jury of the issues raised by the affidavit and plea; but the parties may, by consent, waive a trial by jury, in which case the court shall decide the issues raised. And any party claiming ownership of the property attached and a specific return thereof, shall be confined to the remedy herein afforded, but his right to an action of trespass, or other action for damages, shall not be impaired hereby. (R. S., § 927.)

Sec. 286. Proceeds of Attached Property to be Invested.—When the property attached is sold on any interlocutory order of the court or is producing any revenue, the money arising from such sale or revenue shall be invested in securities of the United States, under the order of the court, and all accretions shall be held subject to the orders of the same. (R. S., § 928.)

Sec. 287. Publication of Attachment.—Immediately upon the execution of any such warrant of attachment, the marshal shall cause due publication thereof to be made, in the case of absconding debtors for two months and of non-residents for four months. The publication shall be made in some newspaper published in the district where the property is situate, and the details thereof shall be regulated by the order under which the warrant is issued. (R. S., § 929.)

Sec. 288. Holders of Defendant's Property to Account for it.—After the first publication of such notice of attachment as required by law, every person indebted to, or having possession of any property belonging to, the said defendants, or either of them, and having knowledge of such notice, shall account and answer for the amount of such debt and the value of such property; and any disposal or attempt to dispose of any such property, to the injury of the United States, shall be illegal and void. And when the person indebted to, or having possession of the property of, such defendants, or either of them, is known to the district attorney or marshal, such officer shall see that personal notice of the attachment is served upon such person, but the want of such notice shall not invalidate the attachment. (R. S., § 930.)

Sec. 289. Discharge of Attachment; Bond.—Upon application of the party whose property has been attached, the court, or any judge thereof, may discharge the warrant of attachment as to the property of the applicant, provided such applicant shall execute to the United States a good and sufficient penal bond, in double the value of the property attached, to be approved by a judge of the court, and with condition for the return of said property, or to answer any judgment which may be rendered by the court in the premises. (R. S., § 931.)

Sec. 290. Accrued Rights not to be Abridged.—Nothing contained in the preceding eight sections shall be construed to limit or abridge, in any manner, such rights of the United States as have accrued or been allowed in any district under the former practice of, or the adoption of State laws by, the United States courts. (R. S., § 932.)

Sec. 291. Attachments Dissolved in Conformity with State Laws.—An attachment of property, upon process instituted in any court of the United States, to satisfy such judgment as may be recovered by the plaintiff therein, except in the cases mentioned in the preceding nine sections,

shall be dissolved when any contingency occurs by which, according to the laws of the State where said court is held, such attachment would be dissolved upon like process instituted in the courts of said State: *Provided*, That nothing herein contained shall interfere with any priority of the United States in the payment of debts. (R. S., § 933.)

Sec. 292. What Credits Allowed in Suits.—No claim for a credit shall be allowed upon the trial of any suit for delinquency against a postmaster, contractor, or other officer, agent, or employé of the Post-Office Department, unless the same has been presented to the Sixth Auditor and by him disallowed, in whole or in part, or unless it is proved to the satisfaction of the court that the defendant is, at the time of trial, in possession of vouchers not before in his power to procure, and that he was prevented from exhibiting to the said Auditor a claim for such credit by some unavoidable accident. (R. S., § 952.)

Sec. 293. Suits of United States against Individuals; what Credits Allowed.—In suits brought by the United States against individuals, no claim for a credit shall be admitted upon trial, except such as appear to have been presented to the accounting officers of the Treasury, for their examination, and to have been by them disallowed, in whole or in part, unless it is proved to the satisfaction of the court that the defendant is, at the time of the trial, in possession of vouchers not before in his power to procure, and that he was prevented from exhibiting a claim for such credit at the Treasury by absence from the United States or by some unavoidable accident. (R. S., § 951.)

Sec 294. Judgment at Return Term, when.—In suits arising under the postal laws the court shall proceed to trial, and render judgment at the return term; but whenever service of process is not made at least twenty days before the return day of such term the defendant is entitled to one continuance, if, on his statement, the court deems it expedient; and if he makes affidavit that he has a claim against the Post-Office Department, which has been submitted to and disallowed by the Sixth Auditor, specifying such claim in his affidavit, and that he could not be prepared for trial at such term for want of evidence, the court, if satisfied thereof, may grant a continuance until the next term. (R. S., § 958.)

Sec. 295. Interest on Balances Due Post-Office Department.—In all suits for balances due to the Post-Office Department interest thereon shall be recovered, from the time of the default, at the rate of six per centum a year. (R. S., § 964.)

Sec. 296. Duties of United States Attorneys.—In the prosecution of any suit for money due the Post-Office Department, the United States attor-

ney conducting the same shall obey the directions which may be given him by the Department of Justice. (R. S., § 381.)

Sec. 297. Proceedings in Equity; when.—When proceedings at law for money due the Post-Office Department are fruitless, the Department of Justice may direct the institution of a suit in chancery, in any United States district or circuit court, to set aside fraudulent conveyances or trusts, or attach debts due the defendant, or obtain any other proper exercise of the powers of equity to have satisfaction of any judgment against such defendant. (R. S., § 382.)

Sec. 298. Copies of Post-Office Records and of Auditor's Statement of Accounts.—Copies of the quarterly returns of postmasters and of any papers pertaining to the accounts of the office of the Sixth Auditor and transcripts from the money-order account books of the Post-Office Department, when certified by the Sixth Auditor under the seal of his office, shall be admitted as evidence in the courts of the United States, in civil suits and criminal prosecutions; and in any civil suit, in case of delinquency of any postmaster or contractor, a statement of the account, certified as aforesaid, shall be admitted in evidence, and the court shall be authorized thereupon to give judgment and award execution, subject to the provisions of law as to proceedings in such civil suits. (R. S., § 889.)

(See *U. S. v. Hodge*, 13 How., 478; *Lawrence v. U. S.*, 2 McLean, 581.)

Sec. 299. Copies of Statements of Demands by Post-Office Department.—In all suits for the recovery of balances due from postmasters, a copy, duly certified under the seal of the Sixth Auditor, of the statement of any postmaster, special agent, or other person, employed by the Postmaster-General or the Auditor for that purpose, that he has mailed a letter to such delinquent postmaster at the post-office where the indebtedness accrued, or at his last usual place of abode; that a sufficient time has elapsed for said letter to have reached its destination in the ordinary course of the mail; and that payment of such balance has not been received, within the time designated in his instructions, shall be received as sufficient evidence in the courts of the United States, or other courts, that a demand has been made upon the delinquent postmaster; but when the account of a late postmaster has been once adjusted and settled, and a demand has been made for the balance appearing to be due, and afterward allowances are made or credits entered, it shall not be necessary to make a further demand for the new balance found to be due. (R. S., § 890.)

Sec. 300. Returns of Marshal to Auditor of the Treasury for the Post-Office Department.—Every marshal to whom any execution upon a judgment in any suit for moneys due on account of the Post-Office Depart-

ment has been directed, shall make returns to the Sixth Auditor at such times as he may direct of the proceedings which have taken place upon the said process of execution. (R. S., § 792.)

COLLECTION OF PENALTIES.

Sec. 301. Actions to Recover Penalties.—For certain violations of the postal laws, not declared crimes or misdemeanors, penalties are imposed by law, and are recoverable by an action. Of these actions the district courts of the United States have jurisdiction. The penalties are recoverable, one-half to the use of the person informing and prosecuting for the same, and the other half to be paid into the Treasury for the use of the Post-Office Department, unless a different disposal is expressly prescribed.

See Section 303.

Sec. 302. What Offenses Subject to Penalty.—The statutes imposing penalties for various offenses against the postal laws or affecting its revenues are given in their proper connection in this compilation. The following is designed to embrace a reference to such statutes:

Setting up or professing to keep an office bearing the sign, name, or title of post-office without authority from the Postmaster-General. (R. S., § 3829; section 436.)

Acting as agent for a lottery office, or vending lottery tickets, while postmaster. (R. S., § 3851; section 477.)

Delaying passage of mail at a ferry by ferryman's neglect or refusal to transport it. (R. S., § 3996; section 726.)

Using stamps in payment of postage, which have been previously used for like purposes. (R. S., § 3923; section 1469.)

Fraudulent attempt to evade the payment of postage. (Act of March 3, 1879, § 23; 20 Stats., 361; section 375.)

Establishing private express for the conveyance of letters or packets, or aiding or assisting therein. (R. S., § 3982, as amended by act of March 3, 1879, § 1, 20 Stats.; section 706.)

Carrying persons on stage coach, railway car, steamboat, vehicle, or vessel who are employed as private express for conveyance of letters and packets and in actual possession of the same. (R. S., § 3983; section 708.)

Sending letters by private express, or delivering them for transmission thereby. (R. S., § 3984; section 709.)

Carrying letters out of the mails, or collecting or receiving them for such purpose. (R. S., § 3981; section 710.)

Carrying letters or packets on board a mail vessel otherwise than in the mail. (R. S., § 3986; section 712.) As to penalty on carrier, (R. S., § 3985; section 711.)

Failure by master of vessel to deliver all letters at the nearest post-office on arrival within any post or collection district of the United States. (R. S., § 3988; section 714, and R. S., § 4016; section 714.)

Failure by master of steamboat passing between ports of the United States to deliver to postmaster letters and packets brought by him. (R. S., § 3977; section 836.)

TITLE II—THE FISCAL SYSTEM OF THE POSTAL SERVICE. 131

Forfeiture of package seized on mail vessel with concealed letter. (R. S., § 3991; section 723.)

For postal employé's being interested in contract or acting as agent for contractor. (R. S., § 412; section 92.)

Postmaster for neglect to render accounts. (R. S., § 3845; section 246.)

Sec. 303. Disposal of Fines, Penalties, and Forfeitures: Moieties.—All penalties and forfeitures imposed for any violation of law affecting the Post-Office Department for its revenue or property shall be recoverable, one-half to the use of the person informing and prosecuting for the same, and the other half to be paid into the Treasury for the use of the Post-Office Department, unless a different disposal is expressly prescribed. All fines collected for violations of such laws shall be paid into the Treasury for the use of the Post-Office Department. (R. S., § 4059.)

Sec. 304. Informer; when Liable for Costs.—If any informer or plaintiff on a penal statute, to whom the penalty or any part thereof, if recovered, is directed to accrue, discontinues his suit or prosecution, or is nonsuited therein, or if upon trial judgment is rendered in favor of the defendant, the court shall award to the defendant his costs, unless such informer or plaintiff is an officer of the United States specially authorized to commence such prosecution, and the court, at the trial in open court, certifies upon the record that there was reasonable cause for commencing the same; in which case no costs shall be adjudged to the defendant. (R. S., § 975.)

Sec. 305. Informer; when Liable for Fees of Officers.—If any informer on a penal statute, to whom the penalty or any part thereof, if recovered, is directed to accrue, discontinues his suit or prosecution, or is nonsuited therein, or if upon trial judgment is rendered in favor of the defendant, such informer shall be alone liable to the clerk, marshal, and attorney for the fees of such prosecution, unless he is an officer of the United States whose duty it is to commence such prosecution, and the court certifies that there was reasonable cause for commencing the same; in which case the United States shall be responsible for such fees. (R. S., § 976.)

Sec. 306. Money Voluntarily Paid as Fines, without Suit.—When money has been voluntarily turned over to a postmaster, by a person who has rendered himself liable to fine or penalty for violation of postal laws, for which no suit has been brought, the postmaster will at once deposit the same on account of "fines, penalties and forfeitures" with his depository office, and send the certificate of deposit to the Third Assistant Postmaster-General.

Sec. 307. Papers Required in Suits for Delinquencies, &c.—In case of delinquency of any postmaster, contractor, or other officer, agent, or

employé of the Post-Office Department, in which suit is brought, the Sixth Auditor shall forward to the Department of Justice certified copies of all papers in his office tending to sustain the claim. (R. S., § 296.)

COMPROMISES, REMISSIONS, AND DISCHARGE OF DEBTORS.

Sec. 308. Compromise of Judgments.—Whenever a judgment is obtained for a debt or damages due the Post-Office Department, and it satisfactorily appears that such judgment, or so much thereof as remains unpaid, cannot be collected by due process of law, the Sixth Auditor may, with the written consent of the Postmaster-General, compromise such judgment, and accept in satisfaction less than the full amount thereof. (R. S., § 295.)

Sec. 309. Fines, Penalties, Forfeitures, &c.; how Remitted.—In all cases of fine, penalty, forfeiture, or disability, or alleged liability, for any sum of money by way of damages or otherwise, under any provision of law in relation to the officers, employés, operations, or business of the postal service, the Postmaster-General may prescribe such general rules and modes of proceedings as shall appear to be expedient, for the government of the Sixth Auditor, in ascertaining the fact in each case in which the Auditor shall certify to him that the interests of the Department probably require the exercise of his powers over fines, penalties, forfeitures, and liabilities; and upon the fact being ascertained, the Auditor may, with the written consent of the Postmaster-General, mitigate or remit such fine, penalty, or forfeiture, remove such disability, or compromise, release, or discharge such claim for such sum of money and damages, and on such terms as the Auditor shall deem just and expedient. (R. S., § 409.)

Sec. 310. Discharge of Imprisoned Judgment Debtors.—The Postmaster-General may discharge from imprisonment any person confined in jail on any judgment in a civil case, obtained in behalf of the Department, if it be made to appear that the defendant has no property of any description. (R. S., § 410.)

Sec. 311. Such Discharge no Bar to Execution.—The release provided for by the preceding section shall not bar a subsequent execution against the property of the defendant on the same judgment. (R. S., § 411.)

PRIORITY OF DEBTS DUE THE UNITED STATES.

Sec. 312. Priority Established.—Whenever any person indebted to the United States is insolvent, or whenever the estate of any deceased debtor, in the hands of the executors or administrators, is insufficient

to pay all the debts due from the deceased, the debts due to the United States shall be first satisfied; and the priority hereby established shall extend as well to cases in which a debtor, not having sufficient property to pay all his debts, makes a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed, or absent debtor are attached by process of law, as to cases in which an act of bankruptcy is committed. (R. S., § 3466.)

Sec. 313. Liability of Executors and Administrators.—Every executor, administrator, or assignee, or other person, who pays any debt due by the person or estate from whom or for which he acts, before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate for the debts so due to the United States, or for so much thereof as may remain due and unpaid. (R. S., § 3467.)

PURCHASE ON EXECUTION.

Sec. 314. How to be Made.—At every sale, on execution, at the suit of the United States, of lands or tenements of a debtor, the United States may, by such agent as the Solicitor of the Treasury shall appoint, become the purchaser thereof; but in no case shall the agent bid in behalf of the United States a greater amount than that of the judgment for which such estate may be exposed to sale, and the costs. Whenever such purchase is made the marshal of the district in which the sale is held shall make all needful conveyances, assignments, or transfers to the United States. (R. S., § 3470.)

CHAPTER TEN.

OF THE RENEWAL OF LOST WARRANTS AND DRAFTS.

Sec. 315. Application Therefor.—Every application for the issue of a duplicate warrant, on the ground that the original is lost or destroyed, must be addressed to the Sixth Auditor, accompanied by an affidavit by the applicant showing the time, place, and all the circumstances attending the loss or destruction of the warrant; its number, date, and amount; in whose favor it was issued, and, if assigned, to whom and how, with any other material particulars within the knowledge of the applicant. The Auditor will thereupon furnish a blank bond of indemnity with instructions for its execution. Such bond must be returned to the Auditor duly executed, together with a letter or certificate from