

# ***THE MPM GROUP, INC.***

**A PROFESSIONAL CONSULTING FIRM**

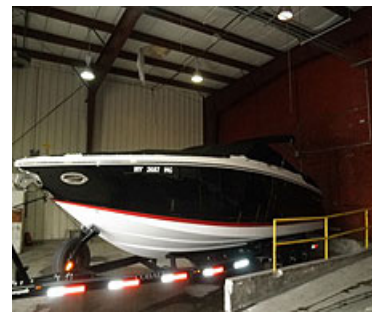
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## **ASSET FORFEITURE - SEIZURES**

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*A Legal Recourse to Recover Property  
Seized By the Government*



One of the initial by-products of the U.S. government's "War-on-Drugs" was their previously unfettered ability to *seize and/or forfeit* a citizen's personal property based solely on an accusation that the citizen obtained that property through some sort of nefarious criminal activity.

*"The U.S. Department of Justice **Asset Forfeiture Program** encompasses the seizure and forfeiture of assets that represent the proceeds of, or were used to facilitate federal crimes. The primary mission of the Program is to employ asset forfeiture powers in a manner that enhances public safety and security. This is accomplished by removing the proceeds of crime and other assets relied upon by criminals and their associates to perpetuate their criminal activity against our society. Asset forfeiture has the power to disrupt or dismantle criminal organizations that would continue to function if we only convicted and incarcerated specific individuals."* U.S. Department of Justice - 2010

Although the written intent is certainly hard to argue, the reality is that this "Program" has grown into a dangerously out-of-control government tool, too common of late, being used to punish our citizenry and/or to placate state/local police departments who assist the federal government in myriad criminal investigations ("Asset Sharing Program").

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## TYPES OF SEIZURES

There are currently three (3) methods by which the government can seize property:

1. **Criminal Forfeiture** is an action brought as a part of the criminal prosecution of a defendant. It is an *in personam* (against the person) action and requires that the government indict (charge) the property used or derived from the crime along with the defendant. If the jury finds the property forfeitable, the court issues an order of forfeiture.



[For forfeitures pursuant to the Controlled Substances Act (CSA), Racketeer Influenced and Corrupt Organizations (RICO), as well as money laundering and obscenity statutes, there is an ancillary hearing for third parties to assert their interest in the property. Once the interests of third parties are addressed, the court issues a final forfeiture order.]

2. **Civil Judicial Forfeiture** is an *in rem* (against the property) action brought in court against the property. The property is the defendant and no criminal charge against the owner is necessary.

3. **Administrative Forfeiture** is an *in rem* action that permits the federal seizing agency to forfeit the property without judicial involvement. The authority for a seizing agency to start an administrative forfeiture action is found in the Tariff Act of 1930, Title 19, U.S.C. § 1607. Property that can be administratively forfeited is: merchandise the importation of which is prohibited; a conveyance used to import, transport, or store a controlled substance; a monetary instrument; or other property that does not exceed \$500,000 in value.

## CIVIL ASSET FORFEITURE REFORM ACT

After years of perceived abuse of the asset seizure laws, the U.S. Congress passed the **CIVIL ASSET FORFEITURE REFORM ACT OF 2000**, also known as House Resolution 1658 (H.R. 1658), in an attempt to reign-in overly zealous federal law enforcement authorities who apparently equated the seizures of personal assets as successes in the “War-on-Drugs” while, at the same time, filling the coffers of some very appreciative state/local police departments through the “Asset Sharing” programs.



In essence, H.R. 1658 did the following:

- forced the government to prove that property is related to a crime, as opposed to the current practice of property owners' having to prove that their property is innocent;
- created an "innocent owner defense," whereby property owners who are either unaware of or unsuccessfully try to stop criminal activity on their property could recover the property;
- provided indigent defendants with appointed counsel;

- eliminated the cost-bond requirement, which currently requires property owners to pay \$5,000 or 10 percent of the seized property's value to contest the seizure in court;
- provided compensation for property damage caused by federal agents;
- extended the time for filing a claim to contest a forfeiture; and
- provided prevailing property owners with compensatory interest in certain situations.

### **LEGAL RECOURSE**

Today, citizens have legal recourse in the seizure of their property. Requisite *Petitions of Remission* as well as case specific legal action can afford any “victimized” citizen an opportunity to recover property improperly seized by the federal government.

[See our **Legal Assistant/Paralegal Section** for more information and options]

For more information concerning your rights and discussing the possibility of having your property returned to you, please feel free to contact one of our asset forfeiture experts at:



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