

tion] shall apply to mailings made on or after January 1, 1990.”

**§ 7523. Graphic presentation of major categories of Federal outlays and income**

**(a) General rule**

In the case of any booklet of instructions for Form 1040, 1040A, or 1040EZ prepared by the Secretary for filing individual income tax returns for taxable years beginning in any calendar year, the Secretary shall include in a prominent place—

- (1) a pie-shaped graph showing the relative sizes of the major outlay categories, and
- (2) a pie-shaped graph showing the relative sizes of the major income categories.

**(b) Definitions and special rules**

For purposes of subsection (a)—

**(1) Major outlay categories**

The term “major outlay categories” means the following:

- (A) Defense, veterans, and foreign affairs.
- (B) Social security, medicare, and other retirement.
- (C) Physical, human, and community development.
- (D) Social programs.
- (E) Law enforcement and general government.
- (F) Interest on the debt.

**(2) Major income categories**

The term “major income categories” means the following:

- (A) Social security, medicare, and unemployment and other retirement taxes.
- (B) Personal income taxes.
- (C) Corporate income taxes.
- (D) Borrowing to cover the deficit.
- (E) Excise, customs, estate, gift, and miscellaneous taxes.

**(3) Required footnotes**

The pie-shaped graph showing the major outlay categories shall include the following footnotes:

- (A) A footnote to the category referred to in paragraph (1)(A) showing the percentage of the total outlays which is for defense, the percentage of total outlays which is for veterans, and the percentage of total outlays which is for foreign affairs.
- (B) A footnote to the category referred to in paragraph (1)(C) showing that such category consists of agriculture, natural resources, environment, transportation, education, job training, economic development, space, energy, and general science.
- (C) A footnote to the category referred to in paragraph (1)(D) showing the percentage of the total outlays which is for medicaid, food stamps, and assistance under a State program funded under part A of title IV of the Social Security Act and the percentage of total outlays which is for public health, unemployment, assisted housing, and social services.

**(4) Data on which graphs are based**

The graphs required under subsection (a) shall be based on data for the most recent fis-

cal year for which complete data is available as of the completion of the preparation of the instructions by the Secretary.

(Added Pub. L. 101-508, title XI, §11622(a), Nov. 5, 1990, 104 Stat. 1388-504; amended Pub. L. 104-193, title I, §110(l)(4), formerly §110(l)(8), Aug. 22, 1996, 110 Stat. 2173, renumbered Pub. L. 105-33, title V, §5514(a)(2), Aug. 5, 1997, 111 Stat. 620.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(3)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (b)(3)(C). Pub. L. 104-193, §110(l)(4), formerly §110(l)(8), as renumbered by Pub. L. 105-33, substituted “assistance under a State program funded under part A of title IV of the Social Security Act” for “aid to families with dependent children”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section 11622(c) of Pub. L. 101-508 provided that: “The amendments made by this section [enacting this section] shall apply to instructions prepared for taxable years beginning after 1990.”

**§ 7524. Annual notice of tax delinquency**

Not less often than annually, the Secretary shall send a written notice to each taxpayer who has a tax delinquent account of the amount of the tax delinquency as of the date of the notice.

(Added Pub. L. 104-168, title XII, §1204(a), July 30, 1996, 110 Stat. 1471.)

EFFECTIVE DATE

Section 1204(c) of Pub. L. 104-168 provided that: “The amendments made by this section [enacting this section] shall apply to calendar years after 1996.”

**§ 7525. Confidentiality privileges relating to taxpayer communications**

**(a) Uniform application to taxpayer communications with federally authorized practitioners**

**(1) General rule**

With respect to tax advice, the same common law protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to a communication between a taxpayer and any federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney.

**(2) Limitations**

Paragraph (1) may only be asserted in—

(A) any noncriminal tax matter before the Internal Revenue Service; and

(B) any noncriminal tax proceeding in Federal court brought by or against the United States.

**(3) Definitions**

For purposes of this subsection—

**(A) Federally authorized tax practitioner**

The term “federally authorized tax practitioner” means any individual who is authorized under Federal law to practice before the Internal Revenue Service if such practice is subject to Federal regulation under section 330 of title 31, United States Code.

**(B) Tax advice**

The term “tax advice” means advice given by an individual with respect to a matter which is within the scope of the individual’s authority to practice described in subparagraph (A).

**(b) Section not to apply to communications regarding corporate tax shelters**

The privilege under subsection (a) shall not apply to any written communication between a federally authorized tax practitioner and a director, shareholder, officer, or employee, agent, or representative of a corporation in connection with the promotion of the direct or indirect participation of such corporation in any tax shelter (as defined in section 6662(d)(2)(C)(iii)).

(Added Pub. L. 105–206, title III, §3411(a), July 22, 1998, 112 Stat. 750.)

EFFECTIVE DATE

Pub. L. 105–206, title III, §3411(c), July 22, 1998, 112 Stat. 751, provided that: “The amendments made by this section [enacting this section] shall apply to communications made on or after the date of the enactment of this Act [July 22, 1998].”

**§ 7526. Low-income taxpayer clinics**

**(a) In general**

The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified low-income taxpayer clinics.

**(b) Definitions**

For purposes of this section—

**(1) Qualified low-income taxpayer clinic**

**(A) In general**

The term “qualified low-income taxpayer clinic” means a clinic that—

(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred); and

(ii)(I) represents low-income taxpayers in controversies with the Internal Revenue Service; or

(II) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title.

**(B) Representation of low-income taxpayers**

A clinic meets the requirements of subparagraph (A)(ii)(I) if—

(i) at least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget; and

(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

**(2) Clinic**

The term “clinic” includes—

(A) a clinical program at an accredited law, business, or accounting school in which students represent low-income taxpayers in controversies arising under this title; and

(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

**(3) Qualified representative**

The term “qualified representative” means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

**(c) Special rules and limitations**

**(1) Aggregate limitation**

Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than \$6,000,000 per year (exclusive of costs of administering the program) to grants under this section.

**(2) Limitation on annual grants to a clinic**

The aggregate amount of grants which may be made under this section to a clinic for a year shall not exceed \$100,000.

**(3) Multi-year grants**

Upon application of a qualified low-income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

**(4) Criteria for awards**

In determining whether to make a grant under this section, the Secretary shall consider—

(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language;

(B) the existence of other low-income taxpayer clinics serving the same population;

(C) the quality of the program offered by the low-income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low-income taxpayers; and

(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic.

**(5) Requirement of matching funds**

A low-income taxpayer clinic must provide matching funds on a dollar-for-dollar basis for

all grants provided under this section. Matching funds may include—

- (A) the salary (including fringe benefits) of individuals performing services for the clinic; and
- (B) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the institution sponsoring the clinic, shall not be counted as matching funds.

(Added Pub. L. 105-206, title III, §3601(a), July 22, 1998, 112 Stat. 774.)

EFFECTIVE DATE

Pub. L. 105-206, title III, §3601(c), July 22, 1998, 112 Stat. 776, provided that: "The amendments made by this section [enacting this section] shall take effect on the date of the enactment of this Act [July 22, 1998]."

**CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE**

Subchapter		Sec.
A.	Examination and inspection .....	7601
B.	General powers and duties .....	7621
[C.	Repealed.]	
D.	Possessions .....	7651

AMENDMENTS

Pub. L. 94-455, title XIX, §1906(b)(13), Oct. 4, 1976, 90 Stat. 1834, struck out subchapter C relating to supervision of operations of certain manufacturers.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 7811, 7851 of this title.

**Subchapter A—Examination and Inspection**

Sec.	
7601.	Canvass of districts for taxable persons and objects.
7602.	Examination of books and witnesses.
7603.	Service of summons.
7604.	Enforcement of summons.
7605.	Time and place of examination.
7606.	Entry of premises for examination of taxable objects.
[7607.	Repealed.]
7608.	Authority of internal revenue enforcement officers.
7609.	Special procedures for third-party summonses.
7610.	Fees and costs for witnesses.
7611.	Restrictions on church tax inquiries and examinations.
7612.	Special procedures for summonses for computer software.
7613.	Cross references.

AMENDMENTS

1998—Pub. L. 105-206, title III, §3413(d), July 22, 1998, 112 Stat. 754, added items 7612 and 7613 and struck out former item 7612 "Cross references".

1984—Pub. L. 98-573, title II, §213(b)(2), Oct. 30, 1984, 98 Stat. 2988, struck out item 7607 "Additional authority for Bureau of Customs".

Pub. L. 98-369, div. A, title X, §1033(c)(2), July 18, 1984, 98 Stat. 1039, added item 7611 and redesignated former item 7611 as 7612.

1976—Pub. L. 94-455, title XII, §1205(b), Oct. 4, 1976, 90 Stat. 1702, substituted "Special procedures for third-party summonses" for "Cross references" in item 7609 and added items 7610 and 7611.

<sup>1</sup> Section numbers editorially supplied.

1970—Pub. L. 91-513, title III, §1102(g)(2), Oct. 27, 1970, 84 Stat. 1293, struck out "Bureau of Narcotics and" before "Bureau of Customs" in item 7607.

1958—Pub. L. 85-859, title II, §204(16), Sept. 2, 1958, 72 Stat. 1430, added item 7608 and redesignated former item 7608 as 7609.

1956—Act July 18, 1956, ch. 629, §104(b), 70 Stat. 570, added item 7607 and redesignated former item 7607 as 7608.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 274, 7521 of this title.

**§ 7601. Canvass of districts for taxable persons and objects**

**(a) General rule**

The Secretary shall, to the extent he deems it practicable, cause officers or employees of the Treasury Department to proceed, from time to time, through each internal revenue district and inquire after and concerning all persons therein who may be liable to pay any internal revenue tax, and all persons owning or having the care and management of any objects with respect to which any tax is imposed.

**(b) Penalties**

**For penalties applicable to forcible obstruction or hindrance of Treasury officers or employees in the performance of their duties, see section 7212.**

(Aug. 16, 1954, ch. 736, 68A Stat. 901; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out "or his delegate" after "Secretary".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7609 of this title.

**§ 7602. Examination of books and witnesses**

**(a) Authority to summon, etc.**

For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, the Secretary is authorized—

- (1) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;
- (2) To summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the Secretary may deem proper, to appear before the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and
- (3) To take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

**(b) Purpose may include inquiry into offense**

The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

**(c) Notice of contact of third parties****(1) General notice**

An officer or employee of the Internal Revenue Service may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of such taxpayer without providing reasonable notice in advance to the taxpayer that contacts with persons other than the taxpayer may be made.

**(2) Notice of specific contacts**

The Secretary shall periodically provide to a taxpayer a record of persons contacted during such period by the Secretary with respect to the determination or collection of the tax liability of such taxpayer. Such record shall also be provided upon request of the taxpayer.

**(3) Exceptions**

This subsection shall not apply—

(A) to any contact which the taxpayer has authorized;

(B) if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax or such notice may involve reprisal against any person; or

(C) with respect to any pending criminal investigation.

**(d) No administrative summons when there is Justice Department referral****(1) Limitation of authority**

No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

**(2) Justice Department referral in effect**

For purposes of this subsection—

**(A) In general**

A Justice Department referral is in effect with respect to any person if—

(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

**(B) Termination**

A Justice Department referral shall cease to be in effect with respect to a person when—

(i) the Attorney General notifies the Secretary, in writing, that—

(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

(III) he will discontinue such a grand jury investigation,

(ii) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws relating to the request described in subparagraph (A)(ii).

**(3) Taxable years, etc., treated separately**

For purposes of this subsection, each taxable period (or, if there is no taxable period, each taxable event) and each tax imposed by a separate chapter of this title shall be treated separately.

**(e) Limitation on examination on unreported income**

The Secretary shall not use financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the Secretary has a reasonable indication that there is a likelihood of such unreported income.

(Aug. 16, 1954, ch. 736, 68A Stat. 901; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §333(a), Sept. 3, 1982, 96 Stat. 622; Pub. L. 105-206, title III, §§3412, 3417(a), July 22, 1998, 112 Stat. 751, 757.)

## AMENDMENTS

1998—Subsec. (c). Pub. L. 105-206, §3417(a), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105-206, §3417(a), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 105-206, §3412, added subsec. (d).

Subsec. (e). Pub. L. 105-206, §3417(a), redesignated subsec. (d) as (e).

1982—Pub. L. 97-248 redesignated existing provisions as subsec. (a), added subsec. (a) heading, and added subsecs. (b) and (c).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

## EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3417(b), July 22, 1998, 112 Stat. 758, provided that: “The amendments made by subsection (a) [amending this section] shall apply to contacts made after the 180th day after the date of the enactment of this Act [July 22, 1998].”

## EFFECTIVE DATE OF 1982 AMENDMENT

Section 333(b) of Pub. L. 97-248 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].”

## CROSS REFERENCES

Authority of officers or employees to administer oaths, see section 7622 of this title.

Books of person liable for occupational tax, see section 4423 of this title.

Distilleries, authority of revenue officers, see section 5203 of this title.

Returns, public records, see section 6103 of this title.

Time and place for examination pursuant to this section, see section 7605 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4424, 6038A, 6038C, 6048, 6230, 6420, 6421, 6427, 7210, 7603, 7604, 7605, 7609, 7610 of this title.

### § 7603. Service of summons

#### (a) In general

A summons issued under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall be served by the Secretary, by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode; and the certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

#### (b) Service by mail to third-party recordkeepers

##### (1) In general

A summons referred to in subsection (a) for the production of books, papers, records, or other data by a third-party recordkeeper may also be served by certified or registered mail to the last known address of such recordkeeper.

##### (2) Third-party recordkeeper

For purposes of paragraph (1), the term "third-party recordkeeper" means—

(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));

(B) any consumer reporting agency (as defined under section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)));

(C) any person extending credit through the use of credit cards or similar devices;

(D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));

(E) any attorney;

(F) any accountant;

(G) any barter exchange (as defined in section 6045(c)(3));

(H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof,<sup>1</sup>

(I) any enrolled agent,<sup>1</sup> and

(J) any owner or developer of a computer software source code (as defined in section 7612(d)(2)).

Subparagraph (J) shall apply only with respect to a summons requiring the production of the

source code referred to in subparagraph (J) or the program and data described in section 7612(b)(1)(A)(ii) to which such source code relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 902; Apr. 2, 1956, ch. 160, §4(i), 70 Stat. 91; June 29, 1956, ch. 462, title II, §208(d)(4), 70 Stat. 396; Pub. L. 89-44, title II, §202(c)(4), June 21, 1965, 79 Stat. 139; Pub. L. 91-258, title II, §207(d)(9), May 21, 1970, 84 Stat. 249; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94-530, §1(c)(6), Oct. 17, 1976, 90 Stat. 2488; Pub. L. 95-599, title V, §505(c)(5), Nov. 6, 1978, 92 Stat. 2760; Pub. L. 96-223, title II, §232(d)(4)(E), Apr. 2, 1980, 94 Stat. 278; Pub. L. 97-424, title V, §515(b)(12), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-369, div. A, title IX, §911(d)(2)(G), July 18, 1984, 98 Stat. 1007; Pub. L. 99-514, title XVII, §1703(e)(2)(G), Oct. 22, 1986, 100 Stat. 2778; Pub. L. 100-647, title I, §1017(c)(9), (12), Nov. 10, 1988, 102 Stat. 3576, 3577; Pub. L. 105-206, title III, §§3413(c), 3416(a), July 22, 1998, 112 Stat. 754, 756.)

#### AMENDMENTS

1998—Subsec. (a). Pub. L. 105-206, §3416(a), designated existing provisions as subsec. (a) and inserted heading. Subsec. (b). Pub. L. 105-206, §3416(a), added subsec. (b). Subsec. (b)(2). Pub. L. 105-206, §3413(c), added subpar. (J) and concluding provisions.

1988—Pub. L. 100-647, §1017(c)(12), made technical correction to language of Pub. L. 99-514, §1703(e)(2)(G), see 1986 Amendment note below.

Pub. L. 100-647, §1017(c)(9), substituted "6421(g)(2)" for "6421(f)(2)".

1986—Pub. L. 99-514, as amended by Pub. L. 100-647, §1017(c)(12), substituted "6427(j)(2)" for "6427(i)(2)".

1984—Pub. L. 98-369 substituted "6427(i)(2)" for "6427(h)(2)".

1983—Pub. L. 97-424 struck out "6424(d)(2)," after "6421(f)(2)".

1980—Pub. L. 96-223 substituted "6427(h)(2)" for "6427(g)(2)".

1978—Pub. L. 95-599 substituted "6427(g)(2)" for "6427(f)(2)".

1976—Pub. L. 94-530 substituted "6427(f)(2)" for "6427(e)(2)".

Pub. L. 94-455 struck out "or his delegate" after "Secretary".

1970—Pub. L. 91-258 inserted reference to section 6427(e)(2).

1965—Pub. L. 89-44 inserted reference to section 6424(d)(2).

1956—Act June 29, 1956, inserted reference to section 6421(f)(2).

Act Apr. 2, 1956, inserted reference to section 6420(e)(2).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 3413(c) of Pub. L. 105-206 applicable to summonses issued, and software acquired, after July 22, 1998, see section 3413(e)(1) of Pub. L. 105-206, set out as an Effective Date note under section 7612 of this title.

Pub. L. 105-206, title III, §3416(b), July 22, 1998, 112 Stat. 757, provided that: "The amendment made by this section [amending this section] shall apply to summonses served after the date of the enactment of this Act [July 22, 1998]."

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as

<sup>1</sup> So in original. The comma probably should be a semicolon.

amended by section 1703 of Pub. L. 99-514 after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Aug. 1, 1984, see section 911(e) of Pub. L. 98-369, set out as a note under section 6427 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective Jan. 1, 1979, see section 232(h)(2) of Pub. L. 96-223, set out as a note under section 6427 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-599 effective Jan. 1, 1979, see section 505(d) of Pub. L. 95-599, set out as a note under section 6427 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-530 effective Oct. 1, 1976, see section 1(d) of Pub. L. 94-530, set out as a note under section 4041 of this title.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, see section 211(a) of Pub. L. 91-258, set out as a note under section 4041 of this title.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 701(a)(1), (2), of Pub. L. 89-44, set out as a note under section 4161 of this title.

#### EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

#### CROSS REFERENCES

Penalties applicable to violation of this section, see section 7210 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6038A, 6038C, 6048, 7210, 7604, 7609 of this title.

### § 7604. Enforcement of summons

#### (a) Jurisdiction of district court

If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, records, or other data, the United States district court for the district in which such person resides or is found shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data.

#### (b) Enforcement

Whenever any person summoned under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the Secretary may apply to the judge of the district court or to a United States commissioner for the district within which the person so summoned resides or is found for an attachment against him as for a

contempt. It shall be the duty of the judge or commissioner to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or the United States commissioner shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

#### (c) Cross references

##### (1) Authority to issue orders, processes, and judgments

For authority of district courts generally to enforce the provisions of this title, see section 7402.

##### (2) Penalties

For penalties applicable to violation of section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602, see section 7210.

(Aug. 16, 1954, ch. 736, 68A Stat. 902; Apr. 2, 1956, ch. 160, §4(i), 70 Stat. 91; June 29, 1956, ch. 462, title II, §208(d)(4), 70 Stat. 396; Pub. L. 89-44, title II, §202(c)(4), June 21, 1965, 79 Stat. 139; Pub. L. 91-258, title II, §207(d)(9), May 21, 1970, 84 Stat. 249; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94-530, §1(c)(6), Oct. 17, 1976, 90 Stat. 2488; Pub. L. 95-599, title V, §505(c)(5), (6), Nov. 6, 1978, 92 Stat. 2760; Pub. L. 96-223, title II, §232(d)(4)(E), Apr. 2, 1980, 94 Stat. 278; Pub. L. 97-424, title V, §515(b)(12), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-369, div. A, title IX, §911(d)(2)(G), July 18, 1984, 98 Stat. 1007; Pub. L. 99-514, title XVII, §1703(e)(2)(G), Oct. 22, 1986, 100 Stat. 2778; Pub. L. 100-647, title I, §1017(c)(9), (12), Nov. 10, 1988, 102 Stat. 3576, 3577.)

#### REFERENCES IN TEXT

The internal revenue laws, referred to in subsec. (a), are classified generally to this title.

#### AMENDMENTS

1988—Subsecs. (b), (c)(2). Pub. L. 100-647, §1017(c)(12), made technical correction to language of Pub. L. 99-514, §1703(e)(2)(G), see 1986 Amendment note below.

Pub. L. 100-647, §1017(c)(9), substituted “6421(g)(2)” for “6421(f)(2)”.

1986—Subsecs. (b), (c)(2). Pub. L. 99-514, as amended by Pub. L. 100-647, §1017(c)(12), substituted “6427(j)(2)” for “6427(i)(2)”.

1984—Subsecs. (b), (c)(2). Pub. L. 98-369 substituted “6427(i)(2)” for “6427(h)(2)”.

1983—Subsecs. (b), (c)(2). Pub. L. 97-424 struck out “6424(d)(2),” after “6421(f)(2),”.

1980—Subsecs. (b), (c)(2). Pub. L. 96-223 substituted “6427(h)(2)” for “6427(g)(2)”.

1978—Subsec. (b). Pub. L. 95-599, §505(c)(5), substituted “6427(g)(2)” for “6427(f)(2)”.

Subsec. (c)(2). Pub. L. 95-599, §505(c)(6), substituted “6427(g)(2)” for “6427(e)(2)”.

1976—Subsec. (b). Pub. L. 94-530 substituted “6427(f)(2)” for “6427(e)(2)”.

Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1970—Subsecs. (b), (c). Pub. L. 91-258 inserted references to section 6427(e)(2).

1965—Subsecs. (b), (c). Pub. L. 89-44 inserted references to section 6424(d)(2).

1956—Subsecs. (b), (c). Act Apr. 2, 1956, inserted references to section 6420(e)(2).

Act June 29, 1956, inserted references to section 6421(f)(2).

CHANGE OF NAME

United States commissioners, referred to in subsec. (b), were replaced by United States magistrates pursuant to Pub. L. 90-578, Oct. 17, 1968, 82 Stat. 1118. See chapter 43 (§ 631 et seq.) of Title 28, Judiciary and Judicial Procedure.

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Aug. 1, 1984, see section 911(e) of Pub. L. 98-369, set out as a note under section 6427 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective Jan. 1, 1979, see section 232(h)(2) of Pub. L. 96-223, set out as a note under section 6427 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-599 effective Jan. 1, 1979, see section 505(d) of Pub. L. 95-599, set out as a note under section 6427 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-530 effective Oct. 1, 1976, see section 1(d) of Pub. L. 94-530, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, see section 211(a) of Pub. L. 91-258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 701(a)(1), (2), of Pub. L. 89-44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

CROSS REFERENCES

Contempt—  
 Constituting crimes, see section 402 of Title 18, Crimes and Criminal Procedure.  
 Jury trial, see section 3691 of Title 18.  
 Power of court, see section 401 of Title 18.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6038A, 6038C, 6048, 7210, 7602, 7609, 7612 of this title.

§ 7605. Time and place of examination

(a) Time and place

The time and place of examination pursuant to the provisions of section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall be such time and place as may be fixed by the Secretary and as are reasonable under the circumstances. In the case of a summons under authority of paragraph (2) of section 7602, or under the corresponding authority of section 6420(e)(2), 6421(g)(2), or 6427(j)(2), the date fixed for appearance before the Secretary shall not be less than 10 days from the date of the summons.

(b) Restrictions on examination of taxpayer

No taxpayer shall be subjected to unnecessary examination or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the Secretary, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

(c) Cross reference

**For provisions restricting church tax inquiries and examinations, see section 7611.**

(Aug. 16, 1954, ch. 736, 68A Stat. 902; Apr. 2, 1956, ch. 160, § 4(i), 70 Stat. 91; June 29, 1956, ch. 462, title II, § 208(d)(4), 70 Stat. 396; Pub. L. 89-44, title II, § 202(c)(4), June 21, 1965, 79 Stat. 139; Pub. L. 91-172, title I, § 121(f), Dec. 30, 1969, 83 Stat. 548; Pub. L. 91-258, title II, § 207(d)(9), May 21, 1970, 84 Stat. 249; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94-530, § 1(c)(6), Oct. 17, 1976, 90 Stat. 2488; Pub. L. 95-599, title V, § 505(c)(5), Nov. 6, 1978, 92 Stat. 2760; Pub. L. 96-223, title II, § 232(d)(4)(E), Apr. 2, 1980, 94 Stat. 278; Pub. L. 97-424, title V, § 515(b)(12), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-369, div. A, title IX, § 911(d)(2)(G), title X, § 1033(c)(1), July 18, 1984, 98 Stat. 1007, 1039; Pub. L. 99-514, title XVII, § 1703(e)(2)(G), Oct. 22, 1986, 100 Stat. 2778; Pub. L. 100-647, title I, § 1017(c)(9), (12), Nov. 10, 1988, 102 Stat. 3576, 3577.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-647, § 1017(c)(12), made technical correction to language of Pub. L. 99-514, § 1703(e)(2)(G), see 1986 Amendment note below.

Pub. L. 100-647, § 1017(c)(9), substituted "6421(g)(2)" for "6421(f)(2)" in two places.

1986—Subsec. (a). Pub. L. 99-514, as amended by Pub. L. 100-647, § 1017(c)(12), substituted "6427(j)(2)" for "6427(i)(2)" in two places.

1984—Subsec. (a). Pub. L. 98-369, § 911(d)(2)(G), substituted "6427(i)(2)" for "6427(h)(2)" in two places.

Subsec. (c). Pub. L. 98-369, § 1033(c)(1), amended subsec. (c) generally, substituting a cross reference relating to church tax inquiries for provisions relating to church tax inquiries.

1983—Subsec. (a). Pub. L. 97-424 struck out "6424(d)(2)," after "6421(f)(2)," wherever appearing.

1980—Subsec. (a). Pub. L. 96-223 substituted "6427(h)(2)" for "6427(g)(2)" wherever appearing.

1978—Subsec. (a). Pub. L. 95-599 substituted "6427(g)(2)" for "6427(f)(2)" wherever appearing.

1976—Subsec. (a). Pub. L. 94-530 substituted "6427(f)(2)" for "6427(e)(2)" wherever appearing.

Pub. L. 94-455 struck out "or his delegate" after "Secretary".

Subsecs. (b), (c). Pub. L. 94-455 struck out "or his delegate" after "Secretary".

1970—Subsec. (a). Pub. L. 91-258 inserted references to section 6427(e)(2).

1969—Subsec. (c). Pub. L. 91-172 added subsec. (c).

1965—Subsec. (a). Pub. L. 89-44 inserted references to section 6424(d)(2).

1956—Subsec. (a). Act June 29, 1956, inserted references to section 6421(f)(2).

Act Apr. 2, 1956, inserted references to section 6420(e)(2) in second sentence.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 911(d)(2)(G) of Pub. L. 98-369 effective Aug. 1, 1984, see section 911(e) of Pub. L. 98-369, set out as a note under section 6427 of this title.

Amendment by section 1033(c)(1) of Pub. L. 98-369 applicable with respect to inquiries and examinations beginning after Dec. 31, 1984, see section 1033(d) of Pub. L. 98-369, set out as an Effective Date note under section 7611 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective Jan. 1, 1979, see section 232(h)(2) of Pub. L. 96-223, set out as a note under section 6427 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-599 effective Jan. 1, 1979, see section 505(d) of Pub. L. 95-599, set out as a note under section 6427 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-530 effective Oct. 1, 1976, see section 1(d) of Pub. L. 94-530, set out as a note under section 4041 of this title.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-258 effective July 1, 1970, see section 211(a) of Pub. L. 91-258, set out as a note under section 4041 of this title.

#### EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 121(g) of Pub. L. 91-172, set out as a note under section 511 of this title.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective Jan. 1, 1966, see section 701(a)(1), (2), of Pub. L. 89-44, set out as a note under section 4161 of this title.

#### EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act June 29, 1956, effective June 29, 1956, see section 211 of act June 29, 1956, set out as a note under section 4041 of this title.

#### REGULATIONS

Section 6228(b) of Pub. L. 100-647 provided that: “The Secretary of the Treasury or the Secretary’s delegate

shall issue regulations to implement subsection (a) of section 7605 of the 1986 Code (relating to time and place of examination) within 1 year after the date of the enactment of this Act [Nov. 10, 1988].”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4423 of this title.

### § 7606. Entry of premises for examination of taxable objects

#### (a) Entry during day

The Secretary may enter, in the daytime, any building or place where any articles or objects subject to tax are made, produced, or kept, so far as it may be necessary for the purpose of examining said articles or objects.

#### (b) Entry at night

When such premises are open at night, the Secretary may enter them while so open, in the performance of his official duties.

#### (c) Penalties

**For penalty for refusal to permit entry or examination, see section 7342.**

(Aug. 16, 1954, ch. 736, 68A Stat. 903; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

#### AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7342 of this title.

### [§ 7607. Repealed. Pub. L. 98-473, title II, § 320(b), Oct. 12, 1984, 98 Stat. 2056, and Pub. L. 98-573, title II, § 213(b)(1), Oct. 30, 1984, 98 Stat. 2988]

Section, added July 18, 1956, ch. 629, title I, § 104(a), 70 Stat. 570; amended Oct. 27, 1970, Pub. L. 91-513, title III, § 1102(g)(1), 84 Stat. 1292, set forth additional authority for Bureau of Customs with respect to firearms, warrants, etc.

Another section 7607 was renumbered section 7613 of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 15, 1984, see section 214(e) of Pub. L. 98-573, set out as an Effective Date of 1984 Amendment note under section 1304 of Title 19, Customs Duties.

### § 7608. Authority of internal revenue enforcement officers

#### (a) Enforcement of subtitle E and other laws pertaining to liquor, tobacco, and firearms

Any investigator, agent, or other internal revenue officer by whatever term designated, whom the Secretary charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of subtitle E or of any other law of the United States pertaining to the commodities subject to tax under such subtitle for the enforcement of which the Secretary is responsible may—

- (1) carry firearms;
- (2) execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(3) in respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and

(4) in respect to the performance of such duty, make seizures of property subject to forfeiture to the United States.

**(b) Enforcement of laws relating to internal revenue other than subtitle E**

(1) Any criminal investigator of the Intelligence Division of the Internal Revenue Service whom the Secretary charges with the duty of enforcing any of the criminal provisions of the internal revenue laws, any other criminal provisions of law relating to internal revenue for the enforcement of which the Secretary is responsible, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service, is, in the performance of his duties, authorized to perform the functions described in paragraph (2).

(2) The functions authorized under this subsection to be performed by an officer referred to in paragraph (1) are—

(A) to execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(B) to make arrests without warrant for any offense against the United States relating to the internal revenue laws committed in his presence, or for any felony cognizable under such laws if he has reasonable grounds to believe that the person to be arrested has committed or is committing any such felony; and

(C) to make seizures of property subject to forfeiture under the internal revenue laws.

**(c) Rules relating to undercover operations**

**(1) Certification required for exemption of undercover operations from certain laws**

With respect to any undercover investigative operation of the Internal Revenue Service (hereinafter in this subsection referred to as the "Service") which is necessary for the detection and prosecution of offenses under the internal revenue laws, any other criminal provisions of law relating to internal revenue, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service—

(A) sums authorized to be appropriated for the Service may be used—

(i) to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to—

(I) sections 1341 and 3324 of title 31, United States Code,

(II) sections 11(a) and 22 of title 41, United States Code,

(III) section 255 of title 41, United States Code,

(IV) section 34 of title 40, United States Code, and

(V) section 254(a) and (c)<sup>1</sup> of title 41, United States Code, and

(ii) to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(B) sums authorized to be appropriated for the Service and the proceeds from the undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code, and

(C) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code.

This paragraph shall apply only upon the written certification of the Commissioner of Internal Revenue (or, if designated by the Commissioner, the Deputy Commissioner or an Assistant Commissioner of Internal Revenue) that any action authorized by subparagraph (A), (B), or (C) is necessary for the conduct of such undercover operation.

**(2) Liquidation of corporations and business entities**

If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value over \$50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his delegate determines is practicable, shall report the circumstances to the Secretary. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

**(3) Deposit of proceeds**

As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (B) and (C) of paragraph (1) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

**(4) Audits**

(A) The Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year; and

(i) submit the results of the audit in writing to the Secretary; and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

<sup>1</sup> See References in Text note below.

(i) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(ii) the number, by programs, of undercover investigative operations commenced in the 1-year period for which such report is submitted;

(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

(iv) the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period—

(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

(II) the total expenditures under the operation and the amount and use of the proceeds from the operation,

(III) a detailed description of the operation including the potential violation being investigated and whether the operation is being conducted under grand jury auspices, and

(IV) the results of the operation including the results of criminal proceedings.

#### (5) Definitions

For purposes of paragraph (4)—

##### (A) Closed

The term “closed” means the date on which the later of the following occurs;

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever occurs later.

##### (B) Employees

The term “employees” has the meaning given such term by section 2105 of title 5, United States Code.

##### (C) Undercover investigative operation

The term “undercover investigative operation” means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code.

#### (6) Application of section

The provisions of this subsection—

(A) shall apply after November 17, 1988, and before January 1, 1990, and

(B) shall apply after the date of the enactment of this paragraph and before January 1, 2001.

All amounts expended pursuant to this subsection during the period described in subparagraph (B) shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before January 1, 2001.

(Added Pub. L. 85-859, title II, §204(14), Sept. 2, 1958, 72 Stat. 1429; amended Pub. L. 87-863, §6(a), Oct. 23, 1962, 76 Stat. 1143; Pub. L. 94-455, title

XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-690, title VII, §7601(c)(1), (2), Nov. 18, 1988, 102 Stat. 4504; Pub. L. 101-508, title XI, §11704(a)(32), (33), Nov. 5, 1990, 104 Stat. 1388-519; Pub. L. 104-168, title XII, §1205(b)-(c)(2), July 30, 1996, 110 Stat. 1471, 1472; Pub. L. 104-316, title I, §113, Oct. 19, 1996, 110 Stat. 3833; Pub. L. 105-206, title I, §1103(e)(4), July 22, 1998, 112 Stat. 710.)

#### REFERENCES IN TEXT

Section 254(c) of title 41, referred to in subsec. (c)(1)(A)(i)(V), was repealed by Pub. L. 103-355, title II, §2251(b), Oct. 13, 1994, 108 Stat. 3320. See section 254d of Title 41, Public Contracts.

The date of the enactment of this paragraph, referred to in subsec. (c)(6)(B), is the date of enactment of Pub. L. 104-168, which was approved July 30, 1996.

#### PRIOR PROVISIONS

A prior section 7608 was renumbered section 7613 of this title.

#### AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105-206 struck out “or of the Internal Security Division” after “Intelligence Division”.

1996—Subsec. (c)(2). Pub. L. 104-316 struck out “and the Comptroller General of the United States” after “Secretary”.

Subsec. (c)(4)(B)(ii). Pub. L. 104-168, §1205(c)(1)(A), (B), struck out “preceding the period” after “in the 1-year period” and “and” at end.

Subsec. (c)(4)(B)(iii), (iv). Pub. L. 104-168, §1205(c)(1)(C), added cls. (iii) and (iv) and struck out former cl. (iii) which read as follows: “the number, by programs, of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.”

Subsec. (c)(5)(C). Pub. L. 104-168, §1205(c)(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The terms ‘undercover investigative operation’ and ‘undercover operation’ mean any undercover investigative operation of the Service—

“(i) in which—

“(I) the gross receipts (excluding interest earned) exceed \$50,000; or

“(II) expenditures, both recoverable and non-recoverable (other than expenditures for salaries of employees), exceed \$150,000; and

“(ii) which is exempt from section 3302 or 9102 of title 31, United States Code.

Clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of paragraph (4).”

Subsec. (c)(6). Pub. L. 104-168, §1205(b), added par. (6). 1990—Subsec. (c)(1)(B). Pub. L. 101-508, §11704(a)(32), struck out comma after “operations”.

Subsec. (c)(5)(C). Pub. L. 101-508, §11704(a)(33), substituted “interest” for “interested” in cl. (i)(I) and “title 31” for “title 3” in cl. (ii).

1988—Subsec. (b)(1). Pub. L. 100-690, §7601(c)(1), substituted comma for “or” before “any other” and inserted “, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service,” after “responsible”.

Subsec. (c). Pub. L. 100-690, §7601(c)(2), added subsec. (c).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1962—Pub. L. 87-863 redesignated existing provisions as subsec. (a), added subsec. (a) heading, and added subsec. (b).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 1205(c)(3) of Pub. L. 104-168 provided that: “The amendments made by this subsection [amending

this section] shall take effect on the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1988 AMENDMENT

Section 7601(c)(3) of Pub. L. 100-690, as amended by Pub. L. 101-647, title XXXIII, § 3301(a), Nov. 29, 1990, 104 Stat. 4917; Pub. L. 104-168, title XII, § 1205(a), July 30, 1996, 110 Stat. 1471, provided that: “The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Nov. 18, 1988].”

EFFECTIVE DATE OF 1962 AMENDMENT

Section 6(b) of Pub. L. 87-863 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the day after the date of enactment of this Act [Oct. 23, 1962].”

EFFECTIVE DATE

Section effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5558, 5604 of this title.

**§ 7609. Special procedures for third-party summonses**

**(a) Notice**

**(1) In general**

If any summons to which this section applies requires the giving of testimony on or relating to, the production of any portion of records made or kept on or relating to, or the production of any computer software source code (as defined in 7612(d)(2)) with respect to, any person (other than the person summoned) who is identified in the summons, then notice of the summons shall be given to any person so identified within 3 days of the day on which such service is made, but no later than the 23rd day before the day fixed in the summons as the day upon which such records are to be examined. Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons.

**(2) Sufficiency of notice**

Such notice shall be sufficient if, on or before such third day, such notice is served in the manner provided in section 7603 (relating to service of summons) upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice or, in the case of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, to the last known address of the fiduciary of such person, even if such person or fiduciary is then deceased, under a legal disability, or no longer in existence.

**(3) Nature of summonses**

Any summons to which this subsection applies (and any summons in aid of collection described in subsection (c)(2)(D)) shall identify

the taxpayer to whom the summons relates or the other person to whom the records pertain and shall provide such other information as will enable the person summoned to locate the records required under the summons.

**(b) Right to intervene; right to proceeding to quash**

**(1) Intervention**

Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604.

**(2) Proceeding to quash**

**(A) In general**

Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

**(B) Requirement of notice to person summoned and to Secretary**

If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20-day period referred to in subparagraph (A) such person shall mail by registered or certified mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

**(C) Intervention; etc.**

Notwithstanding any other law or rule of law, the person summoned shall have the right to intervene in any proceeding under subparagraph (A). Such person shall be bound by the decision in such proceeding (whether or not the person intervenes in such proceeding).

**(c) Summonses to which section applies**

**(1) In general**

Except as provided in paragraph (2), this section shall apply to any summonses issued under paragraph (2) of section 7602(a) or under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7612.

**(2) Exceptions**

This section shall not apply to any summonses—

(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person;

(B) issued to determine whether or not records of the business transactions or affairs of an identified person have been made or kept;

(C) issued solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in section 7603(b)(2)(A);

(D) issued in aid of the collection of—

(i) an assessment made or judgment rendered against the person with respect to whose liability the summons is issued; or

(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i);

(E)(i) issued by a criminal investigator of the Internal Revenue Service in connection with the investigation of an offense connected with the administration or enforcement of the internal revenue laws; and

(ii) served on any person who is not a third-party recordkeeper (as defined in section 7603(b)); or

(F) described in subsection (f) or (g).

**(3) Records**

For purposes of this section, the term "records" includes books, papers, and other data.

**(d) Restriction on examination of records**

No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

(1) before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2), or

(2) where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met, except in accordance with an order of the court having jurisdiction of such proceeding or with the consent of the person beginning the proceeding to quash.

**(e) Suspension of statute of limitations**

**(1) Subsection (b) action**

If any person takes any action as provided in subsection (b) and such person is the person with respect to whose liability the summons is issued (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending.

**(2) Suspension after 6 months of service of summons**

In the absence of the resolution of the summoned party's response to the summons, the running of any period of limitations under section 6501 or under section 6531 with respect to any person with respect to whose liability the summons is issued (other than a person taking action as provided in subsection (b)) shall be suspended for the period—

(A) beginning on the date which is 6 months after the service of such summons, and

(B) ending with the final resolution of such response.

**(f) Additional requirement in the case of a John Doe summons**

Any summons described in subsection (c)(1) which does not identify the person with respect to whose liability the summons is issued may be

served only after a court proceeding in which the Secretary establishes that—

(1) the summons relates to the investigation of a particular person or ascertainable group or class of persons,

(2) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law, and

(3) the information sought to be obtained from the examination of the records or testimony (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources.

**(g) Special exception for certain summonses**

A summons is described in this subsection if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

**(h) Jurisdiction of district court; etc.**

**(1) Jurisdiction**

The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2), (f), or (g). An order denying the petition shall be deemed a final order which may be appealed.

**(2) Special rule for proceedings under subsections (f) and (g)**

The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely on the petition and supporting affidavits.

**(i) Duty of summoned party**

**(1) Recordkeeper must assemble records and be prepared to produce records**

On receipt of a summons to which this section applies for the production of records, the summoned party shall proceed to assemble the records requested, or such portion thereof as the Secretary may prescribe, and shall be prepared to produce the records pursuant to the summons on the day on which the records are to be examined.

**(2) Secretary may give summoned party certificate**

The Secretary may issue a certificate to the summoned party that the period prescribed for beginning a proceeding to quash a summons has expired and that no such proceeding began within such period, or that the taxpayer consents to the examination.

**(3) Protection for summoned party who discloses**

Any summoned party, or agent or employee thereof, making a disclosure of records or testimony pursuant to this section in good faith

reliance on the certificate of the Secretary or an order of a court requiring production of records or the giving of such testimony shall not be liable to any customer or other person for such disclosure.

**(4) Notice of suspension of statute of limitations in the case of a John Doe summons**

In the case of a summons described in subsection (f) with respect to which any period of limitations has been suspended under subsection (e)(2), the summoned party shall provide notice of such suspension to any person described in subsection (f).

**(j) Use of summons not required**

Nothing in this section shall be construed to limit the Secretary's ability to obtain information, other than by summons, through formal or informal procedures authorized by sections 7601 and 7602.

(Added Pub. L. 94-455, title XII, §1205(a), Oct. 4, 1976, 90 Stat. 1699; amended Pub. L. 95-599, title V, §505(c)(6), Nov. 6, 1978, 92 Stat. 2760; Pub. L. 95-600, title VII, §703(l)(4), Nov. 6, 1978, 92 Stat. 2943; Pub. L. 96-223, title II, §232(d)(4)(E), Apr. 2, 1980, 94 Stat. 278; Pub. L. 97-248, title III, §§311(b), 331(a)-(d), 332(a), Sept. 3, 1982, 96 Stat. 601, 620, 621; Pub. L. 97-424, title V, §515(b)(12), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-369, div. A, title VII, §714(i), title IX, §911(d)(2)(G), July 18, 1984, 98 Stat. 962, 1007; Pub. L. 98-620, title IV, §402(28)(D), Nov. 8, 1984, 98 Stat. 3359; Pub. L. 99-514, title VI, §656(a), title XV, §1561(a), (b), title XVII, §1703(e)(2)(G), Oct. 22, 1986, 100 Stat. 2299, 2761, 2778; Pub. L. 100-647, title I, §§1015(l)(1), (2), 1017(c)(9), (12), Nov. 10, 1988, 102 Stat. 3571, 3572, 3576, 3577; Pub. L. 104-168, title X, §1001(a), July 30, 1996, 110 Stat. 1467; Pub. L. 105-206, title III, §3415(a)-(c), July 22, 1998, 112 Stat. 755.)

**PRIOR PROVISIONS**

A prior section 7609 was renumbered section 7613 of this title.

**AMENDMENTS**

1998—Subsec. (a)(1). Pub. L. 105-206, §3415(a), reenacted heading without change and in text substituted “If any summons to which this section applies requires the giving of testimony on or relating to, the production of any portion of records made or kept on or relating to, or the production of any computer software source code (as defined in 7612(d)(2)) with respect to, any person (other than the person summoned) who is identified in the summons, then” for “If—

“(A) any summons described in subsection (c) is served on any person who is a third-party recordkeeper, and

“(B) the summons requires the production of any portion of records made or kept of the business transactions or affairs of any person (other than the person summoned) who is identified in the description of the records contained in the summons, then”.

Subsec. (a)(3). Pub. L. 105-206, §3415(c)(1), redesignated par. (5) as (3), substituted “subsection (c)(2)(D)” for “subsection (c)(2)(B)”, and struck out heading and text of former par. (3). Text read as follows: “For purposes of this subsection, the term ‘third-party recordkeeper’ means—

“(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings

and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));

“(B) any consumer reporting agency (as defined under section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)));

“(C) any person extending credit through the use of credit cards or similar devices;

“(D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));

“(E) any attorney;

“(F) any accountant;

“(G) any barter exchange (as defined in section 6045(c)(3));

“(H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof; and

“(I) any enrolled agent.”

Subsec. (a)(4). Pub. L. 105-206, §3415(c)(1), struck out heading and text of par. (4). Text read as follows: “Paragraph (1) shall not apply to any summons—

“(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person,

“(B) to determine whether or not records of the business transactions or affairs of an identified person have been made or kept, or

“(C) described in subsection (f).”

Subsec. (a)(5). Pub. L. 105-206, §3415(c)(1), redesignated par. (5) as (3).

Subsec. (c). Pub. L. 105-206, §3415(c)(2), reenacted heading without change and amended text generally, substituting present provisions for provisions which had: in par. (1) declared a general rule of including within subsection summons issued under sections 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602(a)(2); in par. (2) set forth exceptions where summons was solely to determine identity of person having a numbered account, or was in aid of collection of liability of person against whom assessment or judgment had been made, or his transferee or fiduciary; and in par. (3) defined “records” and declared that summons requiring testimony about records would be treated as summons requiring production of such records.

Subsec. (e)(2). Pub. L. 105-206, §3415(c)(3), substituted “summoned party’s response to the summons” for “third-party recordkeeper’s response to the summons described in subsection (c), or the summoned party’s response to a summons described in subsection (f)”.

Subsec. (f). Pub. L. 105-206, §3415(c)(4)(A), substituted “subsection (c)(1)” for “subsection (c)” in introductory provisions.

Subsec. (f)(3). Pub. L. 105-206, §3415(c)(4)(B), inserted “or testimony” after “records”.

Subsec. (g). Pub. L. 105-206, §3415(c)(5), substituted “A summons is described in this subsection if” for “In the case of any summons described in subsection (c), the provisions of subsections (a)(1) and (b) shall not apply if”.

Subsec. (i). Pub. L. 105-206, §3415(c)(6)(A), struck out “third-party recordkeeper and” after “Duty of” in heading.

Subsec. (i)(1). Pub. L. 105-206, §3415(c)(6)(B), substituted “to which this section applies for the production of records, the summoned party” for “described in subsection (c), the third-party recordkeeper”.

Subsec. (i)(2). Pub. L. 105-206, §3415(c)(6)(C), substituted “summoned party” for “recordkeeper” in heading and “the summoned party” for “the third-party recordkeeper” in text.

Subsec. (i)(3). Pub. L. 105-206, §3415(c)(6)(D), substituted “summoned party” for “recordkeeper” in heading and amended text of par. (3) generally. Prior to amendment, text read as follows: “Any third-party recordkeeper, or agent or employee thereof, making a disclosure of records pursuant to this section in good-faith reliance on the certificate of the Secretary or an order of a court requiring production of records shall not be

liable to any customer or other person for such disclosure.”

Subsec. (j). Pub. L. 105-206, § 3415(b), added subsec. (j). 1996—Subsec. (a)(3)(I). Pub. L. 104-168 added subpar. (I).

1988—Subsec. (c)(1). Pub. L. 100-647, § 1017(c)(12), made technical correction to language of Pub. L. 99-514, § 1703(e)(2)(G), see 1986 Amendment note below.

Pub. L. 100-647, § 1017(c)(9), substituted “6421(g)(2)” for “6421(f)(2)”.

Subsec. (e)(2). Pub. L. 100-647, § 1015(l)(1), inserted “or the summoned party’s response to a summons described in subsection (f),” after “the summons described in subsection (c),” and substituted “the summons is issued” for “the summons is issued other”.

Subsec. (i). Pub. L. 100-647, § 1015(l)(2)(B), inserted “and summoned party” after “recordkeeper” in heading.

Subsec. (i)(4). Pub. L. 100-647, § 1015(l)(2)(A), substituted “the summoned party” for “the third-party recordkeeper”.

1986—Subsec. (a)(3)(H). Pub. L. 99-514, § 656(a), added subpar. (H).

Subsec. (c)(1). Pub. L. 99-514, § 1703(e)(2)(G), as amended by Pub. L. 100-647, § 1017(c)(12), substituted “6427(j)(2)” for “6427(i)(2)”.

Subsec. (e). Pub. L. 99-514, § 1561(a), amended subsec. (e) generally, designating existing provisions as par. (1), inserting heading, and adding par. (2).

Subsec. (i)(4). Pub. L. 99-514, § 1561(b), added par. (4). 1984—Subsec. (c)(1). Pub. L. 98-369, § 714(i), substituted “7602(a)” for “7602”.

Pub. L. 98-369, § 911(d)(2)(G), substituted “6427(i)(2)” for “6427(h)(2)”.

Subsec. (h)(3). Pub. L. 98-620 struck out par. (3) which had provided that except as to cases the court considered to be of greater importance, proceedings brought for the enforcement of any summons, or proceedings under this section, and appeals, would take precedence on the docket over all other cases and would be assigned for hearing and decided at the earliest practicable date.

1983—Subsec. (c)(1). Pub. L. 97-424 struck out “6424(d)(2),” after “6421(f)(2),”.

1982—Subsec. (a)(1). Pub. L. 97-248, § 331(d)(1), substituted “the 23rd day” for “the 14th day”, and substituted “an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons” for “directions for staying compliance with the summons under subsection (b)(2)” at the end.

Subsec. (a)(3)(G). Pub. L. 97-248, § 311(b), added subpar. (G).

Subsec. (b). Pub. L. 97-248, § 331(a), (d)(2), substituted “right to proceeding to quash” for “right to stay compliance” in heading, and in par. (2) substituted “Proceeding to quash” for “Right to stay compliance” as par. (2) heading, designated former undesignated matter as subpar. (A), in (A) as so designated substituted provisions giving persons entitled to notice 20 days to begin a proceeding to quash, for provisions giving persons entitled to notice the right to stay compliance if they complied with the provisions of former subpars. (A) and (B) within 14 days, and inserted provision that the Secretary may seek to compel compliance with the summons, struck out former subpar. (A) which provided that notice to the person summoned not to comply with the summons be given in writing, in subpar. (B) substituted provisions that copies of the petition in the proceeding to quash the summons be mailed within the 20-day period, for provisions that copies of the notice not to comply with the summons be mailed, and added subpar. (C).

Subsec. (d). Pub. L. 97-248, § 331(b), substituted in par. (1) provision that, no examination of records be made before the close of the 23rd day after the notice of summons, for provision that the examination may not be made before the end of the former 14-day period allowed for notice to be given to the person summoned not to comply, and in par. (2) substituted “where a proceeding under subsection (b)(2)(A) was begun within the 20-day

period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met,” for “when the requirements of subsection (b)(2) have been met,” and “of the court having jurisdiction of such proceeding or with the consent of the person beginning the proceeding to quash” for “issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance”.

Subsec. (h). Pub. L. 97-248, § 331(c), inserted “; etc.” after “court” in heading, in par. (1) added heading and substituted “any proceeding” for “proceedings” after “determine”, substituted “subsection (b)(2), (f), or (g)” for “subsections (f) or (g)”, designated former second sentence of par. (1) as par. (2) and added heading, redesignated former par. (2) as (3) and in par. (3) as so redesignated, added heading and substituted “all other cases” for “all cases”.

Subsec. (i). Pub. L. 97-248, § 332(a), added subsec. (i). 1980—Subsec. (c)(1). Pub. L. 96-223 substituted “6427(h)(2)” for “6427(g)(2)”.

1978—Subsec. (c)(1). Pub. L. 95-600 which purported to substitute “6427(f)(2)” for “6427(e)(2)” was not executed in view of the amendment made by Pub. L. 95-599. See below.

Pub. L. 95-599 substituted “6427(g)(2)” for “6427(e)(2)”.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, § 3415(d), July 22, 1998, 112 Stat. 756, provided that: “The amendments made by this section [amending this section] shall apply to summonses served after the date of the enactment of this Act [July 22, 1998].”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 1001(b) of Pub. L. 104-168 provided that: “The amendment made by subsection (a) [amending this section] shall apply to summonses issued after the date of the enactment of this Act [July 30, 1996].”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(l)(3) of Pub. L. 100-647 provided that: “The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1988].”

Amendment by section 1017(c)(9), (12) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 656(b) of Pub. L. 99-514 provided that: “The amendment made by subsection (a) [amending this section] shall apply to summonses served after the date of the enactment of this Act [Oct. 22, 1986].”

Section 1561(c) of Pub. L. 99-514 provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 22, 1986].”

Amendment by section 1703(e)(2)(G) of Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title, as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

Amendment by section 714(i) of Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

Amendment by section 911(d)(2)(G) of Pub. L. 98-369 effective Aug. 1, 1984, see section 911(e) of Pub. L. 98-369, set out as a note under section 6427 of this title.

## EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

## EFFECTIVE DATE OF 1982 AMENDMENT

Section 311(c)(2) of Pub. L. 97-248 provided that: "The amendments made by subsection (b) [amending this section] shall apply to summonses served after December 31, 1982."

Section 331(e) of Pub. L. 97-248 provided that: "The amendments made by this section [amending this section] shall apply to summonses served after December 31, 1982."

Section 332(b) of Pub. L. 97-248 provided that: "The amendment made by subsection (a) [amending this section] shall apply to summonses served after December 31, 1982."

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective Jan. 1, 1979, see section 232(h)(2) of Pub. L. 96-223, set out as a note under section 6427 of this title.

## EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-600 effective Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of this title.

Amendment by Pub. L. 95-599 effective Jan. 1, 1979, see section 505(d) of Pub. L. 95-599, set out as a note under section 6427 of this title.

## EFFECTIVE DATE

Section 1205(c) of Pub. L. 94-455, as amended by Pub. L. 94-528, §2(b), Oct. 17, 1976, 90 Stat. 2483, provided that: "The amendments made by this section [enacting this section and section 7610 of this title] shall apply with respect to any summons issued after February 28, 1977."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7611 of this title.

**§ 7610. Fees and costs for witnesses****(a) In general**

The Secretary shall by regulations establish the rates and conditions under which payment may be made of—

- (1) fees and mileage to persons who are summoned to appear before the Secretary, and
- (2) reimbursement for such costs that are reasonably necessary which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by summons.

**(b) Exceptions**

No payment may be made under paragraph (2) of subsection (a) if—

- (1) the person with respect to whose liability the summons is issued has a proprietary interest in the books, papers, records or other data required to be produced, or
- (2) the person summoned is the person with respect to whose liability the summons is issued or an officer, employee, agent, accountant, or attorney of such person who, at the time the summons is served, is acting as such.

**(c) Summons to which section applies**

This section applies with respect to any summons authorized under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602.

(Added Pub. L. 94-455, title XII, §1205(a), Oct. 4, 1976, 90 Stat. 1699; amended Pub. L. 95-599, title

V, §505(c)(6), Nov. 6, 1978, 92 Stat. 2760; Pub. L. 96-223, title II, §232(d)(4)(E), Apr. 2, 1980, 94 Stat. 278; Pub. L. 97-424, title V, §515(b)(12), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98-369, div. A, title IX, §911(d)(2)(G), July 18, 1984, 98 Stat. 1007; Pub. L. 99-514, title XVII, §1703(e)(2)(G), Oct. 22, 1986, 100 Stat. 2778; Pub. L. 100-647, title I, §1017(c)(9), (12), Nov. 10, 1988, 102 Stat. 3576, 3577.)

## AMENDMENTS

1988—Subsec. (c). Pub. L. 100-647, §1017(c)(12), made technical correction to language of Pub. L. 99-514, §1703(e)(2)(G), see 1986 Amendment note below.

Pub. L. 100-647, §1017(c)(9), substituted "6421(g)(2)" for "6421(f)(2)".

1986—Subsec. (c). Pub. L. 99-514, as amended by Pub. L. 100-647, §1017(c)(12), substituted "6427(j)(2)" for "6427(i)(2)".

1984—Subsec. (c). Pub. L. 98-369 substituted "6427(i)(2)" for "6427(h)(2)".

1983—Subsec. (c). Pub. L. 97-424 struck out "6424(d)(2)," after "6421(f)(2)."

1980—Subsec. (c). Pub. L. 96-223 substituted "6427(h)(2)" for "6427(g)(2)".

1978—Subsec. (c). Pub. L. 95-599 substituted "6427(g)(2)" for "6427(e)(2)".

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to gasoline removed (as defined in section 4082 of this title as amended by section 1703 of Pub. L. 99-514) after Dec. 31, 1987, see section 1703(h) of Pub. L. 99-514, set out as a note under section 4081 of this title.

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Aug. 1, 1984, see section 911(e) of Pub. L. 98-369, set out as a note under section 6427 of this title.

## EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-424 applicable with respect to articles sold after Jan. 6, 1983, see section 515(c) of Pub. L. 97-424, set out as a note under section 34 of this title.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 effective Jan. 1, 1979, see section 232(h)(2) of Pub. L. 96-223, set out as a note under section 6427 of this title.

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-599 effective Jan. 1, 1979, see section 505(d) of Pub. L. 95-599, set out as a note under section 6427 of this title.

**§ 7611. Restrictions on church tax inquiries and examinations****(a) Restrictions on inquiries****(1) In general**

The Secretary may begin a church tax inquiry only if—

- (A) the reasonable belief requirements of paragraph (2), and
- (B) the notice requirements of paragraph (3), have been met.

**(2) Reasonable belief requirements**

The requirements of this paragraph are met with respect to any church tax inquiry if an

appropriate high-level Treasury official reasonably believes (on the basis of facts and circumstances recorded in writing) that the church—

(A) may not be exempt, by reason of its status as a church, from tax under section 501(a), or

(B) may be carrying on an unrelated trade or business (within the meaning of section 513) or otherwise engaged in activities subject to taxation under this title.

**(3) Inquiry notice requirements**

**(A) In general**

The requirements of this paragraph are met with respect to any church tax inquiry if, before beginning such inquiry, the Secretary provides written notice to the church of the beginning of such inquiry.

**(B) Contents of inquiry notice**

The notice required by this paragraph shall include—

(i) an explanation of—

(I) the concerns which gave rise to such inquiry, and

(II) the general subject matter of such inquiry, and

(ii) a general explanation of the applicable—

(I) administrative and constitutional provisions with respect to such inquiry (including the right to a conference with the Secretary before any examination of church records), and

(II) provisions of this title which authorize such inquiry or which may be otherwise involved in such inquiry.

**(b) Restrictions on examinations**

**(1) In general**

The Secretary may begin a church tax examination only if the requirements of paragraph (2) have been met and such examination may be made only—

(A) in the case of church records, to the extent necessary to determine the liability for, and the amount of, any tax imposed by this title, and

(B) in the case of religious activities, to the extent necessary to determine whether an organization claiming to be a church is a church for any period.

**(2) Notice of examination; opportunity for conference**

The requirements of this paragraph are met with respect to any church tax examination if—

(A) at least 15 days before the beginning of such examination, the Secretary provides the notice described in paragraph (3) to both the church and the appropriate regional counsel of the Internal Revenue Service, and

(B) the church has a reasonable time to participate in a conference described in paragraph (3)(A)(iii), but only if the church requests such a conference before the beginning of the examination.

**(3) Contents of examination notice, et cetera**

**(A) In general**

The notice described in this paragraph is a written notice which includes—

(i) a copy of the church tax inquiry notice provided to the church under subsection (a),

(ii) a description of the church records and activities which the Secretary seeks to examine,

(iii) an offer to have a conference between the church and the Secretary in order to discuss, and attempt to resolve, concerns relating to such examination, and

(iv) a copy of all documents which were collected or prepared by the Internal Revenue Service for use in such examination and the disclosure of which is required by the Freedom of Information Act (5 U.S.C. 552).

**(B) Earliest day examination notice may be provided**

The examination notice described in subparagraph (A) shall not be provided to the church before the 15th day after the date on which the church tax inquiry notice was provided to the church under subsection (a).

**(C) Opinion of regional counsel with respect to examination**

Any regional counsel of the Internal Revenue Service who receives an examination notice under paragraph (1) may, within 15 days after such notice is provided, submit to the regional commissioner for the region an advisory objection to the examination.

**(4) Examination of records and activities not specified in notice**

Within the course of a church tax examination which (at the time the examination begins) meets the requirements of paragraphs (1) and (2), the Secretary may examine any church records or religious activities which were not specified in the examination notice to the extent such examination meets the requirement of subparagraph (A) or (B) of paragraph (1) (whichever applies).

**(c) Limitation on period of inquiries and examinations**

**(1) Inquiries and examinations must be completed within 2 years**

**(A) In general**

The Secretary shall complete any church tax status inquiry or examination (and make a final determination with respect thereto) not later than the date which is 2 years after the examination notice date.

**(B) Inquiries not followed by examinations**

In the case of a church tax inquiry with respect to which there is no examination notice under subsection (b), the Secretary shall complete such inquiry (and make a final determination with respect thereto) not later than the date which is 90 days after the inquiry notice date.

**(2) Suspension of 2-year period**

The running of the 2-year period described in paragraph (1)(A) and the 90-day period in paragraph (1)(B) shall be suspended—

(A) for any period during which—

(i) a judicial proceeding brought by the church against the Secretary with respect to the church tax inquiry or examination is pending or being appealed,

(ii) a judicial proceeding brought by the Secretary against the church (or any official thereof) to compel compliance with any reasonable request of the Secretary in a church tax examination for examination of church records or religious activities is pending or being appealed, or

(iii) the Secretary is unable to take actions with respect to the church tax inquiry or examination by reason of an order issued in any judicial proceeding brought under section 7609,

(B) for any period in excess of 20 days (but not in excess of 6 months) in which the church or its agents fail to comply with any reasonable request of the Secretary for church records or other information, or

(C) for any period mutually agreed upon by the Secretary and the church.

**(d) Limitations on revocation of tax-exempt status, etc.**

**(1) In general**

The Secretary may—

(A) determine that an organization is not a church which—

(i) is exempt from taxation by reason of section 501(a), or

(ii) is described in section 170(c), or

(B)(i) send a notice of deficiency of any tax involved in a church tax examination, or

(ii) in the case of any tax with respect to which subchapter B of chapter 63 (relating to deficiency procedures) does not apply, assess any underpayment of such tax involved in a church tax examination,

only if the appropriate regional counsel of the Internal Revenue Service determines in writing that there has been substantial compliance with the requirements of this section and approves in writing of such revocation, notice of deficiency, or assessment.

**(2) Limitations on period of assessment**

**(A) Revocation of tax-exempt status**

**(i) 3-year statute of limitations generally**

In the case of any church tax examination with respect to the revocation of tax-exempt status under section 501(a), any tax imposed by chapter 1 (other than section 511) may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, only for the 3 most recent taxable years ending before the examination notice date.

**(ii) 6-year statute of limitations where tax-exempt status revoked**

If an organization is not a church exempt from tax under section 501(a) for any of the 3 taxable years described in clause (i), clause (i) shall be applied by substituting “6 most recent taxable years” for “3 most recent taxable years”.

**(B) Unrelated business tax**

In the case of any church tax examination with respect to the tax imposed by section

511 (relating to unrelated business income), such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, only with respect to the 6 most recent taxable years ending before the examination notice date.

**(C) Exception where shorter statute of limitations otherwise applicable**

Subparagraphs (A) and (B) shall not be construed to increase the period otherwise applicable under subchapter A of chapter 66 (relating to limitations on assessment and collection).

**(e) Information not collected in substantial compliance with procedures to stay summons proceeding**

**(1) In general**

If there has not been substantial compliance with—

(A) the notice requirements of subsection (a) or (b),

(B) the conference requirement described in subsection (b)(3)(A)(iii), or

(C) the approval requirement of subsection (d)(1) (if applicable),

with respect to any church tax inquiry or examination, any proceeding to compel compliance with any summons with respect to such inquiry or examination shall be stayed until the court finds that all practicable steps to correct the noncompliance have been taken. The period applicable under paragraph (1) or subsection (c) shall not be suspended during the period of any stay under the preceding sentence.

**(2) Remedy to be exclusive**

No suit may be maintained, and no defense may be raised in any proceeding (other than as provided in paragraph (1)), by reason of any noncompliance by the Secretary with the requirements of this section.

**(f) Limitations on additional inquiries and examinations**

**(1) In general**

If any church tax inquiry or examination with respect to any church is completed and does not result in—

(A) a revocation, notice of deficiency, or assessment described in subsection (d)(1), or

(B) a request by the Secretary for any significant change in the operational practices of the church (including the adequacy of accounting practices),

no other church tax inquiry or examination may begin with respect to such church during the applicable 5-year period unless such inquiry or examination is approved in writing by the Secretary or does not involve the same or similar issues involved in the preceding inquiry or examination. For purposes of the preceding sentence, an inquiry or examination shall be treated as completed not later than the expiration of the applicable period under paragraph (1) of subsection (c).

**(2) Applicable 5-year period**

For purposes of paragraph (1), the term “applicable 5-year period” means the 5-year pe-

riod beginning on the date the notice taken into account for purposes of subsection (c)(1) was provided. For purposes of the preceding sentence, the rules of subsection (c)(2) shall apply.

**(g) Treatment of final report of revenue agent**

Any final report of an agent of the Internal Revenue Service shall be treated as a determination of the Secretary under paragraph (1) of section 7428(a), and any church receiving such a report shall be treated for purposes of sections 7428 and 7430 as having exhausted the administrative remedies available to it.

**(h) Definitions**

For purposes of this section—

**(1) Church**

The term “church” includes—

- (A) any organization claiming to be a church, and
- (B) any convention or association of churches.

**(2) Church tax inquiry**

The term “church tax inquiry” means any inquiry to a church (other than an examination) to serve as a basis for determining whether a church—

- (A) is exempt from tax under section 501(a) by reason of its status as a church, or
- (B) is carrying on an unrelated trade or business (within the meaning of section 513) or otherwise engaged in activities which may be subject to taxation under this title.

**(3) Church tax examination**

The term “church tax examination” means any examination for purposes of making a determination described in paragraph (2) of—

- (A) church records at the request of the Internal Revenue Service, or
- (B) the religious activities of any church.

**(4) Church records**

**(A) In general**

The term “church records” means all corporate and financial records regularly kept by a church, including corporate minute books and lists of members and contributors.

**(B) Exception**

Such term shall not include records acquired—

- (i) pursuant to a summons to which section 7609 applies, or
- (ii) from any governmental agency.

**(5) Inquiry notice date**

The term “inquiry notice date” means the date the notice with respect to a church tax inquiry is provided under subsection (a).

**(6) Examination notice date**

The term “examination notice date” means the date the notice with respect to a church tax examination is provided under subsection (b) to the church.

**(7) Appropriate high-level Treasury official**

The term “appropriate high-level Treasury official” means the Secretary of the Treasury or any delegate of the Secretary whose rank is

no lower than that of a principal Internal Revenue officer for an internal revenue region.

**(i) Section not to apply to criminal investigations, etc.**

This section shall not apply to—

- (1) any criminal investigation,
- (2) any inquiry or examination relating to the tax liability of any person other than a church,
- (3) any assessment under section 6851 (relating to termination assessments of income tax), section 6852 (relating to termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations), or section 6861 (relating to jeopardy assessments of income taxes, etc.),
- (4) any willful attempt to defeat or evade any tax imposed by this title, or
- (5) any knowing failure to file a return of tax imposed by this title.

(Added Pub. L. 98-369, div. A, title X, §1033(a), July 18, 1984, 98 Stat. 1034; amended Pub. L. 99-514, title XVIII, §1899A(61), (62), Oct. 22, 1986, 100 Stat. 2962; Pub. L. 100-203, title X, §10713(b)(2)(G), Dec. 22, 1987, 101 Stat. 1330-470; Pub. L. 100-647, title I, §1018(u)(49), Nov. 10, 1988, 102 Stat. 3593; Pub. L. 101-239, title VII, §7822(d)(1), Dec. 19, 1989, 103 Stat. 2425; Pub. L. 104-188, title I, §1704(t)(59), Aug. 20, 1996, 110 Stat. 1890; Pub. L. 105-206, title I, §1102(e)(3), July 22, 1998, 112 Stat. 705.)

PRIOR PROVISIONS

A prior section 7611 was renumbered section 7613 of this title.

AMENDMENTS

1998—Subsec. (f)(1). Pub. L. 105-206 substituted “Secretary” for “Assistant Commissioner for Employee Plans and Exempt Organizations of the Internal Revenue Service” in concluding provisions.

1996—Subsec. (h)(7). Pub. L. 104-188 substituted “appropriate” for “appropriate” in text.

1989—Subsec. (i)(3). Pub. L. 101-239 made technical correction to directory language of Pub. L. 100-203, see 1987 Amendment note below.

1988—Subsec. (i)(5). Pub. L. 100-647 substituted “this title” for “the title”.

1987—Subsec. (i)(3). Pub. L. 100-203, as amended by Pub. L. 101-239, substituted “, section 6852 (relating to termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations), or section 6861 (relating to jeopardy assessments of income taxes, etc.),” for “or section 6861 (relating to jeopardy assessments of income taxes, etc.),”.

1986—Subsec. (a)(1)(B). Pub. L. 99-514, §1899A(62), re-enacted subpar. (B) without change.

Subsec. (i). Pub. L. 99-514, §1899A(61), redesignated pars. (A) to (E) as (1) to (5), in par. (3), substituted “etc.” for “etc.”, and in par. (5), substituted “the title” for “the title”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective as if included in the provision of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 7823 of Pub. L. 101-239, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

## EFFECTIVE DATE

Section 1033(d) of Pub. L. 98-369 provided that: "The amendments made by this section [enacting this section and amending sections 7428 and 7605 of this title] shall apply with respect to inquiries and examinations beginning after December 31, 1984."

PLAN AMENDMENTS NOT REQUIRED UNTIL  
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7605 of this title.

**§ 7612. Special procedures for summonses for computer software**

**(a) General rule**

For purposes of this title—

(1) except as provided in subsection (b), no summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons to produce or analyze any tax-related computer software source code; and

(2) any software and related materials which are provided to the Secretary under this title shall be subject to the safeguards under subsection (c).

**(b) Circumstances under which computer software source code may be provided**

**(1) In general**

Subsection (a)(1) shall not apply to any portion, item, or component of tax-related computer software source code if—

(A) the Secretary is unable to otherwise reasonably ascertain the correctness of any item on a return from—

(i) the taxpayer's books, papers, records, or other data; or

(ii) the computer software executable code (and any modifications thereof) to which such source code relates and any associated data which, when executed, produces the output to ascertain the correctness of the item;

(B) the Secretary identifies with reasonable specificity the portion, item, or component of such source code needed to verify the correctness of such item on the return; and

(C) the Secretary determines that the need for the portion, item, or component of such source code with respect to such item outweighs the risks of unauthorized disclosure of trade secrets.

**(2) Exceptions**

Subsection (a)(1) shall not apply to—

(A) any inquiry into any offense connected with the administration or enforcement of the internal revenue laws;

(B) any tax-related computer software source code acquired or developed by the taxpayer or a related person primarily for internal use by the taxpayer or such person rather than for commercial distribution;

(C) any communications between the owner of the tax-related computer software source code and the taxpayer or related persons; or

(D) any tax-related computer software source code which is required to be provided or made available pursuant to any other provision of this title.

**(3) Cooperation required**

For purposes of paragraph (1), the Secretary shall be treated as meeting the requirements of subparagraphs (A) and (B) of such paragraph if—

(A) the Secretary determines that it is not feasible to determine the correctness of an item without access to the computer software executable code and associated data described in paragraph (1)(A)(ii);

(B) the Secretary makes a formal request to the taxpayer for such code and data and to the owner of the computer software source code for such executable code; and

(C) such code and data is not provided within 180 days of such request.

**(4) Right to contest summons**

In any proceeding brought under section 7604 to enforce a summons issued under the authority of this subsection, the court shall, at the request of any party, hold a hearing to determine whether the applicable requirements of this subsection have been met.

**(c) Safeguards to ensure protection of trade secrets and other confidential information**

**(1) Entry of protective order**

In any court proceeding to enforce a summons for any portion of software, the court may receive evidence and issue any order necessary to prevent the disclosure of trade secrets or other confidential information with respect to such software, including requiring that any information be placed under seal to be opened only as directed by the court.

**(2) Protection of software**

Notwithstanding any other provision of this section, and in addition to any protections ordered pursuant to paragraph (1), in the case of software that comes into the possession or control of the Secretary in the course of any examination with respect to any taxpayer—

(A) the software may be used only in connection with the examination of such taxpayer's return, any appeal by the taxpayer to the Internal Revenue Service Office of Appeals, any judicial proceeding (and any appeals therefrom), and any inquiry into any offense connected with the administration or enforcement of the internal revenue laws;

(B) the Secretary shall provide, in advance, to the taxpayer and the owner of the software a written list of the names of all individuals who will analyze or otherwise have access to the software;

(C) the software shall be maintained in a secure area or place, and, in the case of computer software source code, shall not be removed from the owner's place of business unless the owner permits, or a court orders, such removal;

(D) the software may not be copied except as necessary to perform such analysis, and the Secretary shall number all copies made and certify in writing that no other copies have been (or will be) made;

(E) at the end of the period during which the software may be used under subparagraph (A)—

(i) the software and all copies thereof shall be returned to the person from whom they were obtained and any copies thereof made under subparagraph (D) on the hard drive of a machine or other mass storage device shall be permanently deleted; and

(ii) the Secretary shall obtain from any person who analyzes or otherwise had access to such software a written certification under penalty of perjury that all copies and related materials have been returned and that no copies were made of them;

(F) the software may not be decompiled or disassembled;

(G) the Secretary shall provide to the taxpayer and the owner of any interest in such software, as the case may be, a written agreement, between the Secretary and any person who is not an officer or employee of the United States and who will analyze or otherwise have access to such software, which provides that such person agrees not to—

(i) disclose such software to any person other than persons to whom such information could be disclosed for tax administration purposes under section 6103; or

(ii) participate for 2 years in the development of software which is intended for a similar purpose as the software examined; and

(H) the software shall be treated as return information for purposes of section 6103.

For purposes of subparagraph (C), the owner shall make available any necessary equipment or materials for analysis of computer software source code required to be conducted on the owner's premises. The owner of any interest in the software shall be considered a party to any agreement described in subparagraph (G).

#### (d) Definitions

For purposes of this section—

##### (1) Software

The term “software” includes computer software source code and computer software executable code.

##### (2) Computer software source code

The term “computer software source code” means—

(A) the code written by a programmer using a programming language which is comprehensible to appropriately trained persons and is not capable of directly being used to give instructions to a computer;

(B) related programmers' notes, design documents, memoranda, and similar documentation; and

(C) related customer communications.

##### (3) Computer software executable code

The term “computer software executable code” means—

(A) any object code, machine code, or other code readable by a computer when loaded into its memory and used directly by such computer to execute instructions; and

(B) any related user manuals.

##### (4) Owner

The term “owner” shall, with respect to any software, include the developer of the software.

##### (5) Related person

A person shall be treated as related to another person if such persons are related persons under section 267 or 707(b).

##### (6) Tax-related computer software source code

The term “tax-related computer software source code” means the computer source code for any computer software program intended for accounting, tax return preparation or compliance, or tax planning.

(Added Pub. L. 105–206, title III, § 3413(a), July 22, 1998, 112 Stat. 751.)

#### REFERENCES IN TEXT

The internal revenue laws, referred to in subsecs. (b)(2)(A) and (c)(2)(A), are classified generally to this title.

#### PRIOR PROVISIONS

A prior section 7612 was renumbered section 7613 of this title.

#### EFFECTIVE DATE

Pub. L. 105–206, title III, § 3413(e), July 22, 1998, 112 Stat. 754, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section, amending sections 7213 and 7603 of this title, and renumbering former section 7612 of this title as 7613] shall apply to summonses issued, and software acquired, after the date of the enactment of this Act [July 22, 1998].

“(2) SOFTWARE PROTECTION.—In the case of any software acquired on or before such date of enactment, the requirements of section 7612(a)(2) of the Internal Revenue Code of 1986 (as added by such amendments) shall apply after the 90th day after such date. The preceding sentence shall not apply to the requirement under section 7612(c)(2)(G)(ii) of such Code (as so added).”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7213, 7603, 7609 of this title.

#### § 7613. Cross references

##### (a) Inspection of books, papers, records, or other data

For inspection of books, papers, records, or other data in the case of—

(1) Wagering, see section 4423.

(2) Alcohol, tobacco, and firearms taxes, see subtitle E.

##### (b) Search warrants

For provisions relating to—

(1) Searches and seizures, see Rule 41 of the Federal Rules of Criminal Procedure.

(2) Issuance of search warrants with respect to subtitle E, see section 5557.

(3) Search warrants with respect to property used in violation of the internal revenue laws, see section 7302.

(Aug. 16, 1954, ch. 736, 68A Stat. 903, §7607; renumbered §7608, July 18, 1956, ch. 629, title I, §104(a), 70 Stat. 570; renumbered §7609 and amended Pub. L. 85-859, title II, §204(14), (15), Sept. 2, 1958, 72 Stat. 1429, 1430; Pub. L. 91-513, title III, §1102(h), Oct. 27, 1970, 84 Stat. 1293; renumbered §7611 and amended Pub. L. 94-455, title XII, §1205(a), title XIX, §1904(b)(7)(D), (9)(E), Oct. 4, 1976, 90 Stat. 1699, 1815, 1816; renumbered §7612, Pub. L. 98-369, div. A, title X, §1033(a), July 18, 1984, 98 Stat. 1034; renumbered §7613, Pub. L. 105-206, title III, §3413(a), July 22, 1998, 112 Stat. 751.)

## AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, §1904(b)(7)(D), (9)(E), struck out pars. (1) and (2) relating to cross references to wholesale dealers in oleomargarine and wholesale dealers in process or renovated butter or adulterated butter, respectively, and redesignated pars. (5) and (6) as (1) and (2), respectively.

1970—Subsec. (a). Pub. L. 91-513 struck out pars. (3) and (4) which related to opium, opiates, and coca leaves and to marihuana, respectively, and which made reference to sections 4702(a), 4705, 4721, and 4773, and to sections 4742, 4753(b), and 4773, respectively.

1958—Subsec. (a)(6). Pub. L. 85-859, §204(15), added par. (6).

Subsec. (b)(2). Pub. L. 85-859, §204(15), substituted “with respect to subtitle E, see section 5557” for “in connection with industrial alcohol, etc., see sections 5314 and 7302”.

Subsec. (b)(3). Pub. L. 85-859, §204(15), added par. (3).

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-513 effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 1105(a) of Pub. L. 91-513, set out as an Effective Date note under section 951 of Title 21, Food and Drugs.

## EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

## SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91-513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91-513, set out as a note under sections 171 to 174 of Title 21, Food and Drugs.

**Subchapter B—General Powers and Duties**

Sec.	
7621.	Internal revenue districts.
7622.	Authority to administer oaths and certify.
7623.	Expenses of detection of underpayments and fraud, etc.
7624.	Reimbursement to State and local law enforcement agencies.

## AMENDMENTS

1996—Pub. L. 104-168, title XII, §1209(b), July 30, 1996, 110 Stat. 1474, substituted “Expenses of detection of underpayments and fraud, etc.” for “Expenses of detection and punishment of frauds.” in item 7623.

1988—Pub. L. 100-690, title VII, §7602(d)(1), Nov. 18, 1988, 102 Stat. 4508, added item 7624.

**§ 7621. Internal revenue districts****(a) Establishment and alteration**

The President shall establish convenient internal revenue districts for the purpose of ad-

ministering the internal revenue laws. The President may from time to time alter such districts.

**(b) Boundaries**

For the purpose mentioned in subsection (a), the President may subdivide any State, or the District of Columbia, or may unite into one district two or more States.

(Aug. 16, 1954, ch. 736, 68A Stat. 904; Pub. L. 86-70, §22(e), June 25, 1959, 73 Stat. 146; Pub. L. 94-455, title XIX, §1906(a)(53), Oct. 4, 1976, 90 Stat. 1832.)

## AMENDMENTS

1976—Subsec. (b). Pub. L. 94-455 struck out “Territory” after “any State” and “or a Territory and one or more States” after “two or more States”.

1959—Subsec. (b). Pub. L. 86-70 substituted “may unite into one district two or more States or a Territory and one or more States” for “may unite two or more States or Territories into one district”.

## EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-70 effective Jan. 3, 1959, see section 22(i) of Pub. L. 86-70, set out as a note under section 3121 of this title.

## DELEGATION OF FUNCTIONS

For delegation to Secretary of the Treasury of authority vested in President by this section, see section 1(g) of Ex. Ord. No. 10289, Sept. 17, 1951, 16 F.R. 9499, as amended, set out as a note under section 301 of Title 3, The President.

**§ 7622. Authority to administer oaths and certify****(a) Internal revenue personnel**

Every officer or employee of the Treasury Department designated by the Secretary for that purpose is authorized to administer such oaths or affirmations and to certify to such papers as may be necessary under the internal revenue laws or regulations made thereunder.

**(b) Others**

Any oath or affirmation required or authorized under any internal revenue law or under any regulations made thereunder may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered. This subsection shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

(Aug. 16, 1954, ch. 736, 68A Stat. 904; Pub. L. 94-455, title XIX, §1906(b)(13)(A), (c)(2), Oct. 4, 1976, 90 Stat. 1834, 1835.)

## REFERENCES IN TEXT

The internal revenue laws, referred to in subsec. (a), are classified generally to this title.

## AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, §1906(c)(2), struck out “Territory” after “any State”.

**§ 7623. Expenses of detection of underpayments and fraud, etc.**

The Secretary, under regulations prescribed by the Secretary, is authorized to pay such sums as he deems necessary for—

- (1) detecting underpayments of tax, and  
 (2) detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same,

in cases where such expenses are not otherwise provided for by law. Any amount payable under the preceding sentence shall be paid from the proceeds of amounts (other than interest) collected by reason of the information provided, and any amount so collected shall be available for such payments.

(Aug. 16, 1954, ch. 736, 68A Stat. 904; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 104-168, title XII, §1209(a), July 30, 1996, 110 Stat. 1473.)

#### REFERENCES IN TEXT

The internal revenue laws, referred to in par. (2), are classified generally to this title.

#### AMENDMENTS

1996—Pub. L. 104-168 substituted “of underpayments and fraud, etc.” for “and punishment of frauds” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Secretary, under regulations prescribed by the Secretary, is authorized to pay such sums, not exceeding in the aggregate the sum appropriated therefor, as he may deem necessary for detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws, or conniving at the same, in cases where such expenses are not otherwise provided for by law.”

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 1209(c) of Pub. L. 104-168 provided that: “The amendments made by this section [amending this section] shall take effect on the date which is 6 months after the date of the enactment of this Act [July 30, 1996].”

#### STUDY OF PAYMENTS MADE FOR DETECTION OF UNDERPAYMENTS AND FRAUD

Pub. L. 105-206, title III, §3804, July 22, 1998, 112 Stat. 783, provided that: “Not later than 1 year after the date of the enactment of this Act [July 22, 1998], the Secretary of the Treasury shall conduct a study and report to Congress on the use of section 7623 of the Internal Revenue Code of 1986 including—

- “(1) an analysis of the present use of such section and the results of such use; and  
 “(2) any legislative or administrative recommendations regarding the provisions of such section and its application.”

#### ANNUAL REPORT TO CONGRESS ON PAYMENTS MADE UNDER THIS SECTION AND RESULTANT COLLECTIONS

Section 1209(d) of Pub. L. 104-168 provided that: “The Secretary of the Treasury or his delegate shall submit an annual report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the payments under section 7623 of the Internal Revenue Code of 1986 during the year and on the amounts collected for which such payments were made.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1395b-5.

### § 7624. Reimbursement to State and local law enforcement agencies

#### (a) Authorization of reimbursement

Whenever a State or local law enforcement agency provides information to the Internal

Revenue Service that substantially contributes to the recovery of Federal taxes imposed with respect to illegal drug-related activities (or money laundering in connection with such activities), such agency may be reimbursed by the Internal Revenue Service for costs incurred in the investigation (including but not limited to reasonable expenses, per diem, salary, and overtime) not to exceed 10 percent of the sum recovered.

#### (b) Records; 10 percent limitation

The Internal Revenue Service shall maintain records of the receipt of information from a contributing agency and shall notify the agency when monies have been recovered as the result of such information. Following such notification, the agency shall submit a statement detailing the investigative costs it incurred. Where more than 1 State or local agency has given information that substantially contributes to the recovery of Federal taxes, the Internal Revenue Service shall equitably allocate investigative costs among such agencies not to exceed an aggregate amount of 10 percent of the taxes recovered.

#### (c) No reimbursement where duplicative

No State or local agency may receive reimbursement under this section if reimbursement has been received by such agency under a Federal or State forfeiture program or under State revenue laws.

(Added Pub. L. 100-690, title VII, §7602(a), Nov. 18, 1988, 102 Stat. 4507.)

#### EFFECTIVE DATE

Section applicable to information first provided more than 90 days after Nov. 18, 1988, see section 7602(e) of Pub. L. 100-690, set out as an Effective Date of 1988 Amendment note under section 6103 of this title.

#### REGULATIONS

Section 7602(g) of Pub. L. 100-690 provided that: “The Secretary of the Treasury shall, not later than 90 days after the date of enactment of this Act [Nov. 18, 1988], prescribe such rules and regulations as shall be necessary and proper to carry out the provisions of this section [enacting section 7624 of this title, amending sections 6103 and 7809 of this title, and enacting provisions set out as notes under sections 6103 and 7809 of this title], including regulations relating to the definition of information which substantially contributes to the recovery of Federal taxes and the substantiation of expenses required in order to receive a reimbursement.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 7809 of this title.

### [Subchapter C—Repealed]

### [§ 7641. Repealed. Pub. L. 94-455, title XIX, § 1906(a)(54), Oct. 4, 1976, 90 Stat. 1832]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 905; Oct. 27, 1970, Pub. L. 91-513, title III, §1102(i), 84 Stat. 1293; Oct. 26, 1974, Pub. L. 93-490, §3(b)(8), 88 Stat. 1467, related to supervision of operations of every manufacturer of oleomargarine, process or renovated butter or adulterated butter, or white phosphorous matches by the officers or employees of the Treasury Department.

#### EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section

1906(d)(1) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 6013 of this title.

### Subchapter D—Possessions

Sec.	
7651.	Administration and collection of taxes in possessions.
7652.	Shipments to the United States.
7653.	Shipments from the United States.
7654.	Coordination of United States and certain possession individual income taxes.
7655.	Cross references.

#### AMENDMENTS

1986—Pub. L. 99-514, title XII, §1276(b), Oct. 22, 1986, 100 Stat. 2600, substituted “certain possession” for “Guam” in item 7654.

1972—Pub. L. 92-606, §1(f)(6), Oct. 31, 1972, 86 Stat. 1497, substituted “Coordination of United States and Guam individual income taxes” for “Payment to Guam and American Samoa of proceeds of tax on coconut and palm oil” in item 7654.

#### § 7651. Administration and collection of taxes in possessions

Except as otherwise provided in this subchapter, and except as otherwise provided in section 28(a) of the Revised Organic Act of the Virgin Islands and section 30 of the Organic Act of Guam (relating to the covering of the proceeds of certain taxes into the treasuries of the Virgin Islands and Guam, respectively)—

##### (1) Applicability of administrative provisions

All provisions of the laws of the United States applicable to the assessment and collection of any tax imposed by this title or of any other liability arising under this title (including penalties) shall, in respect of such tax or liability, extend to and be applicable in any possession of the United States in the same manner and to the same extent as if such possession were a State, and as if the term “United States” when used in a geographical sense included such possession.

##### (2) Tax imposed in possession

In the case of any tax which is imposed by this title in any possession of the United States—

##### (A) Internal revenue collections

Such tax shall be collected under the direction of the Secretary, and shall be paid into the Treasury of the United States as internal revenue collections; and

##### (B) Applicable laws

All provisions of the laws of the United States applicable to the administration, collection, and enforcement of such tax (including penalties) shall, in respect of such tax, extend to and be applicable in such possession of the United States in the same manner and to the same extent as if such possession were a State, and as if the term “United States” when used in a geographical sense included such possession.

##### (3) Other laws relating to possessions

This section shall apply notwithstanding any other provision of law relating to any possession of the United States.

#### (4) Canal Zone

For purposes of this section, the term “possession of the United States” includes the Canal Zone.

#### (5) Virgin Islands

(A) For purposes of this section, the reference in section 28(a) of the Revised Organic Act of the Virgin Islands to “any tax specified in section 3811 of the Internal Revenue Code” shall be deemed to refer to any tax imposed by chapter 2 or by chapter 21.

(B) For purposes of this title, section 28(a) of the Revised Organic Act of the Virgin Islands shall be effective as if such section 28(a) had been enacted before the enactment of this title and such section 28(a) shall have no effect on the amount of income tax liability required to be paid by any person to the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 906; Pub. L. 91-513, title III, §1102(j), Oct. 27, 1970, 84 Stat. 1293; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title I, §130(c), title VIII, §801(d)(9), July 18, 1984, 98 Stat. 661, 997; Pub. L. 99-514, title XII, §1275(b), Oct. 22, 1986, 100 Stat. 2598.)

#### REFERENCES IN TEXT

Section 28(a) of the Revised Organic Act of the Virgin Islands, referred to in pars. (1) and (5), is classified to section 1642 of Title 48, Territories and Insular Possessions.

Section 30 of the Organic Act of Guam, referred to in par. (1), is classified to section 1421h of Title 48.

For definition of Canal Zone, referred to in par. (4), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

#### AMENDMENTS

1986—Par. (5)(B). Pub. L. 99-514 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “For purposes of this title (other than section 881(b)(1) or subpart C of part III of subchapter N of chapter 1), section 28(a) of the Revised Organic Act of the Virgin Islands shall be effective as if such section had been enacted subsequent to the enactment of this title.”

1984—Par. (5)(B). Pub. L. 98-369, §801(d)(9), inserted “or subpart C of part III of subchapter N of chapter 1”.

Pub. L. 98-369, §130(c), inserted “(other than section 881(b)(1))”.

1976—Par. (2)(A). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1970—Pub. L. 91-513 struck out reference to exceptions provided for in sections 4705(b), 4735, and 4762 (relating to taxes on narcotic drugs and marijuana) in provisions preceding par. (1).

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 1277 of Pub. L. 99-514, set out as a note under section 931 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 130(c) of Pub. L. 98-369 applicable to payments made after Mar. 1, 1984, in taxable years ending after such date, see section 130(d) of Pub. L. 98-369, set out as a note under section 881 of this title.

Amendment by section 801(d)(9) of Pub. L. 98-369 applicable to transactions after Dec. 31, 1984, in taxable years ending after such date, see section 805(a)(1) of Pub. L. 98-369, set out as an Effective Date note under section 921 of this title.

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-513 effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 1105(a) of Pub. L. 91-513, set out as an Effective Date note under section 951 of Title 21, Food and Drugs.

## SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91-513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91-513, set out as a note under sections 171 to 174 of Title 21, Food and Drugs.

## COMPENSATION TO GUAM AND VIRGIN ISLANDS FOR UNEXPECTED REVENUE LOSSES OCCASIONED BY TAX REDUCTION ACT OF 1975 AND TAX REFORM ACT OF 1976

Pub. L. 95-134, title IV, §402, Oct. 15, 1977, 91 Stat. 1163, provided that: "In order to compensate the territories of Guam and the Virgin Islands for unexpected revenue losses occasioned by the Tax Reduction Act of 1975 [Pub. L. 94-12, Mar. 29, 1975, 89 Stat. 26, see Tables] and the Tax Reform Act of 1976 [Pub. L. 94-455, Oct. 4, 1976, 90 Stat. 1525, see Tables] there is hereby authorized to be appropriated to the Secretary for grants to the government of Guam not to exceed \$15,000,000 and after October 1, 1977, for grants to the government of the Virgin Islands not to exceed \$14,000,000, such sums being in addition to those previously authorized for such purposes."

## PAYMENTS TO GOVERNMENT OF AMERICAN SAMOA, GUAM, AND THE VIRGIN ISLANDS

Pub. L. 95-30, title IV, §407, May 23, 1977, 91 Stat. 156, provided that:

"(a) The Secretary of the Treasury is authorized to make separate payments to the government of American Samoa, the government of Guam, and the government of the Virgin Islands. The payment to the government of a particular possession shall be in an amount equal to the loss to that possession with respect to tax returns for the first taxable year beginning after December 31, 1976, by reason of sections 101 and 102 of this Act [amending sections 1, 3, 21, 42, 57, 63, 143, 161, 172, 211, 402, 441, 443, 511, 584, 613A, 641, 642, 667, 703, 861, 862, 873, 904, 911, 931, 1034, 1211, 1302, 6014, 6212, 6504, and 6654 of this title and repealing sections 36, 141, 142, 144 and 145 of this title]. Such amount shall be determined by the Secretary of the Treasury upon certification to the Secretary by the United States Government Comptrollers for Guam and the Virgin Islands.

"(b) There are hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this section."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1403, 7652, 7809 of this title.

**§ 7652. Shipments to the United States****(a) Puerto Rico****(1) Rate of tax**

Except as provided in section 5314, articles of merchandise of Puerto Rican manufacture coming into the United States and withdrawn for consumption or sale shall be subject to a tax equal to the internal revenue tax imposed in the United States upon the like articles of merchandise of domestic manufacture.

**(2) Payment of tax**

The Secretary shall by regulations prescribe the mode and time for payment and collection

of the tax described in paragraph (1), including any discretionary method described in section 6302(b) and (c). Such regulations shall authorize the payment of such tax before shipment from Puerto Rico, and the provisions of section 7651(2)(B) shall be applicable to the payment and collection of such tax in Puerto Rico.

**(3) Deposit of internal revenue collections**

All taxes collected under the internal revenue laws of the United States on articles produced in Puerto Rico and transported to the United States (less the estimated amount necessary for payment of refunds and drawbacks), or consumed in the island, shall be covered into the treasury of Puerto Rico.

**(b) Virgin Islands****(1) Taxes imposed in the United States**

Except as provided in section 5314, there shall be imposed in the United States, upon articles coming into the United States from the Virgin Islands, a tax equal to the internal revenue tax imposed in the United States upon like articles of domestic manufacture.

**(2) Exemption from tax imposed in the Virgin Islands**

Such articles shipped from such islands to the United States shall be exempt from the payment of any tax imposed by the internal revenue laws of such islands.

**(3) Disposition of internal revenue collections**

Beginning with the calendar quarter ending September 30, 1975, and quarterly thereafter, the Secretary shall determine the amount of all taxes imposed by, and collected during the quarter under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States. The amount so determined less 1 percent and less the estimated amount of refunds or credits shall be subject to disposition as follows:

(A) There shall be transferred and paid over, as soon as practicable after the close of the quarter, to the Government of the Virgin Islands from the amounts so determined a sum equal to the total amount of the revenue collected by the Government of the Virgin Islands during the quarter, as certified by the Government Comptroller of the Virgin Islands. The moneys so transferred and paid over shall constitute a separate fund in the treasury of the Virgin Islands and may be expended as the legislature may determine.

(B) Any amounts remaining shall be deposited in the Treasury of the United States as miscellaneous receipts.

If at the end of any fiscal year the total of the Federal contribution made under subparagraph (A) with respect to the four calendar quarters immediately preceding the beginning of that fiscal year has not been obligated or expended for an approved purpose, the balance shall continue available for expenditure during any succeeding fiscal year, but only for emergency relief purposes and essential public projects. The aggregate amount of moneys

available for expenditure for emergency relief purposes and essential public projects only shall not exceed the sum of \$5,000,000 at the end of any fiscal year. Any unobligated or unexpended balance of the Federal contribution remaining at the end of a fiscal year which would cause the moneys available for emergency relief purposes and essential public projects only to exceed the sum of \$5,000,000 shall thereupon be transferred and paid over to the Treasury of the United States as miscellaneous receipts.

**(c) Articles containing distilled spirits**

For purposes of subsections (a)(3) and (b)(3), any article containing distilled spirits shall in no event be treated as produced in Puerto Rico or the Virgin Islands unless at least 92 percent of the alcoholic content in such article is attributable to rum.

**(d) Articles other than articles containing distilled spirits**

For purposes of subsections (a)(3) and (b)(3)—

**(1) Value added requirement for Puerto Rico**

Any article, other than an article containing distilled spirits, shall in no event be treated as produced in Puerto Rico unless the sum of—

- (A) the cost or value of the materials produced in Puerto Rico, plus
- (B) the direct costs of processing operations performed in Puerto Rico,

equals or exceeds 50 percent of the value of such article as of the time it is brought into the United States.

**(2) Prohibition of Federal excise tax subsidies**

**(A) In general**

No amount shall be transferred under subsection (a)(3) or (b)(3) in respect of taxes imposed on any article, other than an article containing distilled spirits, if the Secretary determines that a Federal excise tax subsidy was provided by Puerto Rico or the Virgin Islands (as the case may be) with respect to such article.

**(B) Federal excise tax subsidy**

For purposes of this paragraph, the term "Federal excise tax subsidy" means any subsidy—

- (i) of a kind different from, or
  - (ii) in an amount per value or volume of production greater than,
- the subsidy which Puerto Rico or the Virgin Islands offers generally to industries producing articles not subject to Federal excise taxes.

**(3) Direct costs of processing operations**

For purposes of this subsection, the term "direct cost of processing operations" has the same meaning as when used in section 213 of the Caribbean Basin Economic Recovery Act.

**(e) Shipments of rum to the United States**

**(1) Excise taxes on rum covered into treasuries of Puerto Rico and Virgin Islands**

All taxes collected under section 5001(a)(1) on rum imported into the United States (less the estimated amount necessary for payment

of refunds and drawbacks) shall be covered into the treasuries of Puerto Rico and the Virgin Islands.

**(2) Secretary prescribes formula**

The Secretary shall, from time to time, prescribe by regulation a formula for the division of such tax collections between Puerto Rico and the Virgin Islands and the timing and methods for transferring such tax collections.

**(3) Rum defined**

For purposes of this subsection, the term "rum" means any article classified under subheading 2208.40.00 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

**(4) Coordination with subsections (a) and (b)**

Paragraph (1) shall not apply with respect to any rum subject to tax under subsection (a) or (b).

**(f) Limitation on cover over of tax on distilled spirits**

For purposes of this section, with respect to taxes imposed under section 5001 or this section on distilled spirits, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the lesser of the rate of—

- (1) \$10.50 (\$13.25 in the case of distilled spirits brought into the United States after June 30, 1999, and before January 1, 2002), or
- (2) the tax imposed under section 5001(a)(1), on each proof gallon.

**(g) Drawback for medicinal alcohol, etc.**

In the case of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume containing distilled spirits, which are unfit for beverage purposes and which are brought into the United States from Puerto Rico or the Virgin Islands—

- (1) subpart F of part II of subchapter A of chapter 51 shall be applied as if—

(A) the use and tax determination described in section 5131(a) had occurred in the United States by a United States person at the time the article is brought into the United States, and

(B) the rate of tax were the rate applicable under subsection (f) of this section, and

- (2) no amount shall be covered into the treasuries of Puerto Rico or the Virgin Islands.

(Aug. 16, 1954, ch. 736, 68A Stat. 907; Pub. L. 85-859, title II, §204(17), (18), Sept. 2, 1958, 72 Stat. 1430; Pub. L. 89-44, title VIII, §808(b)(3), June 21, 1965, 79 Stat. 164; Pub. L. 94-202, §10(a), Jan. 2, 1976, 89 Stat. 1141; Pub. L. 94-455, title XIX, §1906(a)(55), (b) (13)(A), Oct. 4, 1976, 90 Stat. 1832, 1834; Pub. L. 98-67, title II, §221(a), Aug. 5, 1983, 97 Stat. 395; Pub. L. 98-213, §5(c), Dec. 8, 1983, 97 Stat. 1460; Pub. L. 98-369, div. B, title VI, §§2681(a), 2682(a), July 18, 1984, 98 Stat. 1172, 1174; Pub. L. 99-514, title XVIII, §1879(i)(1), Oct. 22, 1986, 100 Stat. 2907; Pub. L. 100-418, title I, §1214(p)(1), Aug. 23, 1988, 102 Stat. 1159; Pub. L. 103-66, title XIII, §13227(e), Aug. 10, 1993, 107 Stat. 494; Pub. L. 103-465, title I, §136(b), Dec. 8, 1994, 108 Stat. 4841; Pub. L. 106-170, title V, §512(a), Dec. 17, 1999, 113 Stat. 1924.)

## REFERENCES IN TEXT

The internal revenue laws, referred to in subsec. (b)(3), are classified generally to this title.

Section 213 of the Caribbean Basin Economic Recovery Act, referred to in subsec. (d)(3), is classified to section 2703 of Title 19, Customs Duties.

The Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), referred to in subsec. (e)(3), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19.

## AMENDMENTS

1999—Subsec. (f)(1). Pub. L. 106-170 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “\$10.50 (\$11.30 in the case of distilled spirits brought into the United States during the 5-year period beginning on October 1, 1993), or.”

1994—Subsec. (g). Pub. L. 103-465 substituted “flavoring extracts, or perfume” for “or flavoring extracts” in introductory provisions.

1993—Subsec. (f)(1). Pub. L. 103-66 amended par. (1) generally, substituting present provisions for “\$10.50, or”.

1988—Subsec. (e)(3). Pub. L. 100-418 substituted “sub-heading 2208.40.00 of the Harmonized Tariff Schedule of the United States” for “item 169.13 or 169.14 of the Tariff Schedules of the United States”.

1986—Subsec. (g). Pub. L. 99-514 added subsec. (g).

1984—Subsecs. (c)-(e). Pub. L. 98-369, § 2681(a), added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

Subsec. (f). Pub. L. 98-369, § 2682(a), added subsec. (f).  
1983—Subsec. (b)(3). Pub. L. 98-213, § 5(c), amended language of Pub. L. 94-455, § 1906(a)(55). See 1976 Amendment note below.

Subsec. (c). Pub. L. 98-67 added subsec. (c).

1976—Subsec. (a)(2). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b)(3). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary” in provisions following subpar. (B).

Pub. L. 94-455, § 1906(a)(55)(B), as amended by Pub. L. 98-213, § 5(c)(1), substituted “emergency relief purposes and essential public projects” for “emergency relief purposes and essential public projects, with the prior approval of the President or his designated representative” in provisions following subpar. (B). Prior to amendment by Pub. L. 98-213, the latter phrase had been substituted for “approved emergency relief purposes and essential public projects as provided in subparagraph (B)”.

Pub. L. 94-455, § 1906(a)(55)(C), struck out “including payments under subparagraph (B)” after “public projects only” in provisions following subpar. (B).

Subsec. (b)(3)(A). Pub. L. 94-455, § 1906(a)(55)(D), as added by Pub. L. 98-213, § 5(c)(2), struck out proviso after “determine” requiring approval of the President or his designated representative before such moneys may be obligated or expended.

Subsec. (b)(3)(B), (C). Pub. L. 94-455, § 1906(a)(55)(A), redesignated subpar. (C) as (B). Former subpar. (B) relating to disposition of internal revenue collections in Virgin Islands for fiscal years ending June 30, 1955 and 1956 was struck out.

Pub. L. 94-202 substituted “calendar quarter ending September 30, 1975, and quarterly” for “fiscal year ending June 30, 1954, and annually” and “quarter” for “fiscal year” in provisions preceding subpar. (A), substituted “paid over, as soon as practicable after the close of the quarter,” for “paid over” and “quarter” for “fiscal year” in subpar. (A), and substituted “with respect to the four calendar quarters immediately preceding the beginning” for “at the beginning” in provisions following subpar. (C).

1965—Subsec. (a)(3). Pub. L. 89-44 inserted “(less the estimated amount necessary for payment of refunds and drawbacks)” after “transported to the United States”.

1958—Subsec. (a)(1). Pub. L. 85-859, § 204(17), substituted “section 5314” for “section 5318”.

Subsec. (b)(1). Pub. L. 85-859, § 204(18), substituted “section 5314” for “section 5318”.

## EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title V, § 512(c), Dec. 17, 1999, 113 Stat. 1925, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on July 1, 1999.”

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective Jan. 1, 1995, see section 136(d) of Pub. L. 103-465, set out as a note under section 5001 of this title.

## EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Oct. 1, 1993, see section 13227(f) of Pub. L. 103-66, set out as a note under section 56 of this title.

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

## EFFECTIVE DATE OF 1986 AMENDMENT

Section 1879(i)(2) of Pub. L. 99-514 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to articles brought into the United States after the date of the enactment of this Act [Oct. 22, 1986].”

## EFFECTIVE DATE OF 1984 AMENDMENT

Section 2681(b) of Pub. L. 98-369, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall apply with respect to articles brought into the United States on or after March 1, 1984.

“(2) EXCEPTION FOR PUERTO RICO FOR PERIODS BEFORE JANUARY 1, 1985.—

“(A) IN GENERAL.—Subject to the limitations of subparagraphs (B) and (C), the amendments made by subsection (a) [amending this section] shall not apply with respect to articles containing distilled spirits brought into the United States from Puerto Rico after February 29, 1984, and before January 1, 1985.

“(B) \$130,000,000 LIMITATION.—In the case of such articles brought into the United States after February 29, 1984, and before July 1, 1984, the aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed the excess of—

“(i) \$130,000,000, over

“(ii) the aggregate amount payable to Puerto Rico under section 7652(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] with respect to such articles which were brought into the United States after June 30, 1983, and before March 1, 1984, and which would not meet the requirements of section 7652(c) of such Code.

“(C) \$75,000,000 LIMITATION.—The aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed \$75,000,000 in the case of articles—

“(i) brought into the United States after June 30, 1984, and before January 1, 1985,

“(ii) which would not meet the requirements of section 7652(c) of such Code,

“(iii) which have been redistilled in Puerto Rico, and

“(iv) which do not contain distilled spirits derived from cane.

“(3) LIMITATION ON INCENTIVE PAYMENTS TO UNITED STATES DISTILLERS.—

“(A) IN GENERAL.—In the case of articles to which this paragraph applies, the aggregate amount of incentive payments paid to any United States distiller with respect to such articles shall not exceed the limitation described in subparagraph (C).

“(B) ARTICLES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any article containing distilled spirits described in clauses (i) through (iv) of paragraph (2)(C).

“(C) LIMITATION.—

“(i) IN GENERAL.—The limitation described in this subparagraph is \$1,500,000.

“(ii) SPECIAL RULE.—The limitation described in this subparagraph shall be zero with respect to any distiller who was not entitled to or receiving incentive payments as of March 1, 1984.

“(D) PAYMENTS IN EXCESS OF LIMITATION.—If any United States distiller receives any incentive payment with respect to articles to which this paragraph applies in excess of the limitation described in subparagraph (C), such distiller shall pay to the United States the total amount of such incentive payments with respect to such articles in the same manner, and subject to the same penalties, as if such amount were tax due and payable under section 5001 of such Code on the date such payments were received.

“(E) INCENTIVE PAYMENTS.—

“(i) IN GENERAL.—For purposes of this paragraph, the term ‘incentive payment’ means any payment made directly or indirectly by the commonwealth of Puerto Rico to any United States distiller as an incentive to engage in redistillation operations.

“(ii) TRANSPORTATION PAYMENTS EXCLUDED.—Such term shall not include any payment of a direct cost of transportation to or from Puerto Rico with respect to any article to which this paragraph applies.”

Section 2682(b) of Pub. L. 98-369 provided that “The amendment made by this section [amending this section] shall apply to articles containing distilled spirits brought into the United States after September 30, 1985.”

#### EFFECTIVE DATE OF 1983 AMENDMENT

Section 221(b) of Pub. L. 98-67 provided that: “The amendment made by subsection (a) [amending this section] shall apply to articles imported into the United States after June 30, 1983.”

#### EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1906(d)(1) of Pub. L. 94-455, set out as a note under section 6013 of this title.

Section 10(b) of Pub. L. 94-202 provided that: “The amendments made by paragraphs (1) and (2) of subsection (a) [amending this section] shall apply with respect to all taxes imposed by, and collected after June 30, 1975, under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States.”

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 effective July 1, 1965, see section 808(d)(1) of Pub. L. 89-44, set out as a note under section 5702 of this title.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

#### SPECIAL COVER OVER TRANSFER RULES

Pub. L. 106-170, title V, §512(b), Dec. 17, 1999, 113 Stat. 1924, provided that: “Notwithstanding section 7652 of the Internal Revenue Code of 1986, the following rules shall apply with respect to any transfer before October 1, 2000, of amounts relating to the increase in the cover over of taxes by reason of the amendment made by subsection (a) [amending this section]:

“(1) INITIAL TRANSFER OF INCREMENTAL INCREASE IN COVER OVER.—The Secretary of the Treasury shall, within 15 days after the date of the enactment of this Act [Dec. 17, 1999], transfer an amount equal to the lesser of—

“(A) the amount of such increase otherwise required to be covered over after June 30, 1999, and before the date of the enactment of this Act; or

“(B) \$20,000,000.

“(2) TRANSFER OF INCREMENTAL INCREASE FOR FISCAL YEAR 2001.—The Secretary of the Treasury shall on October 1, 2000, transfer an amount equal to the excess of—

“(A) the amount of such increase otherwise required to be covered over after June 30, 1999, and before October 1, 2000, over

“(B) the amount of the transfer described in paragraph (1).”

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

#### PAYMENT TO PUERTO RICO OR VIRGIN ISLANDS OF AMOUNTS WITH RESPECT TO MEDICINES, ETC. UNFIT FOR BEVERAGE PURPOSES

Section 1879(i)(3) of Pub. L. 99-514 provided that:

“(A) Section 7652 of the Internal Revenue Code of 1954 [now 1986] (other than subsection (f) thereof) shall not prevent the payment to Puerto Rico or the Virgin Islands of amounts with respect to medicines, medicinal preparations, food products, flavors, or flavoring extracts containing distilled spirits, which are unfit for beverage purposes and which are brought into the United States from Puerto Rico or the Virgin Islands on or before the date of the enactment of this Act [Oct. 22, 1986].

“(B) With respect to articles brought into the United States after September 27, 1985, subparagraph (A) shall apply only if the Secretary of the Treasury or his delegate is satisfied that the amounts paid to Puerto Rico or the Virgin Islands under subparagraph (A) are being repaid to the proper persons who used the distilled spirits in such articles.”

#### EX. ORD. NO. 10602. SECRETARY OF THE INTERIOR AS REPRESENTATIVE OF PRESIDENT

Ex. Ord. No. 10602, Mar. 24, 1955, 20 F.R. 1795, provided: “By virtue of the authority vested in me by section 7652(b)(3) of the Internal Revenue Code of 1954 [now I.R.C. 1986] (Public Law 591, 83rd Congress, 68A Stat. 907), I hereby designate the Secretary of the Interior as the representative of the President to approve the obligation and expenditure by the government of the Virgin Islands of the moneys referred to in the said section 7652(b)(3).”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4132, 4612, 4662, 4672, 4682, 5001, 5008, 5010, 5061, 5314, 5702, 5703, 5705, 7809 of this title; title 48 sections 1574a, 1574b, 1574c, 1644.

### § 7653. Shipments from the United States

#### (a) Tax imposed

##### (1) Puerto Rico

All articles of merchandise of United States manufacture coming into Puerto Rico shall be entered at the port of entry upon payment of a tax equal in rate and amount to the internal revenue tax imposed in Puerto Rico upon the like articles of Puerto Rican manufacture.

##### (2) Virgin Islands

There shall be imposed in the Virgin Islands upon articles imported from the United States