

§ 301.7507-7

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limitation, which periods are not suspended or extended by section 7507. In order to secure a refund of any taxes paid for any taxable year during the period of immunity the bank must file claim therefor.

§ 301.7507-7 Establishment of immunity.

(a) The mere allegation of insolvency, or that depositors have claims against segregated or other assets or earnings, will not of itself secure immunity from tax collection. It must be affirmatively established to the satisfaction of the district director that collection of tax will be contrary to section 7507. See also § 301.7507-8.

(b) Any claim, by a bank, of immunity under section 7507(b), shall be supported by a statement, under oath or affirmation, which shall show: (1) The total of depositors' claims outstanding, and (2) separately and in detail, the amount of each of the following, and the amount of depositors' claims properly chargeable against each: (i) Segregated or transferred assets; (ii) unsegregated assets; (iii) estimated future average annual earnings and profits; (iv) amount collectible from shareholders; and (v) any other resources available for payment of depositors' claims. The detail shall show the full amount of depositors' claims chargeable against each of the items in subdivisions (i) to (v), inclusive, of this subparagraph even though part or all of the amount chargeable against a particular item is also chargeable against some other item or items. There shall also be filed a copy of any agreement between the bank and its depositors, and any other agreement or document bearing on the claim of immunity. The statement shall show the basis, as "book," "market," etc., of valuation of the assets.

§ 301.7507-8 Procedure during immunity.

(a) *Statements to be filed.* As long as complete or partial immunity is claimed, a bank within section 7507(b) shall file with each income tax return a statement as required by § 301.7507-7, in duplicate, and shall also file such additional statements as the district director may require. Whether or not ad-

ditional statements shall be required, and the frequency thereof, will depend on the circumstances, including the financial status and apparent prospects of the bank, and the time which is available for assessment and collection. If a copy of an agreement or document has once been filed, a copy of the same agreement or document need not again be filed with a subsequent statement, if it is shown by the subsequent statement, when and where and with what return the copy was filed. In case of amendment a copy of the amendment must be filed with the return for the taxable year in which the amendment is made.

(b) *Failure to file.* Failure of a bank to file any required statement will be treated as indicating that the bank is not entitled to immunity.

§ 301.7507-9 Termination of immunity.

(a) *In general.* (1) In the case of a bank within section 7507(a), immunity will end whenever, and to the extent that, taxes may be assessed and collected, within the applicable limitation periods as extended by section 7507, without diminishing the assets available and necessary for payment of depositors. Immunity of a bank within section 7507 (b) is terminated, as to segregated assets, whenever claims of depositors against such assets have been paid in full. See § 301.7507-3. As to unsegregated assets, the termination of immunity is complete, and any balance remaining after payment of depositors is available, within statutory limitations, for collection of tax due at any time. However, taxes of the bank will be collectible from segregated assets only to the extent that the bank has a legal or equitable interest therein. Assets as to which there has been a complete conveyance for benefit of depositors, and the bank has bonafide been divested of all legal and equitable interest, are not available for collection of the bank's tax liability.

(2) As to unsegregated assets of a bank within section 7507(b), immunity terminates only as to taxes thereafter becoming due. When taxes are once immune from collection, the immunity as to unsegregated assets is absolute. But see paragraph (a) of § 301.7507-4.