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C. Sanjour



DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

Deposit in Treasury of Money Received in Undercover Operati

FILE: B-201751

DATE: February 17, 1981

MATTER OF: Money received for use of United States during under-
cover operation by IRS Criminal Investigation Division

DIGEST: Money received for use of United States in course of an
ongoing undercover operation by IRS Criminal Investiga-
tion Division need not be deposited into the Treasury as
miscellaneous receipts under 31 U.S.C. § 484 (1976) until
operation is concluded or money is no longer needed for
use as evidence of crime.

The Assistant Secretary for Administration, Department of the Treasury, has requested our concurrence in his opinion that deposit in the Treasury as miscellaneous receipts of money received in an ongoing undercover operation conducted by the Criminal Investigation Division of the Internal Revenue Service (IRS) may be delayed until the operation is concluded and the money is no longer needed for use as evidence of a crime. Examples of the types of receipts involved are gambling winnings from bets placed by an IRS agent to obtain evidence of violations of the wagering excise tax laws or income generated by an undercover business established by the agency to detect tax law violators. For the reasons that follow, we conclude that 31 U.S.C. § 484 (1976) does not prohibit treating the receipts from a single investigation as one transaction which would be deposited into the miscellaneous receipts account of the Treasury at the conclusion of the operation.

31 U.S.C. § 484 provides:

"The gross amount of all moneys received from whatever source for the use of the United States, except as otherwise provided in section 487 of this title, shall be paid by the officer or agent receiving the same into the Treasury, at as early a day as practicable, without any abatement or deduction on account of salary, fees, costs, charges, expenses, or claim of any description whatever. But nothing herein shall affect any provision relating to the revenues of the United States Postal Service."

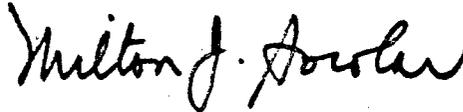
The statute requires only that deposit be made as soon as practicable. The Assistant Secretary states that he did not feel "that a sensible construction of 31 U.S.C. § 484 * * * requires that each separate receipt of money by an undercover criminal investigator involved in detecting violations of the revenue laws must be paid into the Treasury prior to the termination

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B-201751

of the investigation." We agree. Immediate deposit of the money before conclusion of the operation would preclude its continued use in the undercover operation and could hinder its use as evidence in prosecutions stemming from the investigation. On a related point, we have held that money used to purchase evidence of violations of the narcotics and prohibition acts had to be deposited as miscellaneous receipts only after it had served its purpose as evidence in court. 5 Comp. Gen. 289, 290 (1925).

It therefore appears that requiring deposit of money accrued during an undercover operation as soon as it is received may not be practicable within the meaning of 31 U.S.C. § 484, in that it may jeopardize the success of the investigation. Accordingly, we conclude that money received in the course of an ongoing undercover operation need not be deposited into the Treasury as miscellaneous receipts until the operation is concluded or the money is no longer needed for use as evidence of crime.



For the Comptroller General
of the United States