corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation from any shareholder if—

(1) such shareholder held such stock (as determined under section 1223) for less than 2 years before entering into the agreement to make the transfer,

(2) at some time during the 2-year period ending on the date of such acquisition—

(A) such shareholder,

(B) any person acting in concert with such shareholder, or

(C) any person who is related to such shareholder or person described in subparagraph (B),

made or threatened to make a public tender offer for stock of such corporation, and

(3) such acquisition is pursuant to an offer which was not made on the same terms to all shareholders.

For purposes of the preceding sentence, payments made in connection with, or in transactions related to, an acquisition shall be treated as paid in such acquisition.

(c) Other definitions

For purposes of this section—

(1) Public tender offer

The term ''public tender offer'' means any offer to purchase or otherwise acquire stock or assets in a corporation if such offer was or would be required to be filed or registered with any Federal or State agency regulating securities.

(2) Related person

A person is related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b).

(d) Tax applies whether or not amount recognized

The tax imposed by this section shall apply whether or not the gain or other income referred to in subsection (a) is recognized.

(e) Administrative provisions

For purposes of the deficiency procedures of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

(Added Pub. L. 100–203, title X, § 10228(a), Dec. 22, 1987, 101 Stat. 1330–417; amended Pub. L. 100–647, title II, § 2004(*o*)(1)(A), (B)(i), (C), (2), Nov. 10, 1988, 102 Stat. 3608.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–647, § 2004(*o*)(1)(A), substituted ''gain or other income of such person by reason of such receipt'' for ''gain realized by such person on such receipt''.

Subsec. (b). Pub. L. 100–647, § 2004(*o*)(1)(B)(i), substituted ''a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation'' for ''a corporation to directly or indirectly acquire its stock''.

Subsec. (d). Pub. L. 100–647, § 2004(*o*)(1)(C), substituted ''amount'' for ''gain'' in heading and inserted ''or other income'' after ''the gain'' in text.

Subsec. (e). Pub. L. 100–647, § 2004(*o*)(2), added subsec. (e).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2004(*o*)(1)(A), (C), (2) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100–203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100–647, set out as a note under section 56 of this title.

Section 2004(*o*)(1)(B)(ii) of Pub. L. 100–647 provided that: ''The amendment made by clause (i) [amending this section] shall apply to transactions occurring on or after March 31, 1988.''

EFFECTIVE DATE

Section 10228(d) of Pub. L. 100–203 provided that: ''The amendments made by this section [enacting this chapter and amending section 275 of this title] shall apply to consideration received after the date of the enactment of this Act [Dec. 22, 1987] in taxable years ending after such date; except that such amendments shall not apply in the case of any acquisition pursuant to a written binding contract in effect on December 15, 1987, and at all times thereafter before the acquisition.''

Subtitle F—Procedure and Administration

Chapter		Sec.[1]
61.	Information and returns	6001
62.	Time and place for paying tax	6151
63.	Assessment	6201
64.	Collection	6301
65.	Abatements, credits, and refunds	6401
66.	Limitations	6501
67.	Interest	6601
68.	Additions to the tax, additional amounts, and assessable penalties	6651
69.	General provisions relating to stamps	6801
70.	Jeopardy, receiverships, etc.	6851
71.	Transferees and fiduciaries	6901
72.	Licensing and registration	7001
73.	Bonds	7101
74.	Closing agreements and compromises	7121
75.	Crimes, other offenses, and forfeitures	7201
76.	Judicial proceedings	7401
77.	Miscellaneous provisions	7501
78.	Discovery of liability and enforcement of title	7601
79.	Definitions	7701
80.	General Rules	7801

AMENDMENTS

1980—Pub. L. 96–589, § 6(g)(3)(E), Dec. 24, 1980, 94 Stat. 3410, substituted ''Jeopardy, receiverships, etc.'' for ''Jeopardy, bankruptcy and receiverships'' in item for chapter 70.

SUBTITLE REFERRED TO IN OTHER SECTIONS

This subtitle is referred to in sections 167, 408, 460, 468A, 468B, 643, 810, 852, 860E, 860F, 860K, 874, 882, 911, 1397E, 2661, 3121, 3402, 3405, 3406, 3510, 4405, 4414, 4462, 4484, 4980, 4999, 5067, 5148, 5560, 5881, 7851 of this title; title 42 sections 401, 408, 1307, 1395i; title 48 section 1421i.

CHAPTER 61—INFORMATION AND RETURNS

Subchapter		Sec.[1]
A.	Returns and records	6001
B.	Miscellaneous provisions	6101

Subchapter A—Returns and Records

Part	
I.	Records, statements, and special returns.
II.	Tax returns or statements.
III.	Information returns.
IV.	Signing and verifying of returns and other documents.

[1] Section numbers editorially supplied.

Part
V. Time for filing returns and other documents.
VI. Extension of time for filing returns.
VII. Place for filing returns or other documents.
VIII. Designation of income tax payments to Presidential Election Campaign Fund.

AMENDMENTS

1966—Pub. L. 89–809, title III, § 302(b), Nov. 13, 1966, 80 Stat. 1588, added item VIII.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6103, 6651 of this title.

PART I—RECORDS, STATEMENTS, AND SPECIAL RETURNS

Sec.
6001. Notice or regulations requiring records, statements, and special returns.

§ 6001. Notice or regulations requiring records, statements, and special returns

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 731; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–600, title V, § 501(a), Nov. 6, 1978, 92 Stat. 2878; Pub. L. 97–248, title III, § 314(d), Sept. 3, 1982, 96 Stat. 605.)

AMENDMENTS

1982—Pub. L. 97–248 inserted ", records necessary to comply with section 6053(c)," after "charge receipts".

1978—Pub. L. 95–600 inserted provision at end relating to only records which an employer shall be required to keep in connection with charged tips.

1976—Pub. L. 94–455 struck out "or his delegate" after "Secretary" wherever appearing.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to calendar years beginning after Dec. 31, 1982, see section 314(e) of Pub. L. 97–248, set out as a note under section 6053 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 501(c) of Pub. L. 95–600 provided that: "The amendments made by this section [amending this section and section 6041 of this title] shall apply to payments made after December 31, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 874, 911, 4403, 6033 of this title.

PART II—TAX RETURNS OR STATEMENTS

Subpart
A. General requirement.
B. Income tax returns.
C. Estate and gift tax returns.
D. Miscellaneous provisions.

SUBPART A—GENERAL REQUIREMENT

Sec.
6011. General requirement of return, statement, or list.

§ 6011. General requirement of return, statement, or list

(a) General rule

When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

(b) Identification of taxpayer

The Secretary is authorized to require such information with respect to persons subject to the taxes imposed by chapter 21 or chapter 24 as is necessary or helpful in securing proper identification of such persons.

(c) Returns, etc., of DISCS and former DISCS and FSC's and former FSC's

(1) Records and information

A DISC or former DISC or a FSC or former FSC shall for the taxable year—

(A) furnish such information to persons who were shareholders at any time during such taxable year, and to the Secretary, and

(B) keep such records, as may be required by regulations prescribed by the Secretary.

(2) Returns

A DISC shall file for the taxable year such returns as may be prescribed by the Secretary by forms or regulations.

(d) Authority to require information concerning section 912 allowances

The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate.

(e) Regulations requiring returns on magnetic media, etc.

(1) In general

The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary.

(2) Requirements of regulations

In prescribing regulations under paragraph (1), the Secretary—

(A) shall not require any person to file returns on magnetic media unless such person is required to file at least 250 returns during the calendar year, and

(B) shall take into account (among other relevant factors) the ability of the taxpayer to comply at reasonable cost with the requirements of such regulations.

Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.

(f) Promotion of electronic filing

(1) In general

The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

(2) Incentives

The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns.

(g) Income, estate, and gift taxes

For requirement that returns of income, estate, and gift taxes be made whether or not there is tax liability, see subparts B and C.

(Aug. 16, 1954, ch. 736, 68A Stat. 732; Pub. L. 85–859, title I, § 161, Sept. 2, 1958, 72 Stat. 1305; Pub. L. 88–563, § 3(a), Sept. 2, 1964, 78 Stat. 843; Pub. L. 89–44, title I, § 101(b)(6), June 21, 1965, 79 Stat. 136; Pub. L. 90–59, § 4(b), July 31, 1967, 81 Stat. 154; Pub. L. 91–128, § 4 (f), (g), Nov. 26, 1969, 83 Stat. 267; Pub. L. 92–178, title V, § 504(a), Dec. 10, 1971, 85 Stat. 550; Pub. L. 94–455, title XIX, §§ 1904(b)(10)(A)(ii), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1817, 1834; Pub. L. 95–615, § 207(c), Nov. 8, 1978, 92 Stat. 3108; Pub. L. 97–248, title III, § 319, Sept. 3, 1982, 96 Stat. 610; Pub. L. 98–67, title I, § 109(a), Aug. 5, 1983, 97 Stat. 383; Pub. L. 98–369, div. A, title VIII, § 801(d)(12), July 18, 1984, 98 Stat. 997; Pub. L. 99–514, title XVIII, § 1899A(52), Oct. 22, 1986, 100 Stat. 2961; Pub. L. 100–647, title I, § 1015(q)(1), Nov. 10, 1988, 102 Stat. 3572; Pub. L. 101–239, title VII, § 7713(a), Dec. 19, 1989, 103 Stat. 2394; Pub. L. 105–34, title XII, § 1224, Aug. 5, 1997, 111 Stat. 1019; Pub. L. 105–206, title II, § 2001(c), July 22, 1998, 112 Stat. 723.)

AMENDMENTS

1998—Subsecs. (f), (g). Pub. L. 105–206 added subsec. (f) and redesignated former subsec. (f) as (g).

1997—Subsec. (e)(2). Pub. L. 105–34 inserted at end ''Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.''

1989—Subsec. (e). Pub. L. 101–239 substituted ''magnetic media'' for ''magnetic tape'' in heading and amended text generally, revising the content and structure of pars. (1) and (2).

1988—Subsec. (a). Pub. L. 100–647 substituted ''or with respect to the collection thereof'' for ''or for the collection thereof''.

1986—Subsec. (f). Pub. L. 99–514 substituted ''subparts B and C'' for ''sections 6012 to 6019, inclusive''.

1984—Subsec. (c). Pub. L. 98–369 inserted ''and FSC's and former FSC's'' in heading and ''or a FSC or former FSC'' in par. (1).

1983—Subsec. (e). Pub. L. 98–67 amended subsec. (e) generally, designating existing provisions as par. (1) and adding par. (2).

1982—Subsecs. (e), (f). Pub. L. 97–248 added subsec. (e) and redesignated former subsec. (e) as (f).

1978—Subsecs. (d), (e). Pub. L. 95–615 added subsec. (d) and redesignated former subsec. (d) as (e).

1976—Subsecs. (a), (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (c). Pub. L. 94–455, §§ 1904(b)(10)(A)(ii), 1906(b)(13)(A), redesignated subsec. (e) as (c) and struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (d). Pub. L. 94–455, § 1904(b)(10)(A)(ii), redesignated subsec. (f) as (d). Former subsec. (d), which related to interest equalization tax returns, was struck out.

Subsecs. (e), (f). Pub. L. 94–455, § 1904(b)(10)(A)(ii), redesignated subsecs. (e) and (f) as (c) and (d), respectively.

1971—Subsecs. (e), (f). Pub. L. 92–178 added subsec. (e) and redesignated former subsec. (e) as (f).

1969—Subsec. (d)(1)(B). Pub. L. 91–128, § 4(f), inserted provisions excepting dispositions made under circumstances entitling the person to a credit under the provisions of section 4919 from the requirement that persons incurring liability for the tax imposed by section 4911 of this title, if he disposes of the stock or debt obligation with respect to which such liability was incurred prior to the filing of the return required by subparagraph (A), file a return of such tax.

Subsec. (d)(3). Pub. L. 91–128, § 4(g), eased recordkeeping requirements by providing that nonparticipating be subject to the recordkeeping and reporting requirements prescribed by the Secretary or his delegate only insofar as they engage in sales or acquisitions in which the nonparticipating firm has received a validation certificate indicating the stock or debt obligation qualifies for the exemption or where the U.S. person acquiring the stock or debt obligation is subject to the interest equalization tax, including acquisitions where a broker's confirmation to the customer indicates, or should indicate that the particular acquisition is or may be subject to the tax.

1967—Subsec. (d)(1). Pub. L. 90–59 designated existing provisions as subpar. (A), substituted a copy of any return made during a quarter under subpar. (B) for a certificate of American ownership complying with section 4918(e) or a summary statement establishing exemption together with reasons for person's inability to establish prior American ownership as the document to accompany the list of acquisitions made during the calendar quarter for which an exemption is claimed under section 4918, struck out ''a written confirmation, furnished in accordance with the requirements described in section 4918(c) or (d), is treated as conclusive proof of prior American ownership;'' after ''No return or accompanying evidence shall be required under this paragraph, in connection with any acquisition with respect to which'', and added clauses (i), (ii), and (iii) and subpar. (B).

1965—Subsec. (c). Pub. L. 89–44 repealed subsec. (c) which related to return of retailers excise taxes by suppliers.

1964—Subsecs. (d), (e). Pub. L. 88–563 added subsec. (d) and redesignated former subsec. (d) as (e).

1958—Subsecs. (c), (d). Pub. L. 85–859 added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1226 of title XII of Pub. L. 105–34, as amended by Pub. L. 105–206, title VI, § 6012(e), July 22, 1998, 112 Stat. 819, provided that: ''The amendments made by this part [part I (§§ 1221–1226) of subtitle C of title XII of Pub. L. 105–34, enacting part IV of subchapter K of chapter 1 of this title and subchapter D of chapter 63 of this title, and amending this section and sections 6012, 6031, 6724, 7421, 7459, 7482, and 7485 of this title] shall apply to partnership taxable years beginning after December 31, 1997.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7713(b) of Pub. L. 101–239 provided that: ''The amendment made by subsection (a) [amending this sec-

tion] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(q)(2) of Pub. L. 100–647 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1988].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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, as amended, set out as a note under section 245 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–67 applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98–67, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION OF PRIOR LAW

Amendment by Pub. L. 95–615 applicable to taxable years beginning after Dec. 31, 1977, with provision for election of prior law, see section 209 of Pub. L. 95–615, set out as an Effective Date of 1978 Amendment note under section 911 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1904(b)(10)(A)(ii) of Pub. L. 94–455 effective Feb. 1, 1977, see section 1904(d) of Pub. L. 94–455, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–178 applicable with respect to taxable years ending after Dec. 31, 1971, except that a corporation may not be a DISC for any taxable year beginning before Jan. 1, 1972, see section 507 of Pub. L. 92–178, set out as an Effective Date note under section 991 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 4(i)(4) of Pub. L. 91–128 provided that: ''The amendments made by this section [amending this section and sections 4912, 4914, 4915, 4919, 4920, and 6680 of this title] shall apply with respect to acquisitions of debt obligations made after the date of the enactment of this Act [Nov. 26, 1969].''

EFFECTIVE DATE OF 1967 AMENDMENT

Section 4(h) of Pub. L. 90–59 provided that: ''The amendments made by this section [amending this section and sections 4918, 4920, and 6076 of this title] (other than by subsections (d) and (e)) shall apply with respect to acquisitions of stock and debt obligations made after July 14, 1967. The amendments made by subsections (d) and (e) [amending sections 6681 and 7241 of this title] shall take effect on the date of the enactment of this Act [July 31, 1967].''

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable with respect to articles sold on or after June 22, 1965, see section 701(a) of Pub. L. 89–44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85–859.

SHORT TITLE OF 1967 AMENDMENT

Section 1(a) of Pub. L. 90–59 provided that: ''This Act [amending this section and sections 4912, 4914 to 4920, 4931, 6076, 6681, and 7241 of this title] may be cited as the 'Interest Equalization Tax Extension Act of 1967'.''

ELECTRONIC FILING OF TAX AND INFORMATION RETURNS

Pub. L. 105–206, title II, § 2001(a), (b), (d), July 22, 1998, 112 Stat. 723, 725, provided that:

''(a) IN GENERAL.—It is the policy of Congress that—

''(1) paperless filing should be the preferred and most convenient means of filing Federal tax and information returns;

''(2) it should be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007; and

''(3) the Internal Revenue Service should cooperate with and encourage the private sector by encouraging competition to increase electronic filing of such returns.

''(b) STRATEGIC PLAN.—

''(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [July 22, 1998], the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the 'Secretary') shall establish a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days. To the extent practicable, such plan shall provide that all returns prepared electronically for taxable years beginning after 2001 shall be filed electronically.

''(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the small business community and from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

''(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1998, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary of the Treasury, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2) [set out as a note above] shall report to the Committees on Ways and Means, Appropriations, Government Reform and Oversight [now Committee on Government Reform], and Small Business of the House of Representatives and the Committees on Finance, Appropriations, Governmental Affairs, and Small Business of the Senate on—

''(1) the progress of the Internal Revenue Service in meeting the goal of receiving electronically 80 percent of tax and information returns by 2007;

''(2) the status of the plan required by subsection (b) [set out as a note above];

''(3) the legislative changes necessary to assist the Internal Revenue Service in meeting such goal; and

''(4) the effects on small businesses and the self-employed of electronically filing tax and information returns.''

Pub. L. 105–206, title II, § 2003(c), July 22, 1998, 112 Stat. 725, provided that: ''In the case of taxable periods beginning after December 31, 1999, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.''

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.

STUDY OF WAGE RETURNS ON MAGNETIC TAPE; REPORT TO CONGRESS NOT LATER THAN JULY 1, 1984

Section 109(b) of Pub. L. 98–67 required Secretary of the Treasury, in consultation with Secretary of Health and Human Services, to conduct a study of feasibility of requiring persons to file, on magnetic media, returns under section 6011 of the Internal Revenue Code containing information described in section 6051(a) of such Code (relating to W–2s), and that not later than July 1, 1984, Secretary of the Treasury was to submit to Committee on Ways and Means of House of Representatives and Committee on Finance of Senate results of study.

REPORT ON FORMS

Section 353 of Pub. L. 97–248 required Secretary of the Treasury to study and report to Congress, not later than June 30, 1983, methods of modifying the design of the forms used by the Internal Revenue Service to achieve greater accuracy in the reporting of income and the matching of information reports and returns with the returns of tax imposed.

STUDY OF SIMPLIFICATION OF TAX RETURNS

Pub. L. 95–600, title V, § 551, Nov. 6, 1978, 92 Stat. 2890, required a study and investigation by Secretary of the Treasury with respect to simplification of Federal income tax returns, establishment of a task force to assist in conduct of study, and a report by Secretary on study and investigation to Congressional committees not later than 2 years after Nov. 6, 1978.

FIRST RETURN PERIOD FOR INTEREST EQUALIZATION TAX RETURNS

Section 3(d)(1) of Pub. L. 89–243, Oct. 9, 1965, 79 Stat. 955, provided that the first period for which returns were to be made under subsec. (d)(1) of this section with respect to acquisitions made subject to tax by this section was the period commencing Feb. 11, 1965, and ending at the close of the calendar quarter in which the enactment of Pub. L. 89–243 [Oct. 9, 1965] occurred.

Section 3(e) of Pub. L. 88–563 provided that the first period for which returns were to be made under subsec. (d)(1) of this section was the period commencing July 19, 1963, and ending at the close of the calendar quarter in which the enactment of Pub. L. 88–563 [Sept. 2, 1964] occurred.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 911, 6501, 6724 of this title; title 42 section 405.

SUBPART B—INCOME TAX RETURNS

Sec.
6012. Persons required to make returns of income.
6013. Joint returns of income tax by husband and wife.
6014. Income tax return—tax not computed by taxpayer.
6015. Relief from joint and several liability on joint return.
[6016. Repealed.]
6017. Self-employment tax returns.
[6017A. Repealed.]

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3201(f), July 22, 1998, 112 Stat. 740, added item 6015.

1989—Pub. L. 101–239, title VII, § 7711(b)(3), Dec. 19, 1989, 103 Stat. 2393, struck out item 6017A ''Place of residence''.

1984—Pub. L. 98–369, div. A, title IV, § 412(c)(1), July 18, 1984, 98 Stat. 792, struck out item 6015 ''Declaration of estimated income tax by individuals.''

1972—Pub. L. 92–512, title I, § 144(a)(2), Oct. 20, 1972, 86 Stat. 935, added item 6017A.

1968—Pub. L. 90–364, title I, § 103(e)(7), June 28, 1968, 82 Stat. 264, struck out item 6016 ''Declarations of estimated income tax by corporations.''

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 6011 of this title.

§ 6012. Persons required to make returns of income

(a) General rule

Returns with respect to income taxes under subtitle A shall be made by the following:

(1)(A) Every individual having for the taxable year gross income which equals or exceeds the exemption amount, except that a return shall not be required of an individual—

(i) who is not married (determined by applying section 7703), is not a surviving spouse (as defined in section 2(a)), is not a head of a household (as defined in section 2(b)), and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

(ii) who is a head of a household (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

(iii) who is a surviving spouse (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual, or

(iv) who is entitled to make a joint return and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than the sum of twice the exemption amount plus the basic standard deduction applicable to a joint return, but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iv) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(c).

(B) The amount specified in clause (i), (ii), or (iii) of subparagraph (A) shall be increased by the amount of 1 additional standard deduction (within the meaning of section 63(c)(3)) in the case of an individual entitled to such deduction by reason of section 63(f)(1)(A) (relating to individuals age 65 or more), and the amount specified in clause (iv) of subparagraph (A) shall be increased by the amount of the additional standard deduction for each additional standard deduction to which the individual or his spouse is entitled by reason of section 63(f)(1).

(C) The exception under subparagraph (A) shall not apply to any individual—

(i) who is described in section 63(c)(5) and who has—

(I) income (other than earned income) in excess of the sum of the amount in effect under section 63(c)(5)(A) plus the additional standard deduction (if any) to which the individual is entitled, or

(II) total gross income in excess of the standard deduction, or

(ii) for whom the standard deduction is zero under section 63(c)(6).

(D) For purposes of this subsection—

(i) The terms ''standard deduction'', ''basic standard deduction'' and ''additional standard deduction'' have the respective meanings given such terms by section 63(c).

(ii) The term ''exemption amount'' has the meaning given such term by section 151(d). In the case of an individual described in section 151(d)(2), the exemption amount shall be zero.

(2) Every corporation subject to taxation under subtitle A;

(3) Every estate the gross income of which for the taxable year is $600 or more;

(4) Every trust having for the taxable year any taxable income, or having gross income of $600 or over, regardless of the amount of taxable income;

(5) Every estate or trust of which any beneficiary is a nonresident alien;

(6) Every political organization (within the meaning of section 527(e)(1)), and every fund treated under section 527(g) as if it constituted a political organization, which has political organization taxable income (within the meaning of section 527(c)(1)) for the taxable year or which has gross receipts of $25,000 or more for the taxable year (other than an organization to which section 527 applies solely by reason of subsection (f)(1) of such section); and[1]

(7) Every homeowners association (within the meaning of section 528(c)(1)) which has homeowners association taxable income (within the meaning of section 528(d)) for the taxable year.[1]

(8) Every individual who receives payments during the calendar year in which the taxable year begins under section 3507 (relating to advance payment of earned income credit).[1]

(9) Every estate of an individual under chapter 7 or 11 of title 11 of the United States Code (relating to bankruptcy) the gross income of which for the taxable year is not less than the sum of the exemption amount plus the basic standard deduction under section 63(c)(2)(D).[1]

except that subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Secretary, nonresident alien individuals subject to the tax imposed by section 871 and foreign corporations subject to the tax imposed by section 881 may be exempted from the requirement of making returns under this section.

(b) Returns made by fiduciaries and receivers

(1) Returns of decedents

If an individual is deceased, the return of such individual required under subsection (a) shall be made by his executor, administrator, or other person charged with the property of such decedent.

(2) Persons under a disability

If an individual is unable to make a return required under subsection (a), the return of such individual shall be made by a duly authorized agent, his committee, guardian, fiduciary or other person charged with the care of the person or property of such individual. The preceding sentence shall not apply in the case of a receiver appointed by authority of law in possession of only a part of the property of an individual.

(3) Receivers, trustees and assignees for corporations

In a case where a receiver, trustee in a case under title 11 of the United States Code, or assignee, by order of a court of competent jurisdiction, by operation of law or otherwise, has possession of or holds title to all or substantially all the property or business of a corporation, whether or not such property or business is being operated, such receiver, trustee, or assignee shall make the return of income for such corporation in the same manner and form as corporations are required to make such returns.

(4) Returns of estates and trusts

Returns of an estate, a trust, or an estate of an individual under chapter 7 or 11 of title 11 of the United States Code shall be made by the fiduciary thereof.

(5) Joint fiduciaries

Under such regulations as the Secretary may prescribe, a return made by one of two or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this paragraph shall contain a statement that the fiduciary has sufficient knowledge of the affairs of the person for whom the return is made to enable him to make the return, and that the return is, to the best of his knowledge and belief, true and correct.

(6) IRA share of partnership income

In the case of a trust which is exempt from taxation under section 408(e), for purposes of this section, the trust's distributive share of items of gross income and gain of any partnership to which subchapter C or D of chapter 63 applies shall be treated as equal to the trust's distributive share of the taxable income of such partnership.

(c) Certain income earned abroad or from sale of residence

For purposes of this section, gross income shall be computed without regard to the exclusion provided for in section 121 (relating to gain from sale of principal residence) and without regard to the exclusion provided for in section 911 (relating to citizens or residents of the United States living abroad).

(d) Tax-exempt interest required to be shown on return

Every person required to file a return under this section for the taxable year shall include on such return the amount of interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1.

(e) Consolidated returns

For provisions relating to consolidated returns by affiliated corporations, see chapter 6.

[1] So in original.

(Aug. 16, 1954, ch. 736, 68A Stat. 732; Pub. L. 85–866, title I, § 72(a), Sept. 2, 1958, 72 Stat. 1660; Pub. L. 88–272, title II, § 206(b)(1), Feb. 26, 1964, 78 Stat. 40; Pub. L. 91–172, title IX, § 941(a), (d), Dec. 30, 1969, 83 Stat. 726; Pub. L. 92–178, title II, § 204(a), Dec. 10, 1971, 85 Stat. 511; Pub. L. 93–443, title IV, § 407, Oct. 15, 1974, 88 Stat. 1297; Pub. L. 93–625, § 10(b), Jan. 3, 1975, 88 Stat. 2119; Pub. L. 94–12, title II, § 201(b), Mar. 29, 1975, 89 Stat. 29; Pub. L. 94–164, § 2(a)(2), Dec. 23, 1975, 89 Stat. 970; Pub. L. 94–455, title IV, § 401(b)(3), title XIX, § 1906(b)(13)(A), title XXI, § 2101(c), Oct. 4, 1976, 90 Stat. 1556, 1834, 1899; Pub. L. 95–30, title I, § 104, May 23, 1977, 91 Stat. 139; Pub. L. 95–600, title I, §§ 101(c), 102(b)(1), 105(d), title IV, § 404(c)(8), Nov. 6, 1978, 92 Stat. 2770, 2771, 2776, 2870; Pub. L. 95–615, § 202(g)(5), formerly § 202(f)(5), Nov. 8, 1978, 92 Stat. 3100, renumbered § 202(g)(5), Pub. L. 96–222, title I, § 108(a)(1)(A), Apr. 1, 1980, 94 Stat. 223; Pub. L. 96–589, §§ 3(b), 6(i)(5), Dec. 24, 1980, 94 Stat. 3400, 3410; Pub. L. 97–34, title I, §§ 104(d)(1), 111(b)(3), Aug. 13, 1981, 95 Stat. 189, 194; Pub. L. 98–369, div. A, title IV, § 412(b)(3), July 18, 1984, 98 Stat. 792; Pub. L. 99–514, title I, § 104(a)(1), title XV, § 1525(a), Oct. 22, 1986, 100 Stat. 2103, 2749; Pub. L. 100–647, title I, § 1001(b)(2), Nov. 10, 1988, 102 Stat. 3349; Pub. L. 105–34, title III, § 312(d)(11), title XII, § 1225, Aug. 5, 1997, 111 Stat. 840, 1019; Pub. L. 106–230, § 3(a)(1), July 1, 2000, 114 Stat. 482.)

AMENDMENTS

2000—Subsec. (a)(6). Pub. L. 106–230 inserted ''or which has gross receipts of $25,000 or more for the taxable year (other than an organization to which section 527 applies solely by reason of subsection (f)(1) of such section)'' after ''taxable year''.

1997—Subsec. (b)(6). Pub. L. 105–34, § 1225, added par. (6).

Subsec. (c). Pub. L. 105–34, § 312(d)(11), substituted ''(relating to gain from sale of principal residence)'' for ''(relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55)''.

1988—Subsec. (a)(1)(C)(i). Pub. L. 100–647 amended subcl. (I) generally, substituting ''the sum of the amount in effect under section 63(c)(5)(A) plus the additional standard deduction (if any) to which the individual is entitled'' for ''the amount in effect under section 63(c)(5)(A) (relating to limitation on standard deduction in the case of certain dependents)''.

1986—Subsec. (a)(1). Pub. L. 99–514, § 104(a)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

''(1)(A) Every individual having for the taxable year a gross income of the exemption amount or more, except that a return shall not be required of an individual (other than an individual described in subparagraph (C))—

''(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than the sum of the exemption amount plus the zero bracket amount applicable to such an individual,

''(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than the sum of the exemption amount plus the zero bracket amount applicable to such an individual, or

''(iii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than the sum of twice the exemption amount plus the zero bracket amount applicable to a joint return, but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

''(B) The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by the exemption amount in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by the exemption amount for each additional personal exemption to which the individual or his spouse is entitled under section 151(c).

''(C) The exception under subparagraph (A) shall not apply to—

''(i) a nonresident alien individual;

''(ii) a citizen of the United States entitled to the benefits of section 931;

''(iii) an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in his annual accounting period;

''(iv) an individual who has income (other than earned income) of the exemption amount or more and who is described in section 63(e)(1)(D); or

''(v) an estate or trust.

''(D) For purposes of this paragraph—

''(i) The term 'zero bracket amount' has the meaning given to such term by section 63(d).

''(ii) The term 'exemption amount' has the meaning given to such term by section 151(f).''

Subsec. (a)(9). Pub. L. 99–514, § 104(a)(1)(B), substituted ''not less than the sum of the exemption amount plus the basic standard deduction under section 63(c)(2)(D)'' for ''$2,700 or more''.

Subsecs. (d), (e). Pub. L. 99–514, § 1525(a), added subsec. (d) and redesignated former subsec. (d) as (e).

1984—Subsec. (b)(2). Pub. L. 98–369 struck out ''or section 6015(a)'' after ''subsection (a)''.

1981—Subsec. (a)(1). Pub. L. 97–34, § 104(d)(1)(D), substituted ''the exemption amount'' for ''$1,000'', wherever appearing, substituted ''the sum of the exemption amount plus the zero bracket amount applicable to such an individual'' for ''$3,300'' in subpar. (A)(i) and for ''$4,400'' in subpar. (A)(ii), substituted ''the sum of twice the exemption amount plus the zero bracket amount applicable to a joint return'' for ''$5,400'' in subpar. (A)(iii), and added subpar. (D).

Subsec. (c). Pub. L. 97–34, § 111(b)(3), substituted ''relating to citizens or residents of the United States living abroad'' for ''relating to income earned by employees in certain camps''.

1980—Subsec. (a)(9). Pub. L. 96–589, § 3(b)(1), added par. (9).

Subsec. (b)(3). Pub. L. 96–589, § 6(i)(5), substituted ''trustee in a case under title 11 of the United States Code'' for ''trustee in bankruptcy''.

Subsec. (b)(4). Pub. L. 96–589, § 3(b)(2), inserted reference to estate of an individual under chapter 7 or 11 of title 11 of the United States Code.

1978—Subsec. (a)(1)(A). Pub. L. 95–600, §§ 101(c), 102(b)(1), substituted in provision preceding cl. (i), ''$1,000'' for ''$750'', in cl. (i), ''$3,050'' for ''$2,950'' and ''$3,300'' for ''$3,050'', in cl. (ii), ''$4,150'' for ''$3,950'' and ''$4,400'' for ''$4,150'', and in cl. (iii), ''$4,900'' for ''$4,700'' and ''$5,400'' for ''$4,900''.

Subsec. (a)(8). Pub. L. 95–600, § 105(d), added par. (8).

Subsec. (c). Pub. L. 95–615 substituted ''(relating to income earned by employees in certain camps)'' for ''(relating to earned income from sources without the United States)''.

Pub. L. 95–600, § 404(c)(8), inserted provisions relating to a one-time exclusion and principal residence, and substituted ''55'' for ''65''.

1977—Subsec. (a)(1)(A). Pub. L. 95–30 substituted ''(other than an individual described in subparagraph (C))'' for ''(other than an individual referred to in section 142(b))'' in provisions preceding cl. (i), ''$2,950'' for ''$2,450'' in cl. (i), ''$3,950'' for ''$2,850'' in cl. (ii), and ''$4,700'' for ''$3,600'' in cl. (iii).

Subsec. (a)(1)(B). Pub. L. 95–30 reenacted subpar. (B) without change.

Subsec. (a)(1)(C). Pub. L. 95–30 substituted provisions that the exception under subparagraph (A) shall not apply to a nonresident alien individual, a citizen of the United States entitled to the benefits of section 931, an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in his annual accounting period, an individual who has income (other than earned income) of $750 or more and who is described in section 63(e)(1)(D), or an estate or trust, for provisions requiring that a return with respect to income taxes under subtitle A be made by every individual having for the taxable year a gross income of $750 or more and to whom section 141(e) (relating to limitations in case of certain dependent taxpayers) applied.

1976—Subsec. (a). Pub. L. 94–455, § 1906(b)(13)(A), struck out in provisions following par. (7) ''or his delegate'' after ''Secretary''.

Subsec. (a)(1)(A), (B). Pub. L. 94–455, § 401(b)(3), reenacted subpars. (A) and (B) without change.

Subsec. (a)(7). Pub. L. 94–455, § 2101(c), added par. (7).

Subsec. (b)(5). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1975—Subsec. (a)(1)(A). Pub. L. 94–164 substituted ''$2,450'' for ''$2,350'' in cl. (i), ''$2,850'' for ''$2,650'' in cl. (ii), and ''$3,600'' for ''$3,400'' in cl. (iii).

Pub. L. 94–12 substituted ''(determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than $2,350'' for ''determined by applying section 143(a)) and for the taxable year has a gross income of less than $2,050, or'' in cl. (i), added cl. (ii), redesignated existing cl. (ii) as (iii), in cl. (iii) as so redesignated substituted ''$3,400'' for ''$2,800'', and in provisions following cl. (iii) substituted ''Clause (iii)'' for ''Clause (ii)''.

Subsec. (a)(1)(B). Pub. L. 94–12 substituted ''The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by $750'' for ''The $2,050 amount specified in subparagraph (A)(i) shall be increased to $2,800'' and ''the amount specified in clause (iii) of subparagraph (A) shall be increased by $750'' for ''the $2,800 amount specified in subparagraph (A)(ii) shall be increased by $750''.

Subsec. (a)(6). Pub. L. 93–625 added par. (6) and struck out provision that Secretary or his delegate shall, by regulation, exempt from requirement of making returns under this section any political committee (as defined in section 301(d) of Federal Election Campaign Act of 1971) having no gross income for taxable year.

1974—Subsec. (a). Pub. L. 93–443 provided for exemption from tax returns requirement of political committees having no gross income for taxable year.

1971—Subsec. (a)(1). Pub. L. 92–178 substituted ''$750'' for ''$600'' in subpars. (A) and (B); ''$2,050'' for ''1,700'' in subpars. (A)(i) and (B); and ''2,800'' for ''2,300'' in subpars. (A)(ii) and (B), twice; and added subpar. (C), respectively.

1969—Subsec. (a)(1). Pub. L. 91–172, § 941(a), (d), struck out after ''$600 or more'', ''(except that any individual who has attained the age of 65 before the close of his taxable year shall be required to make a return only if he has for the taxable year a gross income of $1,200 or more)'', designated remaining introductory text as subpar. (A), inserted remainder of subpars. (A) and (B), applicable to taxable years beginning after Dec. 31, 1969; and substituted ''$750'', ''$1,750'', and ''$2,500'' for ''$600'', ''$1,700'', and ''$2,300'' wherever appearing, effective with respect to taxable years beginning after Dec. 31, 1972.

1964—Subsec. (c). Pub. L. 88–272 inserted provisions relating to sale of residence.

1958—Subsecs. (c), (d). Pub. L. 85–866 added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–230, § 3(d), July 1, 2000, 114 Stat. 483, provided that: ''The amendments made by this section [amending this section and sections 6033, 6104, and 6652 of this title] shall apply to returns for taxable years beginning after June 30, 2000.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 312(d)(11) of Pub. L. 105–34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d)[(e)] of Pub. L. 105–34, set out as a note under section 121 of this title.

Amendment by section 1225 of Pub. L. 105–34 applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105–34, as amended, set out as a note under section 6011 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 OF 1986 AMENDMENT

Amendment by section 104(a)(1) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99–514, set out as a note under section 1 of this title.

Section 1525(b) of Pub. L. 99–514 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1986.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a) of Pub. L. 98–369, set out as a note under section 6654 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 104(d)(1) of Pub. L. 97–34 applicable to taxable years beginning after Dec. 31, 1984, see section 104(e) of Pub. L. 97–34, set out as a note under section 1 of this title.

Amendment by section 111(b)(3) of Pub. L. 97–34 applicable with respect to taxable years beginning after Dec. 31, 1981, see section 115 of Pub. L. 97–34, set out as a note under section 911 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 6(i)(5) of Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under title 11 commenced before Oct. 1, 1979, and amendment by section 3(b) of Pub. L. 96–589 applicable to bankruptcy cases commencing more than 90 days after Dec. 24, 1980, see section 7(b), (e) of Pub. L. 96–589, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 101(c) of Pub. L. 95–600 effective with respect to taxable years beginning after Dec. 31, 1978, see section 101(f)(1) of Pub. L. 95–600, set out as a note under section 1 of this title.

Amendment by section 102(b)(1) of Pub. L. 95–600 effective with respect to taxable years beginning after Dec. 31, 1978, see section 102(d)(1) of Pub. L. 95–600, set out as a note under section 151 of this title.

Amendment by section 105(d) of Pub. L. 95–600 effective with respect to taxable years beginning after Dec. 31, 1978, see section 105(g)(1) of Pub. L. 95–600, set out as a note under section 32 of this title.

Amendment by section 404(c)(8) of Pub. L. 95–600 applicable to sales or exchanges after July 26, 1978, in taxable years ending after such date, see section 404(d)(1) of Pub. L. 95–600, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION OF PRIOR LAW

Amendment by Pub. L. 95–615 applicable to taxable years beginning after Dec. 31, 1977, with provision for election of prior law, see section 209 of Pub. L. 95–615, set out as a note under section 911 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of

Pub. L. 95–30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 401(b)(3) of Pub. L. 94–455 applicable to taxable years ending after Dec. 31, 1975, see section 401(e) of Pub. L. 94–455, set out as a note under section 32 of this title.

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENTS

Amendment by Pub. L. 94–164 applicable to taxable years ending after Dec. 31, 1975 and before Jan. 1, 1977, see section 2(g) of Pub. L. 94–164, set out as a note under section 32 of this title.

Amendment by Pub. L. 94–12 applicable to taxable years ending after Dec. 31, 1974, and to cease to apply to taxable years ending after Dec. 31, 1976, see section 209(a) of Pub. L. 94–12, as amended, set out as a note under section 3 of this title.

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93–625 applicable to taxable years beginning after Dec. 31, 1974, see section 10(e) of Pub. L. 93–625, set out as an Effective Date note under section 527 of this title.

Amendment by Pub. L. 93–443 applicable with respect to taxable years beginning after Dec. 31, 1971, see section 410(c)(2) of Pub. L. 93–443, set out as a note under section 431 of Title 2, The Congress.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 204(a) of Pub. L. 92–178 provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1971.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 941(a) of Pub. L. 91–172 applicable to taxable years beginning after Dec. 31, 1969, see section 941(c) of Pub. L. 91–172, set out as a note under section 151 of this title.

Amendment by section 941(d) of Pub. L. 91–172, which substituted ''$750'', ''$1,750'', and ''$2,500'' for ''$600'', ''$1,700'' and ''$2,300'' wherever appearing, effective with respect to taxable years beginning after Dec. 31, 1972, was repealed by Pub. L. 92–178, title II, § 204(b), Dec. 10, 1971, 85 Stat. 511.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–272 applicable to dispositions after Dec. 31, 1963, in taxable years ending after such date, see section 206(c) of Pub. L. 88–272, set out as an Effective Date note under section 121 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 72(c) of Pub. L. 85–866 provided that: ''The amendments [amending this section and section 911 of this title] made by this section shall apply to taxable years beginning after December 31, 1957.''

RETURN-FREE TAX SYSTEM

Pub. L. 105–206, title II, § 2004, July 22, 1998, 112 Stat. 726, provided that:

''(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which appropriate individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

''(b) REPORT.—Not later than June 30 of each calendar year after 1999, the Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

''(1) what additional resources the Internal Revenue Service would need to implement such a system;

''(2) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system;

''(3) the procedures developed pursuant to subsection (a); and

''(4) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a).''

NO RETURN REQUIRED OF INDIVIDUAL WHOSE ONLY GROSS INCOME IS GRANT OF $1,000 FROM STATE

Pub. L. 97–424, title V, § 542, Jan. 6, 1983, 96 Stat. 2195, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) IN GENERAL.—Nothing in section 6012(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be construed to require the filing of a return with respect to income taxes under subtitle A of such code by an individual whose only gross income for the taxable year is a grant of $1,000 received from a State which made such grants generally to residents of such State.

''(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years beginning after December 31, 1981.''

EXEMPTION FROM FILING REQUIREMENT FOR PRIOR YEARS WHERE INCOME OF POLITICAL PARTY WAS $100 OR LESS

Section 10(f) of Pub. L. 93–625 provided for exemption from filing requirement for a taxable year beginning after Dec. 31, 1971, and before Jan. 1, 1975, of any section 527(e)(1) organization where income of political organization was $100 or less.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 106, 882, 911, 6014, 6032, 6033, 6034A, 6037, 6062, 6072, 6104, 6513, 6652 of this title; title 38 section 1503.

§ 6013. Joint returns of income tax by husband and wife

(a) Joint returns

A husband and wife may make a single return jointly of income taxes under subtitle A, even though one of the spouses has neither gross income nor deductions, except as provided below:

(1) no joint return shall be made if either the husband or wife at any time during the taxable year is a nonresident alien;

(2) no joint return shall be made if the husband and wife have different taxable years; except that if such taxable years begin on the same day and end on different days because of the death of either or both, then the joint return may be made with respect to the taxable year of each. The above exception shall not apply if the surviving spouse remarries before the close of his taxable year, nor if the taxable year of either spouse is a fractional part of a year under section 443(a)(1);

(3) in the case of death of one spouse or both spouses the joint return with respect to the decedent may be made only by his executor or administrator; except that in the case of the death of one spouse the joint return may be made by the surviving spouse with respect to both himself and the decedent if no return for the taxable year has been made by the decedent, no executor or administrator has been appointed, and no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse. If an executor or administrator of the decedent is appointed after the making of the joint return by the surviving spouse, the executor or administrator may disaffirm such joint return by making, within 1 year after the

last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his separate return.

(b) Joint return after filing separate return

(1) In general

Except as provided in paragraph (2), if an individual has filed a separate return for a taxable year for which a joint return could have been made by him and his spouse under subsection (a) and the time prescribed by law for filing the return for such taxable year has expired, such individual and his spouse may nevertheless make a joint return for such taxable year. A joint return filed by the husband and wife under this subsection shall constitute the return of the husband and wife for such taxable year, and all payments, credits, refunds, or other repayments made or allowed with respect to the separate return of either spouse for such taxable year shall be taken into account in determining the extent to which the tax based upon the joint return has been paid. If a joint return is made under this subsection, any election (other than the election to file a separate return) made by either spouse in his separate return for such taxable year with respect to the treatment of any income, deduction, or credit of such spouse shall not be changed in the making of the joint return where such election would have been irrevocable if the joint return had not been made. If a joint return is made under this subsection after the death of either spouse, such return with respect to the decedent can be made only by his executor or administrator.

(2) Limitations for making of election

The election provided for in paragraph (1) may not be made—

(A) after the expiration of 3 years from the last date prescribed by law for filing the return for such taxable year (determined without regard to any extension of time granted to either spouse); or

(B) after there has been mailed to either spouse, with respect to such taxable year, a notice of deficiency under section 6212, if the spouse, as to such notice, files a petition with the Tax Court within the time prescribed in section 6213; or

(C) after either spouse has commenced a suit in any court for the recovery of any part of the tax for such taxable year; or

(D) after either spouse has entered into a closing agreement under section 7121 with respect to such taxable year, or after any civil or criminal case arising against either spouse with respect to such taxable year has been compromised under section 7122.

(3) When return deemed filed

(A) Assessment and collection

For purposes of section 6501 (relating to periods of limitations on assessment and collection), and for purposes of section 6651 (relating to delinquent returns), a joint return made under this subsection shall be deemed to have been filed—

(i) Where both spouses filed separate returns prior to making the joint return—on the date the last separate return was filed (but not earlier than the last date prescribed by law for filing the return of either spouse);

(ii) Where only one spouse filed a separate return prior to the making of the joint return, and the other spouse had less than the exemption amount of gross income for such taxable year—on the date of the filing of such separate return (but not earlier than the last date prescribed by law for the filing of such separate return); or

(iii) Where only one spouse filed a separate return prior to the making of the joint return, and the other spouse had gross income of the exemption amount or more for such taxable year—on the date of the filing of such joint return.

For purposes of this subparagraph, the term ''exemption amount'' has the meaning given to such term by section 151(d). For purposes of clauses (ii) and (iii), if the spouse whose gross income is being compared to the exemption amount is 65 or over, such clauses shall be applied by substituting ''the sum of the exemption amount and the additional standard deduction under section 63(c)(2) by reason of section 63(f)(1)(A)'' for ''the exemption amount''.

(B) Credit or refund

For purposes of section 6511, a joint return made under this subsection shall be deemed to have been filed on the last date prescribed by law for filing the return for such taxable year (determined without regard to any extension of time granted to either spouse).

(4) Additional time for assessment

If a joint return is made under this subsection, the periods of limitations provided in sections 6501 and 6502 on the making of assessments and the beginning of levy or a proceeding in court for collection shall with respect to such return include one year immediately after the date of the filing of such joint return (computed without regard to the provisions of paragraph (3)).

(5) Additions to the tax and penalties

(A) Coordination with part II of subchapter A of chapter 68

For purposes of part II of subchapter A of chapter 68, where the sum of the amounts shown as tax on the separate returns of each spouse is less than the amount shown as tax on the joint return made under this subsection—

(i) such sum shall be treated as the amount shown on the joint return,

(ii) any negligence (or disregard of rules or regulations) on either separate return shall be treated as negligence (or such disregard) on the joint return, and

(iii) any fraud on either separate return shall be treated as fraud on the joint return.

(B) Criminal penalty

For purposes of section 7206(1) and (2) and section 7207 (relating to criminal penalties

in the case of fraudulent returns) the term ''return'' includes a separate return filed by a spouse with respect to a taxable year for which a joint return is made under this subsection after the filing of such separate return.

(c) Treatment of joint return after death of either spouse

For purposes of sections 15, 443, and 7851(a)(1)(A), where the husband and wife have different taxable years because of the death of either spouse, the joint return shall be treated as if the taxable years of both spouses ended on the date of the closing of the surviving spouse's taxable year.

(d) Special rules

For purposes of this section—

(1) the status as husband and wife of two individuals having taxable years beginning on the same day shall be determined—

(A) if both have the same taxable year—as of the close of such year; or

(B) if one dies before the close of the taxable year of the other—as of the time of such death;

(2) an individual who is legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married; and

(3) if a joint return is made, the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several.

[(e) Repealed. Pub. L. 105–206, title III, § 3201(e)(1), July 22, 1998, 112 Stat. 740]

(f) Joint return where individual is in missing status

For purposes of this section and subtitle A—

(1) Election by spouse

If—

(A) an individual is in a missing status (within the meaning of paragraph (3)) as a result of service in a combat zone (as determined for purposes of section 112), and

(B) the spouse of such individual is otherwise entitled to file a joint return for any taxable year which begins on or before the day which is 2 years after the date designated under section 112 as the date of termination of combatant activities in such zone,

then such spouse may elect under subsection (a) to file a joint return for such taxable year. With respect to service in the combat zone designated for purposes of the Vietnam conflict, such election may be made for any taxable year while an individual is in missing status.

(2) Effect of election

If the spouse of an individual described in paragraph (1)(A) elects to file a joint return under subsection (a) for a taxable year, then, until such election is revoked—

(A) such election shall be valid even if such individual died before the beginning of such year, and

(B) except for purposes of section 692 (relating to income taxes of members of the Armed Forces on death), the income tax liability of such individual, his spouse, and his estate shall be determined as if he were alive throughout the taxable year.

(3) Missing status

For purposes of this subsection—

(A) Uniformed services

A member of a uniformed service (within the meaning of section 101(3) of title 37 of the United States Code) is in a missing status for any period for which he is entitled to pay and allowances under section 552 of such title 37.

(B) Civilian employees

An employee (within the meaning of section 5561(2) of title 5 of the United States Code) is in a missing status for any period for which he is entitled to pay and allowances under section 5562 of such title 5.

(4) Making of election; revocation

An election described in this subsection with respect to any taxable year may be made by filing a joint return in accordance with subsection (a) and under such regulations as may be prescribed by the Secretary. Such an election may be revoked by either spouse on or before the due date (including extensions) for such taxable year, and, in the case of an executor or administrator, may be revoked by disaffirming as provided in the last sentence of subsection (a)(3).

(g) Election to treat nonresident alien individual as resident of the United States

(1) In general

A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States—

(A) for purposes of chapter 1 for all of such taxable year, and

(B) for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year.

(2) Individuals with respect to whom this subsection is in effect

This subsection shall be in effect with respect to any individual who, at the close of the taxable year for which an election under this subsection was made, was a nonresident alien individual married to a citizen or resident of the United States, if both of them made such election to have the benefits of this subsection apply to them.

(3) Duration of election

An election under this subsection shall apply to the taxable year for which made and to all subsequent taxable years until terminated under paragraph (4) or (5); except that any such election shall not apply for any taxable year if neither spouse is a citizen or resident of the United States at any time during such year.

(4) Termination of election

An election under this subsection shall terminate at the earliest of the following times:

(A) Revocation by taxpayers

If either taxpayer revokes the election, as of the first taxable year for which the last day prescribed by law for filing the return of tax under chapter 1 has not yet occurred.

(B) Death

In the case of the death of either spouse, as of the beginning of the first taxable year of the spouse who survives following the taxable year in which such death occurred; except that if the spouse who survives is a citizen or resident of the United States who is a surviving spouse entitled to the benefits of section 2, the time provided by this subparagraph shall be as of the close of the last taxable year for which such individual is entitled to the benefits of section 2.

(C) Legal separation

In the case of the legal separation of the couple under a decree of divorce or of separate maintenance, as of the beginning of the taxable year in which such legal separation occurs.

(D) Termination by Secretary

At the time provided in paragraph (5).

(5) Termination by Secretary

The Secretary may terminate any election under this subsection for any taxable year if he determines that either spouse has failed—

(A) to keep such books and records,

(B) to grant such access to such books and records, or

(C) to supply such other information,

as may be reasonably necessary to ascertain the amount of liability for taxes under chapter 1 of either spouse for such taxable year.

(6) Only one election

If any election under this subsection for any two individuals is terminated under paragraph (4) or (5) for any taxable year, such two individuals shall be ineligible to make an election under this subsection for any subsequent taxable year.

(h) Joint return, etc., for year in which nonresident alien becomes resident of United States

(1) In general

If—

(A) any individual is a nonresident alien individual at the beginning of any taxable year but is a resident of the United States at the close of such taxable year,

(B) at the close of such taxable year, such individual is married to a citizen or resident of the United States, and

(C) both individuals elect the benefits of this subsection at the time and in the manner prescribed by the Secretary by regulation,

then the individual referred to in subparagraph (A) shall be treated as a resident of the United States for purposes of chapter 1 for all of such taxable year, and for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year.

(2) Only one election

If any election under this subsection applies for any 2 individuals for any taxable year, such 2 individuals shall be ineligible to make an election under this subsection for any subsequent taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 733; Pub. L. 85–866, title I, § 73, Sept. 2, 1958, 72 Stat. 1660; Pub. L. 91–172, title VIII, § 801(a)(2), (b)(2), (c)(2), (d)(2), Dec. 30, 1969, 83 Stat. 675, 676; Pub. L. 91–679, § 1, Jan. 12, 1971, 84 Stat. 2063; Pub. L. 92–178, title II, § 201(a)(2), (b)(2), (c), Dec. 10, 1971, 85 Stat. 510, 511; Pub. L. 93–597, § 3(a), Jan. 2, 1975, 88 Stat. 1950; Pub. L. 94–455, title X, § 1012(a)(1), title XIX, § 1906(a)(1), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1612, 1824, 1834; Pub. L. 94–569, § 3(d), Oct. 20, 1976, 90 Stat. 2699; Pub. L. 95–600, title I, § 102(b)(2), title VII, § 701(u)(15)(A)–(C), (16)(A), Nov. 6, 1978, 92 Stat. 2771, 2919, 2920; Pub. L. 97–34, title I, § 104(d)(2), Aug. 13, 1981, 95 Stat. 189; Pub. L. 97–248, title III, §§ 307(a)(4), (5), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 97–448, title III, § 307(c), Jan. 12, 1983, 96 Stat. 2407; Pub. L. 98–67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 98–369, div. A, title IV, §§ 424(a), 474(b)(2), July 18, 1984, 98 Stat. 801, 830; Pub. L. 99–514, title I, § 104(a)(2), title XVII, § 1708(a)(3), Oct. 22, 1986, 100 Stat. 2104, 2782; Pub. L. 100–647, title I, § 1015(b)(1), Nov. 10, 1988, 102 Stat. 3568; Pub. L. 101–239, title VII, § 7721(c)(6), Dec. 19, 1989, 103 Stat. 2399; Pub. L. 101–508, title XI, § 11704(a)(22), Nov. 5, 1990, 104 Stat. 1388–519; Pub. L. 104–168, title IV, § 402(a), July 30, 1996, 110 Stat. 1459; Pub. L. 105–206, title III, § 3201(e)(1), title VI, § 6011(e)(2), July 22, 1998, 112 Stat. 740, 818.)

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–206, § 3201(e)(1), struck out subsec. (e), which had: in par. (1), declared that spouse was relieved of liability for tax where joint return had been made, there was substantial understatement of tax attributable to grossly erroneous items of one spouse, other spouse established that he or she did not know that there was such substantial understatement, and it would be inequitable to hold other spouse liable; in pars. (2) and (3), defined terms ''grossly erroneous items'' and ''substantial understatement'', respectively; in par. (4), directed that understatement had to exceed specified percentage of spouse's income; and in par. (5) declared that determination of spouse, to whom items of gross income were attributable would be made without regard to community property laws.

Subsecs. (g)(1)(A), (5), (h)(1). Pub. L. 105–206, § 6011(e)(2), substituted ''chapter 1'' for ''chapters 1 and 5''.

1996—Subsec. (b)(2). Pub. L. 104–168 redesignated subpars. (B) to (E) as (A) to (D), respectively, and struck out former subpar. (A) which read as follows: ''unless there is paid in full at or before the time of the filing of the joint return the amount shown as tax upon such joint return; or''.

1990—Subsec. (e)(3). Pub. L. 101–508 substituted ''section 6662(d)(2)(A)'' for ''section 6661(b)(2)(A)''.

1989—Subsec. (b)(5)(A). Pub. L. 101–239 substituted ''part II of subchapter A of chapter 68'' for ''section 6653'' in heading and in text.

1988—Subsec. (b)(5)(A). Pub. L. 100–647 amended subpar. (A) generally. Prior to amendment, subpar. (A) related to additions to tax when amount shown as tax by husband and wife on joint return exceeds aggregate of amounts shown as tax on separate return of each spouse.

1986—Subsec. (b)(3)(A). Pub. L. 99–514, § 104(a)(2), struck out ''(twice the exemption amount in case such

spouse was 65 or over)'' before ''for such taxable year'' in cls. (ii) and (iii), substituted ''section 151(d)'' for ''section 151(f)'' in concluding provisions, and inserted last sentence.

Subsec. (f)(1). Pub. L. 99–514, §1708(a)(3), substituted ''such election may be made for any taxable year while an individual is in missing status'' for ''no such election may be made for any taxable year beginning after December 31, 1982''.

1984—Subsec. (c). Pub. L. 98–369, §474(b)(2), substituted ''15'' for ''21''.

Subsec. (e). Pub. L. 98–369, §424(a), in amending subsec. (e) generally, reenacted as par. (1)(A) part of former par. (1)(A); incorporated in par. (1)(B) part of former par. (1)(A), substituting ''there is a substantial understatement of tax attributable to grossly erroneous items of one spouse'' for ''there was omitted from gross income an amount properly includable therein which is attributable to one spouse and which is in excess of 25 percent of the amount of gross income stated in the return''; redesignated as par. (1)(C) former par. (1)(B), substituting ''had no reason to know, that there was such substantial understatement'' for ''had no reason to know of, such omission''; reenacted as par. (1)(D) former par. (1)(C), substituting preceding '', it is inequitable'' the words ''all the facts and circumstances'' for ''whether or not the other spouse significantly benefited directly or indirectly from the items omitted from gross income and taking into account all other facts and circumstances'' and ''attributable to such substantial understatement'' for ''attributable to such omission''; substituted in conclusional text ''attributable to such substantial understatement'' for ''attributable to such omission from gross income''; added pars. (2) to (4); and incorporated in provisions designated par. (5) similar provisions of former par. (2)(A), substituting as par. heading ''Special rule for community property income'' for ''Special rules'' and deleting former par. (2)(B) respecting determination as provided in section 6501(e)(1)(A) of amount omitted from gross income.

1983—Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

Subsec. (f)(1). Pub. L. 97–448 substituted ''December 31, 1982'' for ''January 2, 1978''.

1982—Subsecs. (g)(1)(B). (h)(1). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (g)(1)(B) is amended by substituting ''(relating to withholding on wages, interest, dividends, and patronage dividends)'' for ''(relating to wage withholding)'' and by striking out ''of wages'', and subsec. (h)(1) is amended by substituting ''(relating to withholding on wages, interest, dividends, and patronage dividends)'' for ''(relating to wage withholding)'' and by striking out ''of wages''. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1981—Subsec. (b)(3)(A). Pub. L. 97–34 substituted ''the exemption amount'' for ''$1,000'' and ''twice the exemption amount'' for ''$2,000'' in cls. (ii) and (iii) and inserted provision following cl. (iii) defining ''exemption amount''.

1978—Subsec. (b)(3)(A). Pub. L. 95–600, §102(b)(2), increased the exemptions wherever appearing from $750 and $1500 to $1,000 and $2,000, respectively, with respect to taxable years beginning after Dec. 31, 1978.

Subsec. (g)(1). Pub. L. 95–600, §701(u)(15)(A), amended par. (1) generally, designating existing provisions as introductory material and par. (A), and in such par. (A) inserting reference to chapter 5, and adding par. (2).

Subsec. (g)(2). Pub. L. 95–600, §701(u)(16)(A), substituted ''who, at the close of the taxable year for which an election under this subsection was made,'' for ''who, at the time an election was made under this subsection,''.

Subsec. (g)(5). Pub. L. 95–600, §701(u)(15)(B), substituted ''chapters 1 and 5'' for ''chapter 1''.

Subsec. (h)(1). Pub. L. 95–600, §701(u)(15)(C), substituted ''chapters 1 and 5'' for ''chapter 1'' and inserted provision relating to chapter 24 of this title.

1976—Subsec. (b)(2)(C). Pub. L. 94–455, §1906(a)(1)(A), struck out ''of the United States'' after ''Tax Court''.

Subsec. (d). Pub. L. 94–455, §1906(a)(1)(B), (C), substituted in heading ''Special rules'' for ''Definitions'', in par. (1)(A) ''of such year; or'' for ''of such year; and'', and in par. (1)(B) ''of such death;'' for ''of such death; and''.

Subsec. (e)(1). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (f)(1). Pub. L. 94–569 substituted ''after January 2, 1978'' for ''more than 2 years after the date of the enactment of this sentence'' after ''With respect to service in the combat zone designated for purposes of the Vietnam conflict, no such election may be made for any taxable year beginning''.

Subsec. (f)(4). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsecs. (g), (h). Pub. L. 94–455, §1012(a)(1), added subsecs. (g) and (h).

1975—Subsec. (f). Pub. L. 93–597 added subsec. (f).

1971—Subsec. (b)(3)(A). Pub. L. 92–178 increased the exemptions wherever appearing from $650 and $1,300 to $675 and $1,350, respectively, with respect to taxable years beginning after Dec. 1970, and before Jan. 1, 1972, and to $750 and $1,500, respectively, with respect to taxable years beginning after Dec. 31, 1971.

Subsec. (e). Pub. L. 91–679 added subsec. (e).

1969—Subsec. (b)(3)(A). Pub. L. 91–172, §801(a)(2), (b)(2), (c)(2), (d)(2), increased the exemptions wherever appearing from $600 and $1,200 to $625 and $1,250, respectively with respect to taxable years ending Dec. 31, 1970, and to $650 and $1,300, respectively, with respect to taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972, to $700 and $1,400, respectively, with respect to taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973, and to $750 and $1,500, respectively, with respect to taxable years beginning after Dec. 31, 1972.

1958—Subsec. (b)(2)(C). Pub. L. 85–866 substituted ''section 6213'' for ''such section''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 3201 of Pub. L. 105–206 applicable to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date, see section 3201(g)(1) of Pub. L. 105–206, set out as a note under section 6015 of this title.

Amendment by section 6011(e)(2) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates (see section 1131 of Pub. L. 105–34), see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 402(b) of Pub. L. 104–168 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as a note under section 461 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(b)(4) of Pub. L. 100–647 provided that: ''The amendments made by this subsection (other than paragraph (3)) [amending this section and sections 6601 and 6653 of this title] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1988.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 104(a)(2) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99–514, set out as a note under section 1 of this title.

Amendment by section 1708(a)(3) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1982, see section 1708(b) of Pub. L. 99–514, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 424(c) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–647, title VI, § 6004, Nov. 10, 1988, 102 Stat. 3685, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) [amending this section and section 66 of this title] shall apply to all taxable years to which the Internal Revenue Code of 1986 [formerly I.R.C. 1954] applies. Corresponding provisions shall be deemed to be included in the Internal Revenue Code of 1939 and shall apply to all taxable years to which such Code applies.

''(2) AUTHORITY TO DISREGARD COMMUNITY PROPERTY LAWS.—Subsection (b) of section 66 of the Internal Revenue Code of 1986, as added by subsection (b), shall apply to taxable years beginning after December 31, 1984.

''(3) TRANSITIONAL RULE.—If—

''(A) a joint return under section 6013 of the Internal Revenue Code of 1954 was filed before January 1, 1985,

''(B) on such return there is an understatement (as defined in section 6661(b)(2)(A) of such Code) which is attributable to disallowed deductions attributable to activities of one spouse,

''(C) the amount of such disallowed deductions exceeds the taxable income shown on such return,

''(D) without regard to any determination before October 21, 1988, the other spouse establishes that in signing the return he or she did not know, and had no reason to know, that there was such an understatement, and

''(E) the marriage between such spouses terminated and immediately after such termination the net worth of the other spouse was less than $10,000,

notwithstanding any law or rule of law (including res judicata), the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such understatement, and, to the extent the liability so attributable has been collected from such other spouse, it shall be refunded or credited to such other spouse. No credit or refund shall be made under the preceding sentence unless claim therefor has been submitted to the Secretary of the Treasury or his delegate before the date 1 year after the date of the enactment of this paragraph [Nov. 10, 1988], and no interest on such credit or refund shall be allowed for any period before such date of enactment.''

Amendment by section 474(b)(2) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to taxable years beginning after Dec. 31, 1984, see section 104(e) of Pub. L. 97–34, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 102(b)(2) of Pub. L. 95–600 effective with respect to taxable years beginning after Dec. 31, 1978, see section 102(d)(1) of Pub. L. 95–600, set out as a note under section 151 of this title.

Section 701(u)(15)(E) of Pub. L. 95–600, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this paragraph [amending this section and section 6401 of this title]—

''(i) to the extent that they relate to chapter 1 or 5 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, sections 1 et seq. and 1491 et seq. of this title, respectively], shall apply to taxable years ending on or after December 31, 1975, and

''(ii) to the extent that they relate to wage withholding under chapter 24 of such Code [section 3401 et seq. of this title], shall apply to remuneration paid on or after the first day of the first month which begins more than 90 days after the date of the enactment of this Act [Nov. 6, 1978].''

Section 701(u)(16)(B) of Pub. L. 95–600 provided that: ''The amendment made by subparagraph (A) [amending this section] shall apply to taxable years beginning after December 31, 1975.''

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1012(d) of Pub. L. 94–455 provided that: ''The amendments made by subsection (a) [enacting this section and section 871 of this title] shall apply to taxable years ending on or after December 31, 1975. The amendments made by subsections (b) and (c) [enacting section 879 of this title, amending section 6073 of this title, and repealing section 981 of this title] shall apply to taxable years beginning after December 31, 1976.''

Section 1906(d) of Pub. L. 94–455, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) GENERAL RULE.—Except as otherwise expressly provided in this section, the amendments made by this section [see Tables for classification] shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act [Oct. 4, 1976].

''(2) AMENDMENTS RELATING TO INCOME TAX.—The amendments made by this section, when relating to a tax imposed by chapter 1 or chapter 2 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], shall take effect with respect to taxable years beginning after December 31, 1976.''

Section 2114(b) of Pub. L. 94–455 provided that: ''The application permitted under the amendment made by subsection (a) of this section [amending section 3 of Pub. L. 91–679, set out as an Effective Date of 1971 Amendment note below] must be filed with the Secretary of the Treasury during the first calendar year beginning after the date of the enactment of this Act [Oct. 4, 1976].''

EFFECTIVE DATE OF 1975 AMENDMENT

Section 3(c) of Pub. L. 93–597 provided that: ''The amendments made by this section [amending this section and section 2 of this title] shall apply to taxable years ending on or after February 28, 1961.''

EFFECTIVE DATE OF 1971 AMENDMENTS

Section 201(a), (b) of Pub. L. 92–178 provided in part that the increases in exemptions from $650 to $675 and from $1,300 to $1,350, respectively, were effective with respect to taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972, and to $750 and $1,500, respectively, with respect to taxable years beginning after Dec. 31, 1971.

Section 3 of Pub. L. 91–679, as amended by section 2114(a) of Pub. L. 94–455; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by the first two sections of this Act [amending this section and section 6653 of this title] shall apply to all taxable years to which the Internal Revenue Code of 1986 [formerly I.R.C. 1954] applies. Corresponding provisions shall be deemed to be included in the Internal Revenue Code of 1939 and shall apply to all taxable years to which such Code applies. Upon application by a taxpayer, the Secretary of the Treasury shall redetermine the liability for tax (including interest, penalties, and other amounts) of such taxpayer for taxable years beginning after December 31, 1961, and ending before January 13, 1971. The preceding sentence shall apply solely

to a taxpayer to whom the application of the provisions of section 6013(e) of the Internal Revenue Code of 1986, as added by this Act, for such taxable years is prevented by the operation of res judicata, and such redetermination shall be made without regard to such rule of law. Any overpayment of tax by such taxpayer for such taxable years resulting from the redetermination made under this Act shall be refunded to such taxpayer.''

EFFECTIVE DATE OF 1969 AMENDMENT

Section 801(a)(2), (b)(2) of Pub. L. 91–172 provided in part that the increases in exemptions from $600 and $1,200 to $625 and $1,250, respectively, were effective with respect to taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1971; and to $650 and $1,300, respectively, with respect to taxable years beginning after Dec. 31, 1970, and before Jan. 1, 1972. Section 801(c)(2), (d)(2) of Pub. L. 91–172, which provided for increases in exemptions to $700 and $1,400, respectively, with respect to taxable years beginning after Dec. 31, 1971, and before Jan. 1, 1973, and to $750 and $1,500, respectively, with respect to taxable years beginning after Dec. 31, 1972, was repealed by Pub. L. 92–178, title II, § 201(c), Dec. 10, 1971, 85 Stat. 511.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

SEPARATE NOTICE TO EACH FILER

Pub. L. 105–206, title III, § 3201(d), July 22, 1998, 112 Stat. 740, provided that: ''The Secretary of the Treasury shall, wherever practicable, send any notice relating to a joint return under section 6013 of the Internal Revenue Code of 1986 separately to each individual filing the joint return.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 2, 25A, 32, 62, 66, 151, 213, 692, 879, 1244, 6015, 6017, 6072, 6230, 6401, 6501, 6511, 7508, 7701 of this title.

§ 6014. Income tax return—tax not computed by taxpayer

(a) Election by taxpayer

An individual who does not itemize his deductions and who is not described in section 6012(a)(1)(C)(i), whose gross income is less than $10,000 and includes no income other than remuneration for services performed by him as an employee, dividends or interest, and whose gross income other than wages, as defined in section 3401(a), does not exceed $100, shall at his election not be required to show on the return the tax imposed by section 1. Such election shall be made by using the form prescribed for purposes of this section. In such case the tax shall be computed by the Secretary who shall mail to the taxpayer a notice stating the amount determined as payable.

(b) Regulations

The Secretary shall prescribe regulations for carrying out this section, and such regulations may provide for the application of the rules of this section—

(1) to cases where the gross income includes items other than those enumerated by subsection (a),

(2) to cases where the gross income from sources other than wages on which the tax has been withheld at the source is more than $100,

(3) to cases where the gross income is $10,000 or more, or

(4) to cases where the taxpayer itemizes his deductions or where the taxpayer claims a reduced standard deduction by reason of section 63(c)(5).

Such regulations shall provide for the application of this section in the case of husband and wife, including provisions determining when a joint return under this section may be permitted or required, whether the liability shall be joint and several, and whether one spouse may make return under this section and the other without regard to this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 736; Pub. L. 88–272, title II, § 201(d)(14), title III, § 301(b)(2), Feb. 26, 1964, 78 Stat. 32, 140; Pub. L. 91–172, title VIII, § 803(d)(1), title IX, § 942(a), Dec. 30, 1969, 83 Stat. 684, 726; Pub. L. 94–455, title V, §§ 501(b)(8), (9), 503(b)(2), (3), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1559, 1562, 1834; Pub. L. 95–30, title I, § 101(d)(13), (14), May 23, 1977, 91 Stat. 134; Pub. L. 99–514, title I, § 104(b)(16), Oct. 22, 1986, 100 Stat. 2106.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–514, § 104(b)(16)(A), substituted ''who is not described in section 6012(a)(1)(C)(i)'' for ''who does not have an unused zero bracket amount (determined under section 63(e))''.

Subsec. (b)(4). Pub. L. 99–514, § 104(b)(16)(B), amended par. (4) generally, substituting ''where the taxpayer claims a reduced standard deduction by reason of section 63(c)(5)'' for ''has an unused zero bracket amount''.

1977—Subsec. (a). Pub. L. 95–30, § 101(d)(13), substituted ''An individual who does not itemize his deductions and who does not have an unused zero bracket amount (determined under section 63(e)), whose gross income'' for ''An individual entitled to take the standard deduction provided by section 141 (other than an individual described in section 141(e)) whose gross income'' and struck out ''and shall constitute an election to take the standard deduction'' after ''Such election shall be made by using the form prescribed for purposes of this section''.

Subsec. (b)(4). Pub. L. 95–30, § 101(d)(14), substituted ''itemizes his deductions or has an unused zero bracket amount'' for ''does not elect the standard deduction or where the taxpayer elects the standard deduction but is subject to the provision of section 141(e) (relating to limitations in case of certain dependent taxpayers)''.

1976—Subsec. (a). Pub. L. 94–455, §§ 501(b)(8), 503(b)(2), 1906(b)(13(A), substituted ''entitled to take the standard deduction provided by section 141 (other than an individual described in section 141(e))'' for ''entitled to elect to pay the tax imposed by section 3'' and ''take the standard deduction'' for ''pay the tax imposed by section 3'' and struck out provision relating to disallowance of section 37 credit in determination of tax imposed by section 3 of this title, and struck out ''or his delegate'' after ''Secretary''.

Subsec. (b). Pub. L. 94–455, §§ 501(b)(9), 503(b)(3), 1906(b)(13)(A), struck out an introductory provision, ''or his delegate'' after ''Secretary'', redesignated former par. (5) as (4), and as so redesignated, inserted reference to where the taxpayer elects the standard deduction but is subject to the provisions of section 141(e) (relating to limitations in case of certain dependent taxpayers). Former par. (4), which related to cases where the taxpayer is entitled to credit provided by section 37 of this title, was struck out.

1969—Subsec. (a). Pub. L. 91–172, § 803(d)(1), raised the individual gross income limit of $5,000 to $10,000 for exercising the option to pay the tax under section 3 of this title, and struck out provisions relating to heads of household, surviving spouses and married individuals filing separate returns.

Subsec. (b). Pub. L. 91–172, § 942(a), substituted provisions authorizing the Secretary to promulgate regula-

tions to compute the tax in cases where the gross income is $10,000 or more, where the gross income from sources other than wages on which the tax has been withheld at the source is more than $100, where the taxpayer is entitled to a credit under section 37 of this title, or where the taxpayer does not elect the standard deduction, for provisions authorizing the computation of the tax in cases where the gross income is $5,000 but not more than $5,200, or where the gross income from sources other than wages on which the tax has been withheld at the source is more than $100, but not more than $200.

1964—Subsec. (a). Pub. L. 88–272 struck out ''34 or'' before ''37 shall not be allowed'', and inserted provision that in case of a married individual filing a separate return and electing benefits of this subsection, neither Table V in section 3(a) nor Table V in section 3(b) shall apply.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99–514, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95–30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 803(d)(1) of Pub. L. 91–172 applicable to taxable years beginning after Dec. 31, 1969, see section 803(f) of Pub. L. 91–172, set out as a note under section 1 of this title.

Section 942(b) of Pub. L. 91–172 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1969.''

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by section 201(d)(14) of Pub. L. 88–272 applicable with respect to dividends received after Dec. 31, 1964, in taxable years ending after such date, see section 201(e) of Pub. L. 88–272, set out as a note under section 22 of this title.

Amendment by section 301(b)(2) of Pub. L. 88–272 applicable to taxable years beginning after Dec. 31, 1963, except for purpose of section 21, see section 301(c) of Pub. L. 88–272, set out as a note under section 3 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3, 6151, 6211 of this title.

§ 6015. Relief from joint and several liability on joint return

(a) In general

Notwithstanding section 6013(d)(3)—

(1) an individual who has made a joint return may elect to seek relief under the procedures prescribed under subsection (b); and

(2) if such individual is eligible to elect the application of subsection (c), such individual may, in addition to any election under paragraph (1), elect to limit such individual's liability for any deficiency with respect to such joint return in the manner prescribed under subsection (c).

Any determination under this section shall be made without regard to community property laws.

(b) Procedures for relief from liability applicable to all joint filers

(1) In general

Under procedures prescribed by the Secretary, if—

(A) a joint return has been made for a taxable year;

(B) on such return there is an understatement of tax attributable to erroneous items of one individual filing the joint return;

(C) the other individual filing the joint return establishes that in signing the return he or she did not know, and had no reason to know, that there was such understatement;

(D) taking into account all the facts and circumstances, it is inequitable to hold the other individual liable for the deficiency in tax for such taxable year attributable to such understatement; and

(E) the other individual elects (in such form as the Secretary may prescribe) the benefits of this subsection not later than the date which is 2 years after the date the Secretary has begun collection activities with respect to the individual making the election,

then the other individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such understatement.

(2) Apportionment of relief

If an individual who, but for paragraph (1)(C), would be relieved of liability under paragraph (1), establishes that in signing the return such individual did not know, and had no reason to know, the extent of such understatement, then such individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent that such liability is attributable to the portion of such understatement of which such individual did not know and had no reason to know.

(3) Understatement

For purposes of this subsection, the term ''understatement'' has the meaning given to such term by section 6662(d)(2)(A).

(c) Procedures to limit liability for taxpayers no longer married or taxpayers legally separated or not living together

(1) In general

Except as provided in this subsection, if an individual who has made a joint return for any taxable year elects the application of this subsection, the individual's liability for any deficiency which is assessed with respect to the return shall not exceed the portion of such deficiency properly allocable to the individual under subsection (d).

(2) Burden of proof

Except as provided in subparagraph (A)(ii) or (C) of paragraph (3), each individual who elects the application of this subsection shall have the burden of proof with respect to establishing the portion of any deficiency allocable to such individual.

(3) Election

(A) Individuals eligible to make election

(i) In general

An individual shall only be eligible to elect the application of this subsection if—

(I) at the time such election is filed, such individual is no longer married to, or is legally separated from, the individual with whom such individual filed the joint return to which the election relates; or

(II) such individual was not a member of the same household as the individual with whom such joint return was filed at any time during the 12-month period ending on the date such election is filed.

(ii) Certain taxpayers ineligible to elect

If the Secretary demonstrates that assets were transferred between individuals filing a joint return as part of a fraudulent scheme by such individuals, an election under this subsection by either individual shall be invalid (and section 6013(d)(3) shall apply to the joint return).

(B) Time for election

An election under this subsection for any taxable year may be made at any time after a deficiency for such year is asserted but not later than 2 years after the date on which the Secretary has begun collection activities with respect to the individual making the election.

(C) Election not valid with respect to certain deficiencies

If the Secretary demonstrates that an individual making an election under this subsection had actual knowledge, at the time such individual signed the return, of any item giving rise to a deficiency (or portion thereof) which is not allocable to such individual under subsection (d), such election shall not apply to such deficiency (or portion). This subparagraph shall not apply where the individual with actual knowledge establishes that such individual signed the return under duress.

(4) Liability increased by reason of transfers of property to avoid tax

(A) In general

Notwithstanding any other provision of this subsection, the portion of the deficiency for which the individual electing the application of this subsection is liable (without regard to this paragraph) shall be increased by the value of any disqualified asset transferred to the individual.

(B) Disqualified asset

For purposes of this paragraph—

(i) In general

The term ''disqualified asset'' means any property or right to property transferred to an individual making the election under this subsection with respect to a joint return by the other individual filing such joint return if the principal purpose of the transfer was the avoidance of tax or payment of tax.

(ii) Presumption

(I) In general

For purposes of clause (i), except as provided in subclause (II), any transfer which is made after the date which is 1 year before the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent shall be presumed to have as its principal purpose the avoidance of tax or payment of tax.

(II) Exceptions

Subclause (I) shall not apply to any transfer pursuant to a decree of divorce or separate maintenance or a written instrument incident to such a decree or to any transfer which an individual establishes did not have as its principal purpose the avoidance of tax or payment of tax.

(d) Allocation of deficiency

For purposes of subsection (c)—

(1) In general

The portion of any deficiency on a joint return allocated to an individual shall be the amount which bears the same ratio to such deficiency as the net amount of items taken into account in computing the deficiency and allocable to the individual under paragraph (3) bears to the net amount of all items taken into account in computing the deficiency.

(2) Separate treatment of certain items

If a deficiency (or portion thereof) is attributable to—

(A) the disallowance of a credit; or

(B) any tax (other than tax imposed by section 1 or 55) required to be included with the joint return;

and such item is allocated to one individual under paragraph (3), such deficiency (or portion) shall be allocated to such individual. Any such item shall not be taken into account under paragraph (1).

(3) Allocation of items giving rise to the deficiency

For purposes of this subsection—

(A) In general

Except as provided in paragraphs (4) and (5), any item giving rise to a deficiency on a joint return shall be allocated to individuals filing the return in the same manner as it would have been allocated if the individuals had filed separate returns for the taxable year.

(B) Exception where other spouse benefits

Under rules prescribed by the Secretary, an item otherwise allocable to an individual under subparagraph (A) shall be allocated to the other individual filing the joint return to the extent the item gave rise to a tax benefit on the joint return to the other individual.

(C) Exception for fraud

The Secretary may provide for an allocation of any item in a manner not prescribed

by subparagraph (A) if the Secretary establishes that such allocation is appropriate due to fraud of one or both individuals.

(4) Limitations on separate returns disregarded

If an item of deduction or credit is disallowed in its entirety solely because a separate return is filed, such disallowance shall be disregarded and the item shall be computed as if a joint return had been filed and then allocated between the spouses appropriately. A similar rule shall apply for purposes of section 86.

(5) Child's liability

If the liability of a child of a taxpayer is included on a joint return, such liability shall be disregarded in computing the separate liability of either spouse and such liability shall be allocated appropriately between the spouses.

(e) Petition for review by Tax Court

(1) In general

In the case of an individual against whom a deficiency has been asserted and who elects to have subsection (b) or (c) apply—

(A) In general

In addition to any other remedy provided by law, the individual may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the appropriate relief available to the individual under this section if such petition is filed—

(i) at any time after the earlier of—

(I) the date the Secretary mails, by certified or registered mail to the taxpayer's last known address, notice of the Secretary's final determination of relief available to the individual, or

(II) the date which is 6 months after the date such election is filed with the Secretary, and

(ii) not later than the close of the 90th day after the date described in clause (i)(I).

(B) Restrictions applicable to collection of assessment

(i) In general

Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court shall be made, begun, or prosecuted against the individual making an election under subsection (b) or (c) for collection of any assessment to which such election relates until the close of the 90th day referred to in subparagraph (A)(ii), or, if a petition has been filed with the Tax Court under subparagraph (A), until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

(ii) Authority to enjoin collection actions

Notwithstanding the provisions of section 7421(a), the beginning of such levy or proceeding during the time the prohibition under clause (i) is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this subparagraph to enjoin any action or proceeding unless a timely petition has been filed under subparagraph (A) and then only in respect of the amount of the assessment to which the election under subsection (b) or (c) relates.

(2) Suspension of running of period of limitations

The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under paragraph (1)(A) relates shall be suspended—

(A) for the period during which the Secretary is prohibited by paragraph (1)(B) from collecting by levy or a proceeding in court and for 60 days thereafter, and

(B) if a waiver under paragraph (5) is made, from the date the claim for relief was filed until 60 days after the waiver is filed with the Secretary.

(3) Limitation on Tax Court jurisdiction

If a suit for refund is begun by either individual filing the joint return pursuant to section 6532—

(A) the Tax Court shall lose jurisdiction of the individual's action under this section to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable years that are the subject of the suit for refund, and

(B) the court acquiring jurisdiction shall have jurisdiction over the petition filed under this subsection.

(4) Notice to other spouse

The Tax Court shall establish rules which provide the individual filing a joint return but not making the election under subsection (b) or (c) with adequate notice and an opportunity to become a party to a proceeding under either such subsection.

(5) Waiver

An individual who elects the application of subsection (b) or (c) (and who agrees with the Secretary's determination of relief) may waive in writing at any time the restrictions in paragraph (1)(B) with respect to collection of the outstanding assessment (whether or not a notice of the Secretary's final determination of relief has been mailed).

(f) Equitable relief

Under procedures prescribed by the Secretary, if—

(1) taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either); and

(2) relief is not available to such individual under subsection (b) or (c),

the Secretary may relieve such individual of such liability.

(g) Credits and refunds

(1) In general

Except as provided in paragraphs (2) and (3), notwithstanding any other law or rule of law

(other than section 6511, 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this section.

(2) Res judicata

In the case of any election under subsection (b) or (c), if a decision of a court in any prior proceeding for the same taxable year has become final, such decision shall be conclusive except with respect to the qualification of the individual for relief which was not an issue in such proceeding. The exception contained in the preceding sentence shall not apply if the court determines that the individual participated meaningfully in such prior proceeding.

(3) Credit and refund not allowed under subsection (c)

No credit or refund shall be allowed as a result of an election under subsection (c).

(h) Regulations

The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this section, including—

(1) regulations providing methods for allocation of items other than the methods under subsection (d)(3); and

(2) regulations providing the opportunity for an individual to have notice of, and an opportunity to participate in, any administrative proceeding with respect to an election made under subsection (b) or (c) by the other individual filing the joint return.

(Added Pub. L. 105–206, title III, §3201(a), July 22, 1998, 112 Stat. 734; amended Pub. L. 105–277, div. J, title IV, §4002(c)(2), Oct. 21, 1998, 112 Stat. 2681–906; Pub. L. 106–554, §1(a)(7) [title III, §313(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–640.)

PRIOR PROVISIONS

A prior section 6015, acts Aug. 16, 1954, ch. 736, 68A Stat. 737; Sept. 2, 1958, Pub. L. 85–866, title I, §74, 72 Stat. 1660; Sept. 14, 1960, Pub. L. 86–779, §5(a), 74 Stat. 1000; Sept. 25, 1962, Pub. L. 87–682, §1(a)(1), 76 Stat. 575; Mar. 15, 1966, Pub. L. 89–368, title I, §102(a), 80 Stat. 62; Nov. 13, 1966, Pub. L. 89–809, title I, §103(j), 80 Stat. 1554; Dec. 30, 1969, Pub. L. 91–172, title III, §301(b)(12), title VIII, §803(d)(7), title IX, §944(a), 83 Stat. 586, 684, 729; Dec. 10, 1971, Pub. L. 92–178, title II, §209(a), 85 Stat. 517; Oct. 4, 1976, Pub. L. 94–455, title XIX, §1906(a)(2), (b)(13)(A), 90 Stat. 1824, 1834; Nov. 6, 1978, Pub. L. 95–600, title IV, §421(e)(7), 92 Stat. 2876; Aug. 13, 1981, Pub. L. 97–34, title VII, §725(a), (c)(2), 95 Stat. 345, 346; Sept. 3, 1982, Pub. L. 97–248, title II, §201(d)(7), formerly §201(c)(7), title III, §§307(a)(6), 308(a), 328(b)(1), 96 Stat. 420, 589, 591, 618, redesignated and amended Jan. 12, 1983, Pub. L. 97–448, title I, §107(c)(2), title II, §201(j)(1), title III, §306(a)(1)(A)(i), 96 Stat. 2391, 2395, 2400; Aug. 5, 1983, Pub. L. 98–67, title I, §102(a), 97 Stat. 369, related to declaration of estimated income tax by individuals, prior to repeal by Pub. L. 98–369, div. A, title IV, §§412(a)(1), 414(a)(1), July 18, 1984, 98 Stat. 792, 793, applicable with respect to taxable years beginning after Dec. 31, 1984.

AMENDMENTS

2000—Subsec. (c)(3)(B). Pub. L. 106–554, §1(a)(7) [title III, §313(a)(1)], substituted ''may be made at any time after a deficiency for such year is asserted but'' for ''shall be made''.

Subsec. (e)(1). Pub. L. 106–554, §1(a)(7) [title III, §313(a)(3)(A)], inserted ''against whom a deficiency has been asserted and'' after ''individual'' in introductory provisions.

Subsec. (e)(1)(A). Pub. L. 106–554, §1(a)(7) [title III, §313(a)(3)(B)], amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: ''The individual may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the appropriate relief available to the individual under this section if such petition is filed during the 90-day period beginning on the date on which the Secretary mails by certified or registered mail a notice to such individual of the Secretary's determination of relief available to the individual. Notwithstanding the preceding sentence, an individual may file such petition at any time after the date which is 6 months after the date such election is filed with the Secretary and before the close of such 90-day period.''

Subsec. (e)(1)(B)(i). Pub. L. 106–554, §1(a)(7) [title III, §313(a)(3)(C)], substituted ''until the close of the 90th day referred to in subparagraph (A)(ii)'' for ''until the expiration of the 90-day period described in subparagraph (A)'' and inserted ''under subparagraph (A)'' after ''filed with the Tax Court''.

Subsec. (e)(2). Pub. L. 106–554, §1(a)(7) [title III, §313(a)(3)(D)(ii)], amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under paragraph (1)(A) relates shall be suspended for the period during which the Secretary is prohibited by paragraph (1)(B) from collecting by levy or a proceeding in court and for 60 days thereafter.''

Subsec. (e)(3). Pub. L. 106–554, §1(a)(7) [title III, §313(a)(2)(B)], amended par. (3) generally, substituting ''Limitation on Tax Court jurisdiction'' for ''Applicable rules'' in heading and restating provisions relating to limitations on the Tax Court's jurisdiction and eliminating provisions relating to res judicata and allowance of credits or refunds in text.

Subsec. (e)(5). Pub. L. 106–554, §1(a)(7) [title III, §313(a)(3)(D)(i)], added par. (5).

Subsecs. (g), (h). Pub. L. 106–554, §1(a)(7) [title III, §313(a)(2)(A)], added subsec. (g) and redesignated former subsec. (g) as (h).

1998—Subsec. (e)(3)(A). Pub. L. 105–277 substituted ''of subsection (b) or (f)'' for ''of this section''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(7) [title III, §313(f)], Dec. 21, 2000, 114 Stat. 2763, 2763A–643, provided that: ''The amendments made by subsections (a) and (b) [amending this section and sections 6330, 6331, 7421, and 7463 of this title] shall take effect on the date of the enactment of this Act [Dec. 21, 2000]. The amendments made by subsections (c), (d), and (e) [amending sections 6103, 6110, and 6330 of this title] shall take effect as if included in the provisions of the Internal Revenue Service Restructuring and Reform Act of 1998 [Pub. L. 105–206] to which they relate.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective as if included in the provision of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, to which such amendment relates, see section 4002(k) of Pub. L. 105–277, set out as a note under section 1 of this title.

EFFECTIVE DATE

Pub. L. 105–206, title III, §3201(g), July 22, 1998, 112 Stat. 740, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section, amending sections 66, 6013, 6230, and 7421 of this title, and enacting provisions set out as notes under this section and section 6013 of this title] shall apply to any liability for tax arising after the date of the enactment of this Act [July 22, 1998] and any liability for tax arising on or before such date but remaining unpaid as of such date.

''(2) 2-YEAR PERIOD.—The 2-year period under subsection (b)(1)(E) or (c)(3)(B) of section 6015 of the Inter-

nal Revenue Code of 1986 shall not expire before the date which is 2 years after the date of the first collection activity after the date of the enactment of this Act [July 22, 1998].''

SEPARATE FORM FOR APPLYING FOR SPOUSAL RELIEF

Pub. L. 105–206, title III, § 3201(c), July 22, 1998, 112 Stat. 740, provided that: ''Not later than 180 days after the date of the enactment of this Act [July 22, 1998], the Secretary of the Treasury shall develop a separate form with instructions for use by taxpayers in applying for relief under section 6015(a) of the Internal Revenue Code of 1986, as added by this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6230, 7421, 7463 of this title.

[§ 6016. Repealed. Pub. L. 90–364, title I, § 103(a), June 28, 1968, 82 Stat. 260]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 738; Feb. 26, 1964, Pub. L. 88–272, title I, § 122(d), 78 Stat. 29, Nov. 13, 1966, Pub. L. 89–809, title I, § 104(*l*), 80 Stat. 1563, provided for the declaration of estimated income tax by corporations.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90–364, see section 103(f) of Pub. L. 90–364, set out as an Effective Date of 1968 Amendment note under section 243 of this title.

§ 6017. Self-employment tax returns

Every individual (other than a nonresident alien individual) having net earnings from self-employment of $400 or more for the taxable year shall make a return with respect to the self-employment tax imposed by chapter 2. In the case of a husband and wife filing a joint return under section 6013, the tax imposed by chapter 2 shall not be computed on the aggregate income but shall be the sum of the taxes computed under such chapter on the separate self-employment income of each spouse.

(Aug. 16, 1954, ch. 736, 68A Stat. 739.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1403, 6072 of this title.

[§ 6017A. Repealed. Pub. L. 101–239, title VII, § 7711(b)(1), Dec. 19, 1989, 103 Stat. 2393]

Section, added Pub. L. 92–512, title I, § 144(a)(1), Oct. 20, 1972, 86 Stat. 935; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to place of residence.

EFFECTIVE DATE OF REPEAL

Repeal applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7711(c) of Pub. L. 101–239, set out as an Effective Date of 1989 Amendment note under section 6721 of this title.

SUBPART C—ESTATE AND GIFT TAX RETURNS

Sec.
6018. Estate tax returns.
6019. Gift tax returns.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 6011 of this title.

§ 6018. Estate tax returns

(a) Returns by executor

(1) Citizens or residents

In all cases where the gross estate at the death of a citizen or resident exceeds the applicable exclusion amount in effect under section 2010(c) for the calendar year which includes the date of death, the executor shall make a return with respect to the estate tax imposed by subtitle B.

(2) Nonresidents not citizens of the United States

In the case of the estate of every nonresident not a citizen of the United States if that part of the gross estate which is situated in the United States exceeds $60,000, the executor shall make a return with respect to the estate tax imposed by subtitle B.

(3) Adjustment for certain gifts

The amount applicable under paragraph (1) and the amount set forth in paragraph (2) shall each be reduced (but not below zero) by the sum of—

(A) the amount of the adjusted taxable gifts (within the meaning of section 2001(b)) made by the decedent after December 31, 1976, plus

(B) the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976.

(b) Returns by beneficiaries

If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein. Upon notice from the Secretary such person shall in like manner make a return as to such part of the gross estate.

(Aug. 16, 1954, ch. 736, 68A Stat. 739; Pub. L. 89–809, title I, § 108(g), Nov. 13, 1966, 80 Stat. 1574; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), title XX, § 2001(c)(1)(J), Oct. 4, 1976, 90 Stat. 1834, 1852; Pub. L. 97–34, title IV, § 401(a)(2)(B), Aug. 13, 1981, 95 Stat. 299; Pub. L. 98–369, div. A, title V, § 544(b)(3), July 18, 1984, 98 Stat. 894; Pub. L. 100–647, title I, § 1011A(g)(12), Nov. 10, 1988, 102 Stat. 3482; Pub. L. 101–239, title VII, § 7304(b)(2)(B), Dec. 19, 1989, 103 Stat. 2353; Pub. L. 101–508, title XI, § 11801(a)(43), (c)(19)(C), Nov. 5, 1990, 104 Stat. 1388–521, 1388–528; Pub. L. 105–34, title V, § 501(a)(1)(C), title X, § 1073(b)(4), Aug. 5, 1997, 111 Stat. 845, 948.)

REFERENCES IN TEXT

The Tax Reform Act of 1976, referred to in subsec. (a)(3)(B), is Pub. L. 94–455, Oct. 4, 1976, 90 Stat. 1520, as amended. For complete classification of this Act to the Code, see Tables.

Section 2521 of this title, referred to in subsec. (a)(3)(B), was repealed by section 2001(b)(3) of Pub. L. 94–455, applicable to gifts made after Dec. 31, 1976.

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105–34, § 501(a)(1)(C), substituted ''the applicable exclusion amount in effect

under section 2010(c) for the calendar year which includes the date of death'' for ''$600,000''.

Subsec. (a)(4). Pub. L. 105–34, § 1073(b)(4), struck out par. (4) which read as follows:

''(4) RETURN REQUIRED IF EXCESS RETIREMENT ACCUMULATION TAX.—The executor shall make a return with respect to the estate tax imposed by subtitle B in any case where such tax is increased by reason of section 4980A(d).''

1990—Subsec. (a)(3) to (5). Pub. L. 101–508 redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which provided for phase-in of estate tax return filing requirement amount.

1989—Subsec. (c). Pub. L. 101–239 struck out subsec. (c) which read as follows:

''ELECTION UNDER SECTION 2210.—In all cases in which subsection (a) requires the filing of a return, if an executor elects the applications of section 2210—

''(1) RETURN BY EXECUTOR.—The return which the executor is required to file under the provisions of subsection (a) shall be made with respect to that portion of estate tax imposed by subtitle B which the executor is required to pay.

''(2) RETURN BY PLAN ADMINISTRATOR.—The plan administrator of an employee stock ownership plan or the eligible worker-owned cooperative, as the case may be, shall make a return with respect to that portion of the tax imposed by section 2001 which such plan or cooperative is required to pay under section 2210(b).''

1988—Subsec. (a)(5). Pub. L. 100–647 added par. (5).

1984—Subsec. (c). Pub. L. 98–369 added subsec. (c).

1981—Subsec. (a)(1). Pub. L. 97–34, § 401(a)(2)(B)(i), substituted ''$600,000'' for ''$175,000''.

Subsec. (a)(3). Pub. L. 97–34, § 401(a)(2)(B)(ii), set forth par. (1) substitutions for ''$600,000'' amount of ''$225,000'', ''$275,000'', ''$325,000'', ''$400,000'', and ''$500,000'' in the case of decedents dying in 1982, 1983, 1984, 1985, and 1986, respectively, and struck out par. (1) substitutions for ''$175,000'' amount of ''$120,000'', ''$134,000'', ''$147,000'', and ''$161,000'' in the case of decedents dying during 1977, 1978, 1979, and 1980, respectively.

1976—Subsec. (a)(1). Pub. L. 94–455, § 2001(c)(1)(J)(i), substituted ''$175,000'' for ''$60,000''.

Subsec. (a)(2). Pub. L. 94–455, § 2001(c)(1)(J)(ii), substituted ''$60,000'' for ''$30,000''.

Subsec. (a)(3), (4). Pub. L. 94–455, § 2001(c)(1)(J)(iii), added pars. (3) and (4).

Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1966—Subsec. (a)(2). Pub. L. 89–809 substituted ''$30,000'' for ''$2,000''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 501(a)(1)(C) of Pub. L. 105–34 applicable to estates of decedents dying, and gifts made, after Dec. 31, 1997, see section 501(f) of Pub. L. 105–34, set out as a note under section 2001 of this title.

Amendment by section 1073(b)(4) of Pub. L. 105–34 applicable to estates of decedents dying after Dec. 31, 1996, see section 1073(c) of Pub. L. 105–34, set out as an Effective Date of Repeal note under section 4980A of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to estates of decedents dying after July 12, 1989, see section 7304(b)(3) of Pub. L. 101–239, set out as a note under section 2002 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 OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to estates of decedents which are required to file returns on a date (including any extensions) after July 18, 1984, see section 544(d) of Pub. L. 98–369, set out as a note under section 2002 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to estates of decedents dying after Dec. 31, 1981, see section 401(c)(1) of Pub. L. 97–34, set out as a note under section 2010 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 2001(c)(1)(J) of Pub. L. 94–455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2001(d)(1) of Pub. L. 94–455, set out as a note under section 2001 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–809 applicable with respect to estates of decedents dying after Nov. 13, 1966, see section 108(i) of Pub. L. 89–809, set out as a note under section 2101 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2011, 2014, 2106, 2108, 6075, 6091, 7269 of this title.

§ 6019. Gift tax returns

Any individual who in any calendar year makes any transfer by gift other than—

(1) a transfer which under subsection (b) or (e) of section 2503 is not to be included in the total amount of gifts for such year,

(2) a transfer of an interest with respect to which a deduction is allowed under section 2523, or

(3) a transfer with respect to which a deduction is allowed under section 2522 but only if—

(A)(i) such transfer is of the donor's entire interest in the property transferred, and

(ii) no other interest in such property is or has been transferred (for less than adequate and full consideration in money or money's worth) from the donor to a person, or for a use, not described in subsection (a) or (b) of section 2522, or

(B) such transfer is described in section 2522(d),

shall make a return for such year with respect to the gift tax imposed by subtitle B.

(Aug. 16, 1954, ch. 736, 68A Stat. 739; Pub. L. 91–614, title I, § 102(d)(3), Dec. 31, 1970, 84 Stat. 1841; Pub. L. 97–34, title IV, §§ 403(b)(3)(A), (c)(3)(B), 442(d)(2), Aug. 13, 1981, 95 Stat. 301, 302, 322; Pub. L. 105–34, title XIII, § 1301(a), Aug. 5, 1997, 111 Stat. 1039.)

AMENDMENTS

1997—Par. (3). Pub. L. 105–34 added par. (3).

1981—Pub. L. 97–34 struck out subsec. ''(a) In general'' designation, substituted ''calendar year'' for ''calendar quarter'' and ''year'' for ''quarter'' wherever appearing, inserted in provision designated par. (1) reference to subsec. (e) of section 2503, added par. (2), and deleted

provision respecting transfers by gift other than qualified charitable transfers, repealed subsec. (b) setting forth return requirement and definition of qualified charitable transfer, and repealed subsec. (c) setting forth cross reference to section 2515(c) relating to tenancy by the entirety.

1970—Subsec. (a). Pub. L. 91–614 substituted ''Any individual who in any calendar quarter makes any transfers by gift (other than transfers which under section 2503(b) are not to be included in the total amount of gifts for such quarter and other than qualified charitable transfers) shall make a return for such quarter with respect to the gift tax imposed by subtitle B'' for ''Any individual who in any calendar year makes any transfers by gift (except those which under section 2503(b) are not to be included in the total amount of gifts for such year) shall make a return with respect to the gift tax imposed by subtitle B''.

Subsecs. (b), (c). Pub. L. 91–614 added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1301(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall apply to gifts made after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to gifts made after Dec. 31, 1981, see sections 403(e)(2) and 442(e) of Pub. L. 97–34, set out as a note under sections 2056 and 2501 of this title, respectively.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91–614, set out as a note under section 2501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2035, 2523, 2642, 6075 of this title.

SUBPART D—MISCELLANEOUS PROVISIONS

Sec.
6020. Returns prepared for or executed by Secretary.
6021. Listing by Secretary of taxable objects owned by nonresidents of internal revenue districts.

§ 6020. Returns prepared for or executed by Secretary

(a) Preparation of return by Secretary

If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person.

(b) Execution of return by Secretary

(1) Authority of Secretary to execute return

If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) Status of returns

Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

(Aug. 16, 1954, ch. 736, 68A Stat. 740; Pub. L. 90–364, title I, § 103(e)(3), June 28, 1968, 82 Stat. 264; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. A, title IV, § 412(b)(4), July 18, 1984, 98 Stat. 792.)

AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98–369 struck out ''(other than a declaration of estimated tax required under section 6015)'' after ''make any return''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1968—Subsec. (b)(1). Pub. L. 90–364 struck out reference to section 6016.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98–369, set out as a note under section 6654 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–364 applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90–364, see section 103(f) of Pub. L. 90–364, set out as a note under section 243 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6229, 6248, 6501, 6651, 6664 of this title.

§ 6021. Listing by Secretary of taxable objects owned by nonresidents of internal revenue districts

Whenever there are in any internal revenue district any articles subject to tax, which are not owned or possessed by or under the care or control of any person within such district, and of which no list has been transmitted to the Secretary, as required by law or by regulations prescribed pursuant to law, the Secretary shall enter the premises where such articles are situated, shall make such inspection of the articles as may be necessary and make lists of the same, according to the forms prescribed. Such lists, being subscribed by the Secretary, shall be sufficient lists of such articles for all purposes.

(Aug. 16, 1954, ch. 736, 68A Stat. 740; 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.

PART III—INFORMATION RETURNS

Subpart
A. Information concerning persons subject to special provisions.
B. Information concerning transactions with other persons.
C. Information regarding wages paid employees.
[D. Repealed.]
E. Registration of and information concerning pension, etc., plans.
F. Information concerning income tax return preparers.

AMENDMENTS

1980—Pub. L. 96–603, § 1(e)(2), Dec. 28, 1980, 94 Stat. 3505, struck out item relating to subpart D ''Information concerning private foundations''.

1976—Pub. L. 94–455, title XII, § 1203(i)(1), Oct. 4, 1976, 90 Stat. 1694, added subpart F heading.

1974—Pub. L. 93–406, title II, § 1031(c)(1), Sept. 2, 1974, 88 Stat. 946, added item relating to subpart E.

1969—Pub. L. 91–172, title I, § 101(j)(64), Dec. 30, 1969, 82 Stat. 533, added item relating to subpart D.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 274, 6103, 6531 of this title; title 42 section 432.

SUBPART A—INFORMATION CONCERNING PERSONS SUBJECT TO SPECIAL PROVISIONS

Sec.
6031. Return of partnership income.
6032. Returns of banks with respect to common trust funds.
6033. Returns by exempt organizations.
6034. Returns by trusts claiming charitable deductions under section 642(c).[1]
6034A. Information to beneficiaries of estates and trusts.
6035. Returns of officers, directors, and shareholders of foreign personal holding companies.
6036. Notice of qualification as executor or receiver.
6037. Return of S corporation.
6038. Information reporting with respect to certain foreign corporations and partnerships.
6038A. Information with respect to certain foreign-owned corporations.
6038B. Notice of certain transfers to foreign persons.
6038C. Information with respect to foreign corporations engaged in U.S. business.
6039. Information required in connection with certain options.
[6039A, 6039B. Repealed.]
6039C. Returns with respect to foreign persons holding direct investments in United States real property interests.
6039D. Returns and records with respect to certain fringe benefit plans.[2]
6039D. Returns and records with respect to certain fringe benefit plans.[2]
6039E. Information concerning resident status.
6039F. Notice of large gifts received from foreign persons.
6039G. Information on individuals losing United States citizenship.
6040. Cross references.

CODIFICATION

Pub. L. 96–603, § 1(e)(1), Dec. 28, 1980, 94 Stat. 3505, which directed that item 6034 be amended by substituting ''4947(a)(2)'' for ''4947(a)'', could not be executed because item 6034 does not contain ''4947(a)''.

AMENDMENTS

1997—Pub. L. 105–34, title XI, § 1142(e)(5), title XVI, § 1602(h)(2), Aug. 5, 1997, 111 Stat. 983, 1096, inserted ''reporting'' after ''Information'' and ''and partnerships'' after ''corporations'' in item 6038, struck out item 6039F ''Information on individuals losing United States citizenship'', and added item 6039G.

1996—Pub. L. 104–191, title V, § 512(b), Aug. 21, 1996, 110 Stat. 2102, added item 6039F ''Information on individuals losing United States citizenship''.

Pub. L. 104–188, title I, § 1905(b), Aug. 20, 1996, 110 Stat. 1913, added item 6039F ''Notice of large gifts received from foreign persons''.

1990—Pub. L. 101–508, title XI, § 11315(b)(2), Nov. 5, 1990, 104 Stat. 1388–457, added item 6038C.

1986—Pub. L. 99–514, title XII, § 1234(a)(2), title XIII, § 1303(c)(2), Oct. 22, 1986, 100 Stat. 2565, 2658, struck out item 6039B ''Return of general stock ownership corporation'', and added item 6039E.

1984—Pub. L. 98–612, § 1(b)(4), Oct. 31, 1984, 98 Stat. 3181, added item 6039D ''Returns and records with respect to certain fringe benefit plans''.

Pub. L. 98–611, § 1(d)(4), Oct. 31, 1984, 98 Stat. 3178, added item 6039D ''Returns and records with respect to certain fringe benefit plans''.

Pub. L. 98–369, div. A, title I, §§ 129(b)(2), 131(d)(3), title VII, § 714(q)(4), July 18, 1984, 98 Stat. 660, 664, 966, added items 6034A and 6038B, and inserted ''foreign persons holding direct investments in'' in item 6039C.

1982—Pub. L. 97–354, § 5(a)(39)(B), Oct. 19, 1982, 96 Stat. 1696, substituted ''S corporation'' for ''electing small business corporation'' in item 6037.

Pub. L. 97–248, title III, § 339(b), Sept. 3, 1982, 96 Stat. 633, added item 6038A.

1980—Pub. L. 96–499, title XI, § 1123(c), Dec. 5, 1980, 94 Stat. 2690, added item 6039C.

Pub. L. 96–223, title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299, repealed Pub. L. 94–455, § 2005(a)(3), and the amendment made thereby. See 1976 Amendment note below.

1978—Pub. L. 95–600, title VI, § 601(c)(2), Nov. 6, 1978, 92 Stat. 2897, added item 6039B.

1976—Pub. L. 94–455, title XX, § 2005(e)(3), Oct. 4, 1976, 90 Stat. 1878, which added item 6039A, was repealed by Pub. L. 96–223, § 401(a). See section 401(b), (e) of Pub. L. 96–223, set out as an Effective Date of 1980 Amendments and Revival of Prior Law note under section 1023 of this title.

1964—Pub. L. 88–272, title II, § 221(d)(2), Feb. 26, 1964, 78 Stat. 75, added item 6039 and redesignated former item 6039 as 6040.

1960—Pub. L. 86–780, § 6(b)(1), Sept. 14, 1960, 74 Stat. 1015, added item 6038 and redesignated former item 6038 as 6039.

1958—Pub. L. 85–866, title I, § 64(d)(4), Sept. 2, 1958, 72 Stat. 1657, added item 6037 and redesignated former item 6037 as 6038.

§ 6031. Return of partnership income

(a) General rule

Every partnership (as defined in section 761(a)) shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, and such other information, for the purpose of carrying out the provisions of subtitle A as the Secretary may by forms and regulations prescribe, and shall include in the return the names and addresses of the individuals who would be entitled to share in the taxable income if distributed and the amount of the distributive share of each individual.

(b) Copies to partners

Each partnership required to file a return under subsection (a) for any partnership taxable year shall (on or before the day on which the return for such taxable year was required to be filed) furnish to each person who is a partner or who holds an interest in such partnership as a nominee for another person at any time during such taxable year a copy of such information required to be shown on such return as may be required by regulations. In the case of an electing large partnership (as defined in section 775), such information shall be furnished on or before the first March 15 following the close of such taxable year.

(c) Nominee reporting

Any person who holds an interest in a partnership as a nominee for another person—

(1) shall furnish to the partnership, in the manner prescribed by the Secretary, the name

[1] Section catchline amended by Pub. L. 91–172 without corresponding amendment of analysis.

[2] So in original. Pub. L. 98–611 and Pub. L. 98–612 enacted identical items designated ''6039D''. Pub. L. 99–514, § 1879(d)(2), repealed the section 6039D enacted by Pub. L. 98–612 without corresponding amendment of subpart analysis.

and address of such other person, and any other information for such taxable year as the Secretary may by form and regulation prescribe, and

(2) shall furnish in the manner prescribed by the Secretary such other person the information provided by such partnership under subsection (b).

(d) Separate statement of items of unrelated business taxable income

In the case of any partnership regularly carrying on a trade or business (within the meaning of section 512(c)(1)), the information required under subsection (b) to be furnished to its partners shall include such information as is necessary to enable each partner to compute its distributive share of partnership income or loss from such trade or business in accordance with section 512(a)(1), but without regard to the modifications described in paragraphs (8) through (15) of section 512(b).

(e) Foreign partnerships

(1) Exception for foreign partnership

Except as provided in paragraph (2), the preceding provisions of this section shall not apply to a foreign partnership.

(2) Certain foreign partnerships required to file return

Except as provided in regulations prescribed by the Secretary, this section shall apply to a foreign partnership for any taxable year if for such year, such partnership has—

(A) gross income derived from sources within the United States, or

(B) gross income which is effectively connected with the conduct of a trade or business within the United States.

The Secretary may provide simplified filing procedures for foreign partnerships to which this section applies.

(Aug. 16, 1954, ch. 736, 68A Stat. 741; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title IV, § 403, Sept. 3, 1982, 96 Stat. 669; Pub. L. 99–514, title XV, § 1501(c)(16), title XVIII, § 1811(b)(1)(A), Oct. 22, 1986, 100 Stat. 2740, 2832; Pub. L. 100–647, title V, § 5074(a), Nov. 10, 1988, 102 Stat. 3682; Pub. L. 105–34, title XI, § 1141(a), title XII, § 1223(a), Aug. 5, 1997, 111 Stat. 980, 1019.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–34, § 1223(a), inserted at end ''In the case of an electing large partnership (as defined in section 775), such information shall be furnished on or before the first March 15 following the close of such taxable year.''

Subsec. (e). Pub. L. 105–34, § 1141(a), added subsec. (e).

1988—Subsec. (d). Pub. L. 100–647 added subsec. (d).

1986—Subsec. (b). Pub. L. 99–514, § 1501(c)(16), substituted ''was required to be filed'' for ''was filed'' and ''required to be shown on such return'' for ''shown on such return''.

Pub. L. 99–514, § 1811(b)(1)(A)(i), inserted ''or who holds an interest in such partnership as a nominee for another person'' after ''who is a partner''.

Subsec. (c). Pub. L. 99–514, § 1811(b)(1)(A)(ii), added subsec. (c).

1982—Subsec. (a). Pub. L. 97–248, § 403(b), designated existing provisions as subsec. (a) and added subsec. heading.

Subsec. (b). Pub. L. 97–248, § 403(a), added subsec. (b).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1141(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section and section 6231 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by section 1223(a) of Pub. L. 105–34 applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105–34, as amended, set out as a note under section 6011 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 5074(b) of Pub. L. 100–647 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1988.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1501(c)(16) of Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

Section 1811(b)(1)(B) of Pub. L. 99–514 provided that: ''The amendments made by this subsection [amending this section and section 6050K of this title] shall apply to partnership taxable years beginning after the date of the enactment of this Act [Oct. 22, 1986].''

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

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.

RETURNS REQUIRED FROM ALL PARTNERSHIPS WITH UNITED STATES PARTNERS

Section 404 of Pub. L. 97–248, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Except as hereafter provided in regulations prescribed by the Secretary of the Treasury or his delegate, nothing in section 6031 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be treated as excluding any partnership from the filing requirements of such section for any taxable year if the income tax liability under subtitle A of such Code of any United States person is determined in whole or in part by taking into account (directly or indirectly) partnership items of such partnership for such taxable year.''

SPECIAL RULE FOR CERTAIN INTERNATIONAL SATELLITE PARTNERSHIPS

For provision that this section is not applicable to certain international satellite partnerships, see section 406 of Pub. L. 97–248, set out as a note under section 6231 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6063, 6072, 6104, 6231, 6698, 6724 of this title.

§ 6032. Returns of banks with respect to common trust funds

Every bank (as defined in section 581) maintaining a common trust fund shall make a return for each taxable year, stating specifically, with respect to such fund, the items of gross income and the deductions allowed by subtitle A, and shall include in the return the names and addresses of the participants who would be entitled to share in the taxable income if distributed and the amount of the proportionate share of each participant. The return shall be executed in the same manner as a return made by a corporation pursuant to the requirements of sections 6012 and 6062.

(Aug. 16, 1954, ch. 736, 68A Stat. 741.)

§ 6033. Returns by exempt organizations

(a) Organizations required to file

(1) In general

Except as provided in paragraph (2), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe; except that, in the discretion of the Secretary, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

(2) Exceptions from filing

(A) Mandatory exceptions

Paragraph (1) shall not apply to—

(i) churches, their integrated auxiliaries, and conventions or associations of churches,

(ii) any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than $5,000, or

(iii) the exclusively religious activities of any religious order.

(B) Discretionary exceptions

The Secretary may relieve any organization required under paragraph (1) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(C) Certain organizations

The organizations referred to in subparagraph (A)(ii) are—

(i) a religious organization described in section 501(c)(3);

(ii) an educational organization described in section 170(b)(1)(A)(ii);

(iii) a charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c)(3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public;

(iv) an organization described in section 501(c)(3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

(v) an organization described in section 501(c)(8); and

(vi) an organization described in section 501(c)(1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly-owned subsidiary of such a corporation.

(b) Certain organizations described in section 501(c)(3)

Every organization described in section 501(c)(3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary may by forms or regulations prescribe, setting forth—

(1) its gross income for the year,

(2) its expenses attributable to such income and incurred within the year,

(3) its disbursements within the year for the purposes for which it is exempt,

(4) a balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) the total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) the names and addresses of its foundation managers (within the meaning of section 4946(b)(1)) and highly compensated employees,

(7) the compensation and other payments made during the year to each individual described in paragraph (6),

(8) in the case of an organization with respect to which an election under section 501(h) is effective for the taxable year, the following amounts for such organization for such taxable year:

(A) the lobbying expenditures (as defined in section 4911(c)(1)),

(B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),

(C) the grass roots expenditures (as defined in section 4911(c)(3)), and

(D) the grass roots nontaxable amount (as defined in section 4911(c)(4)),

(9) such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in section 501(c) (other than paragraph (3) thereof) or section 527 as the Secretary may require to prevent—

(A) diversion of funds from the organization's exempt purpose, or

(B) misallocation of revenues or expenses,

(10) the respective amounts (if any) of the taxes imposed on the organization, or any or-

ganization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):

(A) section 4911 (relating to tax on excess expenditures to influence legislation),

(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations), and

(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations), except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,

(11) the respective amounts (if any) of—

(A) the taxes imposed with respect to the organization on any organization manager, or any disqualified person, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations), and

(B) reimbursements paid by the organization during the taxable year with respect to taxes imposed under such section,

except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,

(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),

(13) such information with respect to disqualified persons as the Secretary may prescribe, and

(14) such other information for purposes of carrying out the internal revenue laws as the Secretary may require.

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.

(c) Additional provisions relating to private foundations

In the case of an organization which is a private foundation (within the meaning of section 509(a))—

(1) the Secretary shall by regulations provide that the private foundation shall include in its annual return under this section such information (not required to be furnished by subsection (b) or the forms or regulations prescribed thereunder) as would have been required to be furnished under section 6056 (relating to annual reports by private foundations) as such section 6056 was in effect on January 1, 1979, and

(2) the foundation managers shall furnish copies of the annual return under this section to such State officials, at such times, and under such conditions, as the Secretary may by regulations prescribe.

Nothing in paragraph (1) shall require the inclusion of the name and address of any recipient (other than a disqualified person within the meaning of section 4946) of 1 or more charitable gifts or grants made by the foundation to such recipient as an indigent or needy person if the aggregate of such gifts or grants made by the foundation to such recipient during the year does not exceed $1,000.

(d) Section to apply to nonexempt charitable trusts and nonexempt private foundations

The following organizations shall comply with the requirements of this section in the same manner as organizations described in section 501(c)(3) which are exempt from tax under section 501(a):

(1) Nonexempt charitable trusts

A trust described in section 4947(a)(1) (relating to nonexempt charitable trusts).

(2) Nonexempt private foundations

A private foundation which is not exempt from tax under section 501(a).

(e) Special rules relating to lobbying activities

(1) Reporting requirements

(A) In general

If this subsection applies to an organization for any taxable year, such organization—

(i) shall include on any return required to be filed under subsection (a) for such year information setting forth the total expenditures of the organization to which section 162(e)(1) applies and the total amount of the dues or other similar amounts paid to the organization to which such expenditures are allocable, and

(ii) except as provided in paragraphs (2)(A)(i) and (3), shall, at the time of assessment or payment of such dues or other similar amounts, provide notice to each person making such payment which contains a reasonable estimate of the portion of such dues or other similar amounts to which such expenditures are so allocable.

(B) Organizations to which subsection applies

(i) In general

This subsection shall apply to any organization which is exempt from taxation under section 501 other than an organization described in section 501(c)(3).

(ii) Special rule for in-house expenditures

This subsection shall not apply to the in-house expenditures (within the meaning of section 162(e)(5)(B)(ii)) of an organization for a taxable year if such expenditures do not exceed $2,000. In determining whether a taxpayer exceeds the $2,000 limit under this clause, there shall not be taken into account overhead costs otherwise allocable to activities described in subparagraphs (A) and (D) of section 162(e)(1).

(iii) Coordination with section 527(f)

This subsection shall not apply to any amount on which tax is imposed by reason of section 527(f).

(C) Allocation

For purposes of this paragraph—

(i) In general

Expenditures to which section 162(e)(1) applies shall be treated as paid out of dues or other similar amounts to the extent thereof.

(ii) Carryover of lobbying expenditures in excess of dues

If expenditures to which section 162(e)(1) applies exceed the dues or other similar amounts for any taxable year, such excess shall be treated as expenditures to which section 162(e)(1) applies which are paid or incurred by the organization during the following taxable year.

(2) Tax imposed where organization does not notify

(A) In general

If an organization—

(i) elects not to provide the notices described in paragraph (1)(A) for any taxable year, or

(ii) fails to include in such notices the amount allocable to expenditures to which section 162(e)(1) applies (determined on the basis of actual amounts rather than the reasonable estimates under paragraph (1)(A)(ii)),

then there is hereby imposed on such organization for such taxable year a tax in an amount equal to the product of the highest rate of tax imposed by section 11 for the taxable year and the aggregate amount not included in such notices by reason of such election or failure.

(B) Waiver where future adjustments made

The Secretary may waive the tax imposed by subparagraph (A)(ii) for any taxable year if the organization agrees to adjust its estimates under paragraph (1)(A)(ii) for the following taxable year to correct any failures.

(C) Tax treated as income tax

For purposes of this title, the tax imposed by subparagraph (A) shall be treated in the same manner as a tax imposed by chapter 1 (relating to income taxes).

(3) Exception where dues generally nondeductible

Paragraph (1)(A) shall not apply to an organization which establishes to the satisfaction of the Secretary that substantially all of the dues or other similar amounts paid by persons to such organization are not deductible without regard to section 162(e).

(f) Certain organizations described in section 501(c)(4)

Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization.

(g) Returns required by political organizations

In the case of a political organization required to file a return under section 6012(a)(6)—

(1) such organization shall file a return—

(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), and

(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection, and

(2) subsection (a)(2)(B) (relating to discretionary exceptions) shall apply with respect to such return.

(h) Cross references

For provisions relating to statements, etc., regarding exempt status of organizations, see section 6001.

For reporting requirements as to certain liquidations, dissolutions, terminations, and contractions, see section 6043(b). For provisions relating to penalties for failure to file a return required by this section, see section 6652(c).

For provisions relating to information required in connection with certain plans of deferred compensation, see section 6058.

(Aug. 16, 1954, ch. 736, 68A Stat. 741; Pub. L. 85–866, title I, § 75(b), Sept. 2, 1958, 72 Stat. 1661; Pub. L. 91–172, title I, § 101(d)(1), (2), (j)(30), (31), Dec. 30, 1969, 83 Stat. 519, 520, 529; Pub. L. 93–406, title II, § 1031(c)(2), Sept. 2, 1974, 88 Stat. 946; Pub. L. 94–455, title XIII, § 1307(a)(4), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1722, 1834; Pub. L. 96–603, § 1(a), Dec. 28, 1980, 94 Stat. 3503; Pub. L. 99–514, title XV, § 1501(d)(1)(C), Oct. 22, 1986, 100 Stat. 2740; Pub. L. 100–203, title X, § 10703(a), Dec. 22, 1987, 101 Stat. 1330–460; Pub. L. 103–66, title XIII, § 13222(c), Aug. 10, 1993, 107 Stat. 480; Pub. L. 104–168, title XIII, § 1312(a), (b), July 30, 1996, 110 Stat. 1479; Pub. L. 104–188, title I, § 1703(g), Aug. 20, 1996, 110 Stat. 1876; Pub. L. 105–34, title XVI, § 1603(b), Aug. 5, 1997, 111 Stat. 1096; Pub. L. 105–277, div. J, title I, § 1004(b)(2)(A), Oct. 21, 1998, 112 Stat. 2681–889; Pub. L. 106–230, § 3(a)(2), July 1, 2000, 114 Stat. 482.)

ADJUSTMENT OF EXCEPTION AMOUNT FOR REPORTING EXCEPTION FOR CERTAIN EXEMPT ORGANIZATIONS

For adjustment of limitation amount for tax years beginning in 2001 for determining applicability of subsec. (e)(3) of this section to certain exempt organizations, see section 3.21 of Revenue Procedure 2001–13, set out as a note under section 1 of this title.

REFERENCES IN TEXT

Section 6056 of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 96–603, § 1(c), Dec. 28, 1980, 94 Stat. 3504.

AMENDMENTS

2000—Subsecs. (g), (h). Pub. L. 106–230 added subsec. (g) and redesignated former subsec. (g) as (h).

1998—Subsec. (c). Pub. L. 105–277 inserted ''and'' at end of par. (1), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: ''a copy of the notice required by section 6104(d) (relating to public inspection of private foundations' annual returns), together with proof of publication thereof, shall be filed by the foundation together with the annual return under this section, and''.

1997—Subsec. (b)(10). Pub. L. 105–34, § 1603(b)(1)(A), in introductory provisions, substituted ''the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reim-

bursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):'' for ''the respective amounts (if any) of the taxes paid by the organization during the taxable year under the following provisions:''.

Subsec. (b)(10)(C). Pub. L. 105–34, §1603(b)(1)(B), inserted at end ''except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded,''.

Subsec. (b)(11). Pub. L. 105–34, §1603(b)(2), amended par. (11) generally. Prior to amendment, par. (11) read as follows: ''the respective amounts (if any) of the taxes paid by the organization, or any disqualified person with respect to such organization, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations),''.

1996—Subsec. (b)(10) to (14). Pub. L. 104–168, §1312(a), added pars. (10) to (13) and redesignated former par. (10) as (14).

Subsec. (e)(1)(B)(i). Pub. L. 104–188, §1703(g)(2), substituted ''section 501'' for ''this subtitle''.

Subsec. (e)(1)(B)(iii). Pub. L. 104–188, §1703(g)(1), added subcl. (iii).

Subsecs. (f), (g). Pub. L. 104–168, §1312(b), added subsec. (f) and redesignated former subsec. (f) as (g).

1993—Subsecs. (e), (f). Pub. L. 103–66 added subsec. (e) and redesignated former subsec. (e) as (f).

1987—Subsec. (b)(9), (10). Pub. L. 100–203 added pars. (9) and (10).

1986—Subsec. (e). Pub. L. 99–514 substituted ''section 6652(c)'' for ''section 6652(d)''.

1980—Subsecs. (c) to (e). Pub. L. 96–603 added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

1976—Subsec. (a)(1), (2). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (b). Pub. L. 94–455, §§1307(a)(4), 1906(b)(13)(A), struck out in provisions preceding par. (1) ''or his delegate'' after ''Secretary'' and added par. (8) and sentence at end.

1974—Subsec. (c). Pub. L. 93–406 inserted reference to section 6058 covering provisions relating to information required in connection with certain plans of deferred compensation.

1969—Subsec. (a). Pub. L. 91–172, §101(d)(1), added churches, their integrated auxiliaries, conventions or associations of churches, religious activities of religious orders, and organizations that normally have gross yearly receipts of not more than $5,000, to list of exempt organizations that were excepted from filing information returns, gave the Secretary or his delegate discretion to so except any such organization, and shortened list of educational organizations so excepted.

Subsec. (b)(3). Pub. L. 91–172, §101(d)(2)(A), struck out ''out of income'' after ''its disbursements''.

Subsec. (b)(4). Pub. L. 91–172, §101(d)(2)(B), (j)(30), redesignated par. (7) as (4) and struck out ''and'' at end. Former par. (4), making accumulation of income within year as an item of information to be furnished, was struck out.

Subsec. (b)(5). Pub. L. 91–172, §101(d)(2)(B), (C), substituted total of contributions and gifts received during year and contributors' names and addresses for aggregate accumulation of income at beginning of year as item of information to be furnished.

Subsec. (b)(6). Pub. L. 91–172, §101(d)(2)(B), (C), substituted names and addresses of foundation managers for disbursements out of principal in current and prior years as item of information to be furnished.

Subsec. (b)(7). Pub. L. 91–172, §101(d)(2)(B), (C), added par. (7) and redesignated former par. (7) as (4).

Subsec. (b)(8). Pub. L. 91–172, §101(d)(2)(B), struck out par. (8) which made total of contributions and gifts received during year as item of information to be furnished.

Subsec. (c). Pub. L. 91–172, §101(j)(31), inserted cross references to section 6043(b) and 6652(d).

1958—Subsec. (b)(8). Pub. L. 85–866 added par. (8).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–230 applicable to returns for taxable years beginning after June 30, 2000, see section 3(d) of Pub. L. 106–230, set out as a note under section 6012 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 applicable to requests made after the later of Dec. 31, 1998, or the 60th day after the Secretary of the Treasury first issues the regulations referred to in section 6104(d)(4) of this title, see section 1004(b)(3) of Pub. L. 105–277, set out as a note under section 6104 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective as if included in the provisions of the Taxpayer Bill of Rights 2, Pub. L. 104–168, to which such amendment relates, see section 1603(c) of Pub. L. 105–34, set out as a note under section 4962 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104–188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103–66, §§13001–13444, to which such amendment relates, see section 1703(*o*) of Pub. L. 104–188, set out as a note under section 39 of this title.

Section 1312(c) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section] shall apply to returns for taxable years beginning after the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 applicable to amounts paid or incurred after Dec. 31, 1993, see section 13222(e) of Pub. L. 103–66 set out as a note under section 162 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 10703(b) of Pub. L. 100–203 provided that: ''The amendments made by subsection (a) [amending this section] shall apply to returns for years beginning after December 31, 1987.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 1(f) of Pub. L. 96–603 provided that: ''The amendments made by this section [amending this section and sections 6034, 6104, 6652, 6685, and 7207 of this title and repealing section 6056 of this title] shall apply to taxable years beginning after December 31, 1980.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(a)(4) of Pub. L. 94–455 effective on or after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94–455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 effective Sept. 2, 1974, see section 1034 of Pub. L. 93–406, set out as an Effective Date note under section 6057 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 101(k)(2)(B) of Pub. L. 91–172, set out as a note under section 4940 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 applicable to taxable years ending on or after Dec. 31, 1958, see section 75(c) of Pub. L. 85–866, set out as a note under section 6104 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 162, 170, 6104, 6501, 6652 of this title; title 2 sections 1602, 1610; title 42 section 9907.

§ 6034. Returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)

(a) General rule

Every trust described in section 4947(a)(2) or claiming a charitable, etc., deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

(1) the amount of the charitable, etc., deduction taken under section 642(c) within such year,

(2) the amount paid out within such year which represents amounts for which charitable, etc., deductions under section 642(c) have been taken in prior years,

(3) the amount for which charitable, etc., deductions have been taken in prior years but which has not been paid out at the beginning of such year,

(4) the amount paid out of principal in the current and prior years for charitable, etc., purposes,

(5) the total income of the trust within such year and the expenses attributable thereto, and

(6) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

(b) Exceptions

This section shall not apply in the case of a taxable year if all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries. This section shall not apply in the case of a trust described in section 4947(a)(1).

(c) Cross reference

For provisions relating to penalties for failure to file a return required by this section, see section 6652(c).

(Aug. 16, 1954, ch. 736, 68A Stat. 742; Pub. L. 91–172, title I, § 101(j)(32)–(34), Dec. 30, 1969, 83 Stat. 529; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–603, § 1(d)(1), Dec. 28, 1980, 94 Stat. 3504; Pub. L. 99–514, title XV, § 1501(d)(1)(C), Oct. 22, 1986, 100 Stat. 2740.)

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–514 substituted ''section 6652(c)'' for ''section 6652(d)''.

1980—Pub. L. 96–603, § 1(d)(1)(D), substituted ''section 4947(a)(2)'' for ''section 4947(a)'' in section catchline.

Subsec. (a). Pub. L. 96–603, § 1(d)(1)(A), substituted ''section 4947(a)(2)'' for ''section 4947(a)''.

Subsec. (b). Pub. L. 96–603, § 1(d)(1)(B), (C), substituted in heading ''Exceptions'' for ''Exception'' and in text inserted provision that this section not apply in the case of a trust described in section 4947(a)(1).

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1969—Subsec. (a). Pub. L. 91–172, § 101(j)(32), (33), inserted, in section catchline and in subsec. (a), reference to trusts described in section 4947(a), and, in par. (1), struck out provisions requiring the separate showing of the amount of deduction paid out, and the amount permanently set aside for charitable, etc., purposes.

Subsec. (c). Pub. L. 91–172, § 101(j)(34), added subsec. (c).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–603 applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of Pub. L. 96–603, set out as a note under section 6033 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 101(k)(2)(B) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6104, 6652 of this title.

§ 6034A. Information to beneficiaries of estates and trusts

(a) General rule

The fiduciary of any estate or trust required to file a return under section 6012(a) for any taxable year shall, on or before the date on which such return was required to be filed, furnish to each beneficiary (or nominee thereof)—

(1) who receives a distribution from such estate or trust with respect to such taxable year, or

(2) to whom any item with respect to such taxable year is allocated,

a statement containing such information required to be shown on such return as the Secretary may prescribe.

(b) Nominee reporting

Any person who holds an interest in an estate or trust as a nominee for another person—

(1) shall furnish to the estate or trust, in the manner prescribed by the Secretary, the name and address of such other person, and any other information for the taxable year as the Secretary may by form and regulations prescribe, and

(2) shall furnish in the manner prescribed by the Secretary to such other person the information provided by the estate or trust under subsection (a).

(c) Beneficiary's return must be consistent with estate or trust return or Secretary notified of inconsistency

(1) In general

A beneficiary of any estate or trust to which subsection (a) applies shall, on such beneficiary's return, treat any reported item in a manner which is consistent with the treatment of such item on the applicable entity's return.

(2) Notification of inconsistent treatment

(A) In general

In the case of any reported item, if—

(i)(I) the applicable entity has filed a return but the beneficiary's treatment on such beneficiary's return is (or may be) inconsistent with the treatment of the item on the applicable entity's return, or

(II) the applicable entity has not filed a return, and

(ii) the beneficiary files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

(B) Beneficiary receiving incorrect information

A beneficiary shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a reported item if the beneficiary—

(i) demonstrates to the satisfaction of the Secretary that the treatment of the reported item on the beneficiary's return is consistent with the treatment of the item on the statement furnished under subsection (a) to the beneficiary by the applicable entity, and

(ii) elects to have this paragraph apply with respect to that item.

(3) Effect of failure to notify

In any case—

(A) described in subparagraph (A)(i)(I) of paragraph (2), and

(B) in which the beneficiary does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such beneficiary consistent with the treatment of the items on the applicable entity's return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

(4) Definitions

For purposes of this subsection—

(A) Reported item

The term ''reported item'' means any item for which information is required to be furnished under subsection (a).

(B) Applicable entity

The term ''applicable entity'' means the estate or trust of which the taxpayer is the beneficiary.

(5) Addition to tax for failure to comply with section

For addition to tax in the case of a beneficiary's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.

(Added Pub. L. 98–369, div. A, title VII, § 714(q)(1), July 18, 1984, 98 Stat. 965; amended Pub. L. 99–514, title XV, § 1501(c)(15), title XVIII, § 1875(d)(3)(A), Oct. 22, 1986, 100 Stat. 2740, 2896; Pub. L. 105–34, title X, § 1027(a), Aug. 5, 1997, 111 Stat. 925.)

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–34 added subsec. (c).

1986—Subsec. (a). Pub. L. 99–514, § 1501(c)(15), in introductory provisions, substituted ''required to file a return'' for ''making the return required to be filed'' and ''was required to be filed'' for ''was filed'', and in concluding provisions, substituted ''required to be shown on such return'' for ''shown on such return''.

Pub. L. 99–514, § 1875(d)(3)(A)(i), (ii), designated existing provisions as subsec. (a), inserted heading ''General rule'', and substituted ''each beneficiary (or nominee thereof)'' for ''each beneficiary'' in text.

Subsec. (b). Pub. L. 99–514, § 1875(d)(3)(A)(iii), added subsec. (b).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1027(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section and section 6048 of this title] shall apply to returns of beneficiaries and owners filed after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1501(c)(15) of Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

Section 1875(d)(3)(B) of Pub. L. 99–514 provided that: ''The amendments made by this paragraph [amending this section] shall apply to taxable years of estates and trusts beginning after the date of the enactment of this Act [Oct. 22, 1986].''

EFFECTIVE DATE

Section 714(q)(5) of Pub. L. 98–369 provided that: ''The amendments made by this subsection [enacting this section and amending sections 6037 and 6678 of this title] shall apply to taxable years 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 sections 6048, 6724 of this title.

§ 6035. Returns of officers, directors, and shareholders of foreign personal holding companies

(a) General rule

Each United States citizen or resident who is an officer, director, or 10-percent shareholder of a corporation which was a foreign personal holding company (as defined in section 552) for any taxable year shall file a return with respect to such taxable year setting forth—

(1) the shareholder information required by subsection (b),

(2) the income information required by subsection (c), and

(3) such other information with respect to such corporation as the Secretary shall by forms or regulations prescribe as necessary for carrying out the purposes of this title.

(b) Shareholder information

The shareholder information required by this subsection with respect to any taxable year shall be—

(1) the name and address of each person who at any time during such taxable year held any share in the corporation,

(2) a description of each class of shares and the total number of shares of such class outstanding at the close of the taxable year,

(3) the number of shares of each class held by each person, and

(4) any changes in the holdings of shares during the taxable year.

For purposes of paragraphs (1), (3), and (4), the term ''share'' includes any security convertible into a share in the corporation and any option granted by the corporation with respect to any share in the corporation.

(c) Income information

The income information required by this subsection for any taxable year shall be the gross income, deductions, credits, taxable income, and undistributed foreign personal holding company income of the corporation for the taxable year.

(d) Time and manner for furnishing information

The information required under subsection (a) shall be furnished at such time and in such manner as the Secretary shall by forms and regulations prescribe.

(e) Definition and special rules

(1) 10-percent shareholder

For purposes of this section, the term ''10-percent shareholder'' means any individual who owns directly or indirectly (within the meaning of section 554) 10 percent or more in value of the outstanding stock of a foreign corporation.

(2) Time for making determinations

(A) In general

Except as provided in subparagraph (B), the determination of whether any person is an officer, director, or 10-percent shareholder with respect to any foreign corporation shall be made as of the date on which the return is required to be filed.

(B) Special rule

If after the application of subparagraph (A) no person is required to file a return under subsection (a) with respect to any foreign corporation for any taxable year, the determination of whether any person is an officer, director, or 10-percent shareholder with respect to such foreign corporation shall be made on the last day of such taxable year on which there was such a person who was a United States citizen or resident.

(3) 2 or more persons required to furnish information with respect to same foreign corporation

If, but for this paragraph, 2 or more persons would be required to furnish information under subsection (a) with respect to the same foreign corporation for the same taxable year, the Secretary may by regulations provide that such information shall be required only from 1 person.

(Aug. 16, 1954, ch. 736, 68A Stat. 743; Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title III, §340(a), Sept. 3, 1982, 96 Stat. 633.)

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–248 substituted provisions requiring that each United States citizen or resident who is an officer, director, or 10-percent shareholder of a foreign personal holding company file an annual return on such company for provisions which required that, on the 15th day of each month each officer or director of a foreign corporation which, with respect to its taxable year preceding the taxable year in which such month occurred, was a foreign personal holding company make a return setting forth with respect to the preceding calendar month the name and address of each shareholder, etc., and such other information with respect to the stock and securities of the corporation as the Secretary prescribed as necessary for carrying out the provisions of this title, and that, on the 60th day after the close of the taxable year of a foreign personal holding company, each officer or director of the corporation make a return setting forth (A) in complete detail the gross income, deductions and credits, taxable income, and undistributed foreign personal holding company income of such foreign personal holding company for such taxable year; and (B) the same information with respect to such taxable year as was required in paragraph (1), except that if all the required returns with respect to such year had been filed under paragraph (1), no information under this subparagraph had to be set forth in the return filed under this paragraph.

Subsec. (b). Pub. L. 97–248 substituted provisions governing the contents of annual shareholder information required of foreign personal holding companies for provisions which required that, on the 15th day of each month each United States shareholder, by or for whom 50 percent or more in value of the outstanding stock of a foreign corporation was owned directly or indirectly (including, in the case of an individual, stock owned by the members of his family as defined in section 544(a)(2)), if such foreign corporation with respect to its taxable year preceding the taxable year in which such month occurred was a foreign personal holding company, make a return setting forth with respect to the preceding calendar month the name and address of each shareholder, etc., and other information with respect to the stock and securities of the corporation as the Secretary prescribed as necessary for carrying out the provisions of this title, and that, on the 60th day after the close of the taxable year of a foreign personal holding company each United States shareholder by or for whom on such 60th day 50 percent or more in value of the outstanding stock of such company was owned directly or indirectly (including, in the case of an individual, stock owned by members of his family as defined in section 544(a)(2)) make a return setting forth the same information with respect to such taxable year as was required in paragraph (1), except that, if all the required returns with respect to such year had been made under paragraph (1), no return was required under this paragraph.

Subsecs. (c) to (e). Pub. L. 97–248 added subsecs. (c) to (e).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 340(c) of Pub. L. 97–248 provided that: ''The amendment made by this section [amending this section and section 6679 of this title] shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act [Sept. 3, 1982].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 558, 6679 of this title.

§ 6036. Notice of qualification as executor or receiver

Every receiver, trustee in a case under title 11 of the United States Code, assignee for benefit of creditors, or other like fiduciary, and every executor (as defined in section 2203), shall give notice of his qualification as such to the Secretary in such manner and at such time as may be required by regulations of the Secretary. The Secretary may be regulation provide such exemptions from the requirements of this section as the Secretary deems proper.

(Aug. 16, 1954, ch. 736, 68A Stat. 744; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–589, § 6(i)(6), Dec. 24, 1980, 94 Stat. 3410.)

AMENDMENTS

1980—Pub. L. 96–589 substituted ''trustee in a case under title 11 of the United States Code'' for ''trustee in bankruptcy''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6872, 7269 of this title.

§ 6037. Return of S corporation

(a) In general

Every S corporation shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the corporation during the taxable year to each shareholder, the date of each such distribution, each shareholder's pro rata share of each item of the corporation for the taxable year, and such other information, for the purpose of carrying out the provisions of subchapter S of chapter 1, as the Secretary may by forms and regulations prescribe. Any return filed pursuant to this section shall, for purposes of chapter 66 (relating to limitations), be treated as a return filed by the corporation under section 6012.

(b) Copies to shareholders

Each S corporation required to file a return under subsection (a) for any taxable year shall (on or before the day on which the return for such taxable year was filed) furnish to each person who is a shareholder at any time during such taxable year a copy of such information shown on such return as may be required by regulations.

(c) Shareholder's return must be consistent with corporate return or Secretary notified of inconsistency

(1) In general

A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

(2) Notification of inconsistent treatment

(A) In general

In the case of any subchapter S item, if—

(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

(II) the corporation has not filed a return, and

(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

(B) Shareholder receiving incorrect information

A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

(ii) elects to have this paragraph apply with respect to that item.

(3) Effect of failure to notify

In any case—

(A) described in subparagraph (A)(i)(I) of paragraph (2), and

(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

(4) Subchapter S item

For purposes of this subsection, the term ''subchapter S item'' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

(5) Addition to tax for failure to comply with section

For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.

(Added Pub. L. 85–866, title I, § 64(c), Sept. 2, 1958, 72 Stat. 1656; amended Pub. L. 94–455, title XIX, § 1906(a)(3), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1824, 1834; Pub. L. 97–354, § 5(a)(39)(A), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 98–369, div. A, title VII, § 714(q)(2), July 18, 1984, 98 Stat. 965; Pub. L. 104–188, title I, § 1307(c)(2), Aug. 20, 1996, 110 Stat. 1781.)

PRIOR PROVISIONS

A prior section 6037 was renumbered section 6040 of this title.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–188 added subsec. (c).

1984—Pub. L. 98–369 designated existing provisions as subsec. (a) and added subsec. (a) heading and subsec. (b).

1982—Pub. L. 97–354 substituted ''S corporation'' for ''electing small business corporation'' in section catchline, substituted ''Every S corporation'' for ''Every electing small business corporation (as defined in section 1371(b))'', and substituted ''each shareholder's pro rata share of each item of the corporation for the taxable year, and such other information'' for ''and such other information''.

1976—Pub. L. 94–455 substituted ''section 1371(b)'' for ''section 1371(a)(2)'' and struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 applicable to taxable years beginning after Dec. 31, 1996, see section 1317(a) of Pub. L. 104–188, set out as a note under section 641 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1984, see section 714(q)(5) of Pub. L. 98–369, set out as an Effective Date note under section 6034A of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97–354, set out as an Effective Date note under section 1361 of this title.

EFFECTIVE DATE

Section applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 64(e) of Pub. L. 85–866, set out as an Effective Date of 1958 Amendment note under section 172 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6724 of this title.

§ 6038. Information reporting with respect to certain foreign corporations and partnerships

(a) Requirement

(1) In general

Every United States person shall furnish, with respect to any foreign business entity which such person controls, such information as the Secretary may prescribe relating to—

(A) the name, the principal place of business, and the nature of business of such entity, and the country under whose laws such entity is incorporated (or organized in the case of a partnership);

(B) in the case of a foreign corporation, its post-1986 undistributed earnings (as defined in section 902(c));

(C) a balance sheet for such entity listing assets, liabilities, and capital;

(D) transactions between such entity and—

(i) such person,

(ii) any corporation or partnership which such person controls, and

(iii) any United States person owning, at the time the transaction takes place—

(I) in the case of a foreign corporation, 10 percent or more of the value of any class of stock outstanding of such corporation, and

(II) in the case of a foreign partnership, at least a 10-percent interest in such partnership; and

(E)(i) in the case of a foreign corporation, a description of the various classes of stock outstanding, and a list showing the name and address of, and number of shares held by, each United States person who is a shareholder of record owning at any time during the annual accounting period 5 percent or more in value of any class of stock outstanding of such foreign corporation, and

(ii) information comparable to the information described in clause (i) in the case of a foreign partnership.

The Secretary may also require the furnishing of any other information which is similar or related in nature to that specified in the preceding sentence or which the Secretary determines to be appropriate to carry out the provisions of this title.

(2) Period for which information is to be furnished, etc.

The information required under paragraph (1) shall be furnished for the annual accounting period of the foreign business entity ending with or within the United States person's taxable year. The information so required shall be furnished at such time and in such manner as the Secretary shall prescribe.

(3) Limitation

No information shall be required to be furnished under this subsection with respect to any foreign business entity for any annual accounting period unless the Secretary has prescribed the furnishing of such information on or before the first day of such annual accounting period.

(4) Information required from certain shareholders in certain cases

If any foreign corporation is treated as a controlled foreign corporation for any purpose under subpart F of part III of subchapter N of chapter 1, the Secretary may require any United States person treated as a United States shareholder of such corporation for any purpose under subpart F to furnish the information required under paragraph (1).

(5) Information required from 10-percent partner of controlled foreign partnership

In the case of a foreign partnership which is controlled by United States persons holding at least 10-percent interests (but not by any one United States person), the Secretary may require each United States person who holds a 10-percent interest in such partnership to furnish information relating to such partnership,

including information relating to such partner's ownership interests in the partnership and allocations to such partner of partnership items.

(b) Dollar penalty for failure to furnish information

(1) In general

If any person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign business entity required under paragraph (1) of subsection (a), such person shall pay a penalty of $10,000 for each annual accounting period with respect to which such failure exists.

(2) Increase in penalty where failure continues after notification

If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues with respect to any annual accounting period after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $50,000.

(c) Penalty of reducing foreign tax credit

(1) In general

If a United States person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign business entity required under paragraph (1) of subsection (a), then—

(A) in applying section 901 (relating to taxes of foreign countries and possessions of the United States) to such United States person for the taxable year, the amount of taxes (other than taxes reduced under subparagraph (B)) paid or deemed paid (other than those deemed paid under section 904(c)) to any foreign country or possession of the United States for the taxable year shall be reduced by 10 percent, and

(B) in the case of a foreign business entity which is a foreign corporation, in applying sections 902 (relating to foreign tax credit for corporate stockholder in foreign corporation) and 960 (relating to special rules for foreign tax credit) to any such United States person which is a corporation (or to any person who acquires from any other person any portion of the interest of such other person in any such foreign corporation, but only to the extent of such portion) for any taxable year, the amount of taxes paid or deemed paid by each foreign corporation with respect to which such person is required to furnish information during the annual accounting period or periods with respect to which such information is required under paragraph (2) of subsection (a) shall be reduced by 10 percent.

If such failure continues 90 days or more after notice of such failure by the Secretary to the United States person, then the amount of the reduction under this paragraph shall be 10 percent plus an additional 5 percent for each 3-month period, or fraction thereof, during which such failure to furnish information continues after the expiration of such 90-day period.

(2) Limitation

The amount of the reduction under paragraph (1) for each failure to furnish information with respect to a foreign business entity required under subsection (a)(1) shall not exceed whichever of the following amounts is the greater:

(A) $10,000, or

(B) the income of the foreign business entity for its annual accounting period with respect to which the failure occurs.

(3) Coordination with subsection (b)

The amount of the reduction which (but for this paragraph) would be made under paragraph (1) with respect to any annual accounting period shall be reduced by the amount of the penalty imposed by subsection (b) with respect to such period.

(4) Special rules

(A) No taxes shall be reduced under this subsection more than once for the same failure.

(B) For purposes of this subsection and subsection (b), the time prescribed under paragraph (2) of subsection (a) to furnish information (and the beginning of the 90-day period after notice by the Secretary) shall be treated as being not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish such information.

(C) In applying subsections (a) and (b) of section 902, and in applying subsection (a) of section 960, the reduction provided by this subsection shall not apply for purposes of determining the amount of post-1986 undistributed earnings.

(d) Two or more persons required to furnish information with respect to same foreign corporation

Where, but for this subsection, two or more United States persons would be required to furnish information under subsection (a) with respect to the same foreign business entity for the same period, the Secretary may by regulations provide that such information shall be required only from one person. To the extent practicable, the determination of which person shall furnish the information shall be made on the basis of actual ownership of stock.

(e) Definitions

For purposes of this section—

(1) Foreign business entity

The term ''foreign business entity'' means a foreign corporation and a foreign partnership.

(2) Control of corporation

A person is in control of a corporation if such person owns stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or more than 50 percent of the total value of shares of

all classes of stock, of a corporation. If a person is in control (within the meaning of the preceding sentence) of a corporation which in turn owns more than 50 percent of the total combined voting power of all classes of stock entitled to vote of another corporation, or owns more than 50 percent of the total value of the shares of all classes of stock of another corporation, then such person shall be treated as in control of such other corporation. For purposes of this paragraph, the rules prescribed by section 318(a) for determining ownership of stock shall apply; except that—

(A) subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person, and

(B) in applying subparagraph (C) of section 318(a)(2), the phrase ''10 percent'' shall be substituted for the phrase ''50 percent'' used in subparagraph (C).

(3) Partnership-related definitions

(A) Control

A person is in control of a partnership if such person owns directly or indirectly more than a 50 percent interest in such partnership.

(B) 50-percent interest

For purposes of subparagraph (A), a 50-percent interest in a partnership is—

(i) an interest equal to 50 percent of the capital interest, or 50 percent of the profits interest, in such partnership, or

(ii) to the extent provided in regulations, an interest to which 50 percent of the deductions or losses of such partnership are allocated.

For purposes of the preceding sentence, rules similar to the rules of section 267(c) (other than paragraph (3)) shall apply.

(C) 10-percent interest

A 10-percent interest in a partnership is an interest which would be described in subparagraph (B) if ''10 percent'' were substituted for ''50 percent'' each place it appears.

(4) Annual accounting period

The annual accounting period of a foreign business entity is the annual period on the basis of which such foreign business entity regularly computes its income in keeping its books. In the case of a specified foreign business entity (as defined in section 898), the taxable year of such foreign business entity shall be treated as its annual accounting period.

(f) Cross references

(1) For provisions relating to penalties for violations of this section, see section 7203.

(2) For definition of the term "United States person", see section 7701(a)(30).

(Added Pub. L. 86–780, § 6(a), Sept. 14, 1960, 74 Stat. 1014; amended Pub. L. 87–834, § 20(a), Oct. 16, 1962, 76 Stat. 1059; Pub. L. 88–554, § 4(b)(6), Aug. 31, 1964, 78 Stat. 764; Pub. L. 94–455, title X, § 1031(b)(5), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1623, 1834; Pub. L. 97–248, title III, § 338(a)–(c), Sept. 3, 1982, 96 Stat. 631; Pub. L. 99–514, title XII, §§ 1202(c), 1245(b)(5), Oct. 22, 1986, 100 Stat. 2530, 2581; Pub. L. 101–239, title VII, § 7712(a), Dec. 19, 1989, 103 Stat. 2393; Pub. L. 101–508, title XI, § 11701(f), Nov. 5, 1990, 104 Stat. 1388–508; Pub. L. 104–188, title I, § 1704(f)(5)(A), (t)(40), (46), Aug. 20, 1996, 110 Stat. 1880, 1889; Pub. L. 105–34, title XI, § 1142(a)–(e)(2), Aug. 5, 1997, 111 Stat. 981–983; Pub. L. 105–206, title VI, § 6011(f), July 22, 1998, 112 Stat. 818.)

PRIOR PROVISIONS

A prior section 6038 was renumbered section 6040 of this title.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–206, § 6011(f)(1), struck out ''by regulations'' before ''prescribe''.

Subsec. (a)(3). Pub. L. 105–206, § 6011(f)(2), substituted ''the Secretary has prescribed the furnishing of such information on or before the first day of such annual accounting period.'' for ''such information was required to be furnished under regulations in effect on the first day of such annual accounting period.''

Subsec. (e)(4). Pub. L. 105–206, § 6011(f)(3), substituted ''such foreign business entity'' for ''such corporation'' in two places.

1997—Pub. L. 105–34, § 1142(a), inserted ''reporting'' after ''Information'' and ''and partnerships'' after ''corporations'' in section catchline.

Subsec. (a). Pub. L. 105–34, § 1142(a), reenacted heading without change.

Subsec. (a)(1). Pub. L. 105–34, § 1142(a), reenacted heading without change and amended text generally. Prior to amendment, par. (1) consisted of subpars. (A) to (E) relating to general requirements of information with respect to foreign corporations.

Subsec. (a)(2), (3). Pub. L. 105–34, § 1142(e)(1)(A), substituted ''foreign business entity'' for ''foreign corporation'' in pars. (2) and (3).

Subsec. (a)(5). Pub. L. 105–34, § 1142(d), added par. (5).

Subsec. (b). Pub. L. 105–34, § 1142(c), (e)(1)(B), substituted ''foreign business entity'' for ''foreign corporation'' in par. (1), substituted ''$10,000'' for ''$1,000'' in pars. (1) and (2), and substituted ''$50,000'' for ''$24,000'' in par. (2).

Subsec. (c)(1). Pub. L. 105–34, § 1142(e)(1)(C), (2), substituted ''foreign business entity'' for ''foreign corporation'' in introductory provisions and inserted ''in the case of a foreign business entity which is a foreign corporation,'' after ''(B)'' in subpar. (B).

Subsec. (c)(2). Pub. L. 105–34, § 1142(e)(1)(C), substituted ''foreign business entity'' for ''foreign corporation'' in introductory provisions and in subpar. (B).

Subsec. (d). Pub. L. 105–34, § 1142(e)(1)(D), substituted ''foreign business entity'' for ''foreign corporation''.

Subsec. (e). Pub. L. 105–34, § 1142(b), added pars. (1) and (3), redesignated former pars. (1) and (2) as (2) and (4), respectively, inserted ''of corporation'' after ''Control'' in par. (2) heading, and substituted ''foreign business entity'' for ''foreign corporation'' in two places in par. (4).

1996—Subsec. (a)(1)(E), (F). Pub. L. 104–188, § 1704(f)(5)(A), substituted period for '', and'' at end of subpar. (E) and struck out subpar. (F) which read as follows: ''such information as the Secretary may require for purposes of carrying out the provisions of section 453C.''

Subsec. (e). Pub. L. 104–188, § 1704(t)(40), redesignated subsec. (e), relating to cross references, as (f).

Subsec. (e)(2). Pub. L. 104–188, § 1704(t)(46), made technical amendment to directory language of Pub. L. 101–508. See 1990 Amendment note below.

Subsec. (f). Pub. L. 104–188, § 1704(t)(40), redesignated subsec. (e), relating to cross references, as (f).

1990—Subsec. (e)(2). Pub. L. 101–508, as amended by Pub. L. 104–188, § 1704(t)(46), in subsec. (e) relating to definitions, inserted at end of par. (2) ''In the case of a

specified foreign corporation (as defined in section 898), the taxable year of such corporation shall be treated as its annual accounting period.''

1989—Subsec. (a)(1). Pub. L. 101–239, §7712(a)(2), inserted before period at end ''or which the Secretary determines to be appropriate to carry out the provisions of this title.''

Subsec. (a)(4). Pub. L. 101–239, §7712(a)(1), added par. (4).

1986—Subsec. (a)(1)(B). Pub. L. 99–514, §1202(c)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''the accumulated profits (as defined in section 902(c)) of such foreign corporation, including the items of income (whether or not included in gross income under chapter 1), deductions (whether or not allowed in computing taxable income under chapter 1), and any other items taken into account in computing such accumulated profits;''.

Subsec. (a)(1)(F). Pub. L. 99–514, §1245(b)(5), added subpar. (F).

Subsec. (c)(4)(C). Pub. L. 99–514, §1202(c)(2), substituted ''post-1986 undistributed earnings'' for ''accumulated profits in excess of income, war profits, and excess profits taxes''.

1982—Subsec. (a)(1). Pub. L. 97–248, §338(c)(2), substituted ''subsection (e)(1)'' for ''subsection (d)(1)''.

Subsec. (b). Pub. L. 97–248, §338(a), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 97–248, §338(a), (b), (c)(1), (3), redesignated former subsec. (b) as (c), substituted ''Penalty of reducing foreign tax credit'' for ''Effect of failure to furnish information'' in heading, inserted ''of such failure'' after ''90 days or more after notice'' in par. (1), added par. (3), redesignated former par. (3) as (4), and in par. (4) inserted reference to subsection (b) in subpar. (B). Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 97–248, §338(a), redesignated former subsec. (c) as (d). Former subsec. (d), relating to definitions, redesignated (e).

1976—Subsecs. (a), (b). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (b)(1). Pub. L. 94–455, §1031(b)(5), substituted in subpar. (A) ''section 904(c)'' for ''section 904(d)''.

Subsec. (c). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1964—Subsec. (d)(1). Pub. L. 88–554 substituted ''subparagraphs (A), (B), and (C) of section 318(a)(3)'' for ''the second sentence of subparagraphs (A) and (B), and clause (ii) of subparagraph (C), of section 318(a)(2)'' in subpar. (A), and deleted ''clause (i) of'' after ''in applying'' in subpar. (B).

1962—Subsec. (a)(1). Pub. L. 87–834, among other changes, substituted in introductory provisions ''Every United States person shall furnish'' for ''A domestic corporation shall furnish'', in subpar. (D)(i) ''such person'' for ''any foreign corporation controlled by the domestic corporation'', in subpar. (D)(ii) ''any other corporation which such person controls'' for ''any foreign subsidiary of a foreign corporation controlled by the domestic corporation'', in subpar. (D)(iii) ''any United States person owning, at the time the transaction takes place, 10 percent or more of the value of any class of stock outstanding of such foreign corporation'' for ''the domestic corporation or any shareholder of the domestic corporation owning at the time the transaction takes place 10 percent or more of the value of any class of stock outstanding of the domestic corporation'', and in subpar. (E) ''each United States person who is a shareholder'' for ''each citizen or resident of the United States and each domestic corporation who is a shareholder'', and struck out provisions throughout the subsection which related to foreign subsidiaries.

Subsec. (a)(2). Pub. L. 87–834 substituted provisions requiring the information to be furnished for the annual accounting period ending with or within the United States person's taxable year for provisions which required such information to be furnished for the annual accounting period ending with or within the domestic corporation's taxable year, and struck out provisions which related to the furnishing of information in the case of foreign subsidiaries.

Subsec. (a)(3). Pub. L. 87–834 struck out provisions which related to foreign subsidiaries.

Subsec. (b). Pub. L. 87–834, among other changes, substituted ''If a United States person fails to furnish'' for ''If a domestic corporation fails to furnish'' in the opening provisions, inserted provisions relating to reduction of taxes in applying sections 901 and 960 of this title, to the maximum amount of reduction under par. (1) for each failure to furnish information with respect to a foreign corporation required under subsec. (a)(1), and making the reduction provided by subsec. (b) inapplicable, in applying subsecs. (a) and (b) of section 902 and subsec. (a) of section 960, for purposes of determining the amount of accumulated profits in excess of income, war profits, and excess profits taxes, and eliminated provisions which related to the furnishing of information with respect to foreign subsidiaries.

Subsec. (c). Pub. L. 87–834 substituted provisions empowering the Secretary to provide for the furnishing of information by only one person where two or more persons would be required to furnish information under subsec. (a) with respect to the same foreign corporation for the same period for provisions which required a domestic corporation if at any time during its taxable year owned more than 50 percent of the voting stock of a foreign corporation to be deemed to be in control of such foreign corporation, and in the case of a foreign corporation if at any time during its annual accounting period owned more than 50 percent of the voting stock of another foreign corporation, that such other corporation shall be considered a foreign subsidiary of the corporation owning such stock. The provisions relating to control are now contained in subsec. (d) of this section.

Subsec. (d). Pub. L. 87–834 added par. (1) which was formerly covered in part by subsec. (c) of this section, designated existing provisions as par. (2), and eliminated from par. (2) provisions which related to the annual accounting period of a foreign subsidiary.

Subsec. (e). Pub. L. 87–834 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to annual accounting periods beginning after Aug. 5, 1997, see section 1142(f) of Pub. L. 105–34, set out as a note under section 318 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective, except as otherwise provided, as if included in the provision of the Revenue Reconciliation Act of 1989, Pub. L. 101–239, title VII, to which such amendment relates, see section 11701(n) of Pub. L. 101–508, set out as a note under section 42 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7712(b) of Pub. L. 101–239 provided that: ''The amendments made by subsection (a) [amending this section] shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1202(c) of Pub. L. 99–514 applicable to distributions by foreign corporations out of, and to inclusions under section 951(a) of this title attributable to, earnings and profits for taxable years beginning after Dec. 31, 1986, see section 1202(e) of Pub. L. 99–514, set out as a note under section 902 of this title.

Amendment by section 1245(b)(5) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 1245(c) of Pub. L. 99–514, set out as a note under section 6038A of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 338(d) of Pub. L. 97–248 provided that: ''The amendments made by this section [amending this section] shall apply with respect to information for annual accounting periods ending after the date of the enactment of this Act [Sept. 3, 1982].''

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–554 effective Aug. 31, 1964, except that for purposes of sections 302 and 304 of this title, such amendments shall not apply to distributions in payment for stock acquisitions or redemptions, if such acquisitions or redemptions occurred before Aug. 31, 1964, see section 4(c) of Pub. L. 88–554, set out as a note under section 318 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 20(e)(1) of Pub. L. 87–834 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to annual accounting periods of foreign corporations beginning after December 31, 1962.''

EFFECTIVE DATE

Section 6(c) of Pub. L. 86–780, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by subsection (a) [enacting this section and amending section 902 of this title] shall apply to taxable years of domestic corporations beginning after December 31, 1960, with respect to information relating to a foreign corporation or a foreign subsidiary described in section 6038(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a)) for its annual accounting periods beginning after December 31, 1960.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 318, 901, 902, 964, 6046A, 6501 of this title.

§ 6038A. Information with respect to certain foreign-owned corporations

(a) Requirement

If, at any time during a taxable year, a corporation (hereinafter in this section referred to as the ''reporting corporation'')—

(1) is a domestic corporation, and

(2) is 25-percent foreign-owned,

such corporation shall furnish, at such time and in such manner as the Secretary shall by regulations prescribe, the information described in subsection (b) and such corporation shall maintain (in the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the correct treatment of transactions with related parties as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

(b) Required information

For purposes of subsection (a), the information described in this subsection is such information as the Secretary may prescribe by regulations relating to—

(1) the name, principal place of business, nature of business, and country or countries in which organized or resident, of each person which—

(A) is a related party to the reporting corporation, and

(B) had any transaction with the reporting corporation during its taxable year,

(2) the manner in which the reporting corporation is related to each person referred to in paragraph (1), and

(3) transactions between the reporting corporation and each foreign person which is a related party to the reporting corporation.

(c) Definitions

For purposes of this section—

(1) 25-percent foreign-owned

A corporation is 25-percent foreign-owned if at least 25 percent of—

(A) the total voting power of all classes of stock of such corporation entitled to vote, or

(B) the total value of all classes of stock of such corporation,

is owned at any time during the taxable year by 1 foreign person (hereinafter in this section referred to as a ''25-percent foreign shareholder'').

(2) Related party

The term ''related party'' means—

(A) any 25-percent foreign shareholder of the reporting corporation,

(B) any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the reporting corporation or to a 25-percent foreign shareholder of the reporting corporation, and

(C) any other person who is related (within the meaning of section 482) to the reporting corporation.

(3) Foreign person

The term ''foreign person'' means any person who is not a United States person. For purposes of the preceding sentence, the term ''United States person'' has the meaning given to such term by section 7701(a)(30), except that any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

(4) Records

The term ''records'' includes any books, papers, or other data.

(5) Section 318 to apply

Section 318 shall apply for purposes of paragraphs (1) and (2), except that—

(A) ''10 percent'' shall be substituted for ''50 percent'' in section 318(a)(2)(C), and

(B) subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person.

(d) Penalty for failure to furnish information or maintain records

(1) In general

If a reporting corporation—

(A) fails to furnish (within the time prescribed by regulations) any information described in subsection (b), or

(B) fails to maintain (or cause another to maintain) records as required by subsection (a),

such corporation shall pay a penalty of $10,000 for each taxable year with respect to which such failure occurs.

(2) Increase in penalty where failure continues after notification

If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

(3) Reasonable cause

For purposes of this subsection, the time prescribed by regulations to furnish information or maintain records (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information or maintain the records.

(e) Enforcement of requests for certain records

(1) Agreement to treat corporation as agent

The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

(2) Rules where information not furnished

If—

(A) for purposes of determining the correct treatment under this title of any transaction between the reporting corporation and a related party who is a foreign person, the Secretary issues a summons to such corporation to produce (either directly or as agent for such related party) any records or testimony,

(B) such summons is not quashed in a proceeding begun under paragraph (4) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to such transaction (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction to which the records relate.

(3) Applicable rules in cases of noncompliance

If the rules of this paragraph apply to any transaction—

(A) the amount of the deduction allowed under subtitle A for any amount paid or incurred by the reporting corporation to the related party in connection with such transaction, and

(B) the cost to the reporting corporation of any property acquired in such transaction from the related party (or transferred by such corporation in such transaction to the related party),

shall be the amount determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

(4) Judicial proceedings

(A) Proceedings to quash

Notwithstanding any law or rule of law, any reporting corporation to which the Secretary issues a summons referred to in paragraph (2)(A) shall have the right to begin a proceeding to quash such summons not later than the 90th day after such summons was issued. In any such proceeding, the Secretary may seek to compel compliance with such summons.

(B) Review of secretarial determination of noncompliance

Notwithstanding any law or rule of law, any reporting corporation which has been notified by the Secretary that the Secretary has determined that such corporation has not substantially complied with a summons referred to in paragraph (2) shall have the right to begin a proceeding to review such determination not later than the 90th day after the day on which the notice referred to in paragraph (2)(C) was mailed. If such a proceeding is not begun on or before such 90th day, such determination by the Secretary shall be binding and shall not be reviewed by any court.

(C) Jurisdiction

The United States district court for the district in which the person (to whom the summons is issued) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A) or (B). Any

order or other determination in such a proceeding shall be treated as a final order which may be appealed.

(D) Suspension of statute of limitations

If the reporting corporation brings an action under subparagraph (A) or (B), the running of any period of limitations under section 6501 (relating to assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to any affected taxable year shall be suspended for the period during which such proceeding, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such proceeding. For purposes of this subparagraph, the term ''affected taxable year'' means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates.

(f) Cross reference

For provisions relating to criminal penalties for violation of this section, see section 7203.

(Added Pub. L. 97–248, title III, § 339(a), Sept. 3, 1982, 96 Stat. 632; amended Pub. L. 97–448, title III, § 306(b)(4), Jan. 12, 1983, 96 Stat. 2406; Pub. L. 98–369, div. A, title VII, § 714(*l*), July 18, 1984, 98 Stat. 963; Pub. L. 99–514, title XII, § 1245(a), (b)(1)–(4), Oct. 22, 1986, 100 Stat. 2581; Pub. L. 101–239, title VII, § 7403(a)–(d), Dec. 19, 1989, 103 Stat. 2358, 2359; Pub. L. 101–508, title XI, §§ 11315(b)(1), 11704(a)(23), Nov. 5, 1990, 104 Stat. 1388–457, 1388–519; Pub. L. 104–188, title I, §§ 1702(c)(5), 1704(f)(5)(B), Aug. 20, 1996, 110 Stat. 1869, 1880.)

AMENDMENTS

1996—Subsec. (b)(2) to (4). Pub. L. 104–188, § 1704(f)(5)(B), inserted ''and'' at end of par. (2), substituted a period for '', and'' at end of par. (3), and struck out par. (4) which read as follows: ''such information as the Secretary may require for purposes of carrying out the provisions of section 453C.''

Subsec. (e)(4)(D). Pub. L. 104–188, § 1702(c)(5), substituted ''any affected taxable year'' for ''any transaction to which the summons relates'' and inserted at end ''For purposes of this subparagraph, the term 'affected taxable year' means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates.''

1990—Subsec. (a)(1). Pub. L. 101–508, § 11315(b)(1), struck out ''or is a foreign corporation engaged in trade or business within the United States'' after ''corporation''.

Subsec. (c)(3) to (6). Pub. L. 101–508, § 11704(a)(23), redesignated pars. (4) to (6) as (3) to (5), respectively.

1989—Subsec. (a). Pub. L. 101–239, § 7403(b), inserted before period at end ''and such corporation shall maintain (in the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the correct treatment of transactions with related parties as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records)''.

Subsec. (a)(2). Pub. L. 101–239, § 7403(a)(1), amended par. (2) generally, substituting ''is 25-percent foreign-owned,'' for ''is controlled by a foreign person,''.

Subsec. (c). Pub. L. 101–239, § 7403(a)(2), amended subsec. (c) generally, substituting pars. (1) to (6) for former pars. (1) to (3) defining ''control'', ''related party'', and ''foreign person''.

Subsec. (d). Pub. L. 101–239, § 7403(c), inserted ''or maintain records'' after ''information'' in heading and amended text generally, making changes in substance and structure of pars. (1) to (3).

Subsecs. (e), (f). Pub. L. 101–239, § 7403(d), added subsec. (e) and redesignated former subsec. (e) as (f).

1986—Subsec. (b)(1). Pub. L. 99–514, § 1245(a), substituted ''each person'' for ''each corporation'' in introductory provisions and amended subpar. (A) generally, substituting ''related party to the reporting corporation'' for ''member of the same controlled group as the reporting corporation''.

Subsec. (b)(2). Pub. L. 99–514, § 1245(b)(1), substituted ''each person'' for ''each corporation''.

Subsec. (b)(3). Pub. L. 99–514, § 1245(b)(2), (3), amended par. (3) generally, substituting ''foreign person which is a related party to the reporting corporation, and'' for ''foreign corporation which is a member of the same controlled group as the reporting corporation.''

Subsec. (b)(4). Pub. L. 99–514, § 1245(b)(3), added par. (4).

Subsec. (c)(2). Pub. L. 99–514, § 1245(b)(4), amended par. (2) generally. Prior to amendment, par. (2), controlled group, read as follows: ''The term 'controlled group' means any controlled group of corporations within the meaning of section 1563(a); except that—

''(A) 'at least 50 percent' shall be substituted—

''(i) for 'at least 80 percent' each place it appears in section 1563(a)(1), and

''(ii) for 'more than 50 percent' each place it appears in section 1563(a)(2)(B), and

''(B) the determination shall be made without regard to subsections (a)(4), (b)(2)(C), and (e)(3)(C) of section 1563.''

1984—Subsec. (c)(1). Pub. L. 98–369 substituted section ''6038(e)(1)'' for ''6038(d)(1)''.

1983—Subsec. (c)(2)(B). Pub. L. 97–448 inserted '', (b)(2)(C),'' after ''(a)(4)''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1702(c)(5) of Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11315(c) of Pub. L. 101–508 provided that: ''The amendments made by this section [enacting section 6038C of this title and amending this section] shall apply to—

''(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act [Nov. 5, 1990],

''(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

''(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

''(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7403(e) of Pub. L. 101–239 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after July 10, 1989.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1245(c) of Pub. L. 99–514 provided that: ''The amendments made by this section [amending this sec-

tion and section 6038 of this title] shall apply to taxable years beginning after December 31, 1986.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 311(d) of Pub. L. 97–448, set out as a note under section 31 of this title.

EFFECTIVE DATE

Section 339(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [enacting this section] shall apply to taxable years beginning after December 31, 1982.''

APPLICABILITY OF 1989 AMENDMENT

Section 11314 of Pub. L. 101–508 provided that:

''(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 [Pub. L. 101–239, amending this section] shall apply to—

''(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act [Nov. 5, 1990],

''(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

''(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

''(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

''(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act [Nov. 5, 1990] but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6038C, 6048, 6501 of this title.

§ 6038B. Notice of certain transfers to foreign persons

(a) In general

Each United States person who—

(1) transfers property to—

(A) a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361, or

(B) a foreign partnership in a contribution described in section 721 or in any other contribution described in regulations prescribed by the Secretary,[1]

(2) makes a distribution described in section 336 to a person who is not a United States person,

shall furnish to the Secretary, at such time and in such manner as the Secretary shall by regulations prescribe, such information with respect to such exchange or distribution as the Secretary may require in such regulations.

(b) Exceptions for certain transfers to foreign partnerships; special rule

(1) Exceptions

Subsection (a)(1)(B) shall apply to a transfer by a United States person to a foreign partnership only if—

(A) the United States person holds (immediately after the transfer) directly or indirectly at least a 10-percent interest (as defined in section 6046A(d)) in the partnership, or

(B) the value of the property transferred (when added to the value of the property transferred by such person or any related person to such partnership or a related partnership during the 12-month period ending on the date of the transfer) exceeds $100,000.

For purposes of the preceding sentence, the value of any transferred property is its fair market value at the time of its transfer.

(2) Special rule

If by reason of an adjustment under section 482 or otherwise, a contribution described in subsection (a)(1) is deemed to have been made, such contribution shall be treated for purposes of this section as having been made not earlier than the date specified by the Secretary.

(c) Penalty for failure to furnish information

(1) In general

If any United States person fails to furnish the information described in subsection (a) at the time and in the manner required by regulations, such person shall pay a penalty equal to 10 percent of the fair market value of the property at the time of the exchange (and, in the case of a contribution described in subsection (a)(1)(B), such person shall recognize gain as if the contributed property had been sold for such value at the time of such contribution).

(2) Reasonable cause exception

Paragraph (1) shall not apply to any failure if the United States person shows such failure is due to reasonable cause and not to willful neglect.

(3) Limit on penalty

The penalty under paragraph (1) with respect to any exchange shall not exceed $100,000 unless the failure with respect to such exchange was due to intentional disregard.

(Added Pub. L. 98–369, div. A, title I, § 131(d)(1), July 18, 1984, 98 Stat. 664; amended Pub. L. 105–34, title XI, § 1144(a)–(c), Aug. 5, 1997, 111 Stat. 984, 985; Pub. L. 105–206, title VI, § 6011(g), July 22, 1998, 112 Stat. 818.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–206, § 6011(g), made technical amendment to directory language of Pub. L. 105–206, § 1144(c). See 1997 Amendment note below.

[1] So in original. Probably should be followed by ''or''.

1997—Subsec. (a)(1). Pub. L. 105–34, § 1144(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''transfers property to a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361, or''.

Subsec. (b). Pub. L. 105–34, § 1144(b), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 105–34, § 1144(c), as amended by Pub. L. 105–206, § 6011(g), substituted ''equal to 10 percent of the fair market value of the property at the time of the exchange (and, in the case of a contribution described in subsection (a)(1)(B), such person shall recognize gain as if the contributed property had been sold for such value at the time of such contribution)'' for ''equal to 25 percent of the amount of the gain realized on the exchange'' in par. (1) and added par. (3).

Pub. L. 105–34, § 1144(b), redesignated subsec. (b) as (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1144(d)(1) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section] shall apply to transfers made after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE

Section applicable to transfers or exchanges after Dec. 31, 1984, in taxable years ending after such date, with special rules for certain transfers and ruling requests before Mar. 1, 1984, see section 131(g) of Pub. L. 98–369, set out as an Effective Date of 1984 Amendment note under section 367 of this title.

ELECTION OF RETROACTIVE EFFECT

Section 1141(d)(2) of Pub. L. 105–34 provided that: ''Section 1494(c) of the Internal Revenue Code of 1986 shall not apply to any transfer after August 20, 1996, if all applicable reporting requirements under section 6038B of such Code (as amended by this section) are satisfied. The Secretary of the Treasury or his delegate may prescribe simplified reporting requirements under the preceding sentence.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6501 of this title.

§ 6038C. Information with respect to foreign corporations engaged in U.S. business

(a) Requirement

If a foreign corporation (hereinafter in this section referred to as the ''reporting corporation'') is engaged in a trade or business within the United States at any time during a taxable year—

(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

(b) Required information

For purposes of subsection (a), the information described in this subsection is—

(1) the information described in section 6038A(b), and

(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

(c) Penalty for failure to furnish information or maintain records

The provisions of subsection (d) of section 6038A shall apply to—

(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

(d) Enforcement of requests for certain records

(1) Agreement to treat corporation as agent

The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

(2) Rules where information not furnished

If—

(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to

enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

(3) Applicable rules

If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

(4) Judicial proceedings

The provisions of section 6038A(e)(4) shall apply with respect to any summons referred to in paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting ''transaction or item'' for ''transaction''.

(e) Definitions

For purposes of this section, the terms ''related party'', ''foreign person'', and ''records'' have the respective meanings given to such terms by section 6038A(c).

(Added Pub. L. 101–508, title XI, § 11315(a), Nov. 5, 1990, 104 Stat. 1388–456.)

EFFECTIVE DATE

Section applicable to (1) any requirement to furnish information under this section if the time for furnishing such information is after Nov. 5, 1990, (2) any requirement under subsec. (a) of this section to maintain records which were in existence on or after Mar. 20, 1990, (3) any requirement to authorize a corporation to act as a limited agent under subsec. (d)(1) of this section if the time for authorizing such action is after Nov. 5, 1990, and (4) any summons issued after Nov. 5, 1990, without regard to when the taxable year (to which the information, records, authorization, or summons relates) began, see section 11315(c) of Pub. L. 101–508, set out as an Effective Date of 1990 Amendment note under section 6038A of this title.

§ 6039. Information required in connection with certain options

(a) Furnishing of information

Every corporation—

(1) which in any calendar year transfers to any person a share of stock pursuant to such person's exercise of an incentive stock option, or

(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock acquired by the transferor pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock),

shall (on or before January 31 of the following calendar year) furnish to such person a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe.

(b) Special rules

For purposes of this section—

(1) Treatment by employer to be determinative

Any option which the corporation treats as an incentive stock option or an option granted under an employee stock purchase plan shall be deemed to be such an option.

(2) Subsection (a)(2) applies only to first transfer described therein

A statement is required by reason of a transfer described in subsection (a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option.

(3) Identification of stock

Any corporation which transfers any share of stock pursuant to the exercise of any option described in subsection (a)(2) shall identify such stock in a manner adequate to carry out the purposes of this section.

(c) Cross references

For definition of—

(1) the term "incentive stock option", see section 422(b), and

(2) the term "employee stock purchase plan"[1] see section 423(b).

(Added Pub. L. 88–272, title II, § 221(b)(1), Feb. 26, 1964, 78 Stat. 73; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–167, § 7(a), Dec. 29, 1979, 93 Stat. 1276; Pub. L. 97–34, title II, § 251(b)(5), Aug. 13, 1981, 95 Stat. 259; Pub. L. 101–508, title XI, § 11801(c)(9)(J), Nov. 5, 1990, 104 Stat. 1388–526; Pub. L. 105–206, title VI, § 6023(20), July 22, 1998, 112 Stat. 825.)

PRIOR PROVISIONS

A prior section 6039 was renumbered section 6040 of this title.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–206 inserted ''to any person'' after ''transfers''.

1990—Subsec. (a)(1), (2). Pub. L. 101–508, § 11801(c)(9)(J)(i), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) which in any calendar year transfers a share of stock to any person pursuant to such person's exercise of a qualified stock option, an incentive stock option, or a restricted stock option, or

''(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

''(A) acquired by the transfer or pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

''(B) acquired by the transferor pursuant to his exercise of a restricted stock option described in section 424(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock),''.

Subsec. (b)(1). Pub. L. 101–508, § 11801(c)(9)(J)(ii), substituted ''an incentive stock option or an'' for ''a qualified stock option, incentive stock option, a restricted stock option, or an''.

Subsec. (c). Pub. L. 101–508, § 11801(c)(9)(J)(iii), amended subsec. (c) generally, striking out references for definitions of ''qualified stock option'' and ''restricted stock option''.

[1] So in original. Probably should be followed by a comma.

1981—Subsec. (a)(1). Pub. L. 97–34, § 251(b)(5)(A), inserted ‘‘, an incentive stock option,’’ after ‘‘qualified stock option’’.

Subsec. (b)(1). Pub. L. 97–34, § 251(b)(5)(B), inserted ‘‘incentive stock option,’’ after ‘‘qualified stock option,’’.

Subsec. (c)(4). Pub. L. 97–34, § 251(b)(5)(C), added par. (4).

1979—Subsec. (a). Pub. L. 96–167 substituted ‘‘Furnishing of information’’ for ‘‘Requirement of reporting’’ in heading, and in closing par. substituted provisions relating to the furnishing, on or before Jan. 31 of the following calendar year, a written statement in such manner and setting forth such information, as prescribed by regulation for provisions prescribing the making of a return at such time and in such manner as prescribed by regulation, determining qualified stock options, restricted stock options or options granted under an employee stock purchase plan to be options under the provisions of this section, and restricting the necessity of a return only to the first transfer of such share.

Subsec. (b). Pub. L. 96–167 added subsec. (b). Former subsec. (b), requiring every corporation making a return to furnish each person named in the return a written statement setting forth such information as prescribed by regulation, and requiring such statement to be furnished before January 31 of the year following the calendar year for which the return was made, was struck out.

Subsec. (c). Pub. L. 96–167 redesignated subsec. (d) as (c). Former subsec. (c), requiring any corporation transferring any share of stock pursuant to the exercise of an option described in subsec. (a)(2) to identify such stock, was struck out.

Subsec. (d). Pub. L. 96–167 redesignated subsec. (d) as (c).

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ‘‘or his delegate’’ after ‘‘Secretary’’.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable with respect to options granted on or after Jan. 1, 1976, and exercised on or after Jan. 1, 1981, or outstanding on Jan. 1, 1981, or granted on or after Jan. 1, 1976, and outstanding Aug. 13, 1981, see section 251(c) of Pub. L. 97–34, set out as an Effective Date note under section 422 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–167 applicable with respect to calendar years beginning after 1979, see section 7(c) of Pub. L. 96–167, set out as a note under section 6652 of this title.

EFFECTIVE DATE

Section applicable to stock transferred pursuant to options exercised on or after Jan. 1, 1964, See section 221(e) of Pub. L. 88–272, set out as an Effective Date of 1964 Amendment note under section 421 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 424, 6724 of this title.

[§ 6039A. Repealed. Pub. L. 96–223, title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299]

Section, added Pub. L. 94–455, title XX, § 2005(d)(1), Oct. 4, 1976, 90 Stat. 1877, related to information regarding carryover basis property acquired from a decedent. Repeal was achieved by repealing section 2005(d)(1) of Pub. L. 94–455 and the amendments made by that section.

EFFECTIVE DATE OF REPEAL AND REVIVAL OF PRIOR LAW

Repeal applicable in respect of decedents dying after Dec. 31, 1976, and, except for certain elections, this title to be applied and administered as if this section had not been enacted, see section 401(b), (e) of Pub. L. 96–223, set out as an Effective Date of 1980 Amendment and Revival of Prior Law note under section 1023 of this title.

[§ 6039B. Repealed. Pub. L. 99–514, title XIII, § 1303(b)(5), Oct. 22, 1986, 100 Stat. 2658]

Section, added Pub. L. 95–600, title VI, § 601(b)(4), Nov. 6, 1978, 92 Stat. 2896; amended Pub. L. 96–595, § 3(b), Dec. 24, 1980, 94 Stat. 3466, related to returns of general stock ownership corporations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 22, 1986, see section 1311(f) of Pub. L. 99–514, as amended, set out as an Effective Date; Transitional Rules note under section 141 of this title.

§ 6039C. Returns with respect to foreign persons holding direct investments in United States real property interests

(a) General rule

To the extent provided in regulations, any foreign person holding direct investments in United States real property interests for the calendar year shall make a return setting forth—

(1) the name and address of such person,

(2) a description of all United States real property interests held by such person at any time during the calendar year, and

(3) such other information as the Secretary may by regulations prescribe.

(b) Definition of foreign persons holding direct investments in United States real property interests

For purposes of this section, a foreign person shall be treated as holding direct investments in United States real property interests during any calendar year if—

(1) such person did not engage in a trade or business in the United States at any time during such calendar year, and

(2) the fair market value of the United States real property interests held directly by such person at any time during such year equals or exceeds $50,000.

(c) Definitions and special rules

For purposes of this section—

(1) United States real property interest

The term ‘‘United States real property interest’’ has the meaning given to such term by section 897(c).

(2) Foreign person

The term ‘‘foreign person’’ means any person who is not a United States person.

(3) Attribution of ownership

For purposes of subsection (b)(2)—

(A) Interests held by partnerships, etc.

United States real property interests held by a partnership, trust, or estate shall be

treated as owned proportionately by its partners or beneficiaries.

(B) Interests held by family members

United States real property interests held by the spouse or any minor child of an individual shall be treated as owned by such individual.

(4) Time and manner of filing return

All returns required to be made under this section shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

(d) Special rule for United States interest and Virgin Islands interest

A nonresident alien individual or foreign corporation subject to tax under section 897(a) (and any person required to withhold tax under section 1445) shall pay any tax and file any return required by this title—

(1) to the United States, in the case of any interest in real property located in the United States and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the United States) described in section 897(c)(1)(A)(ii), and

(2) to the Virgin Islands, in the case of any interest in real property located in the Virgin Islands and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the Virgin Islands) described in section 897(c)(1)(A)(ii).

(Added Pub. L. 96–499, title XI, § 1123(a), Dec. 5, 1980, 94 Stat. 2687; amended Pub. L. 97–34, title VIII, § 831(a)(3), (e), Aug. 13, 1981, 95 Stat. 352, 354; Pub. L. 98–369, div. A, title I, § 129(b)(1), July 18, 1984, 98 Stat. 659; Pub. L. 99–514, title XVIII, § 1810(f)(7), Oct. 22, 1986, 100 Stat. 2828.)

AMENDMENTS

1986—Subsec. (d). Pub. L. 99–514 inserted ''(and any person required to withhold tax under section 1445)'' after ''section 897(a)''.

1984—Pub. L. 98–369 amended section generally, inserting in section catchline ''foreign persons holding direct investments in'' and substituting in text provisions concerning returns with respect to foreign persons holding direct investments in United States real property for provisions concerning returns with respect to United States real property interests.

1981—Subsec. (b)(4)(C). Pub. L. 97–34, § 831(e), substituted ''For purposes of determining whether an entity to which this subsection applies has a substantial investor in United States real property, the assets of any person shall include the person's pro rata share of the United States real property interest held by any corporation (whether domestic or foreign) if the person's pro rata share of the United States real property interests exceeded $50,000'' for ''The assets of any entity to which this subsection applies shall include its pro rata share of the United States real property interests held by any corporation in which the entity is a substantial investor in United States real property''.

Subsec. (f). Pub. L. 97–34, § 831(a)(3), added subsec. (f).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 129(c)(2) of Pub. L. 98–369 provided that: ''The amendments made by subsection (b) [amending this section] shall apply to calendar year 1980 and subsequent calendar years.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to dispositions after June 18, 1980, in taxable years ending after such date, see section 831(i) of Pub. L. 97–34, set out as a note under section 897 of this title.

EFFECTIVE DATE

Section applicable to 1980 and subsequent calendar years, with 1980 being treated as beginning on June 19, 1980, and ending on Dec. 31, 1980, see section 1125(b) of Pub. L. 96–499, set out as a note under section 897 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 897, 6652 of this title; title 22 section 3142.

§ 6039D. Returns and records with respect to certain fringe benefit plans

(a) In general

Every employer maintaining a specified fringe benefit plan during any year beginning after December 31, 1984, for any portion of which the applicable exclusion applies, shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

(1) the number of employees of the employer,

(2) the number of employees of the employer eligible to participate under the plan,

(3) the number of employees participating under the plan,

(4) the total cost of the plan during the year,

(5) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged, and

(6) the number of highly compensated employees among the employees described in paragraphs (1), (2), and (3).

(b) Recordkeeping requirement

Each employer maintaining a specified fringe benefit plan during any year shall keep such records as may be necessary for purposes of determining whether the requirements of the applicable exclusion are met.

(c) Additional information when required by the Secretary

Any employer—

(1) who maintains a specified fringe benefit plan during any year for which a return is required under subsection (a), and

(2) who is required by the Secretary to file an additional return for such year,

shall file such additional return. Such additional return shall be filed at such time and in such manner as the Secretary shall prescribe and shall contain such information as the Secretary shall prescribe. The Secretary may require returns under this subsection only from a representative group of employers.

(d) Definitions and special rules

For purposes of this section—

(1) Specified fringe benefit plan

The term ''specified fringe benefit plan'' means any plan under section 79, 105, 106, 120, 125, 127, 129, or 137.

(2) Applicable exclusion

The term ''applicable exclusion'' means, with respect to any specified fringe benefit plan, the section specified under paragraph (1) under which benefits under such plan are excludable from gross income.

(3) Special rule for multiemployer plans

In the case of a multiemployer plan, the plan shall be required to provide any information required by this section which the Secretary determines, on the basis of the agreement between the plan and employer, is held by the plan (and not the employer).

(Added Pub. L. 98–611, § 1(d)(1), Oct. 31, 1984, 98 Stat. 3176; amended Pub. L. 99–514, title XI, § 1151(h), title XVIII, § 1879(d)(1), Oct. 22, 1986, 100 Stat. 2507, 2906; Pub. L. 100–647, title I, § 1011B(a)(24), title III, § 3021(a)(15)(A), Nov. 10, 1988, 102 Stat. 3486, 3631; Pub. L. 101–508, title XI, § 11704(a)(24), Nov. 5, 1990, 104 Stat. 1388–519; Pub. L. 105–34, title XVI, § 1601(h)(2)(D)(iii), Aug. 5, 1997, 111 Stat. 1092.)

CODIFICATION

Another section 6039D, added Pub. L. 98–612, § 1(b)(1), Oct. 31, 1984, 98 Stat. 3180, also related to returns and records with respect to certain fringe benefits, prior to repeal by Pub. L. 99–514, title XVIII, § 1879(d)(2), Oct. 22, 1986, 100 Stat. 2906, effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such repeal relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

AMENDMENTS

1997—Subsec. (d)(1). Pub. L. 105–34 substituted ''129, or 137'' for ''or 129''.

1990—Subsec. (d)(3). Pub. L. 101–508 substituted ''the employer).'' for ''the employer)''.

1988—Subsec. (c). Pub. L. 100–647, § 1011B(a)(24), amended directory language of Pub. L. 99–514, § 1151(h)(3), see 1986 Amendment note below.

Subsec. (d). Pub. L. 100–647, § 3021(a)(15)(A)(ii), inserted ''and special rules'' after ''Definitions'' in heading.

Subsec. (d)(3). Pub. L. 100–647, § 3021(a)(15)(A)(i), added par. (3).

1986—Subsec. (a)(6). Pub. L. 99–514, § 1151(h)(2), added par. (6).

Subsec. (c). Pub. L. 99–514, § 1151(h)(3), as amended by Pub. L. 100–647, § 1011B(a)(24), inserted at end ''The Secretary may require returns under this subsection only from a representative group of employers.''

Subsec. (d). Pub. L. 99–514, § 1151(h)(1), amended subsec. (d) generally. Prior to amendment, par. (1) defined a specified fringe benefit plan as (A) any qualified group legal services plan (as defined in section 120), (B) any cafeteria plan (as defined in section 125), and (C) any educational assistance plan (as defined in section 127), and par. (2) defined ''applicable exclusion'' as meaning (A) section 120 in the case of a qualified legal group services plan, (B) section 125 in the case of a cafeteria plan, and (C) section 127 in the case of an educational assistance plan.

Pub. L. 99–514, § 1879(d)(1), in amending subsec. (d) generally, added subpars. (1)(A) and (2)(A). Former subpars. (1)(A) and (B) and (2)(A) and (B) were redesignated as subpars. (1)(B) and (C) and (2)(B) and (C), respectively.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104–188, to which it relates, see section 1601(j) of Pub. L. 105–34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1011B(a)(24) 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.

Section 3021(a)(15)(B) of Pub. L. 100–647 provided that: ''The amendments made by this paragraph [amending this section] shall apply to years beginning after 1984.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1151(h) of Pub. L. 99–514 applicable to years beginning after Dec. 31, 1988, with certain qualifications and exceptions, see section 1151(k) of Pub. L. 99–514, as amended, set out as a note under section 79 of this title.

Amendment by section 1879(d)(1) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1985, see section 1(g)(2) of Pub. L. 98–611, set out as an Effective Date of 1984 Amendment note under section 127 of this title.

NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 99–514 FOR FISCAL YEAR 1990

No monies appropriated by Pub. L. 101–136 to be used to implement or enforce section 1151 of Pub. L. 99–514 or the amendments made by such section, see section 528 of Pub. L. 101–136, set out as a note under section 89 of this title.

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 sections 120, 125, 127, 6652 of this title.

§ 6039E. Information concerning resident status

(a) General rule

Notwithstanding any other provision of law, any individual who—

(1) applies for a United States passport (or a renewal thereof), or

(2) applies to be lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws,

shall include with any such application a statement which includes the information described in subsection (b).

(b) Information to be provided

Information required under subsection (a) shall include—

(1) the taxpayer's TIN (if any),

(2) in the case of a passport applicant, any foreign country in which such individual is residing,

(3) in the case of an individual seeking permanent residence, information with respect to

whether such individual is required to file a return of the tax imposed by chapter 1 for such individual's most recent 3 taxable years, and

(4) such other information as the Secretary may prescribe.

(c) Penalty

Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty equal to $500 for each such failure, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

(d) Information to be provided to Secretary

Notwithstanding any other provision of law, any agency of the United States which collects (or is required to collect) the statement under subsection (a) shall—

(1) provide any such statement to the Secretary, and

(2) provide to the Secretary the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a).

Nothing in the preceding sentence shall be construed to require the disclosure of information which is subject to section 245A of the Immigration and Nationality Act (as in effect on the date of the enactment of this sentence).

(e) Exemption

The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section.

(Added Pub. L. 99–514, title XII, § 1234(a)(1), Oct. 22, 1986, 100 Stat. 2565; amended Pub. L. 100–647, title I, § 1012(*o*), Nov. 10, 1988, 102 Stat. 3515.)

REFERENCES IN TEXT

Section 245A of the Immigration and Nationality Act, referred to in subsec. (d), is classified to section 1255a of Title 8, Aliens and Nationality.

The date of the enactment of this sentence, referred to in subsec. (d), is the date of enactment of Pub. L. 100–647, which was approved Nov. 10, 1988.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–647 inserted sentence at end relating to disclosure of information subject to section 245A of the Immigration and Nationality Act.

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 1234(a)(3) of Pub. L. 99–514 provided that: ''The amendments made by this subsection [enacting this section] shall apply to applications submitted after December 31, 1987 (or, if earlier, the effective date which shall not be earlier than January 1, 1987) of the initial regulations issued under section 6039E of the Internal Revenue Code of 1986 as added by this subsection).''

§ 6039F. Notice of large gifts received from foreign persons

(a) In general

If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

(b) Foreign gift

For purposes of this section, the term ''foreign gift'' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)) or any distribution properly disclosed in a return under section 6048(c).

(c) Penalty for failure to file information

(1) In general

If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

(A) the tax consequences of the receipt of such gift shall be determined by the Secretary, and

(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

(2) Reasonable cause exception

Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

(d) Cost-of-living adjustment

In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting ''1995'' for ''1992''.

(e) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 104–188, title I, § 1905(a), Aug. 20, 1996, 110 Stat. 1913.)

ADJUSTMENT OF AGGREGATE GIFT THRESHOLD FOR TAX YEARS BEGINNING IN 2001

For adjustment of aggregate gift threshold for purposes of triggering reporting requirement under this section for tax years beginning in 2001, see section 3.22 of Revenue Procedure 2001–13, set out as a note under section 1 of this title.

CODIFICATION

Another section 6039F was renumbered section 6039G of this title.

EFFECTIVE DATE

Section 1905(c) of Pub. L. 104–188 provided that: ''The amendments made by this section [enacting this sec-

tion] shall apply to amounts received after the date of the enactment of this Act [Aug. 20, 1996] in taxable years ending after such date.''

§ 6039G. Information on individuals losing United States citizenship

(a) In general

Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which includes the information described in subsection (b). Such statement shall be—

(1) provided not later than the earliest date of any act referred to in subsection (c), and

(2) provided to the person or court referred to in subsection (c) with respect to such act.

(b) Information to be provided

Information required under subsection (a) shall include—

(1) the taxpayer's TIN,

(2) the mailing address of such individual's principal foreign residence,

(3) the foreign country in which such individual is residing,

(4) the foreign country of which such individual is a citizen,

(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and

(6) such other information as the Secretary may prescribe.

(c) Acts described

For purposes of this section, the acts referred to in this subsection are—

(1) the individual's renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

(2) the individual's furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

(4) the cancellation by a court of the United States of a naturalized citizen's certificate of naturalization.

(d) Penalty

Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

(e) Information to be provided to Secretary

Notwithstanding any other provision of law—

(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

(A) a copy of any such statement, and

(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

(f) Reporting by long-term lawful permanent residents who cease to be taxed as residents

In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

(g) Exemption

The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section.

(Added Pub. L. 104–191, title V, § 512(a), Aug. 21, 1996, 110 Stat. 2100, § 6039F; renumbered § 6039G, Pub. L. 105–34, title XVI, § 1602(h)(1), Aug. 5, 1997, 111 Stat. 1096.)

REFERENCES IN TEXT

Section 358 of the Immigration and Nationality Act, referred to in subsec. (e)(2), is classified to section 1501 of Title 8, Aliens and Nationality.

AMENDMENTS

1997—Pub. L. 105–34 renumbered section 6039F as this section.

EFFECTIVE DATE

For special rule relating to application of this section to certain individuals who performed an act of expatriation specified in section 1481(a)(1)–(4) of Title 8, Aliens and Nationality, before Feb. 6, 1995, see section 511(g)(3) of Pub. L. 104–191, set out as an Effective Date of 1996 Amendment note under section 877 of this title.

Section 512(c) of Pub. L. 104–191 provided that: ''The amendments made by this section [enacting this section] shall apply to—

''(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

''(2) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after such date.

In no event shall any statement required by such amendments be due before the 90th day after the date of the enactment of this Act [Aug. 21, 1996].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 877 of this title.

§ 6040. Cross references

(1) For the notice required of persons acting in a fiduciary capacity for taxpayers or for transferees, see sections 6212, 6901(g), and 6903.

(2) For application by fiduciary for determination of tax and discharge from personal liability therefor, see section 2204.

(3) For the notice required of taxpayers for redetermination of taxes claimed as credits, see sections 905(c) and 2016.

(4) For exemption certificates required to be furnished to employers by employees, see section 3402(f)(2), (3), (4), and (5).

(5) For receipts, constituting information returns, required to be furnished to employees, see section 6051.

[(6) Repealed. Pub. L. 89–44, title III, § 305(b), June 21, 1965, 79 Stat. 148]

(7) For information required with respect to the redemption of stamps, see section 6805.

(8) For the statement required to be filed by a corporation expecting a net operating loss carryback or unused excess profits credit carryback, see section 6164.

(9) For the application, which a taxpayer may file for a tentative carryback adjustment of income taxes, see section 6411.

(Aug. 16, 1954, ch. 736, 68A Stat. 744, § 6037; renumbered § 6038, Pub. L. 85–866, title I, § 64(c), Sept. 2, 1958, 72 Stat. 1656; renumbered § 6039, Pub. L. 86–780, § 6(a), Sept. 14, 1960, 74 Stat. 1014; renumbered § 6040, Pub. L. 88–272, title II, § 221(b)(1), Feb. 26, 1964, 78 Stat. 73; amended Pub. L. 89–44, title III, § 305(b), June 21, 1965, 79 Stat. 148; Pub. L. 91–614, title I, § 101(d)(2), Dec. 31, 1970, 84 Stat. 1837.)

AMENDMENTS

1970—Par. (2). Pub. L. 91–614 substituted ''fiduciary'' for ''executor''.

1965—Par. (6). Pub. L. 89–44 struck out par. (6) which cross referred to section 4234 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91–614, set out as a note under section 2032 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable with respect to admissions, services, and uses after noon, Dec. 31, 1965, see section 701(b)(1) of Pub. L. 89–44, set out as a note under section 4291 of this title.

SUBPART B—INFORMATION CONCERNING TRANSACTIONS WITH OTHER PERSONS

Sec.
6041. Information at source.
6041A. Returns regarding payments of remuneration for services and direct sales.[1]
6042. Returns regarding payments of dividends and corporate earnings and profits.
6043. Liquidating, etc., transactions.
6044. Returns regarding payments of patronage dividends.
6045. Returns of brokers.
6046. Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.
6046A. Returns as to interests in foreign partnerships.
6047. Information relating to certain trusts and annuity plans.
6048. Information with respect to certain foreign trusts.
6049. Returns regarding payments of interest.
[6050. Repealed.]
6050A. Reporting requirements of certain fishing boat operators.
6050B. Returns relating to unemployment compensation.
[6050C. Repealed.]
6050D. Returns relating to energy grants and financing.
6050E. State and local income tax refunds.
6050F. Returns relating to social security benefits.
6050G. Returns relating to certain railroad retirement benefits.
6050H. Returns relating to mortgage interest received in trade or business from individuals.
6050I. Returns relating to cash received in trade or business, etc..[2]
6050J. Returns relating to foreclosures and abandonments of security.
6050K. Returns relating to exchanges of certain partnership interests.
6050L. Returns relating to certain dispositions of donated property.
6050M. Returns relating to persons receiving contracts from Federal executive agencies.
6050N. Returns regarding payments of royalties.
6050P. Returns relating to the cancellation of indebtedness by certain entities.
6050Q. Certain long-term care benefits.
6050R. Returns relating to certain purchases of fish.
6050S. Returns relating to higher education tuition and related expenses.

AMENDMENTS

1998—Pub. L. 105–206, title VI, § 6018(a), July 22, 1998, 112 Stat. 822, amended directory language of Pub. L. 104–188, § 1116(b)(2). See 1996 Amendment note below.

1997—Pub. L. 105–34, title II, § 201(c)(3), Aug. 5, 1997, 111 Stat. 805, added item 6050S.

Pub. L. 105–34, title XVI, § 1601(a)(2), Aug. 5, 1997, 111 Stat. 1086, provided that amendment made by section 1116(b)(2)(C) of Pub. L. 104–188 shall be applied as if the reference to chapter 68 were a reference to chapter 61. See 1996 Amendment note below.

1996—Pub. L. 104–191, title III, § 323(c), Aug. 21, 1996, 110 Stat. 2063, added item 6050Q.

Pub. L. 104–188, title I, § 1116(b)(2)(C), Aug. 20, 1996, 110 Stat. 1764, as amended by Pub. L. 105–206, title VI, § 6018(a), July 22, 1998, 112 Stat. 822, added item 6050R. See 1997 Amendment note above.

Pub. L. 104–188, title I, §§ 1704(t)(18), 1901(c)(2), Aug. 20, 1996, 110 Stat. 1764, 1888, 1908, substituted ''Liquidating,'' for ''Liquidating;'' in item 6043 and ''Information with respect'' for ''Returns as'' in item 6048 and added item 6050R.

Pub. L. 104–134, title III, § 31001(m)(2)(D)(iii), Apr. 26, 1996, 110 Stat. 1321–369, struck out ''financial'' before ''entities'' in item 6050P.

[1] Editorially supplied. Section 6041A added by Pub. L. 97–248 without corresponding amendment of subpart analysis.

[2] So in original.

1994—Pub. L. 103–322, title II, § 20415(b)(4), Sept. 13, 1994, 108 Stat. 1833, substituted ''business, etc.'' for ''business'' in item 6050I.

1993—Pub. L. 103–66, title XIII, § 13252(c), Aug. 10, 1993, 107 Stat. 532, added item 6050P.

1989—Pub. L. 101–239, title VII, § 7208(b)(3)(C), Dec. 19, 1989, 103 Stat. 2338, substituted ''Liquidating; etc., transactions'' for ''Return regarding corporate dissolution or liquidation'' in item 6043.

1988—Pub. L. 100–418, title I, § 1941(b)(3)(B), Aug. 23, 1988, 102 Stat. 1324, struck out item 6050C ''Information regarding windfall profit tax on domestic crude oil''.

1986—Pub. L. 99–514, title XV, §§ 1522(b), 1523(c), Oct. 22, 1986, 100 Stat. 2747, 2748, added items 6050M and 6050N.

1984—Pub. L. 98–369, div. A, title I, §§ 145(c), 146(c), 148(c), 149(c), 155(b)(3), title IV, § 491(d)(58), July 18, 1984, 98 Stat. 685, 687, 689, 690, 693, 852, struck out ''and bond purchase'' after ''trust and annuity'' in item 6047 and added items 6050H to 6050L.

1983—Pub. L. 98–76, title II, § 224(b)(2), Aug. 12, 1983, 97 Stat. 423, added item 6050G.

Pub. L. 98–21, title I, § 121(f)(4), Apr. 20, 1983, 97 Stat. 84, added item 6050F.

1982—Pub. L. 97–248, title III, § 313(b), title IV, § 405(c)(1), Sept. 3, 1982, 96 Stat. 603, 670, added items 6046A and 6050E.

1980—Pub. L. 96–223, title I, § 101(d)(2)(B), title II, § 203(b)(2), Apr. 2, 1980, 94 Stat. 251, 259, added items 6050C and 6050D.

1979—Pub. L. 96–167, § 5(b), Dec. 29, 1979, 93 Stat. 1276, struck out item 6050 ''Returns relating to certain transfers to exempt organizations''.

1978—Pub. L. 95–600, title I, § 112(c)(2), Nov. 6, 1978, 92 Stat. 2778, added item 6050B.

1976—Pub. L. 94–455, title X, § 1013(e)(5), Oct. 4, 1976, 90 Stat. 1616, substituted ''as to certain foreign trusts'' for ''as to creation of or transfer to certain foreign trusts'' in item 6048.

1969—Pub. L. 91–172, title I, § 121(e)(2), Dec. 30, 1969, 83 Stat. 548, added item 6050.

1962—Pub. 87–834, §§ 7(i)(2), 19(g)(1), 20(d)(2), Oct. 16, 1962, 76 Stat. 989, 1058, 1063, substituted ''payments of dividends and corporate earnings and profits'' for ''corporate dividends, earnings and profits'' in item 6042, substituted ''organization or reorganization of foreign corporations and as to acquisitions of their stock'' for ''creation or organization, or reorganization, of foreign corporations'' in item 6046, inserted ''payments of'' in item 6044, and added items 6048 and 6049.

Pub. L. 87–792, § 7(m)(2), Oct. 10, 1962, 76 Stat. 831, added item 6047.

1960—Pub. L. 86–780, § 7(b), Sept. 14, 1960, 74 Stat. 1016, substituted ''Returns as to creation or organization, or reorganization, of foreign corporations'' for ''Returns as to formation or reorganization of foreign corporations,'' in item 6046.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 6071, 6201 of this title.

§ 6041. Information at source

(a) Payments of $600 or more

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042(a)(1), 6044(a)(1), 6047(e), 6049(a), or 6050N(a) applies, and other than payments with respect to which a statement is required under the authority of section 6042(a)(2), 6044(a)(2), or 6045), or $600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

(b) Collection of foreign items

In the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by any person undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange, such person shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the amount paid and the name and address of the recipient of each such payment.

(c) Recipient to furnish name and address

When necessary to make effective the provisions of this section, the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

(d) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. To the extent provided in regulations prescribed by the Secretary, this subsection shall also apply to persons required to make returns under subsection (b).

(e) Section does not apply to certain tips

This section shall not apply to tips with respect to which section 6053(a) (relating to reporting of tips) applies.

(Aug. 16, 1954, ch. 736, 68A Stat. 745; Pub. L. 87–834, § 19(f), Oct. 16, 1962, 76 Stat. 1058; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–600, title V, § 501(b), Nov. 6, 1978, 92 Stat. 2878; Pub. L. 97–34, title VII, § 723(b)(1), Aug. 13, 1981, 95 Stat. 344; Pub. L. 97–248, title III, § 309(b)(1), Sept. 3, 1982, 96 Stat. 595; Pub. L. 98–369, div. A, title VII, § 722(h)(4)(B), July 18, 1984, 98 Stat. 976; Pub. L. 99–514, title XV, §§ 1501(c)(1), 1523(b)(2), Oct. 22, 1986, 100 Stat. 2736, 2748; Pub. L. 104–168, title XII, § 1201(a)(1), July 30, 1996, 110 Stat. 1469.)

AMENDMENTS

1996—Subsec. (d)(1). Pub. L. 104–168 substituted ''name, address, and phone number of the information contact'' for ''name and address''.

1986—Subsec. (a). Pub. L. 99–514, § 1523(b)(2), substituted ''6049(a), or 6050N(a)'' for ''or 6049(a)''.

Subsec. (d). Pub. L. 99–514, § 1501(c)(1), in amending subsec. (d) generally, substituted ''information is required'' for ''information is furnished'' in heading and, in text, substituted references to persons required to make returns for former references to persons making returns.

1984—Subsec. (a). Pub. L. 98–369 inserted ''6047(e),''.

1982—Subsec. (a). Pub. L. 97–248 substituted ''6049(a)'' for ''6049(a)(1)'', and ''or 6045'' for ''6045, 6049(a)(2), or 6049(a)(3)''.

1981—Subsecs. (d), (e). Pub. L. 97–34 added subsec. (d) and redesignated former subsec. (d) as (e).

1978—Subsecs. (c), (d). Pub. L. 95–600 added subsec. (d) and redesignated subsec. (d) as (c).

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1962—Subsec. (a). Pub. L. 87–834, § 19(f)(1), substituted ''(other than payments to which section 6042(a)(1), 6044(a)(1), or 6049(a)(1) applies, and other than payments with respect to which a statement is required under the authority of section 6042(a)(2), 6044(a)(2), 6045, 6049(a)(2), or 6049(a)(3))'' for ''other than payments described in section 6042(1) or section 6045)''.

Subsec. (c). Pub. L. 87–834, § 19(f)(2), repealed subsec. (c) which related to returns of payments of interest by corporations.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1201(b) of Pub. L. 104–168 provided that: ''The amendments made by subsection (a) [amending this section and sections 6041A, 6042, 6044, 6045, 6049, 6050B, 6050H to 6050K, and 6050N of this title] shall apply to statements required to be furnished after December 31, 1996 (determined without regard to any extension).''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1501(c)(1) of Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1523(b)(2) of Pub. L. 99–514 applicable to payments made after Dec. 31, 1986, see section 1523(d) of Pub. L. 99–514, set out as an Effective Date note under section 6050N of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to payments or distributions after Dec. 31, 1984, unless the payor elects to have such amendment apply to payments or distributions before Jan. 1, 1985, see section 722(h)(5)(B) of Pub. L. 98–369, set out as a note under section 643 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to amounts paid (or treated as paid) after Dec. 31, 1982, see section 309(c) of Pub. L. 97–248, set out as a note under section 6049 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to returns and statements required to be furnished after Dec. 31, 1981, see section 723(c) of Pub. L. 97–34, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 applicable to payments made after Dec. 31, 1978, see section 501(c) of Pub. L. 95–600, set out as a note under section 6001 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–834 applicable to payments of dividends and interest made on or after Jan. 1, 1963, and to payments of amounts described in section 6044(b) of this title made on or after Jan. 1, 1963. with respect to patronage occurring on or after the first day of the first taxable year of the cooperative beginning on or after Jan. 1, 1963, see section 19(h) of Pub. L. 87–834, set out as a note under section 6042 of this title.

EMPLOYER'S DUTIES IN CONNECTION WITH RECORDING AND REPORTING OF TIPS

Pub. L. 94–455, title XXI, § 2211, Oct. 4, 1976, 90 Stat. 1905, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) SUSPENSION OF RULINGS.—Until January 1, 1979, the law with respect to the duty of an employer under section 6041(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] to report charge account tips of employees to the Internal Revenue Service (other than charge account tips included in statements furnished to the employer under section 6053(a) of such Code) shall be administered—

''(1) without regard to Revenue Rulings 75–400 and 76–231, and

''(2) in accordance with the manner in which such law was administered before the issuance of such rulings.

''(b) EFFECTIVE DATE.—This section shall take effect on January 1, 1976.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3406, 3509, 6045, 6051, 6724 of this title; title 25 section 2719.

§ 6041A. Returns regarding payments of remuneration for services and direct sales

(a) Returns regarding remuneration for services

If—

(1) any service-recipient engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any person for services performed by such person, and

(2) the aggregate of such remuneration paid to such person during such calendar year is $600 or more,

then the service-recipient shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the recipient of such payments. For purposes of the preceding sentence, the term ''service-recipient'' means the person for whom the service is performed.

(b) Direct sales of $5,000 or more

(1) In general

If—

(A) any person engaged in a trade or business in the course of such trade or business during any calendar year sells consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, and

(B) the aggregate amount of the sales to such buyer during such calendar year is $5,000 or more,

then such person shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the name and address of the buyer to whom such sales are made.

(2) Definitions

For purposes of paragraph (1)—

(A) Buy-sell basis

A transaction is on a buy-sell basis if the buyer performing the services is entitled to retain part or all of the difference between the price at which the buyer purchases the product and the price at which the buyer sells the product as part or all of the buyer's remuneration for the services, and

(B) Deposit-commission basis

A transaction is on a deposit-commission basis if the buyer performing the services is entitled to retain part or all of a purchase deposit paid by the consumer in connection with the transaction as part or all of the buyer's remuneration for the services.

(c) Certain services not included

No return shall be required under subsection (a) or (b) if a statement with respect to the services is required to be furnished under section 6051, 6052, or 6053.

(d) Applications to governmental units

(1) Treated as persons

The term ''person'' includes any governmental unit (and any agency or instrumentality thereof).

(2) Special rules

In the case of any payment by a governmental entity or any agency or instrumentality thereof—

(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

(B) any return under this section shall be made by the officer or employee having control of the payment or appropriately designated for the purpose of making such return.

(3) Payments to corporations by Federal executive agencies

(A) In general

Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this paragraph, subsection (a) shall apply to remuneration paid to a corporation by any Federal executive agency (as defined in section 6050M(b)).

(B) Exception

Subparagraph (A) shall not apply to—

(i) services under contracts described in section 6050M(e)(3) with respect to which the requirements of section 6050M(e)(2) are met, and

(ii) such other services as the Secretary may specify in regulations prescribed after the date of the enactment of this paragraph.

(e) Statements to be furnished to persons with respect to whom information is required to be furnished

Every person required to make a return under subsection (a) or (b) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) in the case of subsection (a), the aggregate amount of payments to the person required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

(f) Recipient to furnish name, address, and identification number; inclusion on return

(1) Furnishing of information

Any person with respect to whom a return or statement is required under this section to be made by another person shall furnish to such other person his name, address, and identification number at such time and in such manner as the Secretary may prescribe by regulations.

(2) Inclusion on return

The person to whom an identification number is furnished under paragraph (1) shall include such number on any return which such person is required to file under this section and to which such identification number relates.

(Added Pub. L. 97–248, title III, § 312(a), Sept. 3, 1982, 96 Stat. 601; amended Pub. L. 104–168, title XII, § 1201(a)(2), July 30, 1996, 110 Stat. 1469; Pub. L. 105–34, title X, § 1022(a), Aug. 5, 1997, 111 Stat. 923.)

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (d)(3), is the date of enactment of Pub. L. 105–34, which was approved Aug. 5, 1997.

AMENDMENTS

1997—Subsec. (d)(3). Pub. L. 105–34 added par. (3).

1996—Subsec. (e)(1). Pub. L. 104–168 substituted ''name, address, and phone number of the information contact'' for ''name and address''.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1022(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall apply to returns the due date for which (determined without regard to any extension) is more than 90 days after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104–168, set out as a note under section 6041 of this title.

EFFECTIVE DATE

Section 312(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [enacting this section and amending section 6678 of this title] shall apply to payments and sales made after December 31, 1982.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3406, 3509, 6721, 6722, 6724 of this title.

§ 6042. Returns regarding payments of dividends and corporate earnings and profits

(a) Requirement of reporting

(1) In general

Every person—

(A) who makes payments of dividends aggregating $10 or more to any other person during any calendar year, or

(B) who receives payments of dividends as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the dividends so received,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(2) Returns required by the Secretary

Every person who makes payments of dividends aggregating less than $10 to any other person during any calendar year shall, when required by the Secretary, make a return setting forth the aggregate amount of such payments, and the name and address of the person to whom paid.

(b) Dividend defined

(1) General rule

For purposes of this section, the term ''dividend'' means—

(A) any distribution by a corporation which is a dividend (as defined in section 316); and

(B) any payment made by a stockbroker to any person as a substitute for a dividend (as so defined).

(2) Exceptions

For purposes of this section, the term ''dividend'' does not include any distribution or payment—

(A) to the extent provided in regulations prescribed by the Secretary—

(i) by a foreign corporation, or

(ii) to a foreign corporation, a nonresident alien, or a partnership not engaged in a trade or business in the United States and composed in whole or in part of nonresident aliens, or

(B) except to the extent otherwise provided in regulations prescribed by the Secretary, to any person described in section 6049(b)(4).

(3) Special rule

If the person making any payment described in subsection (a)(1)(A) or (B) is unable to determine the portion of such payment which is a dividend or is paid with respect to a dividend, he shall, for purposes of subsection (a)(1), treat the entire amount of such payment as a dividend or as an amount paid with respect to a dividend.

(c) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made and shall be in such form as the Secretary may prescribe by regulations.

(d) Statements to be furnished by corporations to Secretary

Every corporation shall, when required by the Secretary—

(1) furnish to the Secretary a statement stating the name and address of each shareholder, and the number of shares owned by each shareholder;

(2) furnish to the Secretary a statement of such facts as will enable him to determine the portion of the earnings and profits of the corporation (including gains, profits, and income not taxed) accumulated during such periods as the Secretary may specify, which have been distributed or ordered to be distributed, respectively, to its shareholders during such taxable years as the Secretary may specify; and

(3) furnish to the Secretary a statement of its accumulated earnings and profits and the names and addresses of the individuals or shareholders who would be entitled to such accumulated earnings and profits if divided or distributed, and of the amounts that would be payable to each.

(Aug. 16, 1954, ch. 736, 68A Stat. 746; Pub. L. 87–834, § 19(a), Oct. 16, 1962, 76 Stat. 1053; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title III, §§ 303(a), 308(a), Sept. 3, 1982, 96 Stat. 587, 591; Pub. L. 97–354, § 5(a)(40), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 98–67, title I, §§ 102(a), 108(b), Aug. 5, 1983, 97 Stat. 369, 383; Pub. L. 98–369, div. A, title VII, § 714(d), July 18, 1984, 98 Stat. 961; Pub. L. 99–514, title XV, § 1501(c)(2), Oct. 22, 1986, 100 Stat. 2736; Pub. L. 104–168, title XII, § 1201(a)(3), July 30, 1996, 110 Stat. 1469.)

AMENDMENTS

1996—Subsec. (c)(1). Pub. L. 104–168 substituted ''name, address, and phone number of the information contact'' for ''name and address''.

1986—Subsec. (c). Pub. L. 99–514, in amending subsec. (c) generally, substituted ''information is required'' for ''information is furnished'' in heading and, in text, substituted references to persons required to make returns for former references to persons making returns and struck out provisions directing that no statement was required to be furnished to any person under this subsection if the aggregate amount of payments to such person as shown on the return made under subsec. (a)(1) was less than $10.

1984—Subsec. (b)(2). Pub. L. 98–369, in amending par. (2) generally, designated existing provision as subpar. (A), redesignated as cls. (i) and (ii) of subpar. (A) text formerly designated (A) and (B), and added subpar. (B).

1983—Pub. L. 98–67 substituted in subsec. (c) ''The written statement required under the preceding sentence shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall be in such form as the Secretary may prescribe by regulations'' for ''The written statement re-

quired under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a)(1) was made'' and repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

1982—Subsecs. (a)(1), (c), (e). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsecs. (a)(1) and (c) are amended and a new subsec. (e) is added. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

Subsec. (b)(2). Pub. L. 97–354 redesignated cl. (A)(i) as subpar. (A) and cl. (A)(ii) as subpar. (B). Former subpar. (B), excluding from the term ''dividends'' any amount described in section 1373 (relating to undistributed taxable income of electing small business corporations), was struck out.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1962—Pub. L. 87–834 substituted ''Returns regarding payments of dividends and corporate earnings and profits'' for ''Returns regarding corporate dividends, earnings, and profits'' in section catchline, added subsecs. (a) to (c), designated existing provisions of section as subsec. (d), and substituted in par. (1) of subsec. (d) ''furnish to the Secretary or his delegate a statement stating the name and address of each shareholder, and the number of shares owned by each shareholder'' for ''Make a return of its payments of dividends, stating the name and address of, the number of shares owned by, and the amount of dividends paid to, each shareholder.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104–168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Oct. 22, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 108(b) of Pub. L. 98–67 applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98–67, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97–354, set out as an Effective Date note under section 1361 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 19(h) of Pub. L. 87–834, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) DIVIDENDS AND INTEREST.—The amendments made by this section [enacting sections 6049 and 6678 of this title and amending this section and sections 6041, 6044, and 6052 of this title] shall apply to payments of dividends and interest made on or after January 1, 1963.

''(2) PATRONAGE DIVIDENDS.—The amendments made by this section shall apply to payments of amounts described in section 6044(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] made on or after January 1, 1963, with respect to patronage occurring on or after the first day of the first taxable year of the cooperative beginning on or after January 1, 1963.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3406, 6041, 6652, 6724 of this title.

§ 6043. Liquidating, etc., transactions

(a) Corporate liquidating, etc., transactions

Every corporation shall—

(1) Within 30 days after the adoption by the corporation of a resolution or plan for the dissolution of the corporation or for the liquidation of the whole or any part of its capital stock, make a return setting forth the terms of such resolution or plan and such other information as the Secretary shall by forms or regulations prescribe; and

(2) When required by the Secretary, make a return regarding its distributions in liquidation, stating the name and address of, the number and class of shares owned by, and the amount paid to, each shareholder, or, if the distribution is in property other than money, the fair market value (as of the date the distribution is made) of the property distributed to each shareholder.

(b) Exempt organizations

Every organization which for any of its last 5 taxable years preceding its liquidation, dissolution, termination, or substantial contraction was exempt from taxation under section 501(a) shall file such return and other information with respect to such liquidation, dissolution, termination, or substantial contraction as the Secretary shall by forms or regulations prescribe; except that—

(1) no return shall be required under this subsection from churches, their integrated auxiliaries, conventions or associations of churches, or any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than $5,000, and

(2) the Secretary may relieve any organization from such filing where he determines that such filing is not necessary to the efficient administration of the internal revenue laws or, with respect to an organization described in section 401(a), where the employer who established such organization files such a return.

(c) Changes in control and recapitalizations

If—

(1) control (as defined in section 304(c)(1)) of a corporation is acquired by any person (or group of persons) in a transaction (or series of related transactions), or

(2) there is a recapitalization of a corporation or other substantial change in the capital structure of a corporation,

when required by the Secretary, such corporation shall make a return (at such time and in

such manner as the Secretary may prescribe) setting forth the identity of the parties to the transaction, the fees involved, the changes in the capital structure involved, and such other information as the Secretary may require with respect to such transaction.

(d) Cross references

For provisions relating to penalties for failure to file—

(1) a return under subsection (b), see section 6652(c), or

(2) a return under subsection (c), see section 6652(1).[1]

(Aug. 16, 1954, ch. 736, 68A Stat. 746; Pub. L. 91–172, title I, § 101(j)(35), Dec. 30, 1969, 83 Stat. 529; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99–514, title XV, § 1501(d)(1)(C), Oct. 22, 1986, 100 Stat. 2740; Pub. L. 101–239, title VII, § 7208(b)(1), (3)(A), (B), Dec. 19, 1989, 103 Stat. 2337, 2338; Pub. L. 104–188, title I, § 1704(t)(17), Aug. 20, 1996, 110 Stat. 1888.)

AMENDMENTS

1996—Pub. L. 104–188 substituted ''Liquidating, etc., transactions'' for ''Liquidating; etc., transactions'' in section catchline.

1989—Pub. L. 101–239, § 7208(b)(3)(B), substituted ''Liquidating; etc., transactions'' for ''Returns regarding liquidation, dissolution, termination, or contraction'' in section catchline.

Subsec. (a). Pub. L. 101–239, § 7208(b)(3)(A), substituted ''Corporate liquidating, etc., transactions'' for ''Corporations'' in heading.

Subsecs. (c), (d). Pub. L. 101–239, § 7208(b)(1), added subsecs. (c) and (d) and struck out former subsec. (c) which read as follows: ''CROSS REFERENCE.—For provisions relating to penalties for failure to file a return required by subsection (b), see section 6652(c).''

1986—Subsec. (c). Pub. L. 99–514 substituted ''section 6652(c)'' for ''section 6652(d)''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1969—Pub. L. 91–172 inserted references to termination and contraction in section catchline, designated existing provisions as subsec. (a), and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7208(b)(4) of Pub. L. 101–239 provided that: ''The amendments made by this subsection [amending this section and section 6652 of this title] shall apply to transactions after March 31, 1990.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 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 101(k)(2)(B) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6033, 6652 of this title.

[1] So in original. Probably should be section ''6652(*l*).''

§ 6044. Returns regarding payments of patronage dividends

(a) Requirement of reporting

(1) In general

Except as otherwise provided in this section, every cooperative to which part I of subchapter T of chapter 1 applies, which makes payments of amounts described in subsection (b) aggregating $10 or more to any person during any calendar year, shall make a return according to the forms of regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(2) Returns required by the Secretary

Every such cooperative which makes payments of amounts described in subsection (b) aggregating less than $10 to any person during any calendar year shall, when required by the Secretary, make a return setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(b) Amounts subject to reporting

(1) General rule

Except as otherwise provided in this section, the amounts subject to reporting under subsection (a) are—

(A) the amount of any patronage dividend (as defined in section 1388(a)) which is paid in money, qualified written notices of allocation (as defined in section 1388(c)), or other property (except nonqualified written notices of allocation as defined in section 1388(d)),

(B) any amount described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions) which is paid in money, qualified written notices of allocation, or other property (except nonqualified written notices of allocation) by an organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax),

(C) any amount described in section 1382(b)(2) (relating to redemption of nonqualified written notices of allocation) and, in the case of an organization described in section 1381(a)(1), any amount described in section 1382(c)(2)(B) (relating to redemption of nonqualified written notices of allocation paid with respect to earnings derived from sources other than patronage), and

(D) the amount of any per-unit retain allocation (as defined in section 1388(f)) which is paid in qualified per-unit retain certificates (as defined in section 1388(h)), and

(E) any amount described in section 1382(b)(4) (relating to redemption of nonqualified per-unit retain certificates).

(2) Exceptions

The provisions of subsection (a) shall not apply, to the extent provided in regulations prescribed by the Secretary, to any payment—

(A) by a foreign corporation, or

(B) to a foreign corporation, a nonresident alien, or a partnership not engaged in trade or business in the United States and com-

posed in whole or in part of nonresident aliens.

(c) Exemption for certain consumer cooperatives

A cooperative which the Secretary determines is primarily engaged in selling at retail goods or services of a type that are generally for personal, living, or family use shall, upon application to the Secretary, be granted exemption from the reporting requirements imposed by subsection (a). Application for exemption under this subsection shall be made in accordance with regulations prescribed by the Secretary.

(d) Determination of amount paid

For purposes of this section, in determining the amount of any payment—

(1) property (other than a qualified written notice of allocation or a qualified per-unit retain certificate) shall be taken into account at its fair market value, and

(2) a qualified written notice of allocation or a qualified per-unit retain certificate shall be taken into account at its stated dollar amount.

(e) Statements to be furnished to persons with respect to whom information is required

Every cooperative required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the cooperative required to make such return, and

(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made and shall be in such form as the Secretary may prescribe by regulations.

(Aug. 16, 1954, ch. 736, 68A Stat. 746; Pub. L. 87–834, § 19(b), Oct. 16, 1962, 76 Stat. 1054; Pub. L. 89–809, title II, § 211(d), Nov. 13, 1966, 80 Stat. 1584; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title III, §§ 304, 308(a), Sept. 3, 1982, 96 Stat. 587, 591; Pub. L. 98–67, title I, §§ 102(a), 108(c), Aug. 5, 1983, 97 Stat. 369, 383; Pub. L. 99–514, title XV, § 1501(c)(3), Oct. 22, 1986, 100 Stat. 2737; Pub. L. 104–168, title XII, § 1201(a)(4), July 30, 1996, 110 Stat. 1469.)

AMENDMENTS

1996—Subsec. (e)(1). Pub. L. 104–168 substituted ''name, address, and phone number of the information contact'' for ''name and address''.

1986—Subsec. (e). Pub. L. 99–514, in amending subsec. (e) generally, substituted ''information is required'' for ''information is furnished'' in heading and, in text, substituted references to persons required to make a return for former references to persons making a return and struck out provision directing that no statement was required if the aggregate amount of payments made to the person as shown on the return was less than $10.

1983—Pub. L. 98–67 substituted in subsec. (e) ''The written statement required under the preceding sentence shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall be in such form as the Secretary may prescribe by regulations'' for ''The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a)(1) was made'' and repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

1982—Subsecs. (a)(1), (b)(1), (e), (f). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsecs. (a)(1), (b)(1), and (e) are amended and a new subsec. (f) is added. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1966—Subsec. (b)(1). Pub. L. 89–809, § 211(d)(1), added subpars. (D) and (E).

Subsec. (d). Pub. L. 89–809, § 211(d)(2), inserted references to qualified per-unit retain certificates.

1962—Pub. L. 87–834 substituted ''Returns regarding payments of patronage dividends'' for ''Returns regarding patronage dividends'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) PAYMENTS OF $100 OR MORE.—Any corporation allocating amounts as patronage dividends, rebates, or refunds (whether in cash, merchandise, capital stock, revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, or in some other manner that discloses to each patron the amount of such dividend, refund, or rebate) shall make a return showing—

''(1) The name and address of each patron to whom it has made such allocations amounting to $100 or more during the calendar year; and

''(2) The amount of such allocations to each patron.

''(b) PAYMENTS REGARDLESS OF AMOUNT.—If required by the Secretary or his delegate, any such corporation shall make a return of all patronage dividends, rebates, or refunds made during the calendar year to its patrons.

''(c) EXCEPTIONS.—This section shall not apply in the case of any corporation (including any cooperative or nonprofit corporation engaged in rural electrification) described in section 501(c)(12) or (15) which is exempt from tax under section 501(a), or in the case of any corporation subject to a tax imposed by subchapter L of chapter 1.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104–168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Oct. 22, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 108(c) of Pub. L. 98–67 applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98–67, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–809 applicable with respect to calendar years after 1966, see section 211(e)(2) of Pub.

L. 89–809, set out as a note under section 1382 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–834 applicable to payments of dividends and interest made on or after Jan. 1, 1963, and to payments of amounts described in subsection (b) of this section made on or after Jan. 1, 1963, with respect to patronage occurring on or after the first day of the first taxable year of the cooperative beginning on or after Jan. 1, 1963, see section 19(h) of Pub. L. 87–834, set out as a note under section 6042 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3406, 6041, 6652, 6724 of this title.

§ 6045. Returns of brokers

(a) General rule

Every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

(b) Statements to be furnished to customers

Every person required to make a return under subsection (a) shall furnish to each customer whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the information required to be shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(c) Definitions

For purposes of this section—

(1) Broker

The term ''broker'' includes—

(A) a dealer,

(B) a barter exchange, and

(C) any other person who (for a consideration) regularly acts as a middleman with respect to property or services.

A person shall not be treated as a broker with respect to activities consisting of managing a farm on behalf of another person.

(2) Customer

The term ''customer'' means any person for whom the broker has transacted any business.

(3) Barter exchange

The term ''barter exchange'' means any organization of members providing property or services who jointly contract to trade or barter such property or services.

(4) Person

The term ''person'' includes any governmental unit and any agency or instrumentality thereof.

(d) Statements required in case of certain substitute payments

If any broker—

(1) transfers securities of a customer for use in a short sale or similar transaction, and

(2) receives (on behalf of the customer) a payment in lieu of—

(A) a dividend,

(B) tax-exempt interest, or

(C) such other items as the Secretary may prescribe by regulations,

during the period such short sale or similar transaction is open, the broker shall furnish such customer a written statement (at such time and in the manner as the Secretary shall prescribe by regulations) identifying such payment as being in lieu of the dividend, tax-exempt interest, or such other item. The Secretary may prescribe regulations which require the broker to make a return which includes the information contained in such written statement.

(e) Return required in the case of real estate transactions

(1) In general

In the case of a real estate transaction, the real estate reporting person shall file a return under subsection (a) and a statement under subsection (b) with respect to such transaction.

(2) Real estate reporting person

For purposes of this subsection, the term ''real estate reporting person'' means any of the following persons involved in a real estate transaction in the following order:

(A) the person (including any attorney or title company) responsible for closing the transaction,

(B) the mortgage lender,

(C) the seller's broker,

(D) the buyer's broker, or

(E) such other person designated in regulations prescribed by the Secretary.

Any person treated as a real estate reporting person under the preceding sentence shall be treated as a broker for purposes of subsection (c)(1).

(3) Prohibition of separate charge for filing return

It shall be unlawful for any real estate reporting person to separately charge any customer for complying with any requirement of paragraph (1). Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction.

(4) Additional information required

In the case of a real estate transaction involving a residence, the real estate reporting person shall include the following information on the return under subsection (a) and on the statement under subsection (b):

(A) The portion of any real property tax which is treated as a tax imposed on the purchaser by reason of section 164(d)(1)(B).

(B) Whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3)).

(5) Exception for sales or exchanges of certain principal residences

(A) In general

Paragraph (1) shall not apply to any sale or exchange of a residence for $250,000 or less if the person referred to in paragraph (2) receives written assurance in a form acceptable to the Secretary from the seller that—

(i) such residence is the principal residence (within the meaning of section 121) of the seller,

(ii) if the Secretary requires the inclusion on the return under subsection (a) of information as to whether there is federally subsidized mortgage financing assistance with respect to the mortgage on residences, that there is no such assistance with respect to the mortgage on such residence, and

(iii) the full amount of the gain on such sale or exchange is excludable from gross income under section 121.

If such assurance includes an assurance that the seller is married, the preceding sentence shall be applied by substituting ''$500,000'' for ''$250,000''.

The Secretary may by regulation increase the dollar amounts under this subparagraph if the Secretary determines that such an increase will not materially reduce revenues to the Treasury.

(B) Seller

For purposes of this paragraph, the term ''seller'' includes the person relinquishing the residence in an exchange.

(f) Return required in the case of payments to attorneys

(1) In general

Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

(2) Application of subsection

(A) In general

This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

(B) Exception

This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051.

(Aug. 16, 1954, ch. 736, 68A Stat. 747; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title III, § 311(a)(1), Sept. 3, 1982, 96 Stat. 600; Pub. L. 98–369, div. A, title I, § 150(a), title VII, § 714(e)(1), July 18, 1984, 98 Stat. 690, 961; Pub. L. 99–514, title XV, §§ 1501(c)(4), 1521(a), Oct. 22, 1986, 100 Stat. 2737, 2746; Pub. L. 100–647, title I, § 1015(e)(1)(A), (2)(A), (3), title IV, § 4005(g)(3), Nov. 10, 1988, 102 Stat. 3569, 3570, 3650; Pub. L. 101–239, title VII, § 7814(c)(1), Dec. 19, 1989, 103 Stat. 2413; Pub. L. 101–508, title XI, § 11704(a)(25), Nov. 5, 1990, 104 Stat. 1388–519; Pub. L. 102–486, title XIX, § 1939(a), Oct. 24, 1992, 106 Stat. 3034; Pub. L. 104–168, title XII, § 1201(a)(5), July 30, 1996, 110 Stat. 1469; Pub. L. 104–188, title I, § 1704(*o*)(1), Aug. 20, 1996, 110 Stat. 1886; Pub. L. 105–34, title III, § 312(c), title X, § 1021(a), Aug. 5, 1997, 111 Stat. 839, 922.)

AMENDMENTS

1997—Subsec. (e)(5). Pub. L. 105–34, § 312(c), added par. (5).

Subsec. (f). Pub. L. 105–34, § 1021(a), added subsec. (f).

1996—Subsec. (b)(1). Pub. L. 104–168 substituted ''name, address, and phone number of the information contact'' for ''name and address''.

Subsec. (e)(3). Pub. L. 104–188 inserted at end ''Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction.''

1992—Subsec. (e)(4). Pub. L. 102–486 substituted heading for one which read: ''Whether seller's financing was federally-subsidized'' and amended text generally. Prior to amendment, text read as follows: ''In the case of a real estate transaction involving a residence, the real estate reporting person shall specify on the return under subsection (a) and the statement under subsection (b) whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3)).''

1990—Subsec. (e)(4). Pub. L. 101–508 substituted ''reporting person'' for ''broker''.

1989—Subsec. (e)(3), (4). Pub. L. 101–239 redesignated par. (3), relating to whether seller's financing was federally-subsidized indebtedness, as (4).

1988—Subsec. (c)(1). Pub. L. 100–647, § 1015(e)(1)(A), inserted at end ''A person shall not be treated as a broker with respect to activities consisting of managing a farm on behalf of another person.''

Subsec. (e)(1). Pub. L. 100–647, § 1015(e)(3)(A), substituted ''real estate reporting person'' for ''real estate broker''.

Subsec. (e)(2). Pub. L. 100–647, § 1015(e)(3), substituted ''estate reporting person'' for ''estate broker'' in par. (2) heading and two places in text.

Subsec. (e)(3). Pub. L. 100–647, § 4005(g)(3), added par. (3) relating to whether seller's financing was federally-subsidized indebtedness.

Pub. L. 100–647, § 1015(e)(2)(A), added par. (3) relating to prohibition of separate charge for filing return.

1986—Subsec. (b). Pub. L. 99–514, § 1501(c)(4), in amending subsec. (c) generally, substituted references to persons required to make a return for former references to persons making a return.

Subsec. (e). Pub. L. 99–514, § 1521(a), added subsec. (e).

1984—Subsec. (c)(4). Pub. L. 98–369, § 714(e)(1), added par. (4).

Subsec. (d). Pub. L. 98–369, § 150(a), added subsec. (d).

1982—Pub. L. 97–248 designated existing provisions as subsec. (a), substituted ''the name and address of each customer, with such details regarding gross proceeds'' for ''the names of customers for whom such person has transacted any business, with such details regarding the profits and losses'' after ''may prescribe, showing'' and ''such business'' for ''each customer as will enable the Secretary to determine the amount of such profits and losses'' after ''with respect to'', and added subsecs. (b) and (c).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 312(c) of Pub. L. 105–34 applicable to sales and exchanges after May 6, 1997, with cer-

tain exceptions, see section 312(d) of Pub. L. 105–34, set out as a note under section 121 of this title.

Section 1021(c) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall apply to payments made after December 31, 1997.''

EFFECTIVE DATE OF 1996 AMENDMENTS

Section 1704(*o*)(2) of Pub. L. 104–188 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as if included in section 1015(e)(2)(A) of the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100–647].''

Amendment by Pub. L. 104–168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104–168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1939(b) of Pub. L. 102–486 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to transactions after December 31, 1992.''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(e)(1)(B) of Pub. L. 100–647 provided that: ''The amendment made by subparagraph (A) [amending this section] shall take effect as if included in the amendments made by section 311(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97–248].''

Section 1015(e)(2)(B) of Pub. L. 100–647 provided that: ''The amendment made by subparagraph (A) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1988].''

Amendment by section 1015(e)(3) 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.

Amendment by section 4005(g)(3) of Pub. L. 100–647 applicable to financing provided, and mortgage credit certificates issued, after Dec. 31, 1990, with certain exceptions, see section 4005(h)(3) of Pub. L. 100–647, set out as a note under section 143 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1501(c)(4) of Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

Section 1521(c) of Pub. L. 99–514 provided that: ''The amendments made by this section [amending this section and section 3406 of this title] shall apply to real estate transactions closing after December 31, 1986.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 150(b) of Pub. L. 98–369 provided that: ''The amendment made by this section [amending this section] shall apply to payments received after December 31, 1984.''

Amendment by section 714(e)(1) 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.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 311(c)(1) of Pub. L. 97–248, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by subsection (a) [amending this section and section 6678 of this title] shall take effect on the date of the enactment of this Act [Sept. 3, 1982], except that—

''(A) regulations relating to reporting by commodities and securities brokers shall be issued under section 6045 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this Act) within 6 months after the date of the enactment of this Act [Sept. 3, 1982], and

''(B) such regulations shall not apply to transactions occurring before January 1, 1983.''

NO PENALTY FOR PAYMENTS BEFORE JANUARY 1, 1985

Section 714(e)(2) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''No penalty shall be imposed under the Internal Revenue Code of 1986 [formerly I.R.C. 1954] with respect to any person required (by reason of the amendment made by paragraph (1) [amending this section]) to file a return under section 6045 of such Code with respect to any payment before January 1, 1985.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1400C, 3406, 6041, 6049, 6721, 6722, 6724, 7603 of this title.

§ 6046. Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock

(a) Requirement of return

(1) In general

A return complying with the requirements of subsection (b) shall be made by—

(A) each United States citizen or resident who becomes an officer or director of a foreign corporation if a United States person (as defined in section 7701(a)(30)) meets the stock ownership requirements of paragraph (2) with respect to such corporation,

(B) each United States person—

(i) who acquires stock which, when added to any stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation, or

(ii) who acquires stock which, without regard to stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation,

(C) each person (not described in subparagraph (B)) who is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and

(D) each person who becomes a United States person while meeting the stock ownership requirements of paragraph (2) with respect to stock of a foreign corporation.

In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), subparagraph (A) shall be treated as including a reference to each United States person who is an officer or director of such corporation.

(2) Stock ownership requirements

A person meets the stock ownership requirements of this paragraph with respect to any corporation if such person owns 10 percent or more of—

(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

(B) the total value of the stock of such corporation.

(b) Form and contents of returns

The returns required by subsection (a) shall be in such form and shall set forth, in respect of the foreign corporation, such information as the Secretary prescribes by forms or regulations as necessary for carrying out the provisions of the income tax laws, except that in the case of persons described only in subsection (a)(1) the information required shall be limited to the names and addresses of persons described in paragraph (2) or (3) of subsection (a).

(c) Ownership of stock

For purposes of subsection (a), stock owned directly or indirectly by a person (including, in the case of an individual, stock owned by members of his family) shall be taken into account. For purposes of the preceding sentence, the family of an individual shall be considered as including only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(d) Time for filing

Any return required by subsection (a) shall be filed on or before the 90th day after the day on which, under any provision of subsection (a), the United States citizen, resident, or person becomes liable to file such return (or on or before such later day as the Secretary may by forms or regulations prescribe).

(e) Limitation

No information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the United States citizen, resident, or person becomes liable to file a return required under subsection (a).

(f) Cross reference

For provisions relating to penalties for violations of this section, sections 6679 and 7203.

(Aug. 16, 1954, ch. 736, 68A Stat. 747; Pub. L. 86–780, § 7(a), Sept. 14, 1960, 74 Stat. 1016; Pub. L. 87–834, § 20(b), Oct. 16, 1962, 76 Stat. 1061; Pub. L. 94–455, title XIX, § 1906(a)(4), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1824, 1834; Pub. L. 97–248, title III, § 341(a), Sept. 3, 1982, 96 Stat. 635; Pub. L. 100–647, title I, § 1012(i)(19), Nov. 10, 1988, 102 Stat. 3510; Pub. L. 105–34, title XI, § 1146(a), Aug. 5, 1997, 111 Stat. 986.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–34 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''A return complying with the requirements of subsection (b) shall be made by—

''(1) each United States citizen or resident who is on January 1, 1963, an officer or director of a foreign corporation, 5 percent or more in value of the stock of which is owned by a United States person (as defined in section 7701(a)(30)), or who becomes such an officer or director at any time after such date,

''(2) each United States person who on January 1, 1963, owns 5 percent or more in value of the stock of a foreign corporation, or who, at any time after such date—

''(A) acquires stock which, when added to any stock owned on January 1, 1963, has a value equal to 5 percent or more of the value of the stock of a foreign corporation, or

''(B) acquires an additional 5 percent or more in value of the stock of a foreign corporation,

''(3) each person (not described in paragraph (2)) who, at any time after January 1, 1987, is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and

''(4) each person who at any time after January 1, 1963, becomes a United States person while owning 5 percent or more in value of the stock of a foreign corporation.

In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), paragraph (1) shall be treated as including a reference to each United States person who is an officer or director of such corporation.''

1988—Subsec. (a). Pub. L. 100–647, § 1012(i)(19)(C), inserted sentence at end relating to foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c).

Subsec. (a)(3), (4). Pub. L. 100–647, § 1012(i)(19)(A), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b). Pub. L. 100–647, § 1012(i)(19)(B), substituted ''paragraph (2) or (3) of subsection (a)'' for ''subsection (a)(2)''.

1982—Subsec. (d). Pub. L. 97–248 inserted ''(or on or before such later day as the Secretary may by forms or regulations prescribe)''.

1976—Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (e). Pub. L. 94–455, § 1906(a)(4), struck out provisions relating to the requirement for information to be furnished in the case of liability to file a return under subsec. (a) of this section arising on or after Jan. 1, 1963, and before June 1, 1963, under regulations in effect on or before June 1, 1963.

1962—Pub. L. 87–834 substituted ''organization or reorganization of foreign corporations and as to acquisitions of their stock'' for ''creation or organization, or reorganization, of foreign corporations'' in section catchline.

Subsec. (a). Pub. L. 87–834 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

''(a) GENERAL RULE.—On or before the 90th day after the creation or organization, or reorganization, of any foreign corporation—

''(1) Each United States citizen or resident who was an officer or director of the corporation at any time within 60 days after the creation or organization, or reorganization thereof, and

''(2) Each United States shareholder of the corporation by or for whom, at any time within 60 days after the creation or organization or reorganization of the corporation, 5 percent or more in value of the stock of the corporation outstanding was owned directly or indirectly (including, in the case of an individual, stock owned by members of his family),

shall make a return in compliance with the provisions of subsection (b).''

Subsec. (b). Pub. L. 87–834 inserted the exception providing that in the case of persons described only in subsec. (a)(1) the information required shall be limited to the names and addresses of persons described in subsec. (a)(2).

Subsec. (c). Pub. L. 87–834 substituted provisions requiring, for purposes of subsec. (a), stock owned directly or indirectly by a person (including, in the case of an individual, stock owned by members of his family) to be taken into account for provisions which defined ''United States shareholder''.

Subsecs. (d) to (f). Pub. L. 87–834 added subsecs. (d) and (e) and redesignated former subsec. (d) as (f) and inserted a reference to section 6679 of this title.

1960—Pub. L. 86–780 substituted ''Returns as to creation or organization, or reorganization, of foreign corporations'' for ''Returns as to formation or reorganization of foreign corporations'' in section catchline.

Subsec. (a). Pub. L. 86–780 substituted requirement that returns relating to the creation, organization, or reorganization of foreign corporations be made by every citizen or resident of the United States who was an officer or director of the corporation at any time within 60 days after its creation, organization, or reorganization, and by every United States shareholder of the corporation owning at least 5 percent of its outstanding stock at any time within such 60 days for requirement that every attorney, accountant, fiduciary, bank, trust company, financial institution, or other person, who advises as to the formation or reorganization of a foreign corporation, file a return in accordance with regulations prescribed by the Secretary of the Treasury or his delegate.

Subsec. (b). Pub. L. 86–780 reenacted the substance of subsec. (b), struck out ''to the full extent of the information within the possession or knowledge or under the control of the person required to make the return'' before ''such information''.

Subsec. (c). Pub. L. 86–780 inserted the provisions defining United States shareholder and members of family and struck out provision relating to the making of a return by an attorney-at-law with respect to privileged communications.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1146(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall take effect on January 1, 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 1982 AMENDMENT

Section 341(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [amending this section and section 6048 of this title] shall apply to returns filed after the date of the enactment of this Act [Sept. 3, 1982].''

EFFECTIVE DATE OF 1962 AMENDMENT

Section 20(e)(2) of Pub. L. 87–834 provided that: ''The amendments made by subsection (b) [amending this section] shall take effect on January 1, 1963.''

EFFECTIVE DATE OF 1960 AMENDMENT

Section 8 of Pub. L. 86–780 provided that: ''The amendments made by section 7 [amending this section] shall apply only with respect to foreign corporations created or organized, or reorganized, after the date of the enactment of this Act [Sept. 14, 1960].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 964, 6501, 6679 of this title.

§ 6046A. Returns as to interests in foreign partnerships

(a) Requirement of return

Any United States person, except to the extent otherwise provided by regulations—

(1) who acquires any interest in a foreign partnership,

(2) who disposes of any portion of his interest in a foreign partnership, or

(3) whose proportional interest in a foreign partnership changes substantially,

shall file a return. Paragraphs (1) and (2) shall apply to any acquisition or disposition only if the United States person directly or indirectly holds at least a 10-percent interest in such partnership either before or after such acquisition or disposition, and paragraph (3) shall apply to any change only if the change is equivalent to at least a 10-percent interest in such partnership.

(b) Form and contents of return

Any return required by subsection (a) shall be in such form and set forth such information as the Secretary shall by regulations prescribe.

(c) Time for filing return

Any return required by subsection (a) shall be filed on or before the 90th day (or on or before such later day as the Secretary may by regulations prescribe) after the day on which the United States person becomes liable to file such return.

(d) 10-percent interest

For purposes of subsection (a), a 10-percent interest in a partnership is an interest described in section 6038(e)(3)(C).

(e) Cross reference

For provisions relating to penalties for violations of this section, see sections 6679 and 7203.

(Added Pub. L. 97–248, title IV, § 405(a), Sept. 3, 1982, 96 Stat. 669; amended Pub. L. 105–34, title XI, § 1143(a), Aug. 5, 1997, 111 Stat. 983.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–34, § 1143(a)(1), inserted at end ''Paragraphs (1) and (2) shall apply to any acquisition or disposition only if the United States person directly or indirectly holds at least a 10-percent interest in such partnership either before or after such acquisition or disposition, and paragraph (3) shall apply to any change only if the change is equivalent to at least a 10-percent interest in such partnership.''

Subsecs. (d), (e). Pub. L. 105–34, § 1143(a)(2), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1143(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section and section 6679 of this title] shall apply to transfers and changes after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE

Section 407(b) of Pub. L. 97–248 provided that: ''The amendments made by section 405 [enacting this section and amending section 6679 of this title] shall apply with respect to acquisitions or dispositions of, or substantial changes in, interests in foreign partnerships occurring after the date of the enactment of this Act [Sept. 3, 1982].''

SPECIAL RULE FOR CERTAIN INTERNATIONAL SATELLITE PARTNERSHIPS

For provision that this section is not applicable to certain international satellite partnerships, see section 406 of Pub. L. 97–248, set out as a note under section 6231 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6038B, 6501, 6679 of this title.

§ 6047. Information relating to certain trusts and annuity plans

(a) Trustees and insurance companies

The trustee of a trust described in section 401(a) which is exempt from tax under section

501(a) to which contributions have been paid under a plan on behalf of any owner-employee (as defined in section 401(c)(3)), and each insurance company or other person which is the issuer of a contract purchased by such a trust, or purchased under a plan described in section 403(a), contributions for which have been paid on behalf of any owner-employee, shall file such returns (in such form and at such times), keep such records, make such identification of contracts and funds (and accounts within such funds), and supply such information, as the Secretary shall by forms or regulations prescribe.

(b) Owner-employees

Every individual on whose behalf contributions have been paid as an owner-employee (as defined in section 401(c)(3))—

(1) to a trust described in section 401(a) which is exempt from tax under section 501(a), or

(2) to an insurance company or other person under a plan described in section 403(a),

shall furnish the trustee, insurance company, or other person, as the case may be, such information at such times and in such form and manner as the Secretary shall prescribe by forms or regulations.

(c) Other programs

To the extent provided by regulations prescribed by the Secretary, the provisions of this section apply with respect to any payment described in section 219 and to transactions of any trust described in section 408(a) or under an individual retirement annuity described in section 408(b).

(d) Reports by employers, plan administrators, etc.

(1) In general

The Secretary shall by forms or regulations require that—

(A) the employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, a plan from which designated distributions (as defined in section 3405(e)(1)) may be made, and

(B) any person issuing any contract under which designated distributions (as so defined) may be made,

make returns and reports regarding such plan (or contract) to the Secretary, to the participants and beneficiaries of such plan (or contract), and to such other persons as the Secretary may by regulations prescribe. No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.

(2) Form, etc., of reports

Such reports shall be in such form, made at such time, and contain such information as the Secretary may prescribe by forms or regulations.

(e) Employee stock ownership plans

The Secretary shall require—

(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock, or

(2) both such employer or plan administrator,

to make returns and reports regarding such plan, transaction, or loan to the Secretary and to such other persons as the Secretary may prescribe. Such returns and reports shall be made in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

(f) Cross references

(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.

(2) For criminal penalty for furnishing fraudulent information, see section 7207.

(3) For provisions relating to penalty for failure to comply with the provisions of subsection (d), see section 6704.

(Added Pub. L. 87–792, § 7(m)(1), Oct. 10, 1962, 76 Stat. 830; amended Pub. L. 93–406, title II, §§ 1031(c)(3), 2002(g)(8), Sept. 2, 1974, 88 Stat. 947, 970; Pub. L. 94–455, title XV, § 1501(b)(9), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1737, 1834; Pub. L. 97–34, title III, § 311(h)(8), Aug. 13, 1981, 95 Stat. 282; Pub. L. 97–248, title III, § 334(b), Sept. 3, 1982, 96 Stat. 626; Pub. L. 97–448, title I, § 103(c)(12)(C), Jan. 12, 1983, 96 Stat. 2377; Pub. L. 98–369, div. A, title IV, § 491(d)(47), (57), July 18, 1984, 98 Stat. 852; Pub. L. 99–514, title XV, § 1501(d)(1)(D), title XVIII, § 1848(e)(2), Oct. 22, 1986, 100 Stat. 2740, 2857; Pub. L. 101–239, title VII, § 7301(e), Dec. 19, 1989, 103 Stat. 2349; Pub. L. 102–318, title V, § 522(b)(2)(D), (E), July 3, 1992, 106 Stat. 314; Pub. L. 104–188, title I, §§ 1455(b)(2), (d)(1), 1602(b)(6), Aug. 20, 1996, 110 Stat. 1818, 1834.)

AMENDMENTS

1996—Subsec. (d)(1). Pub. L. 104–188, § 1455(b)(2), inserted at end ''No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.''

Subsec. (e)(1) to (3). Pub. L. 104–188, § 1602(b)(6), added pars. (1) and (2) and struck out former pars. (1) to (3) which read as follows:

''(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan—

''(A) which acquired stock in a transaction to which section 133 applies, or

''(B) which holds stock with respect to which section 404(k) applies to dividends paid on such stock,

''(2) any person making or holding a loan to which section 133 applies, or

''(3) both such employer or plan administrator and such person,''.

Subsec. (f)(1). Pub. L. 104–188, § 1455(d)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For provisions relating to penalties for failure to file a return required by this section, see section 6652(e).''

1992—Subsec. (d)(1)(A). Pub. L. 102–318, § 522(b)(2)(E), which directed the substitution of ''section 3405(d)(3)'' for ''section 3405(d)(1)'', could not be executed because of the prior amendment by Pub. L. 102–318, § 522(b)(2)(D). See below.

Pub. L. 102–318, § 522(b)(2)(D), substituted ''3405(e)(1)'' for ''3405(d)(1)''.

1989—Subsecs. (e), (f). Pub. L. 101–239 added subsec. (e) and redesignated former subsec. (e) as (f).

1986—Subsec. (e)(1). Pub. L. 99–514, § 1501(d)(1)(D), substituted ''section 6652(e)'' for ''section 6652(f)''.

Subsec. (e)(3). Pub. L. 99–514, § 1848(e)(2), added par. (3).

1984—Pub. L. 98–369, § 491(d)(57), struck out ''and bond purchase'' after ''trusts and annuity'' in section catchline.

Subsecs. (c) to (f). Pub. L. 98–369, § 491(d)(47), redesignated former subsecs. (d) to (f) as (c) to (e), respectively, and struck out former subsec. (c) which related to information to be supplied by employees under qualified bond purchase plans.

1983—Subsec. (d). Pub. L. 97–448 substituted ''section 219'' for ''section 219(a)''.

1982—Subsecs. (e), (f). Pub. L. 97–248 added subsec. (e) and redesignated former subsec. (e) as (f).

1981—Subsec. (d). Pub. L. 97–34 substituted ''section 219(a)'' for ''section 219(a) or 220(a)''.

1976—Subsecs. (a) to (d). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (d). Pub. L. 94–455, § 1501(b)(9), inserted ''or 220(a)'' after ''section 219(a)''.

1974—Subsec. (d). Pub. L. 93–406, § 2002(g)(8), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 93–406, §§ 1031(c)(3), 2002(g)(8), redesignated former subsec. (d) as (e), and inserted reference to section 6652(f) covering provisions relating to penalties for failure to file a return required by this section.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1455(b)(2), (d)(1) of Pub. L. 104–188 applicable to returns, reports, and other statements the due date for which (determined without regard to extensions) is after Dec. 31, 1996, see section 1455(e) of Pub. L. 104–188, set out as a note under section 408 of this title.

Amendment by section 1602(b)(6) of Pub. L. 104–188 applicable to loans made after Aug. 20, 1996, with exception and provisions relating to certain refinancings, see section 1602(c) of Pub. L. 104–188, set out as an Effective Date of Repeal note under former section 133 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–318 applicable, except as otherwise provided, to distributions after Dec. 31, 1992, see section 522(d) of Pub. L. 102–318.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239, applicable, except as otherwise provided, to loans made after July 10, 1989, see section 7301(f) of Pub. L. 101–239, set out as a note under section 133 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1501(d)(1)(D) of Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1848(e)(2) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98–369, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97–34, to which such amendment relates, see section 109 of Pub. L. 97–448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 effective Jan. 1, 1983, see section 334(e) of Pub. L. 97–248, set out as an Effective Date note under section 3405 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to taxable years beginning after Dec. 31, 1981, see section 311(i)(1) of Pub. L. 97–34, set out as a note under section 219 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1501(b)(9) of Pub. L. 94–455 applicable to taxable years beginning after Dec. 31, 1976, see section 1501(d) of Pub. L. 94–455, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by section 1031(c)(3) of Pub. L. 93–406 effective Sept. 2, 1974, see section 1034 of Pub. L. 93–406, set out as an Effective Date note under section 6057 of this title.

Amendment by section 2002(g)(8) of Pub. L. 93–406 effective Jan. 1, 1975, see section 2002(i)(2) of Pub. L. 93–406, set out as an Effective Date note under section 4973 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1962, see section 8 of Pub. L. 87–792, set out as a note under section 22 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§ 1401–1465] of title I of Pub. L. 104–188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104–188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§ 521–523] of title V of Pub. L. 102–318 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, 1994, see section 523 of Pub. L. 102–318, set out as a note under section 401 of this title.

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 sections 6041, 6652, 6704, 6724, 7207 of this title.

§ 6048. Information with respect to certain foreign trusts

(a) Notice of certain events

(1) General rule

On or before the 90th day (or such later day as the Secretary may prescribe) after any re-

portable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

(2) Contents of notice

The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

(3) Reportable event

For purposes of this subsection—

(A) In general

The term ''reportable event'' means—

(i) the creation of any foreign trust by a United States person,

(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

(iii) the death of a citizen or resident of the United States if—

(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

(II) any portion of a foreign trust was included in the gross estate of the decedent.

(B) Exceptions

(i) Fair market value sales

Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

(ii) Deferred compensation and charitable trusts

Subparagraph (A) shall not apply with respect to a trust which is—

(I) described in section 402(b), 404(a)(4), or 404A, or

(II) determined by the Secretary to be described in section 501(c)(3).

(4) Responsible party

For purposes of this subsection, the term ''responsible party'' means—

(A) the grantor in the case of the creation of an inter vivos trust,

(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

(C) the executor of the decedent's estate in any other case.

(b) United States owner of foreign trust

(1) In general

If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

(2) Trusts not having United States agent

(A) In general

If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

(B) United States agent required

The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

(C) Other rules to apply

Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

(c) Reporting by United States beneficiaries of foreign trusts

(1) In general

If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign

trust, such person shall make a return with respect to such trust for such year which includes—

(A) the name of such trust,

(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

(C) such other information as the Secretary may prescribe.

(2) Inclusion in income if records not provided

(A) In general

If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

(B) Application of accumulation distribution rules

For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

(d) Special rules

(1) Determination of whether United States person makes transfer or receives distribution

For purposes of this section, in determining whether a United States person makes a transfer to, or receives a distribution from, a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

(2) Domestic trusts with foreign activities

To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

(3) Time and manner of filing information

Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

(4) Modification of return requirements

The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.

(5) United States person's return must be consistent with trust return or Secretary notified of inconsistency

Rules similar to the rules of section 6034A(c) shall apply to items reported by a trust under subsection (b)(1)(B) and to United States persons referred to in such subsection.

(Added Pub. L. 87–834, § 7(f), Oct. 16, 1962, 76 Stat. 987; amended Pub. L. 94–455, title X, § 1013(d)(1), (e)(3), (4), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1616, 1834; Pub. L. 97–248, title III, § 341(b), Sept. 3, 1982, 96 Stat. 635; Pub. L. 104–188, title I, § 1901(a), Aug. 20, 1996, 110 Stat. 1904; Pub. L. 105–34, title X, § 1027(b), title XVI, § 1601(i)(1), Aug. 5, 1997, 111 Stat. 926, 1092.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–34, § 1601(i)(1), substituted ''owner'' for ''grantor'' in heading.

Subsec. (d)(5). Pub. L. 105–34, § 1027(b), added par. (5).

1996—Pub. L. 104–188 amended section generally, substituting provisions calling for improved information reporting on foreign trusts for provisions calling for the filing of returns as to foreign trusts, prescribing the form and contents of such returns, and requiring annual returns for foreign trusts with one or more United States beneficiaries.

1982—Subsec. (a). Pub. L. 97–248 inserted ''(or on or before such later day as the Secretary may by regulations prescribe)'' after ''the 90th day''.

1976—Pub. L. 94–455, § 1013(e)(4), struck out ''creation of or transfer to'' after ''Returns as to'' in section catchline.

Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsecs. (c), (d). Pub. L. 94–455, § 1013(d)(1), (e)(3), added subsec. (c), redesignated former subsec. (c) as (d), and in subsec. (d) struck out cross reference to section 643(d) for definition of ''foreign trust created by a United States person''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1027(b) of Pub. L. 105–34 applicable to returns of beneficiaries and owners filed after Aug. 5, 1997, see section 1027(c) of Pub. L. 105–34, set out as a note under section 6034A of this title.

Amendment by section 1601(i)(1) of Pub. L. 105–34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104–188, to which it relates, see section 1601(j) of Pub. L. 105–34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1901(d) of Pub. L. 104–188 provided that:

''(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section [amending this section and sections 6677 and 6724 of this title] shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act [Aug. 20, 1996].

''(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after December 31, 1995.

''(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.''

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to returns filed after Sept. 3, 1982, see section 341(c) of Pub. L. 97–248, set out as a note under section 6046 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 679, 6039F, 6501, 6677, 6724 of this title.

§ 6049. Returns regarding payments of interest

(a) Requirement of reporting

Every person—

(1) who makes payments of interest (as defined in subsection (b)) aggregating $10 or

more to any other person during any calendar year, or

(2) who receives payments of interest (as so defined) as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the interest so received,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(b) Interest defined

(1) General rule

For purposes of subsection (a), the term ''interest'' means—

(A) interest on any obligation—

(i) issued in registered form, or

(ii) of a type offered to the public,

other than any obligation with a maturity (at issue) of not more than 1 year which is held by a corporation,

(B) interest on deposits with persons carrying on the banking business,

(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,

(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,

(E) interest on deposits with brokers (as defined in section 6045(c)),

(F) interest paid on amounts held by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3)) and on amounts invested in other pooled funds or trusts, and

(G) to the extent provided in regulations prescribed by the Secretary, any other interest (which is not described in paragraph (2)).

(2) Exceptions

For purposes of subsection (a), the term ''interest'' does not include—

(A) interest on any obligation issued by a natural person,

(B) interest on any obligation if such interest is exempt from tax under section 103(a) or if such interest is exempt from tax (without regard to the identity of the holder) under any other provision of this title,

(C) except to the extent otherwise provided in regulations—

(i) any amount paid to any person described in paragraph (4), or

(ii) any amount described in paragraph (5), and

(D) except to the extent otherwise provided in regulations, any amount not described in subparagraph (C) of this paragraph which is income from sources outside the United States or which is paid by—

(i) a foreign government or international organization or any agency or instrumentality thereof,

(ii) a foreign central bank of issue,

(iii) a foreign corporation not engaged in a trade or business in the United States,

(iv) a foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 if paid to a person who is not a United States person, or

(v) a partnership not engaged in a trade or business in the United States and composed in whole of nonresident alien individuals and person described in clause (i), (ii), or (iii).

(3) Payments by United States nominees, etc., of United States person

If, within the United States, a United States person—

(A) collects interest (or otherwise acts as a middleman between the payor and payee) from a foreign person described in paragraph (2)(D) or collects interest from a United States person which is income from sources outside the United States for a second person who is a United States person, or

(B) makes payments of such interest to such second United States person,

notwithstanding paragraph (2)(D), such payment shall be subject to the requirements of subsection (a) with respect to such second United States person.

(4) Persons described in this paragraph

A person is described in this paragraph if such person is—

(A) a corporation,

(B) an organization exempt from taxation under section 501(a) or an individual retirement plan,

(C) the United States or any wholly owned agency or instrumentality thereof,

(D) a State, the District of Columbia, a possession of the United States, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing,

(E) a foreign government, a political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing,

(F) an international organization or any wholly owned agency or instrumentality thereof,

(G) a foreign central bank of issue,

(H) a dealer in securities or commodities required to register as such under the laws of the United States or a State, the District of Columbia, or a possession of the United States,

(I) a real estate investment trust (as defined in section 856),

(J) an entity registered at all times during the taxable year under the Investment Company Act of 1940,

(K) a common trust fund (as defined in section 584(a)), or

(L) any trust which—

(i) is exempt from tax under section 664(c), or

(ii) is described in section 4947(a)(1).

(5) Amounts described in this paragraph

An amount is described in this paragraph if such amount—

(A) is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount, or

(B) would be subject to withholding under subchapter A of chapter 3 by the person paying such amount but for the fact that—

(i) such amount is income from sources outside the United States,

(ii) the payor thereof is exempt from the application of section 1441(a) by reason of section 1441(c) or a tax treaty,

(iii) such amount is original issue discount (within the meaning of section 1273(a)), or

(iv) such amount is described in section 871(i)(2).

(c) Statements to be furnished to persons with respect to whom information is required

(1) In general

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(A) the name, address, and phone number of the information contact of the person required to make such return, and

(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person required to be shown on the return.

(2) Time and form of statement

The written statement under paragraph (1)—

(A) shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, and

(B) shall be in such form as the Secretary may prescribe by regulations.

(d) Definitions and special rules

For purposes of this section—

(1) Person

The term ''person'' includes any governmental unit and any agency or instrumentality thereof and any international organization and any agency or instrumentality thereof.

(2) Obligation

The term ''obligation'' includes bonds, debentures, notes, certificates, and other evidences of indebtedness.

(3) Payments by governmental units

In the case of payments made by any governmental unit or any agency or instrumentality thereof, the officer or employee having control of the payment of interest (or the person appropriately designated for purposes of this section) shall make the returns and statements required by this section.

(4) Financial institutions, brokers, etc., collecting interest may be substituted for payor

To the extent and in the manner provided by regulations, in the case of any obligation—

(A) a financial institution, broker, or other person specified in such regulations which collects interest on such obligation for the payee (or otherwise acts as a middleman between the payor and the payee) shall comply with the requirements of subsections (a) and (c), and

(B) no other person shall be required to comply with the requirements of subsections (a) and (c) with respect to any interest on such obligation for which reporting is required pursuant to subparagraph (A).

(5) Interest on certain obligations may be treated on a transactional basis

(A) In general

To the extent and in the manner provided in regulations, this section shall apply with respect to—

(i) any person described in paragraph (4)(A), and

(ii) in the case of any United States savings bonds, any Federal agency making payments thereon,

on any transactional basis rather than on an annual aggregation basis.

(B) Separate returns and statements

If subparagraph (A) applies to interest on any obligation, the return under subsection (a) and the statement furnished under subsection (c) with respect to such transaction may be made separately, but any such statement shall be furnished to the payee at such time as the Secretary may prescribe by regulations but not later than January 31 of the next calendar year.

(C) Statement to payee required in case of transactions involving $10 or more

In the case of any transaction to which this paragraph applies which involves the payment of $10 or more of interest, a statement of the transaction may be provided to the payee of such interest in lieu of the statement required under subsection (c). Such statement shall be provided during January of the year following the year in which such payment is made.

(6) Treatment of original issue discount

(A) In general

Original issue discount on any obligation shall be reported—

(i) as if paid at the time it is includible in gross income under section 1272 (except that for such purpose the amount reportable with respect to any subsequent holder shall be determined as if he were the original holder), and

(ii) if section 1272 does not apply to the obligation, at maturity (or, if earlier, on redemption).

In the case of any obligation not in registered form issued before January 1, 1983, clause (ii) and not clause (i) shall apply.

(B) Original issue discount

For purposes of this paragraph, the term ''original issue discount'' has the meaning given to such term by section 1273(a).

(7) Interests in REMIC's and certain other debt instruments

(A) In general

For purposes of subsection (a), the term ''interest'' includes amounts includible in gross income with respect to regular interests in REMIC's (and such amounts shall be treated as paid when includible in gross income under section 860B(b)).

(B) Reporting to corporations, etc.

Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph and any other debt instrument to which section 1272(a)(6) applies, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

(C) Additional information

Except as otherwise provided in regulations, any return or statement required to be filed or furnished under this section with respect to interest income described in subparagraph (A) and interest on any other debt instrument to which section 1272(a)(6) applies shall also provide information setting forth the adjusted issue price of the interest to which the return or statement relates at the beginning of each accrual period with respect to which interest income is required to be reported on such return or statement and information necessary to compute accrual of market discount.

(D) Regulatory authority

The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.

(Added Pub. L. 87–834, § 19(c), Oct. 16, 1962, 76 Stat. 1055; amended Pub. L. 91–172, title IV, § 413(c), (d), Dec. 30, 1969, 83 Stat. 611, 612; Pub. L. 94–455, title XIX, §§ 1901(b)(6)(A), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1793, 1834; Pub. L. 97–248, title III, §§ 303(b), 308(a), 309(a), Sept. 3, 1982, 96 Stat. 587, 591; Pub. L. 97–424, title V, § 547(b)(4), Jan. 6, 1983, 96 Stat. 2200; Pub. L. 98–67, title I, §§ 102(a), (e), 108(a), Aug. 5, 1983, 97 Stat. 369, 370, 383; Pub. L. 98–369, div. A, title I, § 42(a)(14), title IV, § 474(r)(29)(J), July 18, 1984, 98 Stat. 557, 845; Pub. L. 99–514, title VI, § 674, title XII, § 1214(c)(4), title XV, § 1501(c)(5), title XVIII, § 1803(a)(14)(C), Oct. 22, 1986, 100 Stat. 2319, 2543, 2737, 2797; Pub. L. 100–647, title I, § 1006(t)(24), (v), Nov. 10, 1988, 102 Stat. 3426, 3427; Pub. L. 104–168, title XII, § 1201(a)(6), July 30, 1996, 110 Stat. 1469.)

REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsec. (b)(4)(J), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§ 80a–1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80a–51 of Title 15 and Tables.

AMENDMENTS

1996—Subsec. (c)(1)(A). Pub. L. 104–168 substituted ''name, address, and phone number of the information contact'' for ''name and address''.

1988—Subsec. (d)(7)(A). Pub. L. 100–647, § 1006(v), inserted parenthetical phrase relating to amounts treated as paid when includible in gross income under section 860B(b).

Subsec. (d)(7)(C). Pub. L. 100–647, § 1006(t)(24), substituted ''the adjusted issue price'' for ''the issue price''.

1986—Subsec. (b)(5)(B)(iii). Pub. L. 99–514, § 1803(a)(14)(C), substituted ''section 1273(a)'' for ''section 1232(b)(1)''.

Subsec. (b)(5)(B)(iv). Pub. L. 99–514, § 1214(c)(4), added cl. (iv).

Subsec. (c). Pub. L. 99–514, § 1501(c)(5), in amending subsec. (c) generally, substituted ''information is required'' for ''information is furnished'' in subsection heading and, in text, substituted references to persons required to make a return for former references to persons making a return and struck out provisions that no statement was required if the aggregate amount of payments to the person shown on the return was less than $10.

Subsec. (d)(7). Pub. L. 99–514, § 674, added par. (7).

1984—Subsec. (b)(2)(E). Pub. L. 98–369, § 474(r)(29)(J), struck out subpar. (E) which related to amounts on which the person making payments was required to deduct and withhold a tax under section 1451 (relating to tax-free covenant bonds), or would have been so required but for section 1451(d) (relating to benefit of personal exemptions).

Subsec. (d)(6)(A). Pub. L. 98–369, § 42(a)(14)(A), substituted ''section 1272'' for ''section 1232A'' in two places.

Subsec. (d)(6)(B). Pub. L. 98–369, § 42(a)(14)(B), substituted ''section 1273(a)'' for ''section 1232(b)(1)''.

1983—Subsec. (a). Pub. L. 98–67, § 102(e)(1), struck out par. (3) which related to persons required under subchapter B of chapter 24 to withhold tax on the payment of interest and, in provisions following par. (2), substituted ''and the name and address of the person to whom paid'' for '', tax deducted and withheld, and the name and address of the person to whom paid or from whom withheld''.

Subsec. (b)(2)(B). Pub. L. 97–424 substituted ''this title'' for ''law''.

Subsec. (b)(2)(C). Pub. L. 98–67, § 102(e)(2), amended subpar. (C) generally, substituting in cl. (i) ''person described in paragraph (4), or'' for ''person referred to in paragraph (2) of section 3452(c) (other than subparagraphs (J) and (K) thereof), or'' and in cl. (ii) ''described in paragraph (5),'' for ''described in section 3454(a)(2)(D) or (E),''.

Subsec. (b)(4), (5). Pub. L. 98–67, § 102(e)(2)(B), added pars. (4) and (5).

Subsec. (c)(1)(C). Pub. L. 98–67, § 102(e)(3), struck out subpar. (C) which related to aggregate amount of tax deducted and withheld with respect to the person under subchapter B of chapter 24.

Subsec. (c)(2). Pub. L. 98–67, § 108(a), amended par. (2) generally, inserting provision allowing the written statement to be furnished either in person or in a separate mailing by first-class mail and authorizing the Secretary to prescribe by regulation the form that the written statement must take.

Subsec. (e). Pub. L. 98–67, § 102(a), repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

1982—Subsec. (a). Pub. L. 97–248, § 309(a), redesignated subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively, in par. (2) as so redesignated inserted ''(as so defined)'' after ''payments of interest'', substituted par. (3) for former par. (1)(C) which described corporations with evidence of outstanding indebtedness in registered form for which during any calendar year there was at least $10 of original issue discount includible in the gross income of a holder under section 1232(a)(3) of this title without regard to subpar. (B) thereof, substituted ''of such payments, tax deducted and withheld, and the name and address of the person to whom paid or from whom withheld'' for ''of such payments and such aggregate amount includible in the

gross income of any holder and the name and address of the person to whom paid or such holder'' in provisions following par. (3), formerly following par. (1)(C), and struck out former par. (2), which directed persons making aggregate interest payments of less than $10 to another person during any calendar year to report such payments and the recipients when required by the Secretary, and former par. (3), which required all corporations making payments of any amount of interest other than as defined in subsec. (b) to report such payments and the recipients when required by the Secretary.

Subsec. (b). Pub. L. 97–248, § 309(a), substituted ''subsection (a)'' for ''subsections (a)(1) and (2)'' in provisions preceding subpar. (A), in subpar. (A) substituted ''any obligation (i) issued in registered form, or (ii) of a type offered to the public, other than any obligation with a maturity (at issue) of not more than 1 year which is held by a corporation'' for ''evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a corporation in registered form, and, to the extent provided in regulations prescribed by the Secretary, interest on other evidences of indebtedness issued by a corporation of a type offered by corporations to the public'' in subpar. (C) inserted ''industrial loan association or bank'' to list of payors of interest, in subpar. (E) substituted ''brokers (as defined in section 6045(c))'' for ''stockbrokers and dealers in securities'', added subpars. (F) and (G), in par. (2) substituted ''subsection (a)'' for ''subsections (a)(1) and (2)'' in provisions preceding subpar. (A), added subpar. (A), redesignated former subpar. (A) as (B), in subpar. (B) as so redesignated inserted reference to exemption under any provision of law, added subpar. (C), redesignated former subpar. (B) as (D), in subpar. (D) as so redesignated substituted provisions that the subpar. operates except to the extent otherwise provided in regulations or in subpar. (C) for provisions that the subpar. operates to the extent provided in regulations, added cls. (i) and (ii), designated existing provisions as cls. (iii) to (v), in cl. (iii) as so designated inserted specification of not being engaged in trade or business in the United States, in cl. (iv) as so designated inserted specification of exemption under subchapter A of chapter 3, redesignated former subpar. (C) as (E), and added par. (3).

Subsec. (c). Pub. L. 97–248, § 309(a), substituted ''subsection (a)'' for ''subsection (a)(1)'' wherever appearing, designated provision before former par. (1) as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, added subpar. (C), designated first sentence after former par. (2) as par. (2), designated second sentence after former par. (2) as par. (3), in par. (3) as so designated inserted ''with respect to payments of interest to any person'' after ''No statement'', struck out '', or the aggregate amount includible in the gross income of,'' after ''payments to'', and substituted ''paragraph (1) or (2)'' for ''subparagraph (A), (B), or (C)'' after ''with respect to''.

Subsec. (d). Pub. L. 97–248, § 309(a), added subsec. (d).

Subsec. (e). Pub. L. 97–248, §§ 303(b), 308(a), provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, a new subsec. (e) is added. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1976—Subsec. (a). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (b)(1), (2)(A), (B). Pub. L. 94–455, §§ 1901(b)(6)(A), 1906(b)(13)(A), substituted ''section 103(a)'' for ''section 103(a)(1) or (3)'', and struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1969—Subsec. (a)(1)(C). Pub. L. 91–172, § 413(c), added subpar. (C).

Subsec. (c). Pub. L. 91–172, § 413(d), further qualified requirement to furnish statement by reference to aggregate amount includible in gross income.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104–168, set out as a note under section 6041 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 OF 1986 AMENDMENT

Amendment by section 674 of Pub. L. 99–514 effective Jan. 1, 1987, see section 675(a) of Pub. L. 99–514, as amended, set out as an Effective Date note under section 860A of this title.

Amendment by section 1214(c)(4) of Pub. L. 99–514 applicable to payments made in taxable year of payor beginning after Dec. 31, 1986, except as otherwise provided, see section 1214(d) of Pub. L. 99–514, as amended, set out as a note under section 861 of this title.

Amendment by section 1501(c)(5) of Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Oct. 22, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1803(a)(14)(C) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 42(a)(14) of Pub. L. 98–369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98–369, set out as an Effective Date note under section 1271 of this title.

Amendment by section 474(r)(29)(J) of Pub. L. 98–369 not applicable with respect to obligations issued before Jan. 1, 1984, see section 475(b) of Pub. L. 98–369, set out as a note under section 33 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 102(a), (e) of Pub. L. 98–67 effective as of close of June 30, 1983, see section 110(b) of Pub. L. 98–67, set out as a note under section 31 of this title.

Amendment by section 108(a) of Pub. L. 98–67 applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98–67.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 309(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [amending this section and sections 6041, 6652, and 6678 of this title] shall apply to amounts paid (or treated as paid) after December 31, 1982.''

EFFECTIVE DATE OF 1969 AMENDMENT

Section 413(e) of Pub. L. 91–172 provided that: ''The amendments made by this section [amending this section and section 1232 of this title] shall apply with respect to bonds and other evidences of indebtedness issued after May 27, 1969 (other than evidences of indebtedness issued pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter).''

EFFECTIVE DATE

Section applicable to payments of dividends and interest made on or after Jan. 1, 1963, and to payments of amounts described in section 6044(b) of this title made on or after Jan. 1, 1963, with respect to patronage occurring on or after the first day of the first taxable

year of the cooperative beginning on or after Jan. 1, 1963, see section 19(h) of Pub. L. 87–834, set out as an Effective Date of 1962 Amendment note under section 6042 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99–514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For nonapplication of amendment by section 1214(c)(4) of Pub. L. 99–514 to the extent application of such amendment would be contrary to any treaty obligation of the United States in effect on Oct. 22, 1986, with provision that for such purposes any amendment by title I of Pub. L. 100–647 be treated as if it had been included in the provision of Pub. L. 99–514 to which such amendment relates, see section 1012(aa)(3), (4) of Pub. L. 100–647, set out as a note under section 861 of this title.

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 sections 1276, 1278, 3406, 6041, 6042, 6050N, 6724 of this title.

[§ 6050. Repealed. Pub. L. 96–167, § 5(a), Dec. 29, 1979, 93 Stat. 1276]

Section, added Pub. L. 91–172, title I, § 121(e)(1), Dec. 30, 1969, 83 Stat. 548; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, provided for a return by transferor of income producing property if the transferee was known to be an organization referred to in section 511(a) or (b) and property had a fair market value in excess of $50,000.

EFFECTIVE DATE OF REPEAL

Section 5(c) of Pub. L. 96–167 provided that: ''The amendments made by this section [repealing this section] shall apply to transfers after the date of the enactment of this Act [Dec. 29, 1979].''

§ 6050A. Reporting requirements of certain fishing boat operators

(a) Reports

The operator of a boat on which one or more individuals, during a calendar year, perform services described in section 3121(b)(20) shall submit to the Secretary (at such time, and in such manner and form, as the Secretary shall by regulations prescribe) information respecting—

(1) the identity of each individual performing such services;

(2) the percentage of each such individual's share of the catches of fish or other forms of aquatic animal life, and the percentage of the operator's share of such catches;

(3) if such individual receives his share in kind, the type and weight of such share, together with such other information as the Secretary may prescribe by regulations reasonably necessary to determine the value of such share;

(4) if such individual receives a share of the proceeds of such catches, the amount so received; and

(5) any cash remuneration described in section 3121(b)(20)(A).

(b) Written statement

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the information relating to such person required to be contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(Added Pub. L. 94–455, title XII, § 1207(e)(3)(A), Oct. 4, 1976, 90 Stat. 1707; amended Pub. L. 99–514, title XV, § 1501(c)(6), Oct. 22, 1986, 100 Stat. 2737; Pub. L. 104–188, title I, § 1116(a)(1)(C), Aug. 20, 1996, 110 Stat. 1762.)

AMENDMENTS

1996—Subsec. (a)(5). Pub. L. 104–188 added par. (5).

1986—Subsec. (b). Pub. L. 99–514 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing the information relating to such person contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendments by Pub. L. 104–188 applicable to remuneration paid after Dec. 31, 1996, see section 1116(a)(3)(B) of Pub. L. 104–188, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE

Section effective for calendar years beginning after Oct. 4, 1976, see section 1207(f)(4)(A) of Pub. L. 94–455, set out as a note under section 3121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3406, 6724 of this title.

§ 6050B. Returns relating to unemployment compensation

(a) Requirement of reporting

Every person who makes payments of unemployment compensation aggregating $10 or more to any individual during any calendar year shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amounts of such payments and the name and address of the individual to whom paid.

(b) Statements to be furnished to individuals with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the aggregate amount of payments to the individual required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(c) Definitions

For purposes of this section—

(1) Unemployment compensation

The term ''unemployment compensation'' has the meaning given to such term by section 85(b).

(2) Person

The term ''person'' means the officer or employee having control of the payment of the unemployment compensation, or the person appropriately designated for purposes of this section.

(Added Pub. L. 95–600, title I, § 112(b), Nov. 6, 1978, 92 Stat. 2777; amended Pub. L. 99–514, title XV, § 1501(c)(7), Oct. 22, 1986, 100 Stat. 2738; Pub. L. 104–168, title XII, § 1201(a)(7), July 30, 1996, 110 Stat. 1469; Pub. L. 104–188, title I, § 1704(t)(14), Aug. 20, 1996, 110 Stat. 1888.)

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–168 substituted ''name, address, and phone number of the information contact'' for ''name and address''.

Subsec. (c)(1). Pub. L. 104–188 substituted ''section 85(b)'' for ''section 85(c)''.

1986—Subsec. (b). Pub. L. 99–514, in amending subsec. (b) generally, substituted references to persons required to make a return for former references to persons making a return and references to individuals whose names are required to be set forth for former references to individuals whose names are set forth, and struck out provision directing that no statement is required to be furnished to individuals if the aggregate amount of payments to such individual shown on the return is less than $10.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104–168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE

Section applicable to payments of unemployment compensation made after Dec. 31, 1978, in taxable years ending after such date, but not applicable to payments made for weeks of unemployment ending before Dec. 1, 1978, see section 112(d) of Pub. L. 95–600, as amended, set out as a note under section 85 of this title.

WAIVER OF STATUTE OF LIMITATIONS

For provisions relating to credit or refund of overpayment of tax resulting from 1984 amendment to section 112(d) of Pub. L. 95–600, see section 1075(b) of Pub. L. 98–369, set out as a note under section 85 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 502.

[§ 6050C. Repealed. Pub. L. 100–418, title I, § 1941(b)(1), Aug. 23, 1988, 102 Stat. 1323]

Section, added Pub. L. 96–223, title I, § 101(d)(1), Apr. 2, 1980, 94 Stat. 251; amended Pub. L. 99–514, title XV, § 1501(d)(1)(E), Oct. 22, 1986, 100 Stat. 2740, related to information regarding windfall profit tax on domestic crude oil.

EFFECTIVE DATE OF REPEAL

Repeal applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as an Effective Date of 1988 Amendment note under section 164 of this title.

§ 6050D. Returns relating to energy grants and financing

(a) In general

Every person who administers a Federal, State, or local program a principal purpose of which is to provide subsidized financing or grants for projects to conserve or produce energy shall, to the extent required under regulations prescribed by the Secretary, make a return setting forth the name and address of each taxpayer receiving financing or a grant under such program and the aggregate amount so received by such individual.

(b) Definition of person

For purposes of this section, the term ''person'' means the officer or employee having control of the program, or the person appropriately designated for purposes of this section.

(Added Pub. L. 96–223, title II, § 203(b)(1), Apr. 2, 1980, 94 Stat. 259.)

EFFECTIVE DATE

Section 203(c) of Pub. L. 96–223 provided that: ''The amendments made by this section [amending this section and section 23 of this title] shall apply to taxable years beginning after December 31, 1980, but only with respect to financing or grants made after such date.''

§ 6050E. State and local income tax refunds

(a) Requirement of reporting

Every person who, with respect to any individual, during any calendar year makes payments of refunds of State or local income taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more shall make a return according to forms or regulations prescribed by the Secretary setting forth the aggregate amount of such payments, credits, or offsets, and the name and address of the individual with respect to whom such payment, credit, or offset was made.

(b) Statements to be furnished to individuals with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name of the State or political subdivision thereof, and

(2) the information required to be shown on the return with respect to refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was required to be made. No statement shall be required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset.

(c) Person defined

For purposes of this section, the term ''person'' means the officer or employee having control of the payment of the refunds (or the allowance of the credits or offsets) or the person appropriately designated for purposes of this section.

(Added Pub. L. 97–248, title III, § 313(a), Sept. 3, 1982, 96 Stat. 603; amended Pub. L. 98–369, div. A, title I, § 151(a), July 18, 1984, 98 Stat. 690; Pub. L. 99–514, title XV, § 1501(c)(8), Oct. 22, 1986, 100 Stat. 2738.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–514, in amending subsec. (b) generally, substituted ''information is required'' for ''information is furnished'' in heading and, in text, substituted references to persons required to make a return for former references to persons making a return and references to persons whose name is required to be set forth for former references to persons whose name is set forth.

1984—Subsec. (b). Pub. L. 98–369 inserted provision that no statement is required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 151(b) of Pub. L. 98–369 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to payments of refunds, and credits and offsets made, after December 31, 1982.''

EFFECTIVE DATE

Section 313(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [enacting this section] shall apply to payments of refunds, and credits and offsets made, after December 31, 1982.''

§ 6050F. Returns relating to social security benefits

(a) Requirement of reporting

The appropriate Federal official shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

(1) the—

(A) aggregate amount of social security benefits paid with respect to any individual during any calendar year,

(B) aggregate amount of social security benefits repaid by such individual during such calendar year, and

(C) aggregate reductions under section 224 of the Social Security Act (or under section 3(a)(1) of the Railroad Retirement Act of 1974) in benefits which would otherwise have been paid to such individual during the calendar year on account of amounts received under a workmen's compensation act, and

(2) the name and address of such individual.

(b) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name of the agency making the payments, and

(2) the aggregate amount of payments, of repayments, and of reductions, with respect to the individual required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(c) Definitions

For purposes of this section

(1) Appropriate Federal official

The term ''appropriate Federal official'' means—

(A) the Commissioner of Social Security in the case of social security benefits described in section 86(d)(1)(A), and

(B) the Railroad Retirement Board in the case of social security benefits described in section 86(d)(1)(B).

(2) Social security benefit

The term ''social security benefit'' has the meaning given to such term by section 86(d)(1).

(Added Pub. L. 98–21, title I, § 121(b), Apr. 20, 1983, 97 Stat. 82; amended Pub. L. 99–514, title XV, § 1501(c)(9), Oct. 22, 1986, 100 Stat. 2738; Pub. L. 100–360, title I, § 111(b), July 1, 1988, 102 Stat. 697; Pub. L. 101–234, title I, § 102(a), Dec. 13, 1989, 103 Stat. 1980; Pub. L. 103–296, title I, § 108(h)(4), Aug. 15, 1994, 108 Stat. 1487.)

REFERENCES IN TEXT

Section 224 of the Social Security Act, referred to in subsec. (a)(1)(C), is classified to section 424a of Title 42, The Public Health and Welfare.

Section 3(a)(1) of the Railroad Retirement Act of 1974, referred to in subsec. (a)(1)(C), is classified to section 231b(a)(1) of Title 45, Railroads.

AMENDMENTS

1994—Subsec. (c)(1)(A). Pub. L. 103–296 substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services''.

1989—Subsecs. (a), (b)(1), (2), (c)(1)(A). Pub. L. 101–234, § 102(a), repealed Pub. L. 100–360, § 111, and provided that the provisions of law amended by such section are restored or revived as if such section had not been enacted, see 1988 Amendment note below.

1988—Subsec. (a). Pub. L. 100–360, § 111(b)(1), added par. (2) and redesignated former par. (2) as (3).

Subsec. (b)(1). Pub. L. 100–360, § 111(b)(2)(A), inserted ''or making the determination under subsection (a)(2)'' after ''payments''.

Subsec. (b)(2). Pub. L. 100–360, § 111(b)(2)(B), inserted ''and the information required under subsection (a)(2),'' after ''reductions,''.

Subsec. (c)(1)(A). Pub. L. 100–360, § 111(b)(3), inserted ''and the information required under subsection (a)(2)'' after ''section 86(d)(1)(A)''.

1986—Subsec. (b). Pub. L. 99–514, in amending subsec. (b) generally, substituted ''information is required'' for ''information is furnished'' in heading and, in text, substituted references to persons required to make a return for former references to persons making a return and references to persons whose name is required to be set forth for former references to persons whose name is set forth.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–234 applicable to taxable years beginning after Dec. 31, 1988, see section 102(d)(2) of Pub. L. 101–234, set out as an Effective Date of Repeal note under section 59B of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–360 applicable to taxable years beginning after Dec. 31, 1988, see section 111(e) of Pub. L. 100–360, set out as an Effective Date note under section 59B of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE

Section applicable to benefits received after Dec. 31, 1983, in taxable years ending after such date, except for any portion of a lump-sum payment of social security benefits received after Dec. 31, 1983, if the generally applicable payment date for such portion was before Jan. 1, 1984, see section 121(g) of Pub. L. 98–21, set out as a note under section 86 of this title.

REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM AND FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND

Section 102(a) of Pub. L. 101–234 provided that: ''Sections 111 and 112 of MCCA [Pub. L. 100–360, which enacted section 59B of this title and section 1395i–1a of Title 42, The Public Health and Welfare, amended this section, and enacted provisions set out as notes under section 59B of this title and section 1395i–1a of Title 42] are repealed and the provisions of law amended by such sections are restored or revived as if such sections had not been enacted.''

§ 6050G. Returns relating to certain railroad retirement benefits

(a) In general

The Railroad Retirement Board shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

(1) the aggregate amount of benefits paid under the Railroad Retirement Act of 1974 (other than tier 1 railroad retirement benefits, as defined in section 86(d)(4)) to any individual during any calendar year,

(2) the employee contributions (to the extent not previously taken into account under section 72(d)(1))[1] which are treated as having been paid for purposes of section 72(r),

(3) the name and address of such individual, and

(4) such other information as the Secretary may require.

(b) Statements to be furnished to persons with respect to whom information is required

The Railroad Retirement Board shall furnish to each individual whose name is required to be set forth in the return under subsection (a) a written statement showing—

(1) the aggregate amount of payments to such individual, and of employee contributions with respect thereto, required to be shown on the return, and

(2) such other information as the Secretary may require.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(Added Pub. L. 98–76, title II, § 224(b)(1), Aug. 12, 1983, 97 Stat. 422; amended Pub. L. 99–514, title XV, § 1501(c)(10), Oct. 22, 1986, 100 Stat. 2739.)

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (a)(1), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, § 101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

Section 72(d), referred to in subsec. (a)(2), was repealed by Pub. L. 99–514, title XI, § 1122(c)(1), Oct. 22, 1986, 100 Stat. 2467. A new section 72(d) was added by Pub. L. 100–647, title I, § 1011A(b)(2)(A), Nov. 10, 1988, 102 Stat. 3472, and subsequently amended generally by Pub. L. 104–188, title I, § 1403(a), Aug. 20, 1996, 110 Stat. 1790.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–514, in amending subsec. (b) generally, substituted ''information is required'' for ''information is furnished'' in heading and, in text, substituted references to persons required to make a return for former references to persons making a return and references to persons whose name is required to be set forth for former references to persons whose name is set forth.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE

Enactment of section applicable to benefits received after Dec. 31, 1983, in taxable years ending after such date, except for portions of lump-sum payments received after Dec. 31, 1983, if the generally applicable payment date for such portion was before Jan. 1, 1984, see section 227(b) of Pub. L. 98–76, set out as an Effective Date of 1983 Amendment note under section 72 of this title.

[1] See References in Text note below.

§ 6050H. Returns relating to mortgage interest received in trade or business from individuals

(a) Mortgage interest of $600 or more

Any person—

(1) who is engaged in a trade or business, and

(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on any mortgage,

shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

(b) Form and manner of returns

A return is described in this subsection if such return—

(1) is in such form as the Secretary may prescribe,

(2) contains—

(A) the name and address of the individual from whom the interest described in subsection (a)(2) was received,

(B) the amount of such interest (other than points) received for the calendar year,

(C) the amount of points on the mortgage received during the calendar year and whether such points were paid directly by the borrower, and

(D) such other information as the Secretary may prescribe.

(c) Application to governmental units

For purposes of subsection (a)—

(1) Treated as persons

The term ''person'' includes any governmental unit (and any agency or instrumentality thereof).

(2) Special rules

In the case of a governmental unit or any agency or instrumentality thereof—

(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

(d) Statements to be furnished to individuals with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the aggregate amount of interest described in subsection (a)(2) (other than points) received by the person required to make such return from the individual to whom the statement is required to be furnished (and the information required under subsection (b)(2)(C)).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(e) Mortgage defined

For purposes of this section, except as provided in regulations prescribed by the Secretary, the term ''mortgage'' means any obligation secured by real property.

(f) Returns which would be required to be made by 2 or more persons

Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).

(g) Special rules for cooperative housing corporations

For purposes of subsection (a), an amount received by a cooperative housing corporation from a tenant-stockholder shall be deemed to be interest received on a mortgage in the course of a trade or business engaged in by such corporation, to the extent of the tenant-stockholder's proportionate share of interest described in section 216(a)(2). Terms used in the preceding sentence shall have the same meanings as when used in section 216.

(Added Pub. L. 98–369, div. A, title I, § 145(a), July 18, 1984, 98 Stat. 684; amended Pub. L. 99–514, title XV, § 1501(c)(11), title XVIII, § 1811(a)(1), Oct. 22, 1986, 100 Stat. 2739, 2832; Pub. L. 101–239, title VII, § 7646(a), (b), Dec. 19, 1989, 103 Stat. 2382; Pub. L. 104–168, title XII, § 1201(a)(8), July 30, 1996, 110 Stat. 1469; Pub. L. 104–188, title I, § 1704(t)(23), Aug. 20, 1996, 110 Stat. 1888.)

AMENDMENTS

1996—Subsec. (b)(2)(B). Pub. L. 104–188 made technical amendment to directory language of Pub. L. 101–239, § 7646(b)(1). See 1989 Amendment note below.

Subsec. (d)(1). Pub. L. 104–168 substituted ''name, address, and phone number of the information contact'' for ''name and address''.

1989—Subsec. (b)(2)(B). Pub. L. 101–239, § 7646(b)(1), as amended by Pub. L. 104–188, inserted ''(other than points)'' after ''such interest''.

Subsec. (b)(2)(C), (D). Pub. L. 102–239, § 7646(a), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (d)(2). Pub. L. 102–239, § 7646(b)(2), inserted ''(other than points)'' after ''subsection (a)(2)'' and ''(and the information required under subsection (b)(2)(C))'' after ''to be furnished''.

1986—Subsec. (d). Pub. L. 99–514, § 1501(c)(11), in amending subsec. (d) generally, substituted ''information is required'' for ''information is furnished'' in heading and, in text, substituted references to persons required to make a return for former references to persons making a return and references to persons whose name is required to be set forth for former references to persons whose name is set forth.

Subsec. (g). Pub. L. 99–514, § 1811(a)(1), added subsec. (g).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104–168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7646(c) of Pub. L. 101–239 provided that: ''The amendments made by this section [amending this sec-

tion] shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1991.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1501(c)(11) of Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1811(a)(1) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section 145(d) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, title XVIII, § 1811(a)(2), Oct. 22, 1986, 100 Stat. 2095, 2832, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and amending sections 6652 and 6678 of this title] shall apply to amounts received after December 31, 1984.

''(2) SPECIAL RULE FOR OBLIGATIONS IN EXISTENCE ON DECEMBER 31, 1984.—In the case of any obligation in existence on December 31, 1984, no penalty shall be imposed under section 6676 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] by reason of the amendments made by this section on any failure to supply a taxpayer identification number with respect to amounts received before January 1, 1986.''

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 sections 6721, 6722, 6724 of this title.

§ 6050I. Returns relating to cash received in trade or business, etc.

(a) Cash receipts of more than $10,000

Any person—

(1) who is engaged in a trade or business, and

(2) who, in the course of such trade or business, receives more than $10,000 in cash in 1 transaction (or 2 or more related transactions),

shall make the return described in subsection (b) with respect to such transaction (or related transactions) at such time as the Secretary may by regulations prescribe.

(b) Form and manner of returns

A return is described in this subsection if such return—

(1) is in such form as the Secretary may prescribe,

(2) contains—

(A) the name, address, and TIN of the person from whom the cash was received,

(B) the amount of cash received,

(C) the date and nature of the transaction, and

(D) such other information as the Secretary may prescribe.

(c) Exceptions

(1) Cash received by financial institutions

Subsection (a) shall not apply to—

(A) cash received in a transaction reported under title 31, United States Code, if the Secretary determines that reporting under this section would duplicate the reporting to the Treasury under title 31, United States Code, or

(B) cash received by any financial institution (as defined in subparagraphs (A), (B), (C), (D), (E), (F), (G), (J), (K), (R), and (S) of section 5312(a)(2) of title 31, United States Code).

(2) Transactions occurring outside the United States

Except to the extent provided in regulations prescribed by the Secretary, subsection (a) shall not apply to any transaction if the entire transaction occurs outside the United States.

(d) Cash includes foreign currency and certain monetary instruments

For purposes of this section, the term ''cash'' includes—

(1) foreign currency, and

(2) to the extent provided in regulations prescribed by the Secretary, any monetary instrument (whether or not in bearer form) with a face amount of not more than $10,000.

Paragraph (2) shall not apply to any check drawn on the account of the writer in a financial institution referred to in subsection (c)(1)(B).

(e) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the aggregate amount of cash described in subsection (a) received by the person required to make such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(f) Structuring transactions to evade reporting requirements prohibited

(1) In general

No person shall for the purpose of evading the return requirements of this section—

(A) cause or attempt to cause a trade or business to fail to file a return required under this section,

(B) cause or attempt to cause a trade or business to file a return required under this section that contains a material omission or misstatement of fact, or

(C) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more trades or businesses.

(2) Penalties

A person violating paragraph (1) of this subsection shall be subject to the same civil and criminal sanctions applicable to a person which fails to file or completes a false or incorrect return under this section.

(g) Cash received by criminal court clerks

(1) In general

Every clerk of a Federal or State criminal court who receives more than $10,000 in cash as bail for any individual charged with a specified criminal offense shall make a return described in paragraph (2) (at such time as the Secretary may by regulations prescribe) with respect to the receipt of such bail.

(2) Return

A return is described in this paragraph if such return—

(A) is in such form as the Secretary may prescribe, and

(B) contains—

(i) the name, address, and TIN of—

(I) the individual charged with the specified criminal offense, and

(II) each person posting the bail (other than a person licensed as a bail bondsman),

(ii) the amount of cash received,

(iii) the date the cash was received, and

(iv) such other information as the Secretary may prescribe.

(3) Specified criminal offense

For purposes of this subsection, the term ''specified criminal offense'' means—

(A) any Federal criminal offense involving a controlled substance,

(B) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

(C) money laundering (as defined in section 1956 or 1957 of such title), and

(D) any State criminal offense substantially similar to an offense described in subparagraph (A), (B), or (C).

(4) Information to Federal prosecutors

Each clerk required to include on a return under paragraph (1) the information described in paragraph (2)(B) with respect to an individual described in paragraph (2)(B)(i)(I) shall furnish (at such time as the Secretary may by regulations prescribe) a written statement showing such information to the United States Attorney for the jurisdiction in which such individual resides and the jurisdiction in which the specified criminal offense occurred.

(5) Information to payors of bail

Each clerk required to make a return under paragraph (1) shall furnish (at such time as the Secretary may by regulations prescribe) to each person whose name is required to be set forth in such return by reason of paragraph (2)(B)(i)(II) a written statement showing—

(A) the name and address of the clerk's office required to make the return, and

(B) the aggregate amount of cash described in paragraph (1) received by such clerk.

(Added Pub. L. 98–369, div. A, title I, § 146(a), July 18, 1984, 98 Stat. 685; amended Pub. L. 99–514, title XV, § 1501(c)(12), Oct. 22, 1986, 100 Stat. 2739; Pub. L. 100–690, title VII, § 7601(a)(1), Nov. 18, 1988, 102 Stat. 4503; Pub. L. 101–508, title XI, § 11318(a), (c), Nov. 5, 1990, 104 Stat. 1388–458, 1388–459; Pub. L. 103–322, title II, § 20415(a), (b)(3), Sept. 13, 1994, 108 Stat. 1832, 1833; Pub. L. 104–168, title XII, § 1201(a)(9), July 30, 1996, 110 Stat. 1469.)

AMENDMENTS

1996—Subsec. (e)(1). Pub. L. 104–168 substituted ''name, address, and phone number of the information contact'' for ''name and address''.

1994—Pub. L. 103–322, § 20415(b)(3), substituted ''business, etc.'' for ''business'' in section catchline.

Subsec. (g). Pub. L. 103–322, § 20415(a), added subsec. (g).

1990—Subsec. (d). Pub. L. 101–508, § 11318(a), substituted heading for one which read: ''Cash includes foreign currency'' and amended text generally. Prior to amendment, text read as follows: ''For purposes of this section, the term 'cash' includes foreign currency.''

Subsec. (f). Pub. L. 101–508, § 11318(c), substituted heading for one which read: ''Actions by payors''.

1988—Subsec. (f). Pub. L. 100–690 added subsec. (f).

1986—Subsec. (e). Pub. L. 99–514 substituted ''information is required'' for ''information is furnished'' in heading and, in text, substituted references to persons required to make a return for former references to persons making a return and references to persons whose name is required to be set forth for former references to persons whose name is set forth.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104–168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 20415(d) of Pub. L. 103–322 provided that: ''The amendments made by this section [amending this section and section 6724 of this title] shall take effect on the 60th day after the date on which the temporary regulations are prescribed under subsection (c) [section 20415(c) of Pub. L. 103–322, set out as a Regulations note below].'' [Temporary regulations under section 20415(c) of Pub. L. 103–322 were filed Dec. 12, 1994, published Dec. 15, 1994, 59 F.R. 64572, and effective Feb. 13, 1995.]

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11318(e) of Pub. L. 101–508 provided that:

''(1) The amendments made by subsections (a) and (b) [amending this section and section 6721 of this title] shall apply to amounts received after the date of the enactment of this Act [Nov. 5, 1990].

''(2) The amendment made by subsection (c) [amending this section] shall take effect on the date of the enactment of this Act.

''(3) Not later than June 1, 1991, the Secretary of the Treasury or his delegate shall prescribe regulations under section 6050I(d)(2) of the Internal Revenue Code of 1986 (as amended by this section).''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 7601(a)(3) of Pub. L. 100–690 provided that: ''The amendments made by this subsection [amending this section and sections 6721 and 7203 of this title] shall apply to actions after the date of the enactment of this Act [Nov. 18, 1988].''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE

Section 146(d) of Pub. L. 98–369 provided that: ''The amendments made by this section [enacting this section and amending sections 6652 and 6678 of this title] shall apply to amounts received after December 31, 1984.''

REGULATIONS

Section 20415(c) of Pub. L. 103–322 provided that: ''The Secretary of the Treasury or the Secretary's delegate shall prescribe temporary regulations under the amendments made by this section [amending this section and section 6724 of this title] within 90 days after the date of enactment of this Act [Sept. 13, 1994].'' [Temporary regulations under section 20415(c) of Pub. L. 103–322 were filed Dec. 12, 1994, published Dec. 15, 1994, 59 F.R. 64572, and effective Feb. 13, 1995.]

REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS

For requirement of Secretary of the Treasury to report to Congress on number of reports filed under this section yearly, the rate of compliance with reporting requirements, the manner in which Federal agencies collect, organize and analyze such data, and sanctions imposed and indictments filed for failure to comply, see section 101 of Pub. L. 101–647, set out as a note under section 5311 of Title 31, Money and Finance.

NO INFERENCE TO BE DRAWN FROM AMENDMENT

Section 7601(a)(4) of Pub. L. 100–690 provided that: ''No inference shall be drawn from the amendment made by paragraph (1) [amending this section] on the application of the Internal Revenue Code of 1986 without regard to such amendment.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6050R, 6103, 6721, 6724, 7203 of this title; title 12 section 3420; title 25 section 2719; title 28 section 524.

§ 6050J. Returns relating to foreclosures and abandonments of security

(a) In general

Any person who, in connection with a trade or business conducted by such person, lends money secured by property and who—

(1) in full or partial satisfaction of any indebtedness, acquires an interest in any property which is security for such indebtedness, or

(2) has reason to know that the property in which such person has a security interest has been abandoned,

shall make a return described in subsection (c) with respect to each of such acquisitions or abandonments, at such time as the Secretary may by regulations prescribe.

(b) Exception

Subsection (a) shall not apply to any loan to an individual secured by an interest in tangible personal property which is not held for investment and which is not used in a trade or business.

(c) Form and manner of return

The return required under subsection (a) with respect to any acquisition or abandonment of property—

(1) shall be in such form as the Secretary may prescribe,

(2) shall contain—

(A) the name and address of each person who is a borrower with respect to the indebtedness which is secured,

(B) a general description of the nature of such property and such indebtedness,

(C) in the case of a return required under subsection (a)(1)—

(i) the amount of such indebtedness at the time of such acquisition, and

(ii) the amount of indebtedness satisfied in such acquisition,

(D) in the case of a return required under subsection (a)(2), the amount of such indebtedness at the time of such abandonment, and

(E) such other information as the Secretary may prescribe.

(d) Applications to governmental units

For purposes of this section—

(1) Treated as persons

The term ''person'' includes any governmental unit (and any agency or instrumentality thereof).

(2) Special rules

In the case of a governmental unit or any agency or instrumentality thereof—

(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

(B) any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

(e) Statements to be furnished to persons with respect to whom information is required to be furnished

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the name, address, and phone number of the information contact of the person required to make such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

(f) Treatment of other dispositions

To the extent provided by regulations prescribed by the Secretary, any transfer of the property which secures the indebtedness to a person other than the lender shall be treated as an abandonment of such property.

(Added Pub. L. 98–369, div. A, title I, § 148(a), July 18, 1984, 98 Stat. 687; amended Pub. L. 104–168, title XII, § 1201(a)(10), July 30, 1996, 110 Stat. 1470.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–168 substituted ''name, address, and phone number of the information contact'' for ''name and address''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104–168, set out as a note under section 6041 of this title.

EFFECTIVE DATE

Section 148(d) of Pub. L. 98–369 provided that: ''The amendments made by this section [enacting this sec-

tion and amending sections 6652 and 6678 of this title] shall apply with respect to acquisitions of property and abandonments of property after December 31, 1984.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6721, 6722, 6724 of this title.

§ 6050K. Returns relating to exchanges of certain partnership interests

(a) In general

Except as provided in regulations prescribed by the Secretary, if there is an exchange described in section 751(a) of any interest in a partnership during any calendar year, such partnership shall make a return for such calendar year stating—

(1) the name and address of the transferee and transferor in such exchange, and

(2) such other information as the Secretary may by regulations prescribe.

Such return shall be made at such time and in such manner as the Secretary may require by regulations.

(b) Statements to be furnished to transferor and transferee

Every partnership required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the partnership required to make such return, and

(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(c) Requirement that transferor notify partnership

(1) In general

In the case of any exchange described in subsection (a), the transferor of the partnership interest shall promptly notify the partnership of such exchange.

(2) Partnership not required to make return until notice

A partnership shall not be required to make a return under this section with respect to any exchange until the partnership is notified of such exchange.

(Added Pub. L. 98–369, div. A, title I, § 149(a), July 18, 1984, 98 Stat. 689; amended Pub. L. 99–514, title XV, § 1501(c)(13), title XVIII, § 1811(b)(2), Oct. 22, 1986, 100 Stat. 2739, 2833; Pub. L. 104–168, title XII, § 1201(a)(11), July 30, 1996, 110 Stat. 1470.)

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–168 substituted ''name, address, and phone number of the information contact'' for ''name and address''.

1986—Subsec. (b). Pub. L. 99–514, § 1501(c)(13), in amending subsec. (b) generally, substituted references to partnerships required to make a return for former references to partnerships making a return and references to persons whose name is required to be set forth for former references to persons whose name is set forth.

Subsec. (c)(2). Pub. L. 99–514, § 1811(b)(2), substituted ''this section'' for ''this subsection''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104–168, set out as a note under section 6041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1501(c)(13) of Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1811(b)(2) of Pub. L. 99–514 applicable to partnership taxable years beginning after Oct. 22, 1986, see section 1811(b)(1)(B) of Pub. L. 99–514, set out as a note under section 6031 of this title.

Amendment by section 1811(b)(2) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section 149(d) of Pub. L. 98–369 provided that: ''The amendments made by this section [enacting this section and amending sections 6652 and 6678 of this title] shall apply with respect to exchanges 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 sections 6721, 6722, 6724 of this title.

§ 6050L. Returns relating to certain dispositions of donated property

(a) General rule

If the donee of any charitable deduction property sells, exchanges, or otherwise disposes of such property within 2 years after its receipt, the donee shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

(1) the name, address, and TIN of the donor,

(2) a description of the property,

(3) the date of the contribution,

(4) the amount received on the disposition, and

(5) the date of such disposition.

(b) Charitable deduction property

For purposes of this section, the term ''charitable deduction property'' means any property (other than publicly traded securities) contributed in a contribution for which a deduction was claimed under section 170 if the claimed value of such property (plus the claimed value of all

similar items of property donated by the donor to 1 or more donees) exceeds $5,000.

(c) Statement to be furnished to donors

Every person making a return under subsection (a) shall furnish a copy of such return to the donor at such time and in such manner as the Secretary may by regulations prescribe.

(d) Definition of publicly traded securities

The term ''publicly traded securities'' means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

(Added Pub. L. 98–369, div. A, title I, § 155(b)(1), July 18, 1984, 98 Stat. 692.)

EFFECTIVE DATE

Section 155(d)(1) of Pub. L. 98–369 provided that: ''The amendments made by subsections (a) and (b) [enacting this section, amending sections 6652 and 6678 of this title, and enacting provisions set out as a note under section 170 of this title] shall apply to contributions made after December 31, 1984, in taxable years ending after such date.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6721, 6722, 6724 of this title.

§ 6050M. Returns relating to persons receiving contracts from Federal executive agencies

(a) Requirement of reporting

The head of every Federal executive agency which enters into any contract shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth—

(1) the name, address, and TIN of each person with which such agency entered into a contract during the calendar year, and

(2) such other information as the Secretary may require.

(b) Federal executive agency

For purposes of this section, the term ''Federal executive agency'' means—

(1) any Executive agency (as defined in section 105 of title 5, United States Code) other than the General Accounting Office,

(2) any military department (as defined in section 102 of such title), and

(3) the United States Postal Service and the Postal Rate Commission.

(c) Authority to extend reporting to licenses and subcontracts

To the extent provided in regulations, this section also shall apply to—

(1) licenses granted by Federal executive agencies, and

(2) subcontracts under contracts to which subsection (a) applies.

(d) Authority to prescribe minimum amounts

This section shall not apply to contracts or licenses in any class which are below a minimum amount or value which may be prescribed by the Secretary by regulations for such class.

(e) Exception for certain classified or confidential contracts

(1) In general

Except as provided in paragraph (2), this section shall not apply in the case of a contract described in paragraph (3).

(2) Reporting requirement

Each Federal executive agency which has entered into a contract described in paragraph (3) shall, upon a request of the Secretary which identifies a particular person, acknowledge whether such person has entered into such a contract with such agency and, if so, provide to the Secretary—

(A) the information required under this section with respect to such person, and

(B) such other information with respect to such person which the Secretary and the head of such Federal executive agency agree is appropriate.

(3) Description of contract

For purposes of this subsection, a contract between a Federal executive agency and another person is described in this paragraph if—

(A) the fact of the existence of such contract or the subject matter of such contract has been designated and clearly marked or clearly represented, pursuant to the provisions of Federal law or an Executive order, as requiring a specific degree of protection against unauthorized disclosure for reasons of national security, or

(B) the head of such Federal executive agency (or his designee) pursuant to regulations issued by such agency determines, in writing, that filing the required return under this section would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity.

(Added Pub. L. 99–514, title XV, § 1522(a), Oct. 22, 1986, 100 Stat. 2747; amended Pub. L. 100–647, title I, § 1015(f), Nov. 10, 1988, 102 Stat. 3570.)

AMENDMENTS

1988—Subsec. (e). Pub. L. 100–647 added subsec. (e).

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 1522(c) of Pub. L. 99–514 provided that: ''The amendments made by this section [enacting this section] shall apply to contracts (and subcontracts) entered into, and licenses granted, before, on, or after January 1, 1987.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6041A, 6050P of this title.

§ 6050N. Returns regarding payments of royalties

(a) Requirement of reporting

Every person—

(1) who makes payments of royalties (or similar amounts) aggregating $10 or more to any other person during any calendar year, or

(2) who receives payments of royalties (or similar amounts) as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the royalties (or similar amounts) so received,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(b) Statements to be furnished to persons with respect to whom information is furnished

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the aggregate amount of payments to the person required to be shown on such return.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made and shall be in such form as the Secretary may prescribe by regulations.

(c) Exception for payments to certain persons

Except to the extent otherwise provided in regulations, this section shall not apply to any amount paid to a person described in subparagraph (A), (B), (C), (D), (E), or (F) of section 6049(b)(4).

(Added Pub. L. 99–514, title XV, § 1523(a), Oct. 22, 1986, 100 Stat. 2747; amended Pub. L. 104–168, title XII, § 1201(a)(12), July 30, 1996, 110 Stat. 1470.)

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–168 substituted ''name, address, and phone number of the information contact'' for ''name and address''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to statements required to be furnished after Dec. 31, 1996 (determined without regard to any extension), see section 1201(b) of Pub. L. 104–168, set out as a note under section 6041 of this title.

EFFECTIVE DATE

Section 1523(d) of Pub. L. 99–514 provided that: ''The amendments made by this section [enacting this section and amending sections 3406, 6041, and 6676 of this title] shall apply with respect to payments made after December 31, 1986.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3406, 6041, 6724 of this title.

§ 6050P. Returns relating to the cancellation of indebtedness by certain entities

(a) In general

Any applicable entity which discharges (in whole or in part) the indebtedness of any person during any calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth—

(1) the name, address, and TIN of each person whose indebtedness was discharged during such calendar year,

(2) the date of the discharge and the amount of the indebtedness discharged, and

(3) such other information as the Secretary may prescribe.

(b) Exception

Subsection (a) shall not apply to any discharge of less than $600.

(c) Definitions and special rules

For purposes of this section—

(1) Applicable entity

The term ''applicable entity'' means—

(A) an executive, judicial, or legislative agency (as defined in section 3701(a)(4) of title 31, United States Code), and

(B) an applicable financial entity.

(2) Applicable financial entity

The term ''applicable financial entity'' means—

(A) any financial institution described in section 581 or 591(a) and any credit union,

(B) the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the National Credit Union Administration, and any other Federal executive agency (as defined in section 6050M), and any successor or subunit of any of the foregoing,

(C) any other corporation which is a direct or indirect subsidiary of an entity referred to in subparagraph (A) but only if, by virtue of being affiliated with such entity, such other corporation is subject to supervision and examination by a Federal or State agency which regulates entities referred to in subparagraph (A), and

(D) any organization a significant trade or business of which is the lending of money.

(3) Governmental units

In the case of an entity described in paragraph (1)(A) or (2)(B), any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

(d) Statements to be furnished to persons with respect to whom information is required to be furnished

Every applicable entity required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name and address of the entity required to make such return, and

(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

(e) Alternative procedure

In lieu of making a return required under subsection (a), an agency described in subsection (c)(1)(A) may submit to the Secretary (at such time and in such form as the Secretary may by regulations prescribe) information sufficient for the Secretary to complete such a return on behalf of such agency. Upon receipt of such information, the Secretary shall complete such return and provide a copy of such return to such agency.

(Added Pub. L. 103–66, title XIII, § 13252(a), Aug. 10, 1993, 107 Stat. 531; amended Pub. L. 104–134, title III, § 31001(m)(2)(A)–(D)(ii), Apr. 26, 1996, 110 Stat. 1321–368, 1321–369; Pub. L. 106–170, title V, § 533(a), Dec. 17, 1999, 113 Stat. 1931.)

AMENDMENTS

1999—Subsec. (c)(2)(D). Pub. L. 106–170 added subpar. (D).

1996—Pub. L. 104–134, § 31001(m)(2)(D)(ii), amended section catchline generally, striking out ''financial'' before ''entities''.

Subsec. (a). Pub. L. 104–134, § 31001(m)(2)(A), struck out ''financial'' before ''entity'' in introductory provisions.

Subsec. (c). Pub. L. 104–134, § 31001(m)(2)(B), added par. (1), redesignated former par. (1) as (2), and redesignated former par. (2) as (3) and substituted ''(1)(A) or (2)(B)'' for ''(1)(B)''.

Subsec. (d). Pub. L. 104–134, § 31001(m)(2)(D)(i), struck out ''financial'' before ''entity'' in introductory provisions.

Subsec. (e). Pub. L. 104–134, § 31001(m)(2)(C), added subsec. (e).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–170, title V, § 533(b), Dec. 17, 1999, 113 Stat. 1931, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to discharges of indebtedness after December 31, 1999.''

EFFECTIVE DATE

Section 13252(d) of Pub. L. 103–66 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and amending section 6724 of this title] shall apply to discharges of indebtedness after December 31, 1993.

''(2) GOVERNMENTAL ENTITIES.—In the case of an entity referred to in section 6050P(c)(1)(B) of the Internal Revenue Code of 1986 (as added by this section), the amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act [Aug. 10, 1993].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6724 of this title.

§ 6050Q. Certain long-term care benefits

(a) Requirement of reporting

Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year,

(2) whether or not such benefits are paid in whole or in part on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate,

(3) the name, address, and TIN of such individual, and

(4) the name, address, and TIN of the chronically ill or terminally ill individual on account of whose condition such benefits are paid.

(b) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person making the payments, and

(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(c) Long-term care benefits

For purposes of this section, the term ''long-term care benefit'' means—

(1) any payment under a product which is advertised, marketed, or offered as long-term care insurance, and

(2) any payment which is excludable from gross income by reason of section 101(g).

(Added Pub. L. 104–191, title III, § 323(a), Aug. 21, 1996, 110 Stat. 2062; amended Pub. L. 105–34, title XVI, § 1602(d)(1), Aug. 5, 1997, 111 Stat. 1094.)

AMENDMENTS

1997—Subsec. (b)(1). Pub. L. 105–34 inserted '', address, and phone number of the information contact'' after ''name''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104–191, to which such amendment relates, see section 1602(i) of Pub. L. 105–34, set out as a note under section 26 of this title.

EFFECTIVE DATE

Section 323(d) of Pub. L. 104–191 provided that: ''The amendments made by this section [enacting this section and amending section 6724 of this title] shall apply to benefits paid after December 31, 1996.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6724 of this title.

§ 6050R. Returns relating to certain purchases of fish

(a) Requirement of reporting

Every person—

(1) who is engaged in the trade or business of purchasing fish for resale from any person engaged in the trade or business of catching fish; and

(2) who makes payments in cash in the course of such trade or business to such a person of $600 or more during any calendar year for the purchase of fish,

shall make a return (at such times as the Secretary may prescribe) described in subsection (b) with respect to each person to whom such a payment was made during such calendar year.

(b) Return

A return is described in this subsection if such return—

(1) is in such form as the Secretary may prescribe, and

(2) contains—

(A) the name, address, and TIN of each person to whom a payment described in sub-

section (a)(2) was made during the calendar year,

(B) the aggregate amount of such payments made to such person during such calendar year and the date and amount of each such payment, and

(C) such other information as the Secretary may require.

(c) Statement to be furnished with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such a return, and

(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

(d) Definitions

For purposes of this section:

(1) Cash

The term ''cash'' has the meaning given such term by section 6050I(d).

(2) Fish

The term ''fish'' includes other forms of aquatic life.

(Added Pub. L. 104–188, title I, § 1116(b)(1), Aug. 20, 1996, 110 Stat. 1763; amended Pub. L. 105–34, title XVI, § 1601(a), Aug. 5, 1997, 111 Stat. 1086; Pub. L. 105–206, title VI, § 6023(21), July 22, 1998, 112 Stat. 826.)

AMENDMENTS

1998—Subsec. (b)(2)(A). Pub. L. 105–206 substituted a comma for the semicolon at end.

1997—Pub. L. 105–34, § 1601(a)(2), provided that amendment made by section 1116(b)(1) of Pub. L. 104–188, shall be applied as if reference to chapter 68 were a reference to chapter 61. Section 1116(b)(1) of Pub. L. 104–188 directed amendment of subpart B of part III of subchapter A of chapter 68 by adding this section.

Subsec. (c)(1). Pub. L. 105–34, § 1601(a)(1), substituted ''name, address, and phone number of the information contact'' for ''name and address''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104–188, to which it relates, see section 1601(j) of Pub. L. 105–34, set out as a note under section 23 of this title.

EFFECTIVE DATE

Section 1116(b)(3) of Pub. L. 104–188 provided that: ''The amendments made by this subsection [enacting this section and amending section 6724 of this title] shall apply to payments made after December 31, 1997.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6724 of this title.

§ 6050S. Returns relating to higher education tuition and related expenses

(a) In general

Any person—

(1) which is an eligible educational institution—

(A) which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year; or

(B) which makes reimbursements or refunds (or similar amounts) to any individual of qualified tuition and related expenses;

(2) which is engaged in a trade or business of making payments to any individual under an insurance arrangement as reimbursements or refunds (or similar amounts) of qualified tuition and related expenses; or

(3) except as provided in regulations, which is engaged in a trade or business and, in the course of which, receives from any individual interest aggregating $600 or more for any calendar year on one or more qualified education loans,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.

(b) Form and manner of returns

A return is described in this subsection if such return—

(1) is in such form as the Secretary may prescribe,

(2) contains—

(A) the name, address, and TIN of the individual with respect to whom payments or interest described in subsection (a) were received from (or were paid to),

(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year, and

(C) the—

(i) aggregate amount of payments for qualified tuition and related expenses received with respect to the individual described in subparagraph (A) during the calendar year,

(ii) the amount of any grant received by such individual for payment of costs of attendance and processed by the person making such return during such calendar year,

(iii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year by the person making such return, and and[1]

(iv) aggregate amount of interest received for the calendar year from such individual, and

(D) such other information as the Secretary may prescribe.

(c) Application to governmental units

For purposes of this section—

(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

(2) any return required under subsection (a) by such governmental entity shall be made by

[1] So in original.

the officer or employee appropriately designated for the purpose of making such return.

(d) Statements to be furnished to individuals with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the amounts described in subparagraph (C) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(e) Definitions

For purposes of this section, the terms ''eligible educational institution'' and ''qualified tuition and related expenses'' have the meanings given such terms by section 25A (without regard to subsection (g)(2) thereof), and except as provided in regulations, the term ''qualified education loan'' has the meaning given such term by section 221(e)(1).

(f) Returns which would be required to be made by 2 or more persons

Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under part II of subchapter B of chapter 68 with respect to any return or statement required under this section until such time as such regulations are issued.

(Added and amended Pub. L. 105–34, title II, §§ 201(c)(1), 202(c), Aug. 5, 1997, 111 Stat. 804, 808; Pub. L. 105–206, title III, § 3712(a), (b), title VI, § 6004(a)(2), July 22, 1998, 112 Stat. 781, 792.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–206, § 6004(a)(2), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''Any person—

''(1) which is an eligible educational institution which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

''(2) which is engaged in a trade or business and which, in the course of such trade or business—

''(A) makes payments during any calendar year to any individual which constitutes reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual, or

''(B) except as provided in regulations, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.''

Subsec. (b)(2)(C)(ii). Pub. L. 105–206, § 3712(a)(1), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (b)(2)(C)(iii). Pub. L. 105–206, § 3712(a)(1), (2), redesignated cl. (ii) as (iii) and inserted ''by the person making such return'' after ''year''. Former cl. (iii) redesignated (iv).

Subsec. (b)(2)(C)(iv). Pub. L. 105–206, § 3712(a)(1), (3), redesignated cl. (iii) as (iv) and inserted ''and'' at end.

Subsec. (d)(2). Pub. L. 105–206, § 3712(b)(1), struck out ''aggregate'' before ''amounts''.

Subsec. (e). Pub. L. 105–206, § 3712(b)(2), inserted ''(without regard to subsection (g)(2) thereof)'' after ''section 25A''.

1997—Subsec. (a)(2). Pub. L. 105–34, § 202(c)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''which is engaged in a trade or business and which, in the course of such trade or business, makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified tuition and related expenses of such individual,''.

Subsec. (b)(2)(A). Pub. L. 105–34, § 202(c)(2)(A), inserted ''or interest'' after ''payments''.

Subsec. (b)(2)(C)(iii). Pub. L. 105–34, § 202(c)(2)(B), added cl. (iii).

Subsec. (e). Pub. L. 105–34, § 202(c)(3), inserted at end '', and except as provided in regulations, the term 'qualified education loan' has the meaning given such term by section 221(e)(1)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3712(c), July 22, 1998, 112 Stat. 782, provided that: ''The amendments made by this section [amending this section] shall apply to returns required to be filed with respect to taxable years beginning after December 31, 1998.''

Amendment by section 6004(a)(2) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 202(c) of Pub. L. 105–34 applicable to any qualified education loan (as defined in section 221(e)(1) of this title) incurred on, before, or after Aug. 5, 1997, but only with respect to any loan interest payment due and paid after Dec. 31, 1997, and to the portion of the 60-month period referred to in section 221(d) of this title after Dec. 31, 1997, see section 202(e) of Pub. L. 105–34, set out as a note under section 62 of this title.

EFFECTIVE DATE

Section applicable to expenses paid after Dec. 31, 1997 (in taxable years ending after such date) for education furnished in academic periods beginning after such date, see section 201(f) of Pub. L. 105–34, set out as a note under section 25A of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6724 of this title.

SUBPART C—INFORMATION REGARDING WAGES PAID EMPLOYEES

Sec.
6051. Receipts for employees.
6052. Returns regarding payment of wages in the form of group-term life insurance.
6053. Reporting of tips.

AMENDMENTS

1965—Pub. L. 89–97, title III, § 313(e)(2)(D), July 30, 1965, 79 Stat. 385, added item 6053.

1964—Pub. L. 88–272, title II, § 204(c)(3), Feb. 26, 1964, 78 Stat. 37, added item 6052.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 6071, 6201 of this title.

§ 6051. Receipts for employees

(a) Requirement

Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 (determined without regard to subsection (n)) if the employee had claimed no more than one withholding exemption, or every employer engaged in a trade or business who pays remuneration for services performed by an employee, including the cash value of such remuneration paid in any medium other than cash, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, within 30 days after the date of receipt of a written request from the employee if such 30-day period ends before January 31, a written statement showing the following:

(1) the name of such person,

(2) the name of the employee (and his social security account number if wages as defined in section 3121(a) have been paid),

(3) the total amount of wages as defined in section 3401(a),

(4) the total amount deducted and withheld as tax under section 3402,

(5) the total amount of wages as defined in section 3121(a),

(6) the total amount deducted and withheld as tax under section 3101,

(7) the total amount paid to the employee under section 3507 (relating to advance payment of earned income credit),

(8) the total amount of elective deferrals (within the meaning of section 402(g)(3)) and compensation deferred under section 457,

(9) the total amount incurred for dependent care assistance with respect to such employee under a dependent care assistance program described in section 129(d),

(10) in the case of an employee who is a member of the Armed Forces of the United States, such employee's earned income as determined for purposes of section 32 (relating to earned income credit), and

(11) the amount contributed to any Archer MSA (as defined in section 220(d)) of such employee or such employee's spouse.

In the case of compensation paid for service as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(2). In the case of compensation paid for service as a volunteer or volunteer leader within the meaning of the Peace Corps Act, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(3). In the case of tips received by an employee in the course of his employment, the amounts required to be shown by paragraphs (3) and (5) shall include only such tips as are included in statements furnished to the employer pursuant to section 6053(a). The amounts required to be shown by paragraph (5) shall not include wages which are exempted pursuant to sections 3101(c) and 3111(c) from the taxes imposed by sections 3101 and 3111.

(b) Special rule as to compensation of members of Armed Forces

In the case of compensation paid for service as a member of the Armed Forces, the statement required by subsection (a) shall be furnished if any tax was withheld during the calendar year under section 3402, or if any of the compensation paid during such year is includible in gross income under chapter 1, or if during the calendar year any amount was required to be withheld as tax under section 3101. In lieu of the amount required to be shown by paragraph (3) of subsection (a), such statement shall show as wages paid during the calendar year the amount of such compensation paid during the calendar year which is not excluded from gross income under chapter 1 (whether or not such compensation constituted wages as defined in section 3401(a)).

(c) Additional requirements

The statements required to be furnished pursuant to this section in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the Secretary may by regulations prescribe. The statements required under this section shall also show the proportion of the total amount withheld as tax under section 3101 which is for financing the cost of hospital insurance benefits under part A of title XVIII of the Social Security Act.

(d) Statements to constitute information returns

A duplicate of any statement made pursuant to this section and in accordance with regulations prescribed by the Secretary shall, when required by such regulations, be filed with the Secretary.

(e) Railroad employees

(1) Additional requirement

Every person required to deduct and withhold tax under section 3201 from an employee shall include on or with the statement required to be furnished such employee under subsection (a) a notice concerning the provisions of this title with respect to the allowance of a credit or refund of the tax on wages imposed by section 3101(b) and the tax on compensation imposed by section 3201 or 3211 which is treated as a tax on wages imposed by section 3101(b).

(2) Information to be supplied to employees

Each person required to deduct and withhold tax under section 3201 during any year from an employee who has also received wages during such year subject to the tax imposed by section 3101(b) shall, upon request of such employee, furnish to him a written statement showing—

(A) the total amount of compensation with respect to which the tax imposed by section 3201 was deducted,

(B) the total amount deducted as tax under section 3201, and

(C) the portion of the total amount deducted as tax under section 3201 which is for financing the cost of hospital insurance under part A of title XVIII of the Social Security Act.

(f) Statements required in case of sick pay paid by third parties

(1) Statements required from payor

(A) In general

If, during any calendar year, any person makes a payment of third-party sick pay to an employee, such person shall, on or before January 15 of the succeeding year, furnish a written statement to the employer in respect of whom such payment was made showing—

(i) the name and, if there is withholding under section 3402(*o*), the social security number of such employee,

(ii) the total amount of the third-party sick pay paid to such employee during the calendar year, and

(iii) the total amount (if any) deducted and withheld from such sick pay under section 3402.

For purposes of the preceding sentence, the term ''third-party sick pay'' means any sick pay (as defined in section 3402(*o*)(2)(C)) which does not constitute wages for purposes of chapter 24 (determined without regard to section 3402(*o*)(1)).

(B) Special rules

(i) Statements are in lieu of other reporting requirements

The reporting requirements of subparagraph (A) with respect to any payments shall, with respect to such payments, be in lieu of the requirements of subsection (a) and of section 6041.

(ii) Penalties made applicable

For purposes of sections 6674 and 7204, the statements required to be furnished by subparagraph (A) shall be treated as statements required under this section to be furnished to employees.

(2) Information required to be furnished by employer

Every employer who receives a statement under paragraph (1)(A) with respect to sick pay paid to any employee during any calendar year shall, on or before January 31 of the succeeding year, furnish a written statement to such employee showing—

(A) the information shown on the statement furnished under paragraph (1)(A), and

(B) if any portion of the sick pay is excludable from gross income under section 104(a)(3), the portion which is not so excludable and the portion which is so excludable.

To the extent practicable, the information required under the preceding sentence shall be furnished on or with the statement (if any) required under subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 747; Aug. 1, 1956, ch. 837, title IV, § 412, 70 Stat. 879; Pub. L. 87–293, title II, § 202(a)(4), Sept. 22, 1961, 75 Stat. 626; Pub. L. 89–97, title I, § 107, title III, § 313(e)(1), July 30, 1965, 79 Stat. 337, 384; Pub. L. 90–248, title V, § 502(c)(1), (2), Jan. 2, 1968, 81 Stat. 934; Pub. L. 91–172, title VIII, § 805(f)(2), Dec. 30, 1969, 83 Stat. 708; Pub. L. 92–603, title II, § 293(a)–(c), Oct. 30, 1972, 86 Stat. 1459; Pub. L. 93–406, title II, § 1022(k), Sept. 2, 1974, 88 Stat. 943; Pub. L. 94–455, title XIX, § 1906(a)(5), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1824, 1834; Pub. L. 95–216, title III, § 317(b)(3), Dec. 20, 1977, 91 Stat. 1540; Pub. L. 95–600, title I, § 105(c), Nov. 6, 1978, 92 Stat. 2776; Pub. L. 96–601, § 4(e), Dec. 24, 1980, 94 Stat. 3497; Pub. L. 97–248, title III, §§ 307(a)(7), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 97–362, title I, § 107(a), Oct. 25, 1982, 96 Stat. 1731; Pub. L. 98–67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 99–514, title XI, § 1105(b), Oct. 22, 1986, 100 Stat. 2419; Pub. L. 100–647, title I, §§ 1011B(c)(2)(B), 1018(u)(33), Nov. 10, 1988, 102 Stat. 3489, 3592; Pub. L. 103–465, title VII, § 721(b), Dec. 8, 1994, 108 Stat. 5002; Pub. L. 104–191, title III, § 301(c)(3), Aug. 21, 1996, 110 Stat. 2049; Pub. L. 106–554, § 1(a)(7) [title II, § 202(a)(9)], Dec. 21, 2000, 114 Stat. 2763, 2763A–629.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (a), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Social Security Act, referred to in subsecs. (c) and (e)(2)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Part A of title XVIII of the Social Security Act is classified to part A (§ 1395c et seq.) of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2000—Subsec. (a)(11). Pub. L. 106–554 substituted ''Archer MSA'' for ''medical savings account''.

1996—Subsec. (a)(11). Pub. L. 104–191 added par. (11).

1994—Subsec. (a)(10). Pub. L. 103–465 added par. (10).

1988—Subsec. (a)(7). Pub. L. 100–647, § 1018(u)(33), inserted a comma at end.

Subsec. (a)(9). Pub. L. 100–647, § 1011B(c)(2)(B), added par. (9).

1986—Subsec. (a)(8). Pub. L. 99–514 added par. (8).

1983—Subsec. (f)(1)(A). Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

1982—Subsec. (a). Pub. L. 97–362 substituted ''within 30 days after the date of receipt of a written request from the employee if such 30-day period ends before January 31'' for ''on the day on which the last payment of remuneration is made''.

Subsec. (f)(1)(A). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, par. (1)(A) is amended by inserting ''subchapter A of'' before ''chapter 24''. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1980—Subsec. (f). Pub. L. 96–601 added subsec. (f).

1978—Subsec. (a)(7). Pub. L. 95–600 added par. (7).

1977—Subsec. (a). Pub. L. 95–216 directed that the amounts required to be shown by par. (5) shall not in-

clude wages which are exempted pursuant to sections 3101(c) and 3111(c) from the taxes imposed by sections 3101 and 3111.

1976—Subsec. (a). Pub. L. 94–455, §1906(a)(5), struck out ''and'' at end of par. (6), necessitating no change in text, due to Pub. L. 92–603, which made identical amendment in 1972.

Subsecs. (c), (d). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1974—Subsec. (a). Pub. L. 93–406 inserted ''or every employer engaged in a trade or business who pays remuneration for services performed by an employee, including the cash value of such remuneration paid in any medium other than cash,'' after ''exemption,''.

1972—Subsec. (a). Pub. L. 92–603, §293(a), struck out reference to section 3201 of this title in introductory text, par. (7), which required written statement to contain total amount of compensation with respect to which tax imposed by section 3201 was deducted, and par. (8), which required written statement to contain total amount deducted as tax under section 3201.

Subsec. (c). Pub. L. 92–603, §293(b), struck out reference to section 3201 of this title.

Subsec. (e). Pub. L. 92–603, §293(c), added subsec. (e).

1969—Subsec. (a). Pub. L. 91–172 inserted ''(determined without regard to subsection (n))'' after ''withhold a tax under section 3402'' in introductory provisions.

1968—Subsec. (a). Pub. L. 90–248, §502(c)(1), included reference to section 3201 in introductory provisions and added pars. (7) and (8).

Subsec. (c). Pub. L. 90–248, §502(c)(2), included reference to section 3201 in second sentence.

1965—Subsec. (a). Pub. L. 89–97, §313(e)(1), inserted last sentence providing for inclusion of tips received by an employee in the course of his employment.

Subsec. (c). Pub. L. 89–97, §107, required the statements to show the proportion of the total amount withheld as tax under section 3101 which is for financing the cost of hospital insurance benefits under part A of title XVIII of the Social Security Act.

1961—Subsec. (a). Pub. L. 87–293 provided a special rule with respect to the information to be contained on employees' tax receipts in the case of remuneration paid to volunteers and volunteer leaders in the Peace Corps.

1956—Subsec. (a). Act Aug. 1, 1956, §412(a), inserted provisions prescribing contents of statement in the case of compensation paid for service as a member of the uniformed services.

Subsec. (b). Act Aug. 1, 1956, §412(b), required the furnishing of a statement if during the calendar year any amount was required to be withheld as tax under section 3101 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–191 applicable to taxable years beginning after Dec. 31, 1996, see section 301(j) of Pub. L. 104–191, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 applicable to remuneration paid after Dec. 31, 1994, see section 721(d)(2) of Pub. L. 103–465, set out as a note under section 3507 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1011B(c)(2)(B) of Pub. L. 100–647 applicable to taxable years beginning after Dec. 31, 1987, see section 1011B(c)(2)(C) of Pub. L. 100–647, set out as a note under section 129 of this title.

Amendment by section 1018(u)(33) 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

Amendment by Pub. L. 99–514 applicable to calendar years beginning after Dec. 31, 1986, but not applicable to employer contributions made during 1987 and attributable to services performed during 1986 under qualified cash or deferred arrangement (as defined in section 401(k) of this title) if, under terms of such arrangement as in effect on Aug. 16, 1986, employee makes election with respect to such contribution before Jan. 1, 1987, and employer identifies amount of such contribution before Jan. 1, 1987, see section 1105(c)(5), (6) of Pub. L. 99–514, as amended, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 107(b) of Pub. L. 97–362 provided that: ''The amendments made by this section [amending this section] shall apply with respect to employees whose employment is terminated after the date of the enactment of this Act [Oct. 25, 1982].''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–601 applicable to payments made on or after first day of first calendar month beginning more than 120 days after Dec. 24, 1980, see section 4(f) of Pub. L. 96–601, set out as a note under section 3402 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 effective with respect to remuneration paid after June 30, 1979, see section 105(g)(2) of Pub. L. 95–600, set out as an Effective Date note under section 3507 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable to plan years to which part I of subtitle A of title II of Pub. L. 93–406 applies, see section 1024 of Pub. L. 93–406, set out as a note under section 401 of this title. For description of the plan years to which part I applies, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 293(d) of Pub. L. 92–603 provided that: ''The amendments made by this section [amending this section] shall apply in respect to remuneration paid after December 31, 1971.''

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 applicable to wages paid after Apr. 30, 1970, see section 805(h) of Pub. L. 91–172, set out as a note under section 3402 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 502(c)(3) of Pub. L. 90–248 provided that: ''The amendments made by paragraphs (1) and (2) [amending this section] shall apply in respect of remuneration paid after December 31, 1967.''

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 313(e)(1) of Pub. L. 89–97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89–97, set out as an Effective Date note under section 6053 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87–293, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 1, 1956, effective Jan. 1, 1957, see section 603(a) of act Aug. 1, 1956.

REPEALS; AMENDMENTS AND APPLICATION OF AMENDMENTS UNAFFECTED

Section 202(a)(4) of Pub. L. 87–293, cited as a credit to this section, was repealed by Pub. L. 89–572, §5(a), Sept.

13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89–572, set out as a note under section 2515 of Title 22, Foreign Relations and Intercourse.

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 sections 408, 3102, 3121, 3202, 3402, 3509, 6040, 6041A, 6045, 6053, 6103, 6314, 6674, 6724, 7204 of this title; title 42 section 1395y.

§ 6052. Returns regarding payment of wages in the form of group-term life insurance

(a) Requirement of reporting

Every employer who during any calendar year provides group-term life insurance on the life of an employee during part or all of such calendar year under a policy (or policies) carried directly or indirectly by such employer shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the cost of such insurance and the name and address of the employee on whose life such insurance is provided, but only to the extent that the cost of such insurance is includible in the employee's gross income under section 79(a). For purposes of this section, the extent to which the cost of group-term life insurance is includible in the employee's gross income under section 79(a) shall be determined as if the employer were the only employer paying such employee remuneration in the form of such insurance.

(b) Statements to be furnished to employees with respect to whom information is required

Every employer required to make a return under subsection (a) shall furnish to each employee whose name is required to be set forth in such return a written statement showing the cost of the group-term life insurance shown on such return. The written statement required under the preceding sentence shall be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(Added Pub. L. 88–272, title II, § 204(c)(1), Feb. 26, 1964, 78 Stat. 37; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99–514, title XV, § 1501(c)(14), Oct. 22, 1986, 100 Stat. 2740.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–514, in amending subsec. (b) generally, substituted ''information is required'' for ''information is furnished'' in heading, and in text substituted reference to employers required to make a return for former reference to employers making a return and reference to employees whose name is required to be set forth for former reference to employees whose name is set forth.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE

Section applicable to group-term life insurance provided after Dec. 31, 1963, in taxable years ending after such date, see section 204(d) of Pub. L. 88–272, set out as a note under section 79 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 6041A, 6724 of this title.

§ 6053. Reporting of tips

(a) Reports by employees

Every employee who, in the course of his employment by an employer, receives in any calendar month tips which are wages (as defined in section 3121(a) or section 3401(a)) or which are compensation (as defined in section 3231(e)) shall report all such tips in one or more written statements furnished to his employer on or before the 10th day following such month. Such statements shall be furnished by the employee under such regulations, at such other times before such 10th day, and in such form and manner, as may be prescribed by the Secretary.

(b) Statements furnished by employers

If the tax imposed by section 3101 or section 3201 (as the case may be) with respect to tips reported by an employee pursuant to subsection (a) exceeds the tax which can be collected by the employer pursuant to section 3102 or section 3202 (as the case may be), the employer shall furnish to the employee a written statement showing the amount of such excess. The statement required to be furnished pursuant to this subsection shall be furnished at such time, shall contain such other information, and shall be in such form as the Secretary may by regulations prescribe. When required by such regulations, a duplicate of any such statement shall be filed with the Secretary.

(c) Reporting requirements relating to certain large food or beverage establishments

(1) Report to Secretary

In the case of a large food or beverage establishment, each employer shall report to the Secretary, at such time and manner as the Secretary may prescribe by regulation, the following information with respect to each calendar year:

(A) The gross receipts of such establishment from the provision of food and beverages (other than nonallocable receipts).

(B) The aggregate amount of charge receipts (other than nonallocable receipts).

(C) The aggregate amount of charged tips shown on such charge receipts.

(D) The sum of—

(i) the aggregate amount reported by employees to the employer under subsection (a), plus

(ii) the amount the employer is required to report under section 6051 with respect to service charges of less than 10 percent.

(E) With respect to each employee, the amount allocated to such employee under paragraph (3).

(2) Furnishing of statement to employees

Each employer described in paragraph (1) shall furnish, in such manner as the Secretary may prescribe by regulations, to each employee of the large food or beverage establishment a written statement for each calendar year showing the following information:

(A) The name and address of such employer.

(B) The name of the employee.

(C) The amount allocated to the employee under paragraph (3) for all payroll periods ending within the calendar year.

Any statement under this paragraph shall be furnished to the employee during January of the calendar year following the calendar year for which such statement is made.

(3) Employee allocation of 8 percent of gross receipts

(A) In general

For purposes of paragraphs (1)(E) and (2)(C), the employer of a large food or beverage establishment shall allocate (as tips for purposes of the requirements of this subsection) among employees performing services during any payroll period who customarily receive tip income an amount equal to the excess of—

(i) 8 percent of the gross receipts (other than nonallocable receipts) of such establishment for the payroll period, over

(ii) the aggregate amount reported by such employees to the employer under subsection (a) for such period.

(B) Method of allocation

The employer shall allocate the amount under subparagraph (A)—

(i) on the basis of a good faith agreement by the employer and the employees, or

(ii) in the absence of an agreement under clause (i), in the manner determined under regulations prescribed by the Secretary.

(C) The Secretary may lower the percentage required to be allocated

Upon the petition of the employer or the majority of employees of such employer, the Secretary may reduce (but not below 2 percent) the percentage of gross receipts required to be allocated under subparagraph (A) where he determines that the percentage of gross receipts constituting tips is less than 8 percent.

(4) Large food or beverage establishment

For purposes of this subsection, the term ''large food or beverage establishment'' means any trade or business (or portion thereof)—

(A) which provides food or beverages,

(B) with respect to which the tipping of employees serving food or beverages by customers is customary, and

(C) which normally employed more than 10 employees on a typical business day during the preceding calendar year.

For purposes of subparagraph (C), rules similar to the rules of subsections (a) and (b) of section 52 shall apply under regulations prescribed by the Secretary, and an individual who owns 50 percent or more in value of the stock of the corporation operating the establishment shall not be treated as an employee.

(5) Employer not to be liable for wrong allocations

The employer shall not be liable to any person if any amount is improperly allocated under paragraph (3)(B) if such allocation is done in accordance with the regulations prescribed under paragraph (3)(B).

(6) Nonallocable receipts defined

For purposes of this subsection, the term ''nonallocable receipts'' means receipts which are allocable to—

(A) carryout sales, or

(B) services with respect to which a service charge of 10 percent or more is added.

(7) Application to new businesses

The Secretary shall prescribe regulations for the application of this subsection to new businesses.

(Added Pub. L. 89–97, title III, § 313(e)(2)(A), July 30, 1965, 79 Stat. 384; amended Pub. L. 89–212, § 2(d), Sept. 29, 1965, 79 Stat. 859; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title III, § 314(a), Sept. 3, 1982, 96 Stat. 603; Pub. L. 98–369, div. A, title X, § 1072(a), (c)(1), July 18, 1984, 98 Stat. 1052.)

AMENDMENTS

1984—Subsec. (c)(3)(C). Pub. L. 98–369, § 1072(a), substituted ''Upon the petition of the employer or the majority of employees of such employer, the Secretary'' for ''The Secretary'' and ''2 percent'' for ''5 percent''.

Subsec. (c)(4). Pub. L. 98–369, § 1072(c)(1), inserted provision that an individual who owns 50 percent or more in value of the stock of the corporation operating the establishment shall not be treated as an employee.

1982—Subsec. (c). Pub. L. 97–248 added subsec. (c).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1965—Subsec. (a). Pub. L. 89–212, § 2(d)(1), inserted ''or which are compensation (as defined in section 3231(e)''.

Subsec. (b). Pub. L. 89–212, § 2(d)(2), inserted ''or section 3201 (as the case may be)'' and ''or section 3202 (as the case may be)''.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 1072(c)(2) of Pub. L. 98–369 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to calendar years beginning after December 31, 1982.''

EFFECTIVE DATE OF 1982 AMENDMENT

Section 314(e) of Pub. L. 97–248, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and sections 6001 and 6678 of this title, and enacting provisions set out as a note under this section] shall apply to calendar years beginning after December 31, 1982.

''(2) SPECIAL RULE FOR 1983.—For purposes of section 6053(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], in the case of payroll periods ending before April 1, 1983, an employer must only report with respect to such periods—

''(A) amounts described in subparagraphs (A), (B), (C), and (D) of section 6053(c)(1) of such Code, and

''(B) the name, and identification number, wages paid to, and tips reported by, each tipped employee.''

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–212 effective only with respect to tips received after 1965, see section 6 of Pub. L. 89–212, set out as a note under section 3201 of this title.

EFFECTIVE DATE

Section 313(f) of Pub. L. 89–97 provided that: ''The amendments made by this section [enacting this section and amending sections 451, 3102, 3121, 3401, 3402, 6051, 6652, and 6674 of this title and section 409 of Title 42, The Public Health and Welfare] shall apply only with respect to tips received by employees after 1965.''

REGULATIONS

Section 1072(b) of Pub. L. 98–369 provided that: ''The Secretary of the Treasury shall prescribe by regulations within 1 year after the date of the enactment of this Act [July 18, 1984] the applicable recordkeeping requirements for tipped employees.''

THREAT OF AUDIT PROHIBITED TO COERCE TIP REPORTING ALTERNATIVE COMMITMENT AGREEMENTS

Pub. L. 105–206, title III, §3414, July 22, 1998, 112 Stat. 755, provided that: ''The Secretary of the Treasury or the Secretary's delegate shall instruct employees of the Internal Revenue Service that they may not threaten to audit any taxpayer in an attempt to coerce the taxpayer into entering into a Tip Reporting Alternative Commitment Agreement.''

MODIFICATION OF TIPS ALLOCATION METHOD

Pub. L. 99–514, title XV, §1571, Oct. 22, 1986, 100 Stat. 2765, provided that: ''Effective for any payroll period beginning after December 31, 1986, an establishment may utilize the optional method of tips allocation described in the last sentence of section 31.6053–3(f)(1)(iv) of the Internal Revenue Regulations only if such establishment employs less than the equivalent of 25 full-time employees during such payroll period.''

STUDY OF TIP COMPLIANCE

Section 314(c) of Pub. L. 97–248 directed Secretary of the Treasury or his delegate to submit before Jan. 1, 1987, to Committee on Ways and Means of House of Representatives and to Committee on Finance of Senate a report with respect to tip compliance in food and beverage service industry. Such study to include, but not be limited to, an analysis of tipping patterns, tip-sharing arrangements, and tip compliance patterns.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45B, 451, 3306, 3102, 3121, 3202, 3231, 3401, 3402, 6001, 6041, 6041A, 6051, 6652, 6674, 6678, 6724 of this title; title 42 section 409; title 45 section 231.

[SUBPART D—REPEALED]

[§ 6056. Repealed. Pub. L. 96–603, § 1(c), Dec. 28, 1980, 94 Stat. 3504]

Section, added Pub. L. 91–172, title I, §101(d)(3), Dec. 30, 1969, 83 Stat. 521; amended Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, required an annual report by private foundations having at least $5,000 of assets at any time during a taxable year, prescribed the contents of the report and the form to be used, and provided special rules concerning information to be filed with the report and availability of the report.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of Pub. L. 96–603, set out as an Effective Date of 1980 Amendment note under section 6033 of this title.

SUBPART E—REGISTRATION OF AND INFORMATION CONCERNING PENSION, ETC., PLANS

Sec.
6057. Annual registration, etc.
6058. Information required in connection with certain plans of deferred compensation.
6059. Periodic report by actuary.[1]

AMENDMENTS

1974—Pub. L. 93–406, title II, §1031(a), Sept. 2, 1974, 88 Stat. 943, added subpart heading and analysis of sections.

§ 6057. Annual registration, etc.

(a) Annual registration

(1) General rule

Within such period after the end of a plan year as the Secretary may by regulations prescribe, the plan administrator (within the meaning of section 414(g)) of each plan to which the vesting standards of section 203 of part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 applies for such plan year shall file a registration statement with the Secretary.

(2) Contents

The registration statement required by paragraph (1) shall set forth—

(A) the name of the plan,

(B) the name and address of the plan administrator,

(C) the name and taxpayer identifying number of each participant in the plan—

(i) who, during such plan year, separated from the service covered by the plan,

(ii) who is entitled to a deferred vested benefit under the plan as of the end of such plan year, and

(iii) with respect to whom retirement benefits were not paid under the plan during such plan year,

(D) the nature, amount, and form of the deferred vested benefit to which such participant is entitled, and

(E) such other information as the Secretary may require.

At the time he files the registration statement under this subsection, the plan administrator shall furnish evidence satisfactory to the Secretary that he has complied with the requirement contained in subsection (e).

(b) Notification of change in status

Any plan administrator required to register under subsection (a) shall also notify the Secretary, at such time as may be prescribed by regulations, of—

(1) any change in the name of the plan,

(2) any change in the name or address of the plan administrator,

[1] So in original. Does not conform to section catchline.

(3) the termination of the plan, or

(4) the merger or consolidation of the plan with any other plan or its division into two or more plans.

(c) Voluntary reports

To the extent provided in regulations prescribed by the Secretary, the Secretary may receive from—

(1) any plan to which subsection (a) applies, and

(2) any other plan (including any governmental plan or church plan (within the meaning of section 414)),

such information (including information relating to plan years beginning before January 1, 1974) as the plan administrator may wish to file with respect to the deferred vested benefit rights of any participant separated from the service covered by the plan during any plan year.

(d) Transmission of information to Commissioner of Social Security

The Secretary shall transmit copies of any statements, notifications, reports, or other information obtained by him under this section to the Commissioner of Social Security.

(e) Individual statement to participant

Each plan administrator required to file a registration statement under subsection (a) shall, before the expiration of the time prescribed for the filing of such registration statement, also furnish to each participant described in subsection (a)(2)(C) an individual statement setting forth the information with respect to such participant required to be contained in such registration statement. Such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date.

(f) Regulations

(1) In general

The Secretary, after consultation with the Commissioner of Social Security, may prescribe such regulations as may be necessary to carry out the provisions of this section.

(2) Plans to which more than one employer contributes

This section shall apply to any plan to which more than one employer is required to contribute only to the extent provided in regulations prescribed under this subsection.

(g) Cross references

For provisions relating to penalties for failure to register or furnish statements required by this section, see section 6652(d) and section 6690.

For coordination between Department of the Treasury and the Department of Labor with regard to administration of this section, see section 3004 of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 93–406, title II, § 1031(a), Sept. 2, 1974, 88 Stat. 943; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. B. title VI, § 2663(j)(5)(D), July 18, 1984, 98 Stat. 1171; Pub. L. 98–397, title II, § 206, Aug. 23, 1984, 98 Stat. 1449; Pub. L. 99–514, title XV, § 1501(d)(1)(F), Oct. 22, 1986, 100 Stat. 2740; Pub. L. 103–296, title I, § 108(h)(5), Aug. 15, 1994, 108 Stat. 1487.)

REFERENCES IN TEXT

Section 203 of part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, referred to in subsec. (a)(1), is classified to section 1053 of Title 29, Labor. Section 3004 of such Act, referred to in subsec. (g), is classified to section 1204 of Title 29.

AMENDMENTS

1994—Subsecs. (d), (f)(1). Pub. L. 103–296 substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services'' in heading and text of subsec. (d) and in text of subsec. (f)(1).

1986—Subsec. (g). Pub. L. 99–514 substituted ''section 6652(d)'' for ''section 6652(e)''.

1984—Subsec. (d). Pub. L. 98–369 substituted ''Secretary of Health and Human Services'' for ''Secretary of Health, Education, and Welfare''.

Subsec. (e). Pub. L. 98–397 inserted provision that such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date.

Subsec. (f). Pub. L. 98–369 substituted ''Secretary of Health and Human Services'' for ''Secretary of Health, Education, and Welfare''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–397 applicable to plan years beginning after Dec. 31, 1984, except as otherwise provided, see sections 302 and 303 of Pub. L. 98–397, set out as a note under section 1001 of Title 29, Labor.

Amendment by Pub. L. 98–369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98–369, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section 1034 of Pub. L. 93–406, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''This part [part 3 (§§ 1031–1034) of subtitle A of title II of Pub. L. 93–406, enacting this section, sections 6058, 6059, 6690, and 6692 of this title and section 1320b–1 of Title 42, The Public Health and Welfare, and amending sections 6033, 6047, and 6652 of this title] shall take effect upon the date of the enactment of this Act [Sept. 2, 1974]; except that—

''(1) the requirements of section 6059 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall apply only with respect to plan years to which part I of this title applies. [For description of plan years to which part I applies, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title].

''(2) the requirements of section 6057 of such Code shall apply only with respect to plan years beginning after December 31, 1975,

''(3) the requirements of section 6058(a) of such Code shall apply only with respect to plan years beginning

after the date of the enactment of this Act [Sept. 2, 1974], and

''(4) the amendments made by section 1032 [enacting section 1320b–1 of Title 42] shall take effect on January 1, 1978.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6652, 6690 of this title; title 29 section 1025; title 42 section 1320b–1.

§ 6058. Information required in connection with certain plans of deferred compensation

(a) In general

Every employer who maintains a pension, annuity, stock bonus, profit-sharing, or other funded plan of deferred compensation described in part I of subchapter D of chapter 1, or the plan administrator (within the meaning of section 414(g)) of the plan, shall file an annual return stating such information as the Secretary may by regulations prescribe with respect to the qualification, financial conditions, and operations of the plan; except that, in the discretion of the Secretary, the employer may be relieved from stating in its return any information which is reported in other returns.

(b) Actuarial statement in case of mergers, etc.

Not less than 30 days before a merger, consolidation, or transfer of assets or liabilities of a plan described in subsection (a) to another plan, the plan administrator (within the meaning of section 414(g)) shall file an actuarial statement of valuation evidencing compliance with the requirements of section 401(a)(12).

(c) Employer

For purposes of this section, the term ''employer'' includes a person described in section 401(c)(4) and an individual who establishes an individual retirement plan.

(d) Coordination with income tax returns, etc.

An individual who establishes an individual retirement plan shall not be required to file a return under this section with respect to such plan for any taxable year for which there is—

(1) no special IRP tax, and

(2) no plan activity other than—

(A) the making of contributions (other than rollover contributions), and

(B) the making of distributions.

(e) Special IRP tax defined

For purposes of this section, the term ''special IRP tax'' means a tax imposed by—

(1) section 408(f),[1]

(2) section 4973, or

(3) section 4974.

(f) Cross references

For provisions relating to penalties for failure to file a return required by this section, see section 6652(e).

For coordination between the Department of the Treasury and the Department of Labor with respect to the information required under this section, see section 3004 of title III of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 93–406, title II, § 1031(a), Sept. 2, 1974, 88 Stat. 945; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–600, title I, § 157(k)(1), Nov. 6, 1978, 92 Stat. 2809; Pub. L. 98–369, div. A, title IV, § 491(d)(48), July 18, 1984, 98 Stat. 852; Pub. L. 99–514, title XV, § 1501(d)(1)(D), Oct. 22, 1986, 100 Stat. 2740.)

REFERENCES IN TEXT

Section 408(f), referred to in subsec. (e)(1), was repealed by Pub. L. 99–514, title XI, § 1123(d)(2), Oct. 22, 1986, 100 Stat. 2475.

Section 3004 of title III of the Employee Retirement Income Security Act of 1974, referred to in subsec. (f), is classified to section 1204 of Title 29, Labor.

AMENDMENTS

1986—Subsec. (f). Pub. L. 99–514 substituted ''section 6652(e)'' for ''section 6652(f)''.

1984—Subsec. (e). Pub. L. 98–369 struck out par. (2) which included a tax imposed by section 409(c) within term ''special IRP tax'', and redesignated pars. (3) and (4) as (2) and (3), respectively.

1978—Subsec. (c). Pub. L. 95–600 substituted ''an individual retirement plan'' for ''an individual retirement account or annuity described in section 408''.

Subsecs. (d) to (f). Pub. L. 95–600 added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98–369, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 157(k)(3) of Pub. L. 95–600 provided that: ''The amendments made by paragraph (1) [amending this section] shall apply to returns for taxable years beginning after December 31, 1977. The amendment made by paragraph (2) [amending section 7701 of this title] shall apply to taxable years beginning after December 31, 1974.''

EFFECTIVE DATE

Section effective Sept. 2, 1974, except that the requirements of subsec. (a) shall apply only with respect to plan years beginning after Sept. 2, 1974, see section 1034 of Pub. L. 93–406, set out as a note under section 6057 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6033, 6104, 6652 of this title.

§ 6059. Periodic report of actuary

(a) General rule

The actuarial report described in subsection (b) shall be filed by the plan administrator (as defined in section 414(g) of each defined benefit plan to which section 412 applies, for the first plan year for which section 412 applies to the plan and for each third plan year thereafter (or more frequently if the Secretary determines that more frequent reports are necessary).

(b) Actuarial report

The actuarial report of a plan required by subsection (a) shall be prepared and signed by an

[1] See References in Text note below.

enrolled actuary (within the meaning of section 7701(a)(35)) and shall contain—

(1) a description of the funding method and actuarial assumptions used to determine costs under the plan,

(2) a certification of the contribution necessary to reduce the accumulated funding deficiency (as defined in section 412(a)) to zero,

(3) a statement—

(A) that to the best of his knowledge the report is complete and accurate, and

(B) the requirements of section 412(c) (relating to reasonable actuarial assumptions) have been complied with,

(4) such other information as may be necessary to fully and fairly disclose the actuarial position of the plan, and

(5) such other information regarding the plan as the Secretary may by regulations require.

(c) Time and manner of filing

The actuarial report and statement required by this section shall be filed at the time and in the manner provided by regulations prescribed by the Secretary.

(d) Cross reference

For coordination between the Department of the Treasury and the Department of Labor with respect to the report required to be filed under this section, see section 3004 of title III of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 93–406, title II, § 1033(a), Sept. 2, 1974, 88 Stat. 947; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

REFERENCES IN TEXT

Section 3004 of title III of the Employee Retirement Income Security Act of 1974, referred to in subsec. (d), is classified to section 1204 of Title 29, Labor.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE

Requirements of section applicable only with respect to plan years to which part I of subtitle A of title II of Pub. L. 93–406 applies, see section 1034(1) of Pub. L. 93–406, set out as an note under section 6057 of this title. For a description of the plan years to which part 1 applies, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

CONSOLIDATION OF ACTUARIAL REPORTS

Section 1033(c) of Pub. L. 93–406, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The Secretary of the Treasury and the Secretary of Labor shall take such steps as may be necessary to assure coordination to the maximum extent feasible between the actuarial reports required by section 6059 of the Internal Revenue Code of 1986 and by section 103(d) of title I of the Employee Retirement Income Security Act of 1974 [section 1023(d) of Title 29, Labor].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6692 of this title.

SUBPART F—INFORMATION CONCERNING INCOME TAX RETURN PREPARERS

Sec.
6060. Information returns of income tax return preparers.

AMENDMENTS

1976—Pub. L. 94–455, title XII, § 1203(e), Oct. 4, 1976, 90 Stat. 1691, added subpart heading and analysis for subpart F.

§ 6060. Information returns of income tax return preparers

(a) General rule

Any person who employs an income tax return preparer to prepare any return or claim for refund other than for such person at any time during a return period shall make a return setting forth the name, taxpayer identification number, and place of work of each income tax return preparer employed by him at any time during such period. For purposes of this section, any individual who in acting as an income tax return preparer is not the employee of another income tax return preparer shall be treated as his own employer. The return required by this section shall be filed, in such manner as the Secretary may by regulations prescribe, on or before the first July 31 following the end of such return period.

(b) Alternative reporting

In lieu of the return required by subsection (a), the Secretary may approve an alternative reporting method if he determines that the necessary information is available to him from other sources.

(c) Return period defined

For purposes of subsection (a), the term ''return period'' means the 12-month period beginning on July 1 of each year, except that the first return period shall be the 6-month period beginning on January 1, 1977, and ending on June 30, 1977.

(Added Pub. L. 94–455, title XII, § 1203(e), Oct. 4, 1976, 90 Stat. 1691.)

EFFECTIVE DATE

Section applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 7701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6107, 6695 of this title.

PART IV—SIGNING AND VERIFYING OF RETURNS AND OTHER DOCUMENTS

Sec.
6061. Signing of returns and other documents.
6062. Signing of corporation returns.
6063. Signing of partnership returns.
6064. Signature presumed authentic.
6065. Verification of returns.

§ 6061. Signing of returns and other documents

(a) General rule

Except as otherwise provided by subsection (b) and sections 6062 and 6063, any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be signed in accordance with forms or regulations prescribed by the Secretary.

(b) Electronic signatures

(1) In general

The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary may—

(A) waive the requirement of a signature for; or

(B) provide for alternative methods of signing or subscribing,

a particular type or class of return, declaration, statement, or other document required or permitted to be made or written under internal revenue laws and regulations.

(2) Treatment of alternative methods

Notwithstanding any other provision of law, any return, declaration, statement, or other document filed and verified, signed, or subscribed under any method adopted under paragraph (1)(B) shall be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though signed or subscribed.

(3) Published guidance

The Secretary shall publish guidance as appropriate to define and implement any waiver of the signature requirements or any method adopted under paragraph (1).

(Aug. 16, 1954, ch. 736, 68A Stat. 748; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105–206, title II, § 2003(a), July 22, 1998, 112 Stat. 724.)

AMENDMENTS

1998—Pub. L. 105–206 designated existing provisions as subsec. (a), inserted subsec. heading, substituted ''Except as otherwise provided by subsection (b) and'' for ''Except as otherwise provided by'', and added subsec. (b).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title II, § 2003(f), July 22, 1998, 112 Stat. 725, provided that: ''The amendments made by this section [amending this section and section 7502 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].''

§ 6062. Signing of corporation returns

The return of a corporation with respect to income shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act. In the case of a return made for a corporation by a fiduciary pursuant to the provisions of section 6012(b)(3), such fiduciary shall sign the return. The fact that an individual's name is signed on the return shall be prima facie evidence that such individual is authorized to sign the return on behalf of the corporation.

(Aug. 16, 1954, ch. 736, 68A Stat. 748.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6032, 6061 of this title.

§ 6063. Signing of partnership returns

The return of a partnership made under section 6031 shall be signed by any one of the partners. The fact that a partner's name is signed on the return shall be prima facie evidence that such partner is authorized to sign the return on behalf of the partnership.

(Aug. 16, 1954, ch. 736, 68A Stat. 748.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6061 of this title.

§ 6064. Signature presumed authentic

The fact that an individual's name is signed to a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

(Aug. 16, 1954, ch. 736, 68A Stat. 749.)

§ 6065. Verification of returns

Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

(Aug. 16, 1954, ch. 736, 68A Stat. 749; Pub. L. 94–455, title XIX, § 1906(a)(6), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1824, 1834.)

AMENDMENTS

1976—Pub. L. 94–455, § 1906(a)(6), struck out provisions relating to the authority of the Secretary or his delegate to require that any return, statement, or other document to be made under provision of the internal revenue laws or regulations shall be verified by an oath.

Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 effective on first day of first month which begins more than ninety 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 REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6411, 6425 of this title.

PART V—TIME FOR FILING RETURNS AND OTHER DOCUMENTS

Sec.
6071. Time for filing returns and other documents.
6072. Time for filing income tax returns.
[6073, 6074. Repealed.]
6075. Time for filing estate and gift tax returns.
[6076. Repealed.]

AMENDMENTS

1988—Pub. L. 100–418, title I, § 1941(b)(3)(C), Aug. 23, 1988, 102 Stat. 1324, struck out item 6076 ''Time for filing return of windfall profit tax''.

1984—Pub. L. 98–369, div. A, title IV, § 412(c)(2), July 18, 1984, 98 Stat. 793, struck out item 6073 ''Time for filing declarations of estimated income tax by individuals''.

1980—Pub. L. 96–223, title I, § 101(c)(1)(B), Apr. 2, 1980, 94 Stat. 250, added item 6076.

1976—Pub. L. 94–455, title XIX, § 1904(b)(10)(A)(iii)(II), Oct. 4, 1976, 90 Stat. 1817, struck out item 6076 ''Time for filing interest equalization tax returns''.

1968—Pub. L. 90–364, title I, § 103(e)(8), June 28, 1968, 82 Stat. 264, struck out item 6074 ''Time for filing declarations of estimated income tax by corporations''.

1964—Pub. L. 88–563, § 3(d), Sept. 2, 1964, 78 Stat. 845, added item 6076.

§ 6071. Time for filing returns and other documents

(a) General rule

When not otherwise provided for by this title, the Secretary shall by regulations prescribe the time for filing any return, statement, or other document required by this title or by regulations.

(b) Electronically filed information returns

Returns made under subparts B and C of part III of this subchapter which are filed electronically shall be filed on or before March 31 of the year following the calendar year to which such returns relate.

(c) Special taxes

For payment of special taxes before engaging in certain trades and businesses, see section 4901 and section 5142.

(Aug. 16, 1954, ch. 736, 68A Stat. 749; Pub. L. 85–859, title II, § 204(1), Sept. 2, 1958, 72 Stat. 1428; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105–206, title II, § 2002(a), July 22, 1998, 112 Stat. 724.)

AMENDMENTS

1998—Subsecs. (b), (c). Pub. L. 105–206 added subsec. (b) and redesignated former subsec. (b) as (c).

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1958—Subsec. (b). Pub. L. 85–859 inserted reference to section 5142 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title II, § 2002(c), July 22, 1998, 112 Stat. 724, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to returns required to be filed after December 31, 1999.''

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title.

§ 6072. Time for filing income tax returns

(a) General rule

In the case of returns under section 6012, 6013, 6017, or 6031 (relating to income tax under subtitle A), returns made on the basis of the calendar year shall be filed on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed on or before the 15th day of the fourth month following the close of the fiscal year, except as otherwise provided in the following subsections of this section.

(b) Returns of corporations

Returns of corporations under section 6012 made on the basis of the calendar year shall be filed on or before the 15th day of March following the close of the calendar year, and such returns made on the basis of a fiscal year shall be filed on or before the 15th day of the third month following the close of the fiscal year. Returns required for a taxable year by section 6011(e)(2) (relating to returns of a DISC) shall be filed on or before the fifteenth day of the ninth month following the close of the taxable year.

(c) Returns by certain nonresident alien individuals and foreign corporations

Returns made by nonresident alien individuals (other than those whose wages are subject to withholding under chapter 24) and foreign corporations (other than those having an office or place of business in the United States or a FSC or former FSC) under section 6012 on the basis of a calendar year shall be filed on or before the 15th day of June following the close of the calendar year and such returns made on the basis of a fiscal year shall be filed on or before the 15th day of the 6th month following the close of the fiscal year.

(d) Returns of cooperative associations

In the case of an income tax return of—

(1) an exempt cooperative association described in section 1381(a)(1), or

(2) an organization described in section 1381(a)(2) which is under an obligation to pay patronage dividends (as defined in section 1388(a)) in an amount equal to at least 50 percent of its net earnings from business done with or for its patrons, or which paid patronage dividends in such an amount out of the net earnings from business done with or for patrons during the most recent taxable year for which it had such net earnings,

a return made on the basis of a calendar year shall be filed on or before the 15th day of September following the close of the calendar year, and a return made on the basis of a fiscal year shall be filed on or before the 15th day of the 9th month following the close of the fiscal year.

(e) Organizations exempt from taxation under section 501(a)

In the case of an income tax return of an organization exempt from taxation under section 501(a) (other than an employees' trust described in section 401(a)), a return shall be filed on or before the 15th day of the 5th month following the close of the taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 749; Pub. L. 87–834, § 17(b)(3), Oct. 16, 1962, 76 Stat. 1051; Pub. L. 92–178, title V, § 504(b), Dec. 10, 1971, 85 Stat. 551; Pub. L. 94–455, title X, § 1053(d)(3), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1649, 1834; Pub. L. 95–628, § 6(a), Nov. 10, 1978, 92 Stat. 3630; Pub. L. 98–369, div. A, title VIII, § 801(d)(13), July 18, 1984, 98 Stat. 997.)

AMENDMENTS

1984—Subsec. (c). Pub. L. 98–369 inserted ''or a FSC or former FSC'' after ''United States''.

1978—Subsec. (e). Pub. L. 95–628 added subsec. (e).

1976—Subsec. (e). Pub. L. 94–455, § 1053(d)(3), struck out subsec. (e) which related to income tax due dates postponed in the case of China Trade Act corporations.

Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1971—Subsec. (b). Pub. L. 92–178 required returns of a DISC to be filed on or before the fifteenth day of the ninth month following the close of the taxable year.

1962—Subsec. (d). Pub. L. 87–834 substituted provisions relating to returns by an exempt cooperative association described in section 1381(a)(1), or by an orga-

nization described in section 1381(a)(2) which is under an obligation to pay patronage dividends in an amount equal to at least 50 percent of its net earnings from business done with or for its patrons, or which paid patronage dividends in such an amount out of the net earnings from business done with or for patrons during the most recent taxable year for which it had such net earnings for provisions which related to returns of exempt cooperative associations taxable under the provisions of section 522.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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, as amended, set out as a note under section 245 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 6(b) of Pub. L. 95–628 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to returns for taxable years beginning after the date of the enactment of this Act [Nov. 10, 1978].''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1053(d)(3) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1977, see section 1053(e) of Pub. L. 94–455, set out as a note under section 1504 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–178 applicable with respect to taxable years ending after Dec. 31, 1971, except that a corporation may not be a DISC for any taxable year beginning before Jan. 1, 1972, see section 507 of Pub. L. 92–178, set out as an Effective Date note under section 991 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–834 applicable to taxable years of organizations described in section 1381(a) of this title beginning after Dec. 31, 1962, except as otherwise provided, see section 17(c) of Pub. L. 87–834, set out as an Effective Date note under section 1381 of this title.

FILING OF INCOME TAX RETURNS FOR 1958 BY LIFE INSURANCE COMPANIES

Pub. L. 86–69, § 3(i), June 25, 1959, 73 Stat. 140, required every life insurance company subject to the tax imposed by section 802(a) of this title to make a return after June 25, 1959, and on or before Sept. 15, 1959, which return was to constitute the return for such taxable year for all purposes of this title, and no return filed pursuant to section 801 et seq. of this title, relating to life insurance companies, on or before June 25, 1959, was to be considered for any such purposes as a return for such taxable year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6654 of this title.

[§ 6073. Repealed. Pub. L. 98–369, div. A, title IV, § 412(a)(2), July 18, 1984, 98 Stat. 792]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 750; Sept. 25, 1962, Pub. L. 87–682, § 1(a)(2), (b), (c), 76 Stat. 575; Oct. 4, 1976, Pub. L. 94–455, title X, § 1012(c), title XIX, § 1906(b)(13)(A), 90 Stat. 1614, 1834; Nov. 10, 1978, Pub. L. 95–628, § 7(a), 92 Stat. 3630; Sept. 3, 1982, Pub. L. 97–248, title III, § 328(b)(2), 96 Stat. 618, related to time for filing declarations of estimated income tax by individuals.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98–369, set out as an Effective Date of 1984 Amendment note under section 6654 of this title.

[§ 6074. Repealed. Pub. L. 90–364, title I, § 103(a), June 28, 1968, 82 Stat. 260]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 751; Feb. 26, 1964, Pub. L. 88–272, title I, § 122(b), 78 Stat. 27, provided for the time of filing declarations of estimated income tax by corporations.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90–364, see section 103(f) of Pub. L. 90–364, set out as an Effective Date of 1968 Amendment note under section 243 of this title.

§ 6075. Time for filing estate and gift tax returns

(a) Estate tax returns

Returns made under section 6018(a) (relating to estate taxes) shall be filed within 9 months after the date of the decedent's death.

(b) Gift tax returns

(1) General rule

Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of April following the close of the calendar year.

(2) Extension where taxpayer granted extension for filing income tax return

Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for such calendar year.

(3) Coordination with due date for estate tax return

Notwithstanding paragraphs (1) and (2), the time for filing the return made under section 6019 for the calendar year which includes the date of death of the donor shall not be later than the time (including extensions) for filing the return made under section 6018 (relating to estate tax returns) with respect to such donor.

(Aug. 16, 1954, ch. 736, 68A Stat. 751; Pub. L. 91–614, title I, §§ 101(b), 102(d)(4), Dec. 31, 1970, 84 Stat. 1836, 1842; Pub. L. 94–455, title XX, § 2008(b), Oct. 4, 1976, 90 Stat. 1892; Pub. L. 96–167, § 8(a)–(c), Dec. 29, 1979, 93 Stat. 1277, 1278; Pub. L. 97–34, title IV, § 442(d)(3), Aug. 13, 1981, 95 Stat. 322.)

AMENDMENTS

1981—Subsec. (b). Pub. L. 97–34 substituted in par. (1) the rule for filing gift tax returns on or before the 15th day of April following the close of the calendar year for prior provision for such filing on or before, in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or, in the case of a return for the fourth calendar quarter of any calendar year, the 15th day of the fourth month following the close of the calendar quarter, redesignated former par. (3) as (2), and, as so redesignated, substituted ''under section 6019 for such calendar year'' for ''under section 6019 for the fourth calendar quarter of such taxable year'', struck out former par. (2) setting forth special rule where gifts in a calendar quarter totalled $25,000 or less, added par. (3), and struck out par.

(4) respecting application of the special rule to nonresidents not citizens of the United States.

1979—Subsec. (b)(1). Pub. L. 96–167, § 8(a), substituted ''(A) in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or'' for ''the 15th day of the second month following the close of the calendar quarter'', and added subpar. (B).

Subsec. (b)(2). Pub. L. 96–167, § 8(c), substituted ''the date prescribed by paragraph (1) for filing the return for'' for ''the 15th day of the second month after'' in provisions preceding subpar. (A), and struck out ''the close of'' before ''the first subsequent'' in subpar. (a) and before ''the fourth calendar quarter'' in subpar. (B).

Subsec. (b)(3), (4). Pub. L. 96–167, § 8(b), added par. (3) and redesignated former par. (3) as (4).

1976—Subsec. (b). Pub. L. 94–455 designated existing provisions as par. (1) and added pars. (2) and (3).

1970—Subsec. (a). Pub. L. 91–614, § 101(b), substituted ''9 months'' for ''15 months''.

Subsec. (b). Pub. L. 91–614, § 102(d)(4), substituted ''the 15th day of the second month following the close of the calendar quarter'' for ''the 15th day of April following the close of the calendar year''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable with respect to gifts made after Dec. 31, 1981, see section 442(e) of Pub. L. 97–34, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 8(d) of Pub. L. 96–167 provided that: ''The amendments made by this section [amending this section] shall apply to returns for gifts made in calendar years ending after the date of the enactment of this Act [Dec. 29, 1979].''

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2008(d)(2) of Pub. L. 94–455 provided that: ''The amendment made by subsection (b) [amending this section] shall apply to gifts made after December 31, 1976.''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91–614, set out as a note under section 2032 of this title.

Amendment by Pub. L. 91–614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91–614, set out as a note under section 2501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2523, 2642, 6166, 7269 of this title.

[§ 6076. Repealed. Pub. L. 100–418, title I, § 1941(b)(1), Aug. 23, 1988, 102 Stat. 1323]

Section, added Pub. L. 96–223, title I, § 101(c)(1)(A), Apr. 2, 1980, 94 Stat. 250, related to time for filing return of windfall profit tax.

EFFECTIVE DATE OF REPEAL

Repeal applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as an Effective Date of 1988 Amendment note under section 164 of this title.

PART VI—EXTENSION OF TIME FOR FILING RETURNS

Sec.
6081. Extension of time for filing returns.

§ 6081. Extension of time for filing returns

(a) General rule

The Secretary may grant a reasonable extension of time for filing any return, declaration, statement, or other document required by this title or by regulations. Except in the case of taxpayers who are abroad, no such extension shall be for more than 6 months.

(b) Automatic extension for corporation income tax returns

An extension of 3 months for the filing of the return of income taxes imposed by subtitle A shall be allowed any corporation if, in such manner and at such time as the Secretary may by regulations prescribe, there is filed on behalf of such corporation the form prescribed by the Secretary, and if such corporation pays, on or before the date prescribed for payment of the tax, the amount properly estimated as its tax; but this extension may be terminated at any time by the Secretary by mailing to the taxpayer notice of such termination at least 10 days prior to the date for termination fixed in such notice.

(c) Postponement by reason of war

For time for performing certain acts postponed by reason of war, see section 7508.

(Aug. 16, 1954, ch. 736, 68A Stat. 751; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title III, § 234(b)(2)(B), Sept. 3, 1982, 96 Stat. 503.)

AMENDMENTS

1982—Subsec. (b). Pub. L. 97–248 struck out ''or the first installment thereof required under section 6152'' after ''the amount properly estimated as its tax''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to taxable years beginning after Dec. 31, 1982, see section 234(e) of Pub. L. 97–248, set out as a note under section 6655 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6404 of this title.

PART VII—PLACE FOR FILING RETURNS OR OTHER DOCUMENTS

Sec.
6091. Place for filing returns or other documents.

§ 6091. Place for filing returns or other documents

(a) General rule

When not otherwise provided for by this title, the Secretary shall by regulations prescribe the place for the filing of any return, declaration, statement, or other document, or copies thereof, required by this title or by regulations.

(b) Tax returns

In the case of returns of tax required under authority of part II of this subchapter—

(1) Persons other than corporations

(A) General rule

Except as provided in subparagraph (B), a return (other than a corporation return) shall be made to the Secretary—

(i) in the internal revenue district in which is located the legal residence or principal place of business of the person making the return, or

(ii) at a service center serving the internal revenue district referred to in clause (i),

as the Secretary may by regulations designate.

(B) Exception

Returns of—

(i) persons who have no legal residence or principal place of business in any internal revenue district,

(ii) citizens of the United States whose principal place of abode for the period with respect to which the return is filed is outside the United States,

(iii) persons who claim the benefits of section 911 (relating to citizens or residents of the United States living abroad), section 931 (relating to income from sources within Guam, American Samoa, or the Northern Mariana Islands), or section 933 (relating to income from sources within Puerto Rico),

(iv) nonresident alien persons, and

(v) persons with respect to whom an assessment was made under section 6851(a) or 6852(a) (relating to termination assessments) with respect to the taxable year,

shall be made at such place as the Secretary may by regulations designate.

(2) Corporations

(A) General rule

Except as provided in subparagraph (B), a return of a corporation shall be made to the Secretary—

(i) in the internal revenue district in which is located the principal place of business or principal office or agency of the corporation, or

(ii) at a service center serving the internal revenue district referred to in clause (i), as the Secretary may by regulations designate.

(B) Exception

Returns of—

(i) corporations which have no principal place of business or principal office or agency in any internal revenue district,

(ii) corporations which claim the benefits of section 936 (relating to possession tax credit), and[1]

(iii) foreign corporations, and

(iv) corporations with respect to which an assessment was made under section 6851(a) (relating to termination assessments) with respect to the taxable year,

shall be made at such place as the Secretary may by regulations designate.

(3) Estate tax returns

(A) General rule

Except as provided in subparagraph (B), returns of estate tax required under section 6018 shall be made to the Secretary—

(i) in the internal revenue district in which was the domicile of the decedent at the time of his death, or

(ii) at a service center serving the internal revenue district referred to in clause (i), as the Secretary may by regulations designate.

(B) Exception

If the domicile of the decedent was not in an internal revenue district, or if he had no domicile, the estate tax return required under section 6018 shall be made at such place as the Secretary may by regulations designate.

(4) Hand-carried returns

Notwithstanding paragraph (1), (2), or (3), a return to which paragraph (1)(A), (2)(A), or (3)(A) would apply, but for this paragraph, which is made to the Secretary by hand-carrying shall, under regulations prescribed by the Secretary, be made in the internal revenue district referred to in paragraph (1)(A)(i), (2)(A)(i), or (3)(A)(i), as the case may be.

(5) Exceptional cases

Notwithstanding paragraph (1), (2), (3), or (4) of this subsection, the Secretary may permit a return to be filed in any internal revenue district, and may require the return of any officer or employee of the Treasury Department to be filed in any internal revenue district selected by the Secretary.

(6) Alcohol, tobacco, and firearms returns, etc.

In the case of any return of tax imposed by section 4181 or subtitle E (relating to taxes on alcohol, tobacco, and firearms), subsection (a) shall apply (and this subsection shall not apply).

(Aug. 16, 1954, ch. 736, 68A Stat. 752; Pub. L. 89–713, § 1(a), Nov. 2, 1966, 80 Stat. 1107; Pub. L. 91–614, title I, § 101(i), Dec. 31, 1970, 84 Stat. 1838; Pub. L. 94–455, title X, §§ 1051(h)(4), 1052(c)(6), 1053(d)(4), title XII, § 1204(c)(3), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1647, 1648, 1649, 1697, 1834; Pub. L. 95–615, §§ 202(g)(5), formerly § 202(f)(5), 207(b), Nov. 8, 1978, 92 Stat. 3100, 3108, renumbered § 202(g)(5), Pub. L. 96–222, title I, § 108(a)(1)(A), Apr. 1, 1980, 94 Stat. 223; Pub. L. 97–34, title I, §§ 111(b)(3), 112(b)(6), Aug. 13, 1981, 95 Stat. 194, 195; Pub. L. 99–514, title XII, § 1272(d)(10), title XVIII, § 1879(r)(1), Oct. 22, 1986, 100 Stat. 2594, 2912; Pub. L. 100–203, title X, § 10713(b)(2)(A), Dec. 22, 1987, 101 Stat. 1330–470; Pub. L. 101–239, title VII, § 7841(f), Dec. 19, 1989, 103 Stat. 2429.)

AMENDMENTS

1989—Subsec. (b)(6). Pub. L. 101–239 inserted ''section 4181 or'' before ''subtitle E''.

1987—Subsec. (b)(1)(B)(v). Pub. L. 100–203 inserted reference to section 6852(a).

1986—Subsec. (b)(1)(B)(iii). Pub. L. 99–514, § 1272(d)(10), substituted ''Guam, American Samoa, or the Northern Mariana Islands'' for ''possessions of the United States''.

Subsec. (b)(6). Pub. L. 99–514, § 1879(r)(1), added par. (6).

1981—Subsec. (b)(1)(B)(iii). Pub. L. 97–34 substituted ''section 911 (relating to citizens or residents of the United States living abroad)'' for ''section 911 (relating

[1] So in original. Word ''and'' probably is superfluous.

to income earned by employees in certain camps)'' and struck out ''section 913 (relating to deduction for certain expenses of living abroad)''.

1978—Subsec. (b)(1)(B)(iii). Pub. L. 95–615 substituted ''(relating to income earned by employees in certain camps)'' for ''(relating to earned income from sources without the United States)'' and inserted ''section 913 (relating to deduction for certain expenses of living abroad),'' before ''section 931''.

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

Subsec. (b)(1)(B). Pub. L. 94–455, §§ 1204(c)(3)(A), 1906(b)(13)(A), added cl. (v) and struck out in provision following cl. (v) ''or his delegate'' after ''Secretary''.

Subsec. (b)(2)(B). Pub. L. 94–455, § 1503(d)(4), in cl. (ii), struck out provision which permitted returns of a corporation claiming the benefits of section 941 of this title, relating to the special deduction for China Trade corporations, to be made at such place as the Secretary may designate by regulation.

Pub. L. 94–455, §§ 1052(c)(6), struck out provision which permitted returns of a corporation claiming the benefits of section 922 of this title, relating to the special deduction for Western Hemisphere trade corporations to be made at such place as the Secretary may designate by regulation.

Pub. L. 94–455, §§ 1051(h)(4), 1204(c)(3)(B), 1906(b)(13)(A), substituted ''section 936 (relating to possession tax credit)'' for ''section 931 (relating to income from sources within possessions of the United States),'' for taxable years beginning after Dec. 31, 1975, added cl. (iv), and struck out in provision following cl. (iv) ''or his delegate'' after ''Secretary''.

1970—Subsec. (b)(3). Pub. L. 91–614, § 101(i)(1), substituted provisions requiring an estate tax return to be filed in the internal revenue district in which the decedent was domiciled at the time of his death or at a service center serving that district, as the Secretary or his delegate may determine by regulations, and in the case of a decedent who was not domiciled in an internal revenue district, or who had no domicile, his return is to be filed at such place as the Secretary or his delegate designates for provisions requiring estate tax returns to be filed in the internal revenue district in which the decedent was domiciled at the time of his death or, if there was no such domicile in an internal revenue district, then at such place as the Secretary or his delegate by regulations designates.

Subsec. (b)(4). Pub. L. 91–614, § 101(i)(2), permitted the executor, who desires to file an estate tax return in person, to do so by hand carrying it to the appropriate internal revenue district office.

1966—Subsec. (b)(1). Pub. L. 89–713, § 1(a)(1), authorized the Secretary to promulgate regulations allowing individuals to file tax returns either in the internal revenue district in which the taxpayer's legal residence or principal place of business is located or at a service center serving that district, designated as subpar. (B)(1) the existing provisions which authorized the Secretary to prescribe the place without limitations as to the Secretary's range of alternative choices for the filing of returns of persons who have no legal residence or principal place of business in any internal revenue district, and added subpar. (B)(ii) to (iv).

Subsec. (b)(2). Pub. L. 89–713, § 1(a)(1), authorized the Secretary to promulgate regulations allowing corporations to file tax returns either in the internal revenue district in which is located the principal place of business or principal office or agency of the corporation or at a service center serving that district, designated as subpar. (B)(i) the existing provisions which authorized the Secretary to prescribe the place without limitations as to the Secretary's range of alternative choices for the filing of returns of corporations having no principal place of business or principal office or agency of the corporation, and added subpar. (B)(ii), (iii).

Subsec. (b)(4), (5). Pub. L. 89–713, § 1(a)(2), (3), added par. (4), redesignated former par. (4) as (5), and, in par. (5), substituted ''paragraph (1), (2), (3), or (4)'' for ''paragraph (1), (2), or (3)''.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 10713(c) of Pub. L. 100–203 provided that: ''The amendments made by this section [enacting sections 6852 and 7409 of this title and amending this section and sections 6211 to 6213, 6863, 7429, and 7611 of this title] shall take effect on the date of the enactment of this Act [Dec. 22, 1987].''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1272(d)(10) of 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.

Section 1879(r)(2) of Pub. L. 99–514 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Oct. 22, 1986].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable with respect to taxable years beginning after Dec. 31, 1981, see section 115 of Pub. L. 97–34, set out as a note under section 911 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION OF PRIOR LAW

Amendment by Pub. L. 95–615 applicable to taxable years beginning after Dec. 31, 1977, with provision for election of prior law, see section 209 of Pub. L. 95–615, set out as a note under section 911 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1051(h)(4) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1975, see section 1051(i)(1) of Pub. L. 94–455, set out as a note under section 27 of this title.

Amendment by section 1052(c)(6) of Pub. L. 94–455, applicable with respect to taxable years beginning after Dec. 31, 1979, see section 1052(d) of Pub. L. 94–455, set out as a note under section 170 of this title.

Amendment by section 1053(d)(4) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1977, see section 1053(e) of Pub. L. 94–455, set out as a note under section 1504 of this title.

Amendment by section 1204(c)(3) of Pub. L. 94–455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94–455, as amended, set out as a note under section 6851 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91–614, set out as a note under section 2032 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 6 of Pub. L. 89–713 provided that: ''Except as otherwise provided in this Act, the amendments made by this Act [amending this section, sections 6103, 6107, and 6151 of this title, section 3237 of Title 18, Crimes and Criminal Procedure, and section 1395x of Title 42, The Public Health and Welfare] shall take effect upon the date of the enactment of this Act [Nov. 2, 1966].''

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.

PART VIII—DESIGNATION OF INCOME TAX PAYMENTS TO PRESIDENTIAL ELECTION CAMPAIGN FUND

Sec.
6096. Designation by individuals.

AMENDMENTS

1966—Pub. L. 89–809, title III, § 302(a), Nov. 13, 1966, 80 Stat. 1587, added part VIII and analysis.

§ 6096. Designation by individuals

(a) In general

Every individual (other than a nonresident alien) whose income tax liability for the taxable year is $3 or more may designate that $3 shall be paid over to the Presidential Election Campaign Fund in accordance with the provisions of section 9006(a). In the case of a joint return of husband and wife having an income tax liability of $6 or more, each spouse may designate that $3 shall be paid to the fund.

(b) Income tax liability

For purposes of subsection (a), the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits (as shown in his return) allowable under part IV of subchapter A of chapter 1 (other than subpart C thereof).

(c) Manner and time of designation

A designation under subsection (a) may be made with respect to any taxable year—

(1) at the time of filing the return of the tax imposed by chapter 1 for such taxable year, or

(2) at any other time (after the time of filing the return of the tax imposed by chapter 1 for such taxable year) specified in regulations prescribed by the Secretary.

Such designation shall be made in such manner as the Secretary prescribes by regulations except that, if such designation is made at the time of filing the return of the tax imposed by chapter 1 for such taxable year, such designation shall be made either on the first page of the return or on the page bearing the taxpayer's signature.

(Added Pub. L. 89–809, title III, § 302(a), Nov. 13, 1966, 80 Stat. 1587; amended Pub. L. 92–178, title VIII, § 802(a), Dec. 10, 1971, 85 Stat. 573; Pub. L. 93–53, § 6(a), July 1, 1973, 87 Stat. 138; Pub. L. 94–12, title II, §§ 203(b)(4), 208(d)(4), Mar. 29, 1975, 89 Stat. 30, 35; Pub. L. 94–455, title IV, § 401(a)(2)(C), title V, § 504(c)(2), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1555, 1565, 1834; Pub. L. 95–30, title II, § 202(d)(6), May 23, 1977, 91 Stat. 151; Pub. L. 95–618, title I, § 101(b)(4), Nov. 9, 1978, 92 Stat. 3180; Pub. L. 96–223, title II, §§ 231(b)(2), 232(b)(3)(C), Apr. 2, 1980, 94 Stat. 272, 276; Pub. L. 97–34, title II, § 221(c)(1), title III, § 331(e)(1), Aug. 13, 1981, 95 Stat. 247, 295; Pub. L. 97–414, § 4(c)(2), Jan. 4, 1983, 96 Stat. 2056; Pub. L. 98–369, div. A, title IV, § 474(r)(31), July 18, 1984, 98 Stat. 845; Pub. L. 103–66, title XIII, § 13441(a), Aug. 10, 1993, 107 Stat. 567.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–66 substituted "$6" for "$2" and "$3" for "$1" wherever appearing.

1984—Subsec. (b). Pub. L. 98–369 substituted "allowable under part IV of subchapter A of chapter 1 (other than subpart C thereof" for "allowable under sections 33, 37, 38, 40, 41, 42, 44, 44A, 44B, 44C, 44D, 44E, 44F, 44G, and 44H".

1983—Subsec. (b). Pub. L. 97–414 inserted reference to section 44H.

1981—Subsec. (b). Pub. L. 97–34, § 331(e)(1), inserted reference to section 44G.

Pub. L. 97–34, § 221(c)(1), inserted reference to section 44F.

1980—Subsec. (b). Pub. L. 96–223, §§ 231(b)(2), 232(b)(3)(C), inserted reference to sections 44D and 44E.

1978—Subsec. (b). Pub. L. 95–618 inserted reference to section 44C.

1977—Subsec. (b). Pub. L. 95–30 inserted reference to section 44B.

1976—Subsec. (b). Pub. L. 94–455, §§ 401(a)(2)(C), 504(c)(2), inserted reference to section 42 in subsec. (a) as in effect on day before date of enactment of Pub. L. 94–12 and reference to section 44A.

Subsec. (c). Pub. L. 94–455, § 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

1975—Subsec. (b). Pub. L. 94–12 inserted reference to sections 42 and 44.

1973—Subsec. (a). Pub. L. 93–53 struck out "for the account of the candidates of any specified political party for President and Vice President of the United States, or if no specific account is designated by such individual, for a general account for all candidates for election to the offices of President and Vice President of the United States," after "Fund" and substituted "section 9006(a)" for "section 9006(a)(1)".

Subsec. (b). Pub. L. 93–53 struck out reference to sections 32(2) and 35, and inserted reference to sections 40 and 41.

Subsec. (c). Pub. L. 93–53 provided that if designation is made at the time of filing the return of the tax imposed by chapter 1 for the taxable year, the designation shall be made either on the first page of the return or on the page bearing the taxpayer's signature.

1971—Subsec. (a). Pub. L. 92–178 substituted "$1 shall be paid over to the Presidential Election Campaign Fund for the account of the candidates of any specified political party for President and Vice President of the United States, or if no specific account is designated by such individual, for a general account for all candidates for election to the offices of President and Vice President of the United States, in accordance with the provisions of section 9006(a)(1)" for "$1 shall be paid into the Presidential Election Campaign Fund established by section 303 of the Presidential Election Campaign Fund Act of 1966" and provided, in the case of a joint return of husband and wife having an income tax liability of $2 or more, that each spouse may designate that $1 shall be paid to any such account in the fund.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13441(b) of Pub. L. 103–66 provided that: "The amendments made by subsection (a) [amending this section] apply with respect to tax returns required to be filed after December 31, 1993."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–414 applicable to amounts paid or incurred after Dec. 31, 1982, in taxable years ending after such date, see section 4(d) of Pub. L. 97–414, set out as an Effective Date note under section 28 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 221(c)(1) of Pub. L. 97–34 applicable to amounts paid or incurred after June 30, 1981,

see section 221(d) of Pub. L. 97–34, as amended, set out as an Effective Date note under section 41 of this title.

Amendment by section 331(e)(1) of Pub. L. 97–34 applicable to taxable years beginning after Dec. 31, 1981, see section 339 of Pub. L. 97–34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 231(b)(2) of Pub. L. 96–223, applicable to taxable years ending after Dec. 31, 1979, see section 231(c) of Pub. L. 96–223, set out as an Effective Date note under section 29 of this title.

Amendment by section 232(b)(3)(C) of Pub. L. 96–223 applicable to sales or uses after Sept. 30, 1980, in taxable years ending after that date, see section 232(h)(1) of Pub. L. 96–223, set out as an Effective Date note under section 40 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–618 applicable to taxable years ending on or after Apr. 20, 1977, see section 101(c) of Pub. L. 95–618, set out as a note under section 1016 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95–30, set out as an Effective Date note under section 51 of this title.

EFFECTIVE AND TERMINATION DATES OF 1976 AMENDMENT

Amendment by section 401(a)(2)(C) of Pub. L. 94–455 applicable to taxable years ending after Dec. 31, 1975, but ceasing to be applicable to taxable years ending after Dec. 31, 1978, see section 401(e) of Pub. L. 94–455, as amended, set out as an Effective Date of 1976 Amendment note under section 32 of this title.

Amendment by section 504(c)(2) of Pub. L. 94–455 applicable to taxable years beginning after Dec. 31, 1975, see section 508 of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 3 of this title.

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENT

Amendment by Pub. L. 94–12 applicable to taxable years ending after Dec. 31, 1974, and to cease to apply to taxable years ending after Dec. 31, 1975, see section 209(a) of Pub. L. 94–12, set out as a note under section 3 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT; DESIGNATION TO THE PRESIDENTIAL ELECTION CAMPAIGN FUND

Section 6(d) of Pub. L. 93–53, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [amending this section and sections 9003, 9006, 9007, and 9012 of this title] shall apply with respect to taxable years beginning after December 31, 1972. Any designation made under section 6096 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as in effect for taxable years beginning before January 1, 1973) for the account of the candidates of any specified political party shall, for purposes of section 9006(a) of such Code (as amended by subsection (b)), be treated solely as a designation to the Presidential Election Campaign Fund.''

EFFECTIVE DATE OF SECTION AND EFFECTIVE DATE OF 1971 AMENDMENT

Provisions of this section, together with amendment of subsec. (a) of this section by Pub. L. 92–178, applicable only to taxable years ending on or after Dec. 31, 1972, see section 802(b)(2) of Pub. L. 92–178, set out as a note under section 9001 of this title.

EFFECTIVE DATE

Section 302(c) of Pub. L. 89–809 provided that: ''The amendments made by this section [enacting this section] shall apply with respect to income tax liability for taxable years beginning after December 31, 1966.''

SHORT TITLE

Section 301 of title III of Pub. L. 89–809 provided that: ''This title [enacting this section and sections 971, 972, and 973 of former Title 31, Money and Finance] may be cited as the 'Presidential Election Campaign Fund Act of 1966'.''

ADOPTION OF GUIDELINES

Pub. L. 90–26, § 5, June 13, 1967, 81 Stat. 58, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) Funds which become available under the Presidential Election Campaign Fund Act of 1966 [this section and section 971 et seq. of former Title 31, Money and Finance] shall be appropriated and disbursed only after the adoption by law of guidelines governing their distribution. Section 6096 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall become applicable only after the adoption by law of such guidelines.

''(b) Guidelines adopted in accordance with this section shall state expressly that they are intended to comply with this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9006, 9008, 9010 of this title.

Subchapter B—Miscellaneous Provisions

Sec.
6101. Period covered by returns or other documents.
6102. Computations on returns or other documents.
6103. Confidentiality and disclosure of returns and return information.
6104. Publicity of information required from certain exempt organizations and certain trusts.
6105. Confidentiality of information arising under treaty obligations.
6106. Publicity of unemployment tax returns.[1]
6107. Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or list.
6108. Publication of statistics of income.[2]
6109. Identifying numbers.
6110. Public inspection of written determinations.
6111. Registration of tax shelters.
6112. Organizers and sellers of potentially abusive tax shelters must keep lists of investors.
6113. Disclosure of nondeductibility of contributions.
6114. Treaty-based return positions.
6115. Disclosure related to quid pro quo contributions.
6116. Cross reference.

AMENDMENTS

2000—Pub. L. 106–554, § 1(a)(7) [title III, § 304(b)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–634, added item 6105.

1993—Pub. L. 103–66, title XIII, § 13173(c)(1), Aug. 10, 1993, 107 Stat. 456, added item 6115 and redesignated former item 6115 as 6116.

1988—Pub. L. 100–647, title I, § 1012(aa)(5)(C)(i), Nov. 10, 1988, 102 Stat. 3533, added item 6114 and redesignated former item 6114 as 6115.

1987—Pub. L. 100–203, title X, § 10701(c)(1), Dec. 22, 1987, 101 Stat. 1330–459, added item 6113 and redesignated former item 6113 as 6114.

1984—Pub. L. 98–369, div. A, title I, §§ 141(c)(1), 142(c)(1), July 18, 1984, 98 Stat. 680, 682, added items 6111 and 6112 and redesignated former item 6111 as 6113.

[1] Section repealed by Pub. L. 94–455 without corresponding amendment of subchapter analysis.

[2] Section catchline amended by Pub. L. 94–455 without corresponding amendment of subchapter analysis.

1976—Pub. L. 94–455, title XII, §§1201(c), 1202(a)(2), 1203(i)(2), title XIX, §1906(b)(1), (2), Oct. 4, 1976, 90 Stat. 1667, 1685, 1694, 1833, substituted in item 6103 ''Confidentiality and disclosure of returns and return information'' for ''Publicity of returns and disclosure of information as to persons filing income tax returns'', struck out item 6105 ''Compilation of relief from excess profits tax cases'', added items 6107 and 6110, redesignated former item 6110 as 6111, and as so redesignated substituted ''reference'' for ''references''.

1968—Pub. L. 90–618, title II, §203(b), Oct. 22, 1968, 82 Stat. 1235, struck out item 6107 ''List of special taxpayers for public inspection''.

1966—Pub. L. 89–713, §4(b), Nov. 2, 1966, 80 Stat. 1109, substituted ''disclosure of information as to persons filing income tax returns'' for ''lists of taxpayers'' in item 6103.

1961—Pub. L. 87–397, §1(c)(1), Oct. 5, 1961, 75 Stat. 829, added item 6109 and redesignated former item 6109 as 6110.

§ 6101. Period covered by returns or other documents

When not otherwise provided for by this title, the Secretary may by regulations prescribe the period for which, or the date as of which, any return, statement, or other document required by this title or by regulations, shall be made.

(Aug. 16, 1954, ch. 736, 68A Stat. 753; 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''.

§ 6102. Computations on returns or other documents

(a) Amounts shown on internal revenue forms

The Secretary is authorized to provide with respect to any amount required to be shown on a form prescribed for any internal revenue return, statement, or other document, that if such amount of such item is other than a whole-dollar amount, either—

(1) the fractional part of a dollar shall be disregarded; or

(2) the fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case the amount (determined without regard to the fractional part of a dollar) shall be increased by $1.

(b) Election not to use whole dollar amounts

Any person making a return, statement, or other document shall be allowed, under regulations prescribed by the Secretary, to make such return, statement, or other document without regard to subsection (a).

(c) Inapplicability to computation of amount

The provisions of subsections (a) and (b) shall not be applicable to items which must be taken into account in making the computations necessary to determine the amount required to be shown on a form, but shall be applicable only to such final amount.

(Aug. 16, 1954, ch. 736, 68A Stat. 753; Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 6103. Confidentiality and disclosure of returns and return information

(a) General rule

Returns and return information shall be confidential, and except as authorized by this title—

(1) no officer or employee of the United States,

(2) no officer or employee of any State, any local child support enforcement agency, or any local agency administering a program listed in subsection (*l*)(7)(D) who has or had access to returns or return information under this section, and

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), paragraph (6), (12), or (16) of subsection (*l*), paragraph (2) or (4)(B) of subsection (m), or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term ''officer or employee'' includes a former officer or employee.

(b) Definitions

For purposes of this section—

(1) Return

The term ''return'' means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

(2) Return information

The term ''return information'' means—

(A) a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense,

(B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110,

(C) any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement, and

(D) any agreement under section 7121, and any similar agreement, and any background information related to such an agreement or request for such an agreement,

but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Nothing in the preceding sentence, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws.

(3) Taxpayer return information

The term ''taxpayer return information'' means return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.

(4) Tax administration

The term ''tax administration''—

(A) means—

(i) the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party, and

(ii) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions, and

(B) includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes, or conventions.

(5) State

The term ''State'' means—

(A) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and

(B) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p) any municipality—

(i) with a population in excess of 250,000 (as determined under the most recent decennial United States census data available),

(ii) which imposes a tax on income or wages, and

(iii) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure.

(6) Taxpayer identity

The term ''taxpayer identity'' means the name of a person with respect to whom a return is filed, his mailing address, his taxpayer identifying number (as described in section 6109), or a combination thereof.

(7) Inspection

The terms ''inspected'' and ''inspection'' mean any examination of a return or return information.

(8) Disclosure

The term ''disclosure'' means the making known to any person in any manner whatever a return or return information.

(9) Federal agency

The term ''Federal agency'' means an agency within the meaning of section 551(1) of title 5, United States Code.

(10) Chief executive officer

The term ''chief executive officer'' means, with respect to any municipality, any elected official and the chief official (even if not elected) of such municipality.

(c) Disclosure of returns and return information to designee of taxpayer

The Secretary may, subject to such requirements and conditions as he may prescribe by regulations, disclose the return of any taxpayer, or return information with respect to such taxpayer, to such person or persons as the taxpayer may designate in a request for or consent to such disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, return information shall not be disclosed to such person or persons if the Secretary determines that such disclosure would seriously impair Federal tax administration.

(d) Disclosure to State tax officials and State and local law enforcement agencies

(1) In general

Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 51, and 52 and subchapter D of chapter 36 shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

(2) Disclosure to State audit agencies

(A) In general

Any returns or return information obtained under paragraph (1) by any State

agency, body, or commission may be open to inspection by, or disclosure to, officers and employees of the State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State agency, body, or commission referred to in paragraph (1).

(B) State audit agency

For purposes of subparagraph (A), the term ''State audit agency'' means any State agency, body, or commission which is charged under the laws of the State with the responsibility of auditing State revenues and programs.

(3) Exception for reimbursement under section 7624

Nothing in this section shall be construed to prevent the Secretary from disclosing to any State or local law enforcement agency which may receive a payment under section 7624 the amount of the recovered taxes with respect to which such a payment may be made.

(4) Availability and use of death information

(A) In general

No returns or return information may be disclosed under paragraph (1) to any agency, body, or commission of any State (or any legal representative thereof) during any period during which a contract meeting the requirements of subparagraph (B) is not in effect between such State and the Secretary of Health and Human Services.

(B) Contractual requirements

A contract meets the requirements of this subparagraph if—

(i) such contract requires the State to furnish the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it, and

(ii) such contract does not include any restriction on the use of information obtained by such Secretary pursuant to such contract, except that such contract may provide that such information is only to be used by the Secretary (or any other Federal agency) for purposes of ensuring that Federal benefits or other payments are not erroneously paid to deceased individuals.

Any information obtained by the Secretary of Health and Human Services under such a contract shall be exempt from disclosure under section 552 of title 5, United States Code, and from the requirements of section 552a of such title 5.

(C) Special exception

The provisions of subparagraph (A) shall not apply to any State which on July 1, 1993, was not, pursuant to a contract, furnishing the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it.

(5) Disclosure for certain combined reporting project

The Secretary shall disclose taxpayer identities and signatures for purposes of the demonstration project described in section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.

(e) Disclosure to persons having material interest

(1) In general

The return of a person shall, upon written request, be open to inspection by or disclosure to—

(A) in the case of the return of an individual—

(i) that individual,

(ii) the spouse of that individual if the individual and such spouse have signified their consent to consider a gift reported on such return as made one-half by him and one-half by the spouse pursuant to the provisions of section 2513; or

(iii) the child of that individual (or such child's legal representative) to the extent necessary to comply with the provisions of section 1(g);

(B) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

(C) in the case of the return of a partnership, any person who was a member of such partnership during any part of the period covered by the return;

(D) in the case of the return of a corporation or a subsidiary thereof—

(i) any person designated by resolution of its board of directors or other similar governing body,

(ii) any officer or employee of such corporation upon written request signed by any principal officer and attested to by the secretary or other officer,

(iii) any bona fide shareholder of record owning 1 percent or more of the outstanding stock of such corporation,

(iv) if the corporation was a foreign personal holding company, as defined by section 552, any person who was a shareholder during any part of a period covered by such return if with respect to that period, or any part thereof, such shareholder was required under section 551 to include in his gross income undistributed foreign personal holding company income of such company,

(v) if the corporation was an S corporation, any person who was a shareholder during any part of the period covered by such return during which an election under section 1362(a) was in effect, or

(vi) if the corporation has been dissolved, any person authorized by applicable State law to act for the corporation or any person who the Secretary finds to have a material interest which will be affected by information contained therein;

(E) in the case of the return of an estate—

(i) the administrator, executor, or trustee of such estate, and

(ii) any heir at law, next of kin, or beneficiary under the will, of the decedent, but only if the Secretary finds that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained therein; and

(F) in the case of the return of a trust—

(i) the trustee or trustees, jointly or separately, and

(ii) any beneficiary of such trust, but only if the Secretary finds that such beneficiary has a material interest which will be affected by information contained therein.

(2) Incompetency

If an individual described in paragraph (1) is legally incompetent, the applicable return shall, upon written request, be open to inspection by or disclosure to the committee, trustee, or guardian of his estate.

(3) Deceased individuals

The return of a decedent shall, upon written request, be open to inspection by or disclosure to—

(A) the administrator, executor, or trustee of his estate, and

(B) any heir at law, next of kin, or beneficiary under the will, of such decedent, or a donee of property, but only if the Secretary finds that such heir at law, next of kin, beneficiary, or donee has a material interest which will be affected by information contained therein.

(4) Title 11 cases and receivership proceedings

If—

(A) there is a trustee in a title 11 case in which the debtor is the person with respect to whom the return is filed, or

(B) substantially all of the property of the person with respect to whom the return is filed is in the hands of a receiver,

such return or returns for prior years of such person shall, upon written request, be open to inspection by or disclosure to such trustee or receiver, but only if the Secretary finds that such trustee or receiver, in his fiduciary capacity, has a material interest which will be affected by information contained therein.

(5) Individual's title 11 case

(A) In general

In any case to which section 1398 applies (determined without regard to section 1398(b)(1)), any return of the debtor for the taxable year in which the case commenced or any preceding taxable year shall, upon written request, be open to inspection by or disclosure to the trustee in such case.

(B) Return of estate available to debtor

Any return of an estate in a case to which section 1398 applies shall, upon written request, be open to inspection by or disclosure to the debtor in such case.

(C) Special rule for involuntary cases

In an involuntary case, no disclosure shall be made under subparagraph (A) until the order for relief has been entered by the court having jurisdiction of such case unless such court finds that such disclosure is appropriate for purposes of determining whether an order for relief should be entered.

(6) Attorney in fact

Any return to which this subsection applies shall, upon written request, also be open to inspection by or disclosure to the attorney in fact duly authorized in writing by any of the persons described in paragraph (1), (2), (3), (4), (5), (8), or (9) to inspect the return or receive the information on his behalf, subject to the conditions provided in such paragraphs.

(7) Return information

Return information with respect to any taxpayer may be open to inspection by or disclosure to any person authorized by this subsection to inspect any return of such taxpayer if the Secretary determines that such disclosure would not seriously impair Federal tax administration.

(8) Disclosure of collection activities with respect to joint return

If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing by either of such individuals, the Secretary shall disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected. The preceding sentence shall not apply to any deficiency which may not be collected by reason of section 6502.

(9) Disclosure of certain information where more than 1 person subject to penalty under section 6672

If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected.

(f) Disclosure to Committees of Congress

(1) Committee on Ways and Means, Committee on Finance, and Joint Committee on Taxation

Upon written request from the chairman of the Committee on Ways and Means of the House of Representatives, the chairman of the Committee on Finance of the Senate, or the chairman of the Joint Committee on Taxation, the Secretary shall furnish such committee with any return or return information specified in such request, except that any return or return information which can be associated with, or otherwise identify, directly or

indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(2) Chief of Staff of Joint Committee on Taxation

Upon written request by the Chief of Staff of the Joint Committee on Taxation, the Secretary shall furnish him with any return or return information specified in such request. Such Chief of Staff may submit such return or return information to any committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(3) Other committees

Pursuant to an action by, and upon written request by the chairman of, a committee of the Senate or the House of Representatives (other than a committee specified in paragraph (1)) specially authorized to inspect any return or return information by a resolution of the Senate or the House of Representatives or, in the case of a joint committee (other than the joint committee specified in paragraph (1)) by concurrent resolution, the Secretary shall furnish such committee, or a duly authorized and designated subcommittee thereof, sitting in closed executive session, with any return or return information which such resolution authorizes the committee or subcommittee to inspect. Any resolution described in this paragraph shall specify the purpose for which the return or return information is to be furnished and that such information cannot reasonably be obtained from any other source.

(4) Agents of committees and submission of information to Senate or House of Representatives

(A) Committees described in paragraph (1)

Any committee described in paragraph (1) or the Chief of Staff of the Joint Committee on Taxation shall have the authority, acting directly, or by or through such examiners or agents as the chairman of such committee or such chief of staff may designate or appoint, to inspect returns and return information at such time and in such manner as may be determined by such chairman or chief of staff. Any return or return information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both. The Joint Committee on Taxation may also submit such return or return information to any other committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(B) Other committees

Any committee or subcommittee described in paragraph (3) shall have the right, acting directly, or by or through no more than four examiners or agents, designated or appointed in writing in equal numbers by the chairman and ranking minority member of such committee or subcommittee, to inspect returns and return information at such time and in such manner as may be determined by such chairman and ranking minority member. Any return or return information obtained by or on behalf of such committee or subcommittee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, shall be furnished to the Senate or the House of Representatives only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(5) Disclosure by whistleblower

Any person who otherwise has or had access to any return or return information under this section may disclose such return or return information to a committee referred to in paragraph (1) or any individual authorized to receive or inspect information under paragraph (4)(A) if such person believes such return or return information may relate to possible misconduct, maladministration, or taxpayer abuse.

(g) Disclosure to President and certain other persons

(1) In general

Upon written request by the President, signed by him personally, the Secretary shall furnish to the President, or to such employee or employees of the White House Office as the President may designate by name in such request, a return or return information with respect to any taxpayer named in such request. Any such request shall state—

(A) the name and address of the taxpayer whose return or return information is to be disclosed,

(B) the kind of return or return information which is to be disclosed,

(C) the taxable period or periods covered by such return or return information, and

(D) the specific reason why the inspection or disclosure is requested.

(2) Disclosure of return information as to Presidential appointees and certain other Federal Government appointees

The Secretary may disclose to a duly authorized representative of the Executive Office of the President or to the head of any Federal agency, upon written request by the President or head of such agency, or to the Federal Bureau of Investigation on behalf of and upon

written request by the President or such head, return information with respect to an individual who is designated as being under consideration for appointment to a position in the executive or judicial branch of the Federal Government. Such return information shall be limited to whether such individual—

(A) has filed returns with respect to the taxes imposed under chapter 1 for not more than the immediately preceding 3 years;

(B) has failed to pay any tax within 10 days after notice and demand, or has been assessed any penalty under this title for negligence, in the current year or immediately preceding 3 years;

(C) has been or is under investigation for possible criminal offenses under the internal revenue laws and the results of any such investigation; or

(D) has been assessed any civil penalty under this title for fraud.

Within 3 days of the receipt of any request for any return information with respect to any individual under this paragraph, the Secretary shall notify such individual in writing that such information has been requested under the provisions of this paragraph.

(3) Restriction on disclosure

The employees to whom returns and return information are disclosed under this subsection shall not disclose such returns and return information to any other person except the President or the head of such agency without the personal written direction of the President or the head of such agency.

(4) Restriction on disclosure to certain employees

Disclosure of returns and return information under this subsection shall not be made to any employee whose annual rate of basic pay is less than the annual rate of basic pay specified for positions subject to section 5316 of title 5, United States Code.

(5) Reporting requirements

Within 30 days after the close of each calendar quarter, the President and the head of any agency requesting returns and return information under this subsection shall each file a report with the Joint Committee on Taxation setting forth the taxpayers with respect to whom such requests were made during such quarter under this subsection, the returns or return information involved, and the reasons for such requests. The President shall not be required to report on any request for returns and return information pertaining to an individual who was an officer or employee of the executive branch of the Federal Government at the time such request was made. Reports filed pursuant to this paragraph shall not be disclosed unless the Joint Committee on Taxation determines that disclosure thereof (including identifying details) would be in the national interest. Such reports shall be maintained by the Joint Committee on Taxation for a period not exceeding 2 years unless, within such period, the Joint Committee on Taxation determines that a disclosure to the Congress is necessary.

(h) Disclosure to certain Federal officers and employees for purposes of tax administration, etc.

(1) Department of the Treasury

Returns and return information shall, without written request, be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for tax administration purposes.

(2) Department of Justice

In a matter involving tax administration, a return or return information shall be open to inspection by or disclosure to officers and employees of the Department of Justice (including United States attorneys) personally and directly engaged in, and solely for their use in, any proceeding before a Federal grand jury or preparation for any proceeding (or investigation which may result in such a proceeding) before a Federal grand jury or any Federal or State court, but only if—

(A) the taxpayer is or may be a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability in respect of any tax imposed under this title;

(B) the treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding or investigation; or

(C) such return or return information relates or may relate to a transactional relationship between a person who is or may be a party to the proceeding and the taxpayer which affects, or may affect, the resolution of an issue in such proceeding or investigation.

(3) Form of request

In any case in which the Secretary is authorized to disclose a return or return information to the Department of Justice pursuant to the provisions of this subsection—

(A) if the Secretary has referred the case to the Department of Justice, or if the proceeding is authorized by subchapter B of chapter 76, the Secretary may make such disclosure on his own motion, or

(B) if the Secretary receives a written request from the Attorney General, the Deputy Attorney General, or an Assistant Attorney General for a return of, or return information relating to, a person named in such request and setting forth the need for the disclosure, the Secretary shall disclose return or return the information so requested.

(4) Disclosure in judicial and administrative tax proceedings

A return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration, but only—

(A) if the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection

of such civil liability, in respect of any tax imposed under this title;

(B) if the treatment of an item reflected on such return is directly related to the resolution of an issue in the proceeding;

(C) if such return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding; or

(D) to the extent required by order of a court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

However, such return or return information shall not be disclosed as provided in subparagraph (A), (B), or (C) if the Secretary determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(5) Withholding of tax from social security benefits

Upon written request of the payor agency, the Secretary may disclose available return information from the master files of the Internal Revenue Service with respect to the address and status of an individual as a nonresident alien or as a citizen or resident of the United States to the Social Security Administration or the Railroad Retirement Board (whichever is appropriate) for purposes of carrying out its responsibilities for withholding tax under section 1441 from social security benefits (as defined in section 86(d)).

(6) Internal Revenue Service Oversight Board

(A) In general

Notwithstanding paragraph (1), and except as provided in subparagraph (B), no return or return information may be disclosed to any member of the Oversight Board described in subparagraph (A) or (D) of section 7802(b)(1) or to any employee or detailee of such Board by reason of their service with the Board. Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by any such individual to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary, the Treasury Inspector General for Tax Administration, and the Joint Committee on Taxation.

(B) Exception for reports to the Board

If—

(i) the Commissioner or the Treasury Inspector General for Tax Administration prepares any report or other matter for the Oversight Board in order to assist the Board in carrying out its duties; and

(ii) the Commissioner or such Inspector General determines it is necessary to include any return or return information in such report or other matter to enable the Board to carry out such duties,

such return or return information (other than information regarding taxpayer identity) may be disclosed to members, employees, or detailees of the Board solely for the purpose of carrying out such duties.

(i) Disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration

(1) Disclosure of returns and return information for use in criminal investigations

(A) In general

Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate judge under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency who are personally and directly engaged in—

(i) preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party,

(ii) any investigation which may result in such a proceeding, or

(iii) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party,

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

(B) Application for order

The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, may authorize an application to a Federal district court judge or magistrate judge for the order referred to in subparagraph (A). Upon such application, such judge or magistrate judge may grant such order if he determines on the basis of the facts submitted by the applicant that—

(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed,

(ii) there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act, and

(iii) the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding con-

cerning such act, and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

(2) Disclosure of return information other than taxpayer return information for use in criminal investigations

(A) In general

Except as provided in paragraph (6), upon receipt by the Secretary of a request which meets the requirements of subparagraph (B) from the head of any Federal agency or the Inspector General thereof, or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency who are personally and directly engaged in—

(i) preparation for any judicial or administrative proceeding described in paragraph (1)(A)(i),

(ii) any investigation which may result in such a proceeding, or

(iii) any grand jury proceeding described in paragraph (1)(A)(iii),

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

(B) Requirements

A request meets the requirements of this subparagraph if the request is in writing and sets forth—

(i) the name and address of the taxpayer with respect to whom the requested return information relates;

(ii) the taxable period or periods to which such return information relates;

(iii) the statutory authority under which the proceeding or investigation described in subparagraph (A) is being conducted; and

(iv) the specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation.

(C) Taxpayer identity

For purposes of this paragraph, a taxpayer's identity shall not be treated as taxpayer return information.

(3) Disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances

(A) Possible violations of Federal criminal law

(i) In general

Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcing such law. The head of such agency may disclose such return information to officers and employees of such agency to the extent necessary to enforce such law.

(ii) Taxpayer identity

If there is return information (other than taxpayer return information) which may constitute evidence of a violation by any taxpayer of any Federal criminal law (not involving tax administration), such taxpayer's identity may also be disclosed under clause (i).

(B) Emergency circumstances

(i) Danger of death or physical injury

Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances.

(ii) Flight from Federal prosecution

Under circumstances involving the imminent flight of any individual from Federal prosecution, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

(4) Use of certain disclosed returns and return information in judicial or administrative proceedings

(A) Returns and taxpayer return information

Except as provided in subparagraph (C), any return or taxpayer return information obtained under paragraph (1) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party—

(i) if the court finds that such return or taxpayer return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt or liability of a party, or

(ii) to the extent required by order of the court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure.

(B) Return information (other than taxpayer return information)

Except as provided in subparagraph (C), any return information (other than taxpayer return information) obtained under paragraph (1), (2), or (3)(A) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or relat-

ed civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party.

(C) Confidential informant; impairment of investigations

No return or return information shall be admitted into evidence under subparagraph (A)(i) or (B) if the Secretary determines and notifies the Attorney General or his delegate or the head of the Federal agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(D) Consideration of confidentiality policy

In ruling upon the admissibility of returns or return information, and in the issuance of an order under subparagraph (A)(ii), the court shall give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

(E) Reversible error

The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in the proceeding.

(5) Disclosure to locate fugitives from justice

(A) In general

Except as provided in paragraph (6), the return of an individual or return information with respect to such individual shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate judge under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency exclusively for use in locating such individual.

(B) Application for order

Any person described in paragraph (1)(B) may authorize an application to a Federal district court judge or magistrate judge for an order referred to in subparagraph (A). Upon such application, such judge or magistrate judge may grant such order if he determines on the basis of the facts submitted by the applicant that—

(i) a Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice,

(ii) the return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual, and

(iii) there is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

(6) Confidential informants; impairment of investigations

The Secretary shall not disclose any return or return information under paragraph (1), (2), (3)(A), (5), or (7) if the Secretary determines (and, in the case of a request for disclosure pursuant to a court order described in paragraph (1)(B) or (5)(B), certifies to the court) that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(7) Comptroller General

(A) Returns available for inspection

Except as provided in subparagraph (C), upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making—

(i) an audit of the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms which may be required by section 713 of title 31, United States Code, or

(ii) any audit authorized by subsection (p)(6),

except that no such officer or employee shall, except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other return or return information, except as otherwise expressly provided by law, to any person other than such other officer or employee of such office in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(B) Audits of other agencies

(i) In general

Nothing in this section shall prohibit any return or return information obtained under this title by any Federal agency (other than an agency referred to in subparagraph (A)) or by a Trustee as defined in the District of Columbia Retirement Protection Act of 1997, for use in any program or activity from being open to inspection by, or disclosure to, officers and employees of the General Accounting Office if such inspection or disclosure is—

(I) for purposes of, and to the extent necessary in, making an audit authorized by law of such program or activity, and

(II) pursuant to a written request by the Comptroller General of the United States to the head of such Federal agency.

(ii) Information from Secretary

If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency (other than an agency referred to in subparagraph (A)), upon writ-

ten request by the Comptroller General to the Secretary, returns and return information (of the type authorized by subsection (*l*) or (m) to be made available to the Federal agency for use in such program or activity) shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making such audit.

(iii) Requirement of notification upon completion of audit

Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion. Such notice shall include—

(I) a description of the use of the returns and return information by the Federal agency involved,

(II) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and

(III) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title.

(iv) Certain restrictions made applicable

The restrictions contained in subparagraph (A) on the disclosure of any returns or return information open to inspection or disclosed under such subparagraph shall also apply to returns and return information open to inspection or disclosed under this subparagraph.

(C) Disapproval by Joint Committee on Taxation

Returns and return information shall not be open to inspection or disclosed under subparagraph (A) or (B) with respect to an audit—

(i) unless the Comptroller General of the United States notifies in writing the Joint Committee on Taxation of such audit, and

(ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation receives such notice.

(j) Statistical use

(1) Department of Commerce

Upon request in writing by the Secretary of Commerce, the Secretary shall furnish—

(A) such returns, or return information reflected thereon, to officers and employees of the Bureau of the Census, and

(B) such return information reflected on returns of corporations to officers and employees of the Bureau of Economic Analysis,

as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.

(2) Federal Trade Commission

Upon request in writing by the Chairman of the Federal Trade Commission, the Secretary shall furnish such return information reflected on any return of a corporation with respect to the tax imposed by chapter 1 to officers and employees of the Division of Financial Statistics of the Bureau of Economics of such commission as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, administration by such division of legally authorized economic surveys of corporations.

(3) Department of Treasury

Returns and return information shall be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for the purpose of, but only to the extent necessary in, preparing economic or financial forecasts, projections, analyses, and statistical studies and conducting related activities. Such inspection or disclosure shall be permitted only upon written request which sets forth the specific reason or reasons why such inspection or disclosure is necessary and which is signed by the head of the bureau or office of the Department of the Treasury requesting the inspection or disclosure.

(4) Anonymous form

No person who receives a return or return information under this subsection shall disclose such return or return information to any person other than the taxpayer to whom it relates except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(5) Department of Agriculture

Upon request in writing by the Secretary of Agriculture, the Secretary shall furnish such returns, or return information reflected thereon, as the Secretary may prescribe by regulation to officers and employees of the Department of Agriculture whose official duties require access to such returns or information for the purpose of, but only to the extent necessary in, structuring, preparing, and conducting the census of agriculture pursuant to the Census of Agriculture Act of 1997 (Public Law 105–113).

(6) Congressional Budget Office

Upon written request by the Director of the Congressional Budget Office, the Secretary shall furnish to officers and employees of the Congressional Budget Office return information for the purpose of, but only to the extent necessary for, long-term models of the social security and medicare programs.

(k) Disclosure of certain returns and return information for tax administration purposes

(1) Disclosure of accepted offers-in-compromise

Return information shall be disclosed to members of the general public to the extent necessary to permit inspection of any accepted

offer-in-compromise under section 7122 relating to the liability for a tax imposed by this title.

(2) Disclosure of amount of outstanding lien

If a notice of lien has been filed pursuant to section 6323(f), the amount of the outstanding obligation secured by such lien may be disclosed to any person who furnishes satisfactory written evidence that he has a right in the property subject to such lien or intends to obtain a right in such property.

(3) Disclosure of return information to correct misstatements of fact

The Secretary may, but only following approval by the Joint Committee on Taxation, disclose such return information or any other information with respect to any specific taxpayer to the extent necessary for tax administration purposes to correct a misstatement of fact published or disclosed with respect to such taxpayer's return or any transaction of the taxpayer with the Internal Revenue Service.

(4) Disclosure of competent authority under income tax convention

A return or return information may be disclosed to a competent authority of a foreign government which has an income tax or gift and estate tax convention, or other convention or bilateral agreement relating to the exchange of tax information, with the United States but only to the extent provided in, and subject to the terms and conditions of, such convention or bilateral agreement.

(5) State agencies regulating tax return preparers

Taxpayer identity information with respect to any income tax return preparer, and information as to whether or not any penalty has been assessed against such income tax return preparer under section 6694, 6695, or 7216, may be furnished to any agency, body, or commission lawfully charged under any State or local law with the licensing, registration, or regulation of income tax return preparers. Such information may be furnished only upon written request by the head of such agency, body, or commission designating the officers or employees to whom such information is to be furnished. Information may be furnished and used under this paragraph only for purposes of the licensing, registration, or regulation of income tax return preparers.

(6) Disclosure by certain officers and employees for investigative purposes

An internal revenue officer or employee and an officer or employee of the Office of Treasury Inspector General for Tax Administration may, in connection with his official duties relating to any audit, collection activity, or civil or criminal tax investigation or any other offense under the internal revenue laws, disclose return information to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax, liability for tax, or the amount to be collected or with respect to the enforcement of any other provision of this title. Such disclosures shall be made only in such situations and under such conditions as the Secretary may prescribe by regulation.

(7) Disclosure of excise tax registration information

To the extent the Secretary determines that disclosure is necessary to permit the effective administration of subtitle D, the Secretary may disclose—

(A) the name, address, and registration number of each person who is registered under any provision of subtitle D (and, in the case of a registered terminal operator, the address of each terminal operated by such operator), and

(B) the registration status of any person.

(8) Levies on certain government payments

(A) Disclosure of return information in levies on Financial Management Service

In serving a notice of levy, or release of such levy, with respect to any applicable government payment, the Secretary may disclose to officers and employees of the Financial Management Service—

(i) return information, including taxpayer identity information,

(ii) the amount of any unpaid liability under this title (including penalties and interest), and

(iii) the type of tax and tax period to which such unpaid liability relates.

(B) Restriction on use of disclosed information

Return information disclosed under subparagraph (A) may be used by officers and employees of the Financial Management Service only for the purpose of, and to the extent necessary in, transferring levied funds in satisfaction of the levy, maintaining appropriate agency records in regard to such levy or the release thereof, notifying the taxpayer and the agency certifying such payment that the levy has been honored, or in the defense of any litigation ensuing from the honor of such levy.

(C) Applicable government payment

For purposes of this paragraph, the term ''applicable government payment'' means—

(i) any Federal payment (other than a payment for which eligibility is based on the income or assets (or both) of a payee) certified to the Financial Management Service for disbursement, and

(ii) any other payment which is certified to the Financial Management Service for disbursement and which the Secretary designates by published notice.

(9) Disclosure of information to administer section 6311

The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by checks or money orders shall be made only to the extent au-

thorized by written procedures promulgated by the Secretary.

(*l*) Disclosure of returns and return information for purposes other than tax administration

(1) Disclosure of certain returns and return information to Social Security Administration and Railroad Retirement Board

The Secretary may, upon written request, disclose returns and return information with respect to—

(A) taxes imposed by chapters 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

(B) a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act, limited, however to return information described in section 6057(d); and

(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

(2) Disclosure of returns and return information to the Department of Labor and Pension Benefit Guaranty Corporation

The Secretary may, upon written request, furnish returns and return information to the proper officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of titles I and IV of the Employee Retirement Income Security Act of 1974.

(3) Disclosure that applicant for Federal loan has tax delinquent account

(A) In general

Upon written request, the Secretary may disclose to the head of the Federal agency administering any included Federal loan program whether or not an applicant for a loan under such program has a tax delinquent account.

(B) Restriction on disclosure

Any disclosure under subparagraph (A) shall be made only for the purpose of, and to the extent necessary in, determining the creditworthiness of the applicant for the loan in question.

(C) Included Federal loan program defined

For purposes of this paragraph, the term ''included Federal loan program'' means any program under which the United States or a Federal agency makes, guarantees, or insures loans.

(4) Disclosure of returns and return information for use in personnel or claimant representative matters

The Secretary may disclose returns and return information—

(A) upon written request—

(i) to an employee or former employee of the Department of the Treasury, or to the duly authorized legal representative of such employee or former employee, who is or may be a party to any administrative action or proceeding affecting the personnel rights of such employee or former employee; or

(ii) to any person, or to the duly authorized legal representative of such person, whose rights are or may be affected by an administrative action or proceeding under section 330 of title 31, United States Code,

solely for use in the action or proceeding, or in preparation for the action or proceeding, but only to the extent that the Secretary determines that such returns or return information is or may be relevant and material to the action or proceeding; or

(B) to officers and employees of the Department of the Treasury for use in any action or proceeding described in subparagraph (A), or in preparation for such action or proceeding, to the extent necessary to advance or protect the interests of the United States.

(5) Social Security Administration

Upon written request by the Commissioner of Social Security, the Secretary may disclose information returns filed pursuant to part III of subchapter A of chapter 61 of this subtitle for the purpose of—

(A) carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective return processing program; or

(B) providing information regarding the mortality status of individuals for epidemiological and similar research in accordance with section 1106(d) of the Social Security Act.

(6) Disclosure of return information to Federal, State, and local child support enforcement agencies

(A) Return information from Internal Revenue Service

The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

(i) available return information from the master files of the Internal Revenue Service relating to the social security account number (or numbers, if the individual involved has more than one such number), address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not

reasonably available from any other source.

(B) Disclosure to certain agents

The following information disclosed to any child support enforcement agency under subparagraph (A) with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by such agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C):

(i) The address and social security account number (or numbers) of such individual.

(ii) The amount of any reduction under section 6402(c) (relating to offset of past-due support against overpayments) in any overpayment otherwise payable to such individual.

(C) Restriction on disclosure

Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

(7) Disclosure of return information to Federal, State, and local agencies administering certain programs under the Social Security Act, the Food Stamp Act of 1977, or title 38, United States Code, or certain housing assistance programs

(A) Return information from Social Security Administration

The Commissioner of Social Security shall, upon written request, disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection, to any Federal, State, or local agency administering a program listed in subparagraph (D).

(B) Return information from Internal Revenue Service

The Secretary shall, upon written request, disclose current return information from returns with respect to unearned income from the Internal Revenue Service files to any Federal, State, or local agency administering a program listed in subparagraph (D).

(C) Restriction on disclosure

The Commissioner of Social Security and the Secretary shall disclose return information under subparagraphs (A) and (B) only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under a program listed in subparagraph (D).

(D) Programs to which rule applies

The programs to which this paragraph applies are:

(i) a State program funded under part A of title IV of the Social Security Act;

(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act;

(iii) supplemental security income benefits provided under title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66);

(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

(v) unemployment compensation provided under a State law described in section 3304 of this title;

(vi) assistance provided under the Food Stamp Act of 1977;

(vii) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66);

(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or under any other law administered by the Secretary of Veterans Affairs;

(II) parents' dependency and indemnity compensation provided under section 1315 of title 38, United States Code;

(III) health-care services furnished under section 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B) of such title; and

(IV) compensation paid under chapter 11 of title 38, United States Code, at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule; and

(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return information may be disclosed under this clause only on written request by the Secretary of Housing and Urban Development and only for use by officers and employees of the Department of Housing and Urban Development with respect to applicants for and participants in such programs.

Only return information from returns with respect to net earnings from self-employment and wages may be disclosed under this paragraph for use with respect to any program described in clause (viii)(IV). Clause (viii) shall not apply after September 30, 2003.

(8) Disclosure of certain return information by Social Security Administration to State and local child support enforcement agencies

(A) In general

Upon written request, the Commissioner of Social Security shall disclose directly to of-

ficers and employees of a State or local child support enforcement agency return information from returns with respect to social security account numbers, net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection.

(B) Restriction on disclosure

The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations. For purposes of the preceding sentence, the term ''child support obligations'' only includes obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D of title IV of such Act.

(C) State or local child support enforcement agency

For purposes of this paragraph, the term ''State or local child support enforcement agency'' means any agency of a State or political subdivision thereof operating pursuant to a plan described in subparagraph (B).

(9) Disclosure of alcohol fuel producers to administrators of State alcohol laws

Notwithstanding any other provision of this section, the Secretary may disclose—

(A) the name and address of any person who is qualified to produce alcohol for fuel use under section 5181, and

(B) the location of any premises to be used by such person in producing alcohol for fuel,

to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for administration of State alcohol laws solely for use in the administration of such laws.

(10) Disclosure of certain information to agencies requesting a reduction under subsection (c), (d), or (e) of section 6402

(A) Return information from Internal Revenue Service

The Secretary may, upon receiving a written request, disclose to officers and employees of any agency seeking a reduction under subsection (c), (d), or (e) of section 6402 and to officers and employees of the Department of the Treasury in connection with such reduction—

(i) taxpayer identity information with respect to the taxpayer against whom such a reduction was made or not made and with respect to any other person filing a joint return with such taxpayer,

(ii) the fact that a reduction has been made or has not been made under such subsection with respect to such taxpayer,

(iii) the amount of such reduction,

(iv) whether such taxpayer filed a joint return, and

(v) the fact that a payment was made (and the amount of the payment) to the spouse of the taxpayer on the basis of a joint return.

(B) Restriction on use of disclosed information

Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records, locating any person with respect to whom a reduction under subsection (c), (d), or (e) of section 6402 is sought for purposes of collecting the debt with respect to which the reduction is sought, or in the defense of any litigation or administrative procedure ensuing from a reduction made under subsection (c), (d), or (e) of section 6402.

(11) Disclosure of return information to carry out Federal Employees' Retirement System

(A) In general

The Commissioner of Social Security shall, on written request, disclose to the Office of Personnel Management return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5).

(B) Restriction on disclosure

The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, the administration of chapters 83 and 84 of title 5, United States Code.

(12) Disclosure of certain taxpayer identity information for verification of employment status of medicare beneficiary and spouse of medicare beneficiary

(A) Return information from Internal Revenue Service

The Secretary shall, upon written request from the Commissioner of Social Security, disclose to the Commissioner available filing status and taxpayer identity information from the individual master files of the Internal Revenue Service relating to whether any medicare beneficiary identified by the Commissioner was a married individual (as defined in section 7703) for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN.

(B) Return information from Social Security Administration

The Commissioner of Social Security shall, upon written request from the Administrator of the Health Care Financing Administration, disclose to the Administrator the following information:

(i) The name and TIN of each medicare beneficiary who is identified as having re-

ceived wages (as defined in section 3401(a)), above an amount (if any) specified by the Secretary of Health and Human Services, from a qualified employer in a previous year.

(ii) For each medicare beneficiary who was identified as married under subparagraph (A) and whose spouse is identified as having received wages, above an amount (if any) specified by the Secretary of Health and Human Services, from a qualified employer in a previous year—

(I) the name and TIN of the medicare beneficiary, and

(II) the name and TIN of the spouse.

(iii) With respect to each such qualified employer, the name, address, and TIN of the employer and the number of individuals with respect to whom written statements were furnished under section 6051 by the employer with respect to such previous year.

(C) Disclosure by Health Care Financing Administration

With respect to the information disclosed under subparagraph (B), the Administrator of the Health Care Financing Administration may disclose—

(i) to the qualified employer referred to in such subparagraph the name and TIN of each individual identified under such subparagraph as having received wages from the employer (hereinafter in this subparagraph referred to as the ''employee'') for purposes of determining during what period such employee or the employee's spouse may be (or have been) covered under a group health plan of the employer and what benefits are or were covered under the plan (including the name, address, and identifying number of the plan),

(ii) to any group health plan which provides or provided coverage to such an employee or spouse, the name of such employee and the employee's spouse (if the spouse is a medicare beneficiary) and the name and address of the employer, and, for the purpose of presenting a claim to the plan—

(I) the TIN of such employee if benefits were paid under title XVIII of the Social Security Act with respect to the employee during a period in which the plan was a primary plan (as defined in section 1862(b)(2)(A) of the Social Security Act), and

(II) the TIN of such spouse if benefits were paid under such title with respect to the spouse during such period, and

(iii) to any agent of such Administrator the information referred to in subparagraph (B) for purposes of carrying out clauses (i) and (ii) on behalf of such Administrator.

(D) Special rules

(i) Restrictions on disclosure

Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, determining the extent to which any medicare beneficiary is covered under any group health plan.

(ii) Timely response to requests

Any request made under subparagraph (A) or (B) shall be complied with as soon as possible but in no event later than 120 days after the date the request was made.

(E) Definitions

For purposes of this paragraph—

(i) Medicare beneficiary

The term ''medicare beneficiary'' means an individual entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act, but does not include such an individual enrolled in part A under section 1818.

(ii) Group health plan

The term ''group health plan'' means any group health plan (as defined in section 5000(b)(1)).

(iii) Qualified employer

The term ''qualified employer'' means, for a calendar year, an employer which has furnished written statements under section 6051 with respect to at least 20 individuals for wages paid in the year.

(13) Disclosure of return information to carry out income contingent repayment of student loans

(A) In general

The Secretary may, upon written request from the Secretary of Education, disclose to officers and employees of the Department of Education return information with respect to a taxpayer who has received an applicable student loan and whose loan repayment amounts are based in whole or in part on the taxpayer's income. Such return information shall be limited to—

(i) taxpayer identity information with respect to such taxpayer,

(ii) the filing status of such taxpayer, and

(iii) the adjusted gross income of such taxpayer.

(B) Restriction on use of disclosed information

Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Education only for the purposes of, and to the extent necessary in, establishing the appropriate income contingent repayment amount for an applicable student loan.

(C) Applicable student loan

For purposes of this paragraph, the term ''applicable student loan'' means—

(i) any loan made under the program authorized under part D of title IV of the Higher Education Act of 1965, and

(ii) any loan made under part B or E of title IV of the Higher Education Act of 1965 which is in default and has been assigned to the Department of Education.

(D) Termination

This paragraph shall not apply to any request made after September 30, 2003.

(14) Disclosure of return information to United States Customs Service

The Secretary may, upon written request from the Commissioner of the United States Customs Service, disclose to officers and employees of the Department of the Treasury such return information with respect to taxes imposed by chapters 1 and 6 as the Secretary may prescribe by regulations, solely for the purpose of, and only to the extent necessary in—

(A) ascertaining the correctness of any entry in audits as provided for in section 509 of the Tariff Act of 1930 (19 U.S.C. 1509), or

(B) other actions to recover any loss of revenue, or to collect duties, taxes, and fees, determined to be due and owing pursuant to such audits.

(15) Disclosure of returns filed under section 6050I

The Secretary may, upon written request, disclose to officers and employees of—

(A) any Federal agency,

(B) any agency of a State or local government, or

(C) any agency of the government of a foreign country,

information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law.

(16) Disclosure of return information for purposes of administering the District of Columbia Retirement Protection Act of 1997

(A) In general

Upon written request available return information (including such information disclosed to the Social Security Administration under paragraph (1) or (5) of this subsection), relating to the amount of wage income (as defined in section 3121(a) or 3401(a)), the name, address, and identifying number assigned under section 6109, of payors of wage income, taxpayer identity (as defined in subsection[1] 6103(b)(6)), and the occupational status reflected on any return filed by, or with respect to, any individual with respect to whom eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997, is sought to be determined, shall be disclosed by the Commissioner of Social Security, or to the extent not available from the Social Security Administration, by the Secretary, to any duly authorized officer or employee of the Department of the Treasury, or a Trustee or any designated officer or employee of a Trustee (as defined in the District of Columbia Retirement Protection Act of 1997), or any actuary engaged by a Trustee under the terms of the District of Columbia Retirement Protection Act of 1997, whose official duties require such disclosure, solely for the purpose of, and to the extent necessary in, determining an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.

(B) Disclosure for use in judicial or administrative proceedings

Return information disclosed to any person under this paragraph may be disclosed in a judicial or administrative proceeding relating to the determination of an individual's eligibility for, or the correct amount of, benefits under the District of Columbia Retirement Protection Act of 1997.

(17) Disclosure to National Archives and Records Administration

The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsection (f), (i)(7), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration whose official duties require such disclosure for purposes of such appraisal.

(m) Disclosure of taxpayer identity information

(1) Tax refunds

The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

(2) Federal claims

(A) In general

Except as provided in subparagraph (B), the Secretary may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with sections 3711, 3717, and 3718 of title 31.

(B) Special rule for consumer reporting agency

In the case of an agent of a Federal agency which is a consumer reporting agency (within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))), the mailing address of a taxpayer may be disclosed to such agent under subparagraph (A) only for the purpose of allowing such agent to prepare a commercial credit report on the taxpayer for use by such Federal agency in

[1] So in original. Probably should be ''section''.

accordance with sections 3711, 3717, and 3718 of title 31.

(3) National Institute for Occupational Safety and Health

Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

(4) Individuals who owe an overpayment of Federal Pell Grants or who have defaulted on student loans administered by the Department of Education

(A) In general

Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer—

(i) who owes an overpayment of a grant awarded to such taxpayer under subpart 1 of part A of title IV of the Higher Education Act of 1965, or

(ii) who has defaulted on a loan—

(I) made under part B, D, or E of title IV of the Higher Education Act of 1965, or

(II) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such overpayment or loan.

(B) Disclosure to educational institutions, etc.

Any mailing address disclosed under subparagraph (A)(i) may be disclosed by the Secretary of Education to—

(i) any lender, or any State or nonprofit guarantee agency, which is participating under part B or D of title IV of the Higher Education Act of 1965, or

(ii) any educational institution with which the Secretary of Education has an agreement under subpart 1 of part A, or part D or E, of title IV of such Act,

for use only by officers, employees, or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans.

(5) Individuals who have defaulted on student loans administered by the Department of Health and Human Services

(A) In general

Upon written request by the Secretary of Health and Human Services, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan made under part C[2] of title VII of the Public Health Service Act or under subpart II of part B of title VIII of such Act, for use only by officers, employees, or agents of the Department of Health and Human Services for purposes of locating such taxpayer for purposes of collecting such loan.

(B) Disclosure to schools and eligible lenders

Any mailing address disclosed under subparagraph (A) may be disclosed by the Secretary of Health and Human Services to—

(i) any school with which the Secretary of Health and Human Services has an agreement under subpart II[2] of part C of title VII of the Public Health Service Act or subpart II[2] of part B of title VIII of such Act, or

(ii) any eligible lender (within the meaning of section 737(4)[2] of such Act) participating under subpart I[2] of part C of title VII of such Act,

for use only by officers, employees, or agents of such school or eligible lender whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such subparts for the purposes of collecting such loans.

(6) Blood Donor Locator Service

(A) In general

Upon written request pursuant to section 1141 of the Social Security Act, the Secretary shall disclose the mailing address of taxpayers to officers and employees of the Blood Donor Locator Service in the Department of Health and Human Services.

(B) Restriction on disclosure

The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, assisting under the Blood Donor Locator Service authorized persons (as defined in section 1141(h)(1) of the Social Security Act) in locating blood donors who, as indicated by donated blood or products derived therefrom or by the history of the subsequent use of such blood or blood products, have or may have the virus for acquired immune deficiency syndrome, in order to inform such donors of the possible need for medical care and treatment.

(C) Safeguards

The Secretary shall destroy all related blood donor records (as defined in section 1141(h)(2) of the Social Security Act) in the possession of the Department of the Treasury upon completion of their use in making the disclosure required under subparagraph (A), so as to make such records undisclosable.

(7) Social security account statement furnished by Social Security Administration

Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1143(c) of the Social Security Act, for use only by officers,

[2] See References in Text note below.

employees or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.

(n) Certain other persons

Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, the programming, maintenance, repair, testing, and procurement of equipment, and the providing of other services, for purposes of tax administration.

(*o*) Disclosure of returns and return information with respect to certain taxes

(1) Taxes imposed by subtitle E

Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.

(2) Taxes imposed by chapter 35

Returns and return information with respect to taxes imposed by chapter 35 (relating to taxes on wagering) shall, notwithstanding any other provision of this section, be open to inspection by or disclosure only to such person or persons and for such purpose or purposes as are prescribed by section 4424.

(p) Procedure and recordkeeping

(1) Manner, time, and place of inspections

Requests for the inspection or disclosure of a return or return information and such inspection or disclosure shall be made in such manner and at such time and place as shall be prescribed by the Secretary.

(2) Procedure

(A) Reproduction of returns

A reproduction or certified reproduction of a return shall, upon written request, be furnished to any person to whom disclosure or inspection of such return is authorized under this section. A reasonable fee may be prescribed for furnishing such reproduction or certified reproduction.

(B) Disclosure of return information

Return information disclosed to any person under the provisions of this title may be provided in the form of written documents, reproductions of such documents, films or photoimpressions, or electronically produced tapes, disks, or records, or by any other mode or means which the Secretary determines necessary or appropriate. A reasonable fee may be prescribed for furnishing such return information.

(C) Use of reproductions

Any reproduction of any return, document, or other matter made in accordance with this paragraph shall have the same legal status as the original, and any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding as if it were the original, whether or not the original is in existence.

(3) Records of inspection and disclosure

(A) System of recordkeeping

Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section. Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections[3] (c), (e), (f)(5), (h)(1), (3)(A), or (4), (i)(4), or (7)(A)(ii), (k)(1), (2), (6), (8), or (9), (*l*)(1), (4)(B), (5), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), or (17), (m), or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.

(B) Report by the Secretary

The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation a report with respect to, or summary of, the records or accountings described in subparagraph (A) in such form and containing such information as such joint committee or the Chief of Staff of such joint committee may designate. Such report or summary shall not, however, include a record or accounting of any request by the President under subsection (g) for, or the disclosure in response to such request of, any return or return information with respect to any individual who, at the time of such request, was an officer or employee of the executive branch of the Federal Government. Such report or summary, or any part thereof, may be disclosed by such joint committee to such persons and for such purposes as the joint committee may, by record vote of a majority of the members of the joint committee, determine.

(C) Public report on disclosures

The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report with respect to the records or accountings described in subparagraph (A) which—

(i) provides with respect to each Federal agency, each agency, body, or commission

[3] So in original. Probably should be ''subsection''.

described in subsection (d), (i)(3)(B)(i), or (*l*)(6), and the General Accounting Office the number of—

(I) requests for disclosure of returns and return information,

(II) instances in which returns and return information were disclosed pursuant to such requests or otherwise,

(III) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests, and

(ii) describes the general purposes for which such requests were made,[4]

(4) Safeguards

Any Federal agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), or (5), (j)(1), (2), or (5), (k)(8), (*l*)(1), (2), (3), (5), (10), (11), (13), (14), or (17), or (*o*)(1), the General Accounting Office, the Congressional Budget Office, or any agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (*l*)(6), (7), (8), (9), (12), (15), or (16) or any other person described in subsection (*l*)(16) shall, as a condition for receiving returns or return information—

(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission, the General Accounting Office, or the Congressional Budget Office for ensuring the confidentiality of returns and return information required by this paragraph; and

(F) upon completion of use of such returns or return information—

(i) in the case of an agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (*l*)(6), (7), (8), (9), or (16), or any other person described in subsection (*l*)(16) return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner,

(ii) in the case of an agency described in subsections[5] (h)(2), (h)(5), (i)(1), (2), (3), or (5), (j)(1), (2), or (5), (k)(8), (*l*)(1), (2), (3), (5), (10), (11), (12), (13), (14), (15), or (17), or (*o*)(1),,[6] the General Accounting Office, or the Congressional Budget Office, either—

(I) return to the Secretary such returns or return information (along with any copies made therefrom),

(II) otherwise make such returns or return information undisclosable, or

(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information, and

(iii) in the case of the Department of Health and Human Services for purposes of subsection (m)(6), destroy all such return information upon completion of its use in providing the notification for which the information was obtained, so as to make such information undisclosable;

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission, including an agency or any other person described in subsection (*l*)(16), or the General Accounting Office or the Congressional Budget Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission, including an agency or any other person described in subsection (*l*)(16), or the General Accounting Office or the Congressional Budget Office until he determines that such requirements have been or will be met. In the case of any agency which receives any mailing address under paragraph (2), (4), (6), or (7) of subsection (m) and which discloses any such mailing address to any agent or which receives any information under paragraph (6)(A), (12)(B), or (16) of subsection (*l*) and which discloses any such information to any agent, or any person including an agent described in subsection (*l*)(16), this paragraph shall apply to such agency and each such agent or other person (except that, in the case of an agent, or any person including an agent described in subsection (*l*)(16), any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency). For purposes of applying this paragraph in any case to which subsection (m)(6) applies, the term ''return information'' includes related blood donor records (as defined in section 1141(h)(2) of the Social Security Act).

[4] So in original. The comma probably should be a period.

[5] So in original. Probably should be ''subsection''.

[6] So in original.

(5) Report on procedures and safeguards

After the close of each calendar year, the Secretary shall furnish to each committee described in subsection (f)(1) a report which describes the procedures and safeguards established and utilized by such agencies, bodies, or commissions, the General Accounting Office, and the Congressional Budget Office for ensuring the confidentiality of returns and return information as required by this subsection. Such report shall also describe instances of deficiencies in, and failure to establish or utilize, such procedures.

(6) Audit of procedures and safeguards

(A) Audit by Comptroller General

The Comptroller General may audit the procedures and safeguards established by such agencies, bodies, or commissions and the Congressional Budget Office pursuant to this subsection to determine whether such safeguards and procedures meet the requirements of this subsection and ensure the confidentiality of returns and return information. The Comptroller General shall notify the Secretary before any such audit is conducted.

(B) Records of inspection and reports by the Comptroller General

The Comptroller General shall—

(i) maintain a permanent system of standardized records and accountings of returns and return information inspected by officers and employees of the General Accounting Office under subsection (i)(7)(A)(ii) and shall, within 90 days after the close of each calendar year, furnish to the Secretary a report with respect to, or summary of, such records or accountings in such form and containing such information as the Secretary may prescribe, and

(ii) furnish an annual report to each committee described in subsection (f) and to the Secretary setting forth his findings with respect to any audit conducted pursuant to subparagraph (A).

The Secretary may disclose to the Joint Committee any report furnished to him under clause (i).

(7) Administrative review

The Secretary shall by regulations prescribe procedures which provide for administrative review of any determination under paragraph (4) that any agency, body, or commission described in subsection (d) has failed to meet the requirements of such paragraph.

(8) State law requirements

(A) Safeguards

Notwithstanding any other provision of this section, no return or return information shall be disclosed after December 31, 1978, to any officer or employee of any State which requires a taxpayer to attach to, or include in, any State tax return a copy of any portion of his Federal return, or information reflected on such Federal return, unless such State adopts provisions of law which protect the confidentiality of the copy of the Federal return (or portion thereof) attached to, or the Federal return information reflected on, such State tax return.

(B) Disclosure of returns or return information in State returns

Nothing in subparagraph (A) shall be construed to prohibit the disclosure by an officer or employee of any State of any copy of any portion of a Federal return or any information on a Federal return which is required to be attached or included in a State return to another officer or employee of such State (or political subdivision of such State) if such disclosure is specifically authorized by State law.

(q) Regulations

The Secretary is authorized to prescribe such other regulations as are necessary to carry out the provisions of this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 753; Pub. L. 88–563, §3(c), Sept. 2, 1964, 78 Stat. 844; Pub. L. 89–44, title VI, §601(a), June 21, 1965, 79 Stat. 153; Pub. L. 89–713, §4(a), Nov. 2, 1966, 80 Stat. 1109; Pub. L. 93–406, title II, §1022(h), Sept. 2, 1974, 88 Stat. 941; Pub. L. 94–202, §8(g), Jan. 2, 1976, 89 Stat. 1139; Pub. L. 94–455, title XII, §1202(a)(1), Oct. 4, 1976, 90 Stat. 1667; Pub. L. 95–210, §5, Dec. 13, 1977, 91 Stat. 1491; Pub. L. 95–600, title V, §503, title VII, §701(bb)(1)(A), (B), (2)–(5), Nov. 6, 1978, 92 Stat. 2879, 2921–2923; Pub. L. 96–249, title I, §127(a)(1), (2)(A)–(C), May 26, 1980, 94 Stat. 365, 366, as amended Pub. L. 96–611, §11(a)(1), Dec. 28, 1980, 94 Stat. 3573, and Pub. L. 98–369, div. A, title IV, §453(b)(5), July 18, 1984, 98 Stat. 820; Pub. L. 96–265, title IV, §408(a)–(2)(C), June 9, 1980, 94 Stat. 468, as amended Pub. L. 96–611, §11(a)(2)(A)–(B)(iii), Dec. 28, 1980, 94 Stat. 3573; Pub. L. 96–499, title III, §302(a), Dec. 5, 1980, 94 Stat. 2604; Pub. L. 96–589, §3(c), Dec. 24, 1980, 94 Stat. 3401; Pub. L. 96–598, §3(a), Dec. 24, 1980, 94 Stat. 3487; Pub. L. 97–34, title VII, §701(a), Aug. 13, 1981, 95 Stat. 340; Pub. L. 97–248, title III, §§356(a), (b)(1), 358(a), (b), Sept. 3, 1982, 96 Stat. 641, 645, 646, 648; Pub. L. 97–258, §3(f)(4)–(6), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 97–365, §§7(a), (b), 8(a)–(c)(1), Oct. 25, 1982, 96 Stat. 1752–1754; Pub. L. 97–452, §2(c)(4), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 98–21, title I, §121(c)(3)(A), (B), Apr. 20, 1983, 97 Stat. 83; Pub. L. 98–369, div. A, title IV, §§449(a), 453(a)–(b)(3), (6), div. B, title VI, §§2651(k), 2653(b)(3), 2663(j)(5)(E), July 18, 1984, 98 Stat. 818, 820, 1150, 1155, 1171; Pub. L. 98–378, §§19(b), 21(f)(1)–(4), Aug. 16, 1984, 98 Stat. 1322, 1325, 1326; Pub. L. 99–92, §8(h), Aug. 16, 1985, 99 Stat. 399; Pub. L. 99–335, title III, §310(a), (b), June 6, 1986, 100 Stat. 607, 608; Pub. L. 99–386, title II, §206(b), Aug. 22, 1986, 100 Stat. 823; Pub. L. 99–514, title XIV, §1411(b), title XV, §1568(a), title XVIII, §1899A(53), Oct. 22, 1986, 100 Stat. 2715, 2764, 2961; Pub. L. 100–485, title VII, §701(b)(1), (2)(A), (B), Oct. 13, 1988, 102 Stat. 2425, 2426; Pub. L. 100–647, title I, §§1012(bb)(3)(A), (B), 1014(e)(4), title VI, §6251, title VIII, §8008(c)(1), (2)(A), Nov. 10, 1988, 102 Stat. 3534, 3561, 3752, 3786, 3787; Pub. L. 100–690, title VII, §§7601(b)(1), (2), 7602(c), (d)(2), Nov. 18, 1988, 102 Stat. 4504, 4508; Pub. L. 101–239, title VI, §6202(a)(1)(A), (B), title VII, §7841(d)(1), Dec. 19, 1989, 103 Stat. 2226, 2227, 2428; Pub. L. 101–508, title IV, §4203(a)(2), title V, §5111(b)(1),

(2), title VIII, § 8051(a), title XI, §§ 11101(d)(6), 11212(b)(3), 11313(a), Nov. 5, 1990, 104 Stat. 1388–107, 1388–272, 1388–273, 1388–349, 1388–405, 1388–431, 1388–455; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 102–568, title VI, § 602(b), Oct. 29, 1992, 106 Stat. 4342; Pub. L. 103–66, title XIII, §§ 13401(a), 13402(a), (b), 13403(a), (b), 13444(a), 13561(a)(2), (e)(2)(B), Aug. 10, 1993, 107 Stat. 563–565, 570, 593, 595; Pub. L. 103–182, title V, § 522(a), (b), Dec. 8, 1993, 107 Stat. 2161; Pub. L. 103–296, title I, § 108(h)(6), title III, § 311(b), Aug. 15, 1994, 108 Stat. 1487, 1525; Pub. L. 104–134, title III, § 31001(g)(2), (i)(2), Apr. 26, 1996, 110 Stat. 1321–363, 1321–364; Pub. L. 104–168, title IV, § 403(a), title IX, § 902(a), title XII, §§ 1206(a)–(b)(4), 1207, July 30, 1996, 110 Stat. 1459, 1466, 1472, 1473; Pub. L. 104–188, title I, § 1704(t)(41), Aug. 20, 1996, 110 Stat. 1889; Pub. L. 104–193, title I, § 110(*l*)(2), formerly (*l*)(3), (*l*)(4), (5), title III, § 316(g)(4), Aug. 22, 1996, 110 Stat. 2173, 2219, renumbered Pub. L. 105–33, title V, § 5514(a)(2), Aug. 5, 1997, 111 Stat. 620; Pub. L. 105–33, title IV, § 4631(c)(2), title V, § 5514(a)(1), title XI, § 11024(b)(1)–(7), Aug. 5, 1997, 111 Stat. 486, 620, 721, 722; Pub. L. 105–34, title IX, § 976(c), title X, §§ 1023(a), 1026(a), (b)(1), title XII, §§ 1201(b)(2), 1205(c)(1), (3), 1283(a), (b), Aug. 5, 1997, 111 Stat. 899, 923–925, 994, 998, 1038; Pub. L. 105–65, title V, § 542(b), Oct. 27, 1997, 111 Stat. 1412; Pub. L. 105–206, title I, § 1101(b), title III, §§ 3702(a), (b), 3708(a), 3711(b), title VI, §§ 6007(f)(4), 6009(d), 6012(b)(2), (4), 6019(c), 6023(22), July 22, 1998, 112 Stat. 696, 776–778, 781, 810, 812, 819, 823, 826; Pub. L. 105–277, div. J, title I, § 1006, title IV, §§ 4002(a), (h), 4006(a)(1), (2), Oct. 21, 1998, 112 Stat. 2681–900, 2681–906, 2681–907, 2681–912; Pub. L. 106–170, title V, § 521(a)(1), Dec. 17, 1999, 113 Stat. 1925; Pub. L. 106–554, § 1(a)(7) [title III, §§ 304(a), 310(a), 313(c), 319(8)(B),(17)], Dec. 21, 2000, 114 Stat. 2763, 2763A–632, 2763A–638, 2763A–643, 2763A–646, 2763A–647.)

REFERENCES IN TEXT

For definition of Canal Zone referred to in subsec. (b)(5), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

Section 976 of the Taxpayer Relief Act of 1997, referred to in subsec. (d)(5), is section 976 of Pub. L. 105–34, which added subsec. (d)(5) of this section and enacted provisions set out as a note below relating to a combined Federal and State employment tax reporting demonstration project.

The Federal Rules of Criminal Procedure, referred to in subsecs. (h)(4)(D) and (i)(4)(A)(ii), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

The District of Columbia Retirement Protection Act of 1997, referred to in subsecs. (i)(7)(B)(i) and (*l*)(16), is subtitle A (§§ 11001–11087) of title XI of Pub. L. 105–33, Aug. 5, 1997, 111 Stat. 715, which amended this section and section 7213 of this title and enacted provisions set out as a note below. For complete classification of this Act to the Code, see Tables.

The Census of Agriculture Act of 1997, referred to in subsec. (j)(5), is Pub. L. 105–113, Nov. 21, 1997, 111 Stat. 2274, which enacted section 2204g of Title 7, Agriculture, amended sections 1991 and 2276 of Title 7 and section 9 of Title 13, Census, repealed section 142 of Title 13, and enacted provisions set out as a note under section 1991 of Title 7. For complete classification of this Act to the Code, see Short Title of 1997 Amendment note set out under section 2201 of Title 7 and Tables.

The Social Security Act, referred to in subsecs. (*l*)(1)(A), (B), (5), (6)(A), (7), (8)(B), (12)(C)(ii)(I), (E)(i), (m)(6), (7), and (p)(4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Parts A and D of title IV and parts A and B of title XVIII of the Act are classified generally to part A (§ 601 et seq.) and part D (§ 651 et seq.) of subchapter IV and part A (§ 1395c et seq.) and part B (§ 1395j et seq.) of subchapter XVIII, respectively, of chapter 7 of Title 42. Titles I, X, XIV, XVI, and XIX of the Act are classified generally to subchapters I (§ 301 et seq.), X (§ 1201 et seq.), XIV (§ 1351 et seq.), XVI (1381 et seq.), XVIII (§ 1395 et seq.), and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42. Sections 232, 454, 1106, 1131, 1141, 1143, 1616, 1818, and 1862 of the Act are classified to sections 432, 654, 1306, 1320b–1, 1320b–11, 1320b–13, 1382e, 1395i–2, and 1395y, respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Railroad Retirement Act, referred to in subsec. (*l*)(1)(C), probably means the Railroad Retirement Act of 1974, which is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, § 101, Oct. 16, 1974, 88 Stat. 1305, and is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (*l*)(2), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended. Titles I and IV of the Employee Retirement Income Security Act of 1974 are classified generally to subchapters I (§ 1001 et seq.) and IV (§ 1301 et seq.) of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

Section 212(a) of Pub. L. 93–66, referred to in subsec. (*l*)(7)(D)(iii), (vii), is set out as a note under section 1382 of Title 42, The Public Health and Welfare.

The Food Stamp Act of 1977, referred to in subsec. (*l*)(7)(D)(vi), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§ 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Higher Education Act of 1965, referred to in subsecs. (*l*)(13)(C) and (m)(4)(A)(i), (ii)(I), (B)(i), (ii), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Subpart 1 of part A of title IV of the Act is classified generally to subpart 1 (§ 1070a et seq.) of part A of subchapter IV of chapter 28 of Title 20, Education. Parts B, D, and E of title IV of the Act are classified to parts B (§ 1071 et seq.), C (§ 1087a et seq.), and D (§ 1087aa et seq.) of subchapter IV of chapter 28 of Title 20, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

Section 3(a)(1) of the Migration and Refugee Assistance Act of 1962, referred to in subsec. (m)(4)(A)(ii)(II), is classified to section 2602(a)(1) of Title 22, Foreign Relations and Intercourse.

The Public Health Service Act, referred to in subsec. (m)(5), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part C and subparts I and II of part C of title VII of the Act were classified generally to part C (§ 294 et seq.) and subparts I (§ 294 et seq.) and II (§ 294m et seq.), respectively, of part C of subchapter V of chapter 6A of Title 42, The Public Health and Welfare, and were omitted in the general revision of subchapter V of chapter 6A by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102–408 enacted a new part C, relating to training in primary health care, which is classified to part C (§ 293j et seq.) of subchapter V of chapter 6A of Title 42. See subparts I (§ 292 et seq.) and II (§ 292q et seq.), respectively, of part A of revised subchapter V of chapter 6A of Title 42. Subpart II of part B of title VIII of such Act was redesignated part E of title VIII of such Act by Pub. L. 105–392, title I, § 123(2), Nov. 13, 1998, 112 Stat. 3562, and is classified generally to part E (§ 297a et seq.) of subchapter VI of chapter 6A of Title 42. Section

737 of the Act was classified to section 294j of Title 42 and was omitted in the general revision of subchapter V by Pub. L. 102–408. Pub. L. 102–408 enacted a new section 737 of act July 1, 1944, relating to scholarships, which is classified to section 293a of Title 42. See section 292*o*(2) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

2000—Subsec. (b)(2)(D). Pub. L. 106–554, §1(a)(7) [title III, §304(a)], added subpar. (D).

Subsec. (e)(1)(D)(v). Pub. L. 106–554, §1(a)(7) [title III, §319(8)(B)], amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: ''if the corporation was an electing small business corporation under subchapter S of chapter 1, any person who was a shareholder during any part of the period covered by such return during which an election was in effect, or''.

Subsec. (j)(6). Pub. L. 106–554, §1(a)(7) [title III, §310(a)(1)], added par. (6).

Subsec. (k)(6). Pub. L. 106–554, §1(a)(7) [title III, §313(c)], substituted ''certain'' for ''internal revenue'' in heading and inserted ''and an officer or employee of the Office of Treasury Inspector General for Tax Administration'' after ''internal revenue officer or employee'' in text.

Subsec. (p)(4). Pub. L. 106–554, §1(a)(7) [title III, §§310(a)(2)(A)(i), (iv), 319(17)(A)], in introductory provisions, inserted ''the Congressional Budget Office,'' after ''General Accounting Office,'', struck out second comma after ''(13)'', and substituted ''(7), (8), (9), (12), (15), or (16) or any other person described in subsection (*l*)(16) shall, as a condition'' for ''(7), (8), (9), (12), or (15) shall, as a condition'', and in concluding provisions, inserted ''or the Congressional Budget Office'' after ''General Accounting Office'' in two places.

Subsec. (p)(4)(E). Pub. L. 106–554, §1(a)(7) [title III, §310(a)(2)(A)(ii)], substituted ''commission, the General Accounting Office, or the Congressional Budget Office'' for ''commission or the General Accounting Office''.

Subsec. (p)(4)(F)(ii). Pub. L. 106–554, §1(a)(7) [title III, §§310(a)(2)(A)(iii), 319(17)(B)], struck out second comma after ''(14)'' and substituted ''the General Accounting Office, or the Congressional Budget Office,'' for ''or the General Accounting Office,''.

Subsec. (p)(5). Pub. L. 106–554, §1(a)(7) [title III, §310(a)(2)(B)], substituted ''commissions, the General Accounting Office, and the Congressional Budget Office'' for ''commissions and the General Accounting Office''.

Subsec. (p)(6)(A). Pub. L. 106–554, §1(a)(7) [title III, §310(a)(2)(C)], inserted ''and the Congressional Budget Office'' after ''commissions''.

1999—Subsec. (b)(2)(C). Pub. L. 106–170 added subpar. (C).

1998—Subsec. (d)(5). Pub. L. 105–206, §6009(d), substituted ''section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.'' for ''section 967 of the Taxpayer Relief Act of 1997.''

Subsec. (e)(1)(A)(ii) to (iv). Pub. L. 105–206, §6007(f)(4), redesignated cls. (iii) and (iv) as (ii) and (iii), respectively, and struck out former cl. (ii) which read as follows: ''if property transferred by that individual to a trust is sold or exchanged in a transaction described in section 644, the trustee or trustees, jointly or separately, of such trust to the extent necessary to ascertain any amount of tax imposed upon the trust by section 644,''.

Subsec. (e)(6). Pub. L. 105–206, §6019(c), substituted ''(5), (8), or (9)'' for ''or (5)''.

Subsec. (f)(5). Pub. L. 105–206, §3708(a), added par. (5).

Subsec. (h)(4)(A). Pub. L. 105–206, §6023(22), inserted ''if'' before ''the taxpayer is a party to''.

Subsec. (h)(5). Pub. L. 105–277, §4002(a), redesignated par. (5), relating to Internal Revenue Service Oversight Board, as (6).

Pub. L. 105–206, §1101(b), added par. (5), relating to Internal Revenue Service Oversight Board.

Subsec. (h)(6). Pub. L. 105–277, §4002(a), redesignated par. (5), relating to Internal Revenue Service Oversight Board, as (6).

Subsec. (j)(5). Pub. L. 105–277, §4006(a)(1), added par. (5).

Subsec. (k)(8), (9). Pub. L. 105–206, §6012(b)(2), redesignated par. (8), relating to disclosure of information to administer section 6311, as (9).

Subsec. (*l*)(10). Pub. L. 105–206, §3711(b), in heading substituted ''subsection (c), (d), or (e) of section 6402'' for ''section 6402(c) or 6402(d)'' and in text substituted ''(c), (d), or (e)'' for ''(c) or (d)'' wherever appearing.

Subsec. (*l*)(13)(D). Pub. L. 105–277, §1006, substituted ''September 30, 2003'' for ''September 30, 1998''.

Subsec. (*l*)(17). Pub. L. 105–206, §3702(a), added par. (17).

Subsec. (p)(3)(A). Pub. L. 105–277, §4002(h), inserted ''(f)(5),'' after ''(c), (e),''.

Pub. L. 105–206, §6012(b)(4), provided that section 1205(c)(3) of Pub. L. 105–34 shall be applied as if it struck ''or (8)'' and inserted ''(8), or (9)''. See 1997 Amendment note below.

Pub. L. 105–206, §3702(b)(1), substituted ''(16), or (17)'' for ''or (16)''.

Subsec. (p)(4). Pub. L. 105–277, §4006(a)(2), substituted ''(j)(1), (2), or (5)'' for ''(j)(1) or (2)'' in introductory provisions.

Pub. L. 105–206, §3702(b)(2), substituted '', (14), or (17)'' for ''or (14)'' in introductory provisions.

Subsec. (p)(4)(F)(ii). Pub. L. 105–277, §4006(a)(2), substituted ''(j)(1), (2), or (5)'' for ''(j)(1) or (2)''.

Pub. L. 105–206, §3702(b)(3), substituted '', (15), or (17)'' for ''or (15)''.

1997—Subsec. (a)(3). Pub. L. 105–33, §11024(b)(2), substituted ''(6), (12), or (16)'' for ''(6) or (12)''.

Subsec. (d)(5). Pub. L. 105–34, §976(c), added par. (5).

Subsec. (e)(1)(A)(iv). Pub. L. 105–34, §1201(b)(2), struck out ''or 59(j)'' after ''section 1(g)''.

Subsec. (h)(5), (6). Pub. L. 105–34, §1283(a), redesignated par. (6) as (5) and struck out heading and text of former par. (5). Text read as follows: ''In connection with any judicial proceeding described in paragraph (4) to which the United States is a party, the Secretary shall respond to a written inquiry from an attorney of the Department of Justice (including a United States attorney) involved in such proceeding or any person (or his legal representative) who is a party to such proceeding as to whether an individual who is a prospective juror in such proceeding has or has not been the subject of any audit or other tax investigation by the Internal Revenue Service. The Secretary shall limit such response to an affirmative or negative reply to such inquiry.''

Subsec. (i)(7)(B)(i). Pub. L. 105–33, §11024(b)(3), inserted ''or by a Trustee as defined in the District of Columbia Retirement Protection Act of 1997,'' after ''(other than an agency referred to in subparagraph (A))''.

Subsec. (k)(8). Pub. L. 105–34, §1205(c)(1), added par. (8) relating to disclosure of information to administer section 6311.

Pub. L. 105–34, §1026(a), added par. (8) relating to levies on certain government payments.

Subsec. (*l*)(7)(D). Pub. L. 105–65 struck out at end ''Clause (ix) shall not apply after September 30, 1998.''

Pub. L. 105–34, §1023(a), which directed amendment of subsec. (*l*)(7)(D)(viii) by striking ''1998'' and inserting ''2003'', was executed by substituting ''2003'' for ''1998'' after ''Clause (viii) shall not apply after September 30,'' in concluding provisions to reflect the probable intent of Congress. The word ''1998'' did not appear in subsec. (*l*)(7)(D)(viii).

Subsec. (*l*)(10). Pub. L. 105–33, §5514(a)(1), repealed Pub. L. 104–193, §110(*l*)(4). See 1996 Amendment notes below.

Subsec. (*l*)(12)(F). Pub. L. 105–33, §4631(c)(2), struck out heading and text of subpar. (F). Text read as follows: ''Subparagraphs (A) and (B) shall not apply to—

''(i) any request made after September 30, 1998, and

''(ii) any request made before such date for information relating to—

''(I) 1997 or thereafter in the case of subparagraph (A), or

''(II) 1998 or thereafter in the case of subparagraph (B).''

Subsec. (*l*)(16). Pub. L. 105–33, § 11024(b)(1), added par. (16).

Subsec. (p)(3)(A). Pub. L. 105–34, § 1205(c)(3), which directed the substitution of ''(6), or (8)'' for ''or (6)'' was executed by substituting ''(8), or (9)'' for ''or (8)''. See 1998 Amendment note above.

Pub. L. 105–34, § 1026(b)(1)(A), substituted ''(6), or (8)'' for ''or (6)''.

Pub. L. 105–33, § 11024(b)(4), substituted ''(15), or (16)'' for ''or (15)''.

Subsec. (p)(4). Pub. L. 105–34, § 1283(b), substituted ''(h)(5)'' for ''(h)(6)'' in introductory provisions and in subpar. (F)(ii).

Pub. L. 105–34, § 1026(b)(1)(B), inserted ''(k)(8),'' after ''(j)(1) or (2),'' in introductory provisions and in subpar. (F)(ii).

Pub. L. 105–33, § 11024(b)(7)(B)–(F), substituted ''to such agency, body, or commission, including an agency or any other person described in subsection (*l*)(16),'' for ''to such agency, body, or commission'', and '', (12)(B), or (16)'' for ''or (12)(B)'', and inserted ''or any person including an agent described in subsection (*l*)(16),'' before ''this paragraph shall'', ''or other person'' before ''(except that'', and ''or any person including an agent described in subsection (*l*)(16),'' before ''any report''. Amendments were executed to provisions following subpar. (F)(iii) to reflect the probable intent of Congress, notwithstanding directory language directing amendment of ''section 6103(p)(4)(F) in the matter following clause (iii)''.

Pub. L. 105–33, § 11024(b)(7)(A), which directed amendment of ''section 6103(p)(4)(F) in the matter following clause (iii)'' by inserting after ''any such agency, body or commission'' and before the words ''for the General Accounting Office'' the words '', including an agency or any other person described in subsection (*l*)(16),'' was executed by making the insertion after ''any such agency, body, or commission'' and before ''or the General Accounting Office'' in concluding provisions following subpar. (F)(iii) to reflect the probable intent of Congress.

Pub. L. 105–33, § 11024(b)(5), which directed substitution of ''(12), or (16), or any other person described in subsection (*l*)(16)'' for ''or (12)'' in introductory provisions, could not be executed because the words ''or (12)'' did not appear subsequent to amendment by Pub. L. 104–168, § 1206(b)(3)(C). See 1996 Amendments note below.

Pub. L. 105–33, § 5514(a)(1), repealed Pub. L. 104–193, § 110(*l*)(5). See 1996 Amendments note below.

Subsec. (p)(4)(F)(i). Pub. L. 105–33, § 11024(b)(6), substituted ''(9), or (16), or any other person described in subsection (*l*)(16)'' for ''or (9),''.

1996—Subsec. (a)(3). Pub. L. 104–193, § 316(g)(4)(B)(i), substituted ''paragraph (6) or (12) of subsection (*l*)'' for ''(*l*)(12)''.

Subsec. (c). Pub. L. 104–168, § 1207, substituted ''request for or consent to such disclosure'' for ''written request for or consent to such disclosure''.

Subsec. (e)(1)(A)(iv). Pub. L. 104–188, § 1704(t)(41), substituted ''section 1(g) or 59(j)'' for ''section 1(i) or 59(j)''.

Subsec. (e)(8). Pub. L. 104–168, § 403(a), added par. (8).

Subsec. (e)(9). Pub. L. 104–168, § 902(a), added par. (9).

Subsec. (i)(8). Pub. L. 104–168, § 1206(b)(1), struck out par. (8) which read as follows:

''(8) DISCLOSURE OF RETURNS FILED UNDER SECTION 6050I.—The Secretary may, upon written request, disclose returns filed under section 6050I to officers and employees of any Federal agency whose official duties require such disclosure for the administration of Federal criminal statutes not related to tax administration.''

Subsec. (*l*)(3)(C). Pub. L. 104–134, § 31001(i)(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''For purposes of this paragraph, the term 'included Federal loan program' means any program—

''(i) under which the United States or a Federal agency makes, guarantees, or insures loans, and

''(ii) with respect to which there is in effect a determination by the Director of the Office of Management and Budget (which has been published in the Federal Register) that the application of this paragraph to such program will substantially prevent or reduce future delinquencies under such program.''

Subsec. (*l*)(6)(B). Pub. L. 104–193, § 316(g)(4)(A), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (*l*)(6)(C). Pub. L. 104–193, § 316(g)(4)(B)(ii), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.''

Pub. L. 104–193, § 316(g)(4)(A), redesignated subpar. (B) as (C).

Subsec. (*l*)(7)(D)(i). Pub. L. 104–193, § 110(*l*)(2), formerly § 110(*l*)(3), as renumbered by Pub. L. 105–33, § 5514(a)(2), substituted ''a State program funded'' for ''aid to families with dependent children provided under a State plan approved''.

Subsec. (*l*)(10). Pub. L. 104–193, § 110(*l*)(4)(A), which directed substitution of ''(c), (d), or (e)'' for ''(c) or (d)'' wherever appearing, was repealed by Pub. L. 105–33, § 5514(a)(1).

Subsec. (*l*)(10)(A). Pub. L. 104–134, § 31001(g)(2), inserted ''and to officers and employees of the Department of the Treasury in connection with such reduction'' after ''6402'' in introductory provisions.

Subsec. (*l*)(10)(B). Pub. L. 104–193, § 110(*l*)(4)(B), which directed insertion, at end, of ''Any return information disclosed with respect to section 6402(e) shall only be disclosed to officers and employees of the State agency requesting such information.'', was repealed by Pub. L. 105–33, § 5514(a)(1).

Subsec. (*l*)(15). Pub. L. 104–168, § 1206(a), added par. (15).

Subsec. (p)(3)(A). Pub. L. 104–168, § 1206(b)(2), substituted ''or (7)(A)(ii)'' for ''(7)(A)(ii), or (8)'' and ''(14), or (15)'' for ''or (14)''.

Subsec. (p)(4). Pub. L. 104–193, § 316(g)(4)(B)(iii), substituted ''paragraph (6)(A) or (12)(B) of subsection (*l*)'' for ''subsection (*l*)(12)(B)'' in provisions following subpar. (F)(iii).

Pub. L. 104–193, § 110(*l*)(5), which directed substitution, in introductory provisions, of ''(9), (10), or (12)'' for ''(9), or (12)'' and ''(5)'' for ''(5), (10)'', was repealed by Pub. L. 105–33, § 5514(a)(1).

Pub. L. 104–168, § 1206(b)(3)(B), which directed amendment of introductory provisions of par. (4) by substituting ''(i)(3)(B)(i),'' for ''(i)(3)(B)(i), or (8)'', was executed by making the substitution for ''(i)(3)(B)(i) or (8)'' to reflect the probable intent of Congress.

Pub. L. 104–168, § 1206(b)(3)(A), (C), substituted ''or (5)'' for ''(5), or (8)'' and ''(9), (12), or (15)'' for ''(9), or (12)'' in introductory provisions.

Subsec. (p)(4)(F)(ii). Pub. L. 104–168, § 1206(b)(4), substituted ''or (5)'' for ''(5), or (8)'' and ''(14), or (15)'' for ''or (14)''.

1994—Subsec. (*l*)(5). Pub. L. 103–296, § 311(b), substituted ''for the purpose of—'' for ''for the purpose of'', inserted subpar. (A) designation, substituted ''program; or'' for ''program.'', and added subpar. (B).

Pub. L. 103–296, § 108(h)(6), substituted ''Social Security Administration'' for ''Department of Health and Human Services'' in heading and ''Commissioner of Social Security'' for ''Secretary of Health and Human Services'' in text.

1993—Subsec. (d)(4). Pub. L. 103–66, § 13444(a), added par. (4).

Subsec. (*l*)(7). Pub. L. 103–66, § 13403(b), inserted '', or certain housing assistance programs'' after ''Code'' in heading.

Subsec. (*l*)(7)(D). Pub. L. 103–66, §§ 13401(a), 13403(a)(4), in closing provisions, substituted ''September 30, 1998'' for ''September 30, 1997'' in second sentence and in-

serted at end ''Clause (ix) shall not apply after September 30, 1998.''

Subsec. (*l*)(7)(D)(ix). Pub. L. 103–66, §13403(a)(1)–(3), added cl. (ix).

Subsec. (*l*)(12)(B)(i). Pub. L. 103–66, §13561(a)(2)(A), inserted '', above an amount (if any) specified by the Secretary of Health and Human Services,'' after ''section 3401(a))''.

Subsec. (*l*)(12)(B)(ii). Pub. L. 103–66, §13561(a)(2)(B), inserted '', above an amount (if any) specified by the Secretary of Health and Human Services,'' after ''wages''.

Subsec. (*l*)(12)(E)(ii). Pub. L. 103–66, §13561(e)(2)(B), amended heading and text of cl. (ii) generally. Prior to amendment, text read as follows: ''The term 'group health plan' means—

''(I) any group health plan (as defined in section 5000(b)(1)), and

''(II) any large group health plan (as defined in section 5000(b)(2)).''

Subsec. (*l*)(12)(F)(i). Pub. L. 103–66, §13561(a)(2)(C)(i), substituted ''1998'' for ''1995''.

Subsec. (*l*)(12)(F)(ii)(I). Pub. L. 103–66, §13561(a)(2)(C)(ii), substituted ''1997'' for ''1994''.

Subsec. (*l*)(12)(F)(ii)(II). Pub. L. 103–66, §13561(a)(2)(C)(iii), substituted ''1998'' for ''1995''.

Subsec. (*l*)(13). Pub. L. 103–66, §13402(a), added par. (13).

Subsec. (*l*)(14). Pub. L. 103–182, §522(a), added par. (14).

Subsec. (m)(4). Pub. L. 103–66, §13402(b)(1), amended par. heading generally, substituting ''Individuals who owe an overpayment of Federal Pell grants or who have defaulted on student loans administered by the Department of Education'' for ''Individuals who have defaulted on student loans administered by the Department of Education''.

Subsec. (m)(4)(A). Pub. L. 103–66, §13402(b)(1), amended heading and text subpar. (A) generally. Prior to amendment, text read as follows: ''Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan—

''(i) made under part B or E of title IV of the Higher Education Act of 1965, or

''(ii) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such loan.''

Subsec. (m)(4)(B)(i). Pub. L. 103–66, §13402(b)(2)(A), substituted ''under part B or D'' for ''under part B''.

Subsec. (m)(4)(B)(ii). Pub. L. 103–66, §13402(b)(2)(B), substituted ''under subpart 1 of part A, or part D or E, of title IV'' for ''under part E of title IV''.

Subsec. (p)(3)(A). Pub. L. 103–182, §522(b), substituted ''(13), or (14)'' for ''or (13)''.

Pub. L. 103–66, §13402(b)(3)(A), substituted ''(11), (12), or (13), (m)'' for ''(11), or (12), (m)''.

Subsec. (p)(4). Pub. L. 103–182, §522(b), substituted ''(13), or (14)'' for ''or (13)'' in introductory provisions.

Pub. L. 103–66, §13402(b)(3)(B)(i), substituted ''(10), (11), or (13),'' for ''(10), or (11),'' in introductory provisions.

Subsec. (p)(4)(F)(ii). Pub. L. 103–182, §522(b), substituted ''(13), or (14)'' for ''or (13)''.

Pub. L. 103–66, §13402(b)(3)(B)(ii), substituted ''(11), (12), or (13),'' for ''(11), or (12),''.

1992—Subsec. (*l*)(7)(D). Pub. L. 102–568, §602(b)(1), substituted ''September 30, 1997'' for ''September 30, 1992'' in concluding provisions.

Subsec. (*l*)(7)(D)(viii)(II), (III). Pub. L. 102–568, §602(b)(2), substituted ''1315'' for ''415'' in subcl. (II) and ''1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)'' for ''610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B)'' in subcl. (III).

1990—Subsec. (e)(1)(A)(iv). Pub. L. 101–508, §11101(d)(6), which directed the substitution of ''section 1(g)'' for ''section 1(j)'', could not be executed because ''section 1(j)'' did not appear in text after amendment by Pub. L. 100–647, §1014(e)(4). See 1988 Amendment note below.

Subsec. (k)(7). Pub. L. 101–508, §11212(b)(3), added par. (7).

Subsec. (*l*)(7). Pub. L. 101–508, §8051(a), substituted '', the Food Stamp Act of 1977, or title 38, United States Code'' for ''or the Food Stamp Act of 1977'' in heading and added cl. (viii) and concluding provisions at end of subpar. (D).

Subsec. (*l*)(12)(F). Pub. L. 101–508, §4203(a)(2), substituted ''September 30, 1995'' for ''September 30, 1991'' in cl. (i), ''1994'' for ''1990'' in cl. (ii)(I), and ''1995'' for ''1991'' in cl. (ii)(II).

Subsec. (m)(7). Pub. L. 101–508, §5111(b)(1), added par. (7).

Subsec. (n). Pub. L. 101–508, §11313(a), substituted ''the programming'' for ''and the programming'' and inserted ''and the providing of other services,''.

Subsec. (p)(4). Pub. L. 101–508, §5111(b)(2), which directed the substitution of ''paragraph (2), (4), (6), or (7) of subsection (m)'' for ''subsection (m)(2), (4), or (6)'' in the provisions of par. (4) ''following subparagraph (f)(iii)'', was executed by making the substitution in the provisions following subpar. (F)(iii), to reflect the probable intent of Congress.

1989—Subsec. (a)(3). Pub. L. 101–239, §6202(a)(1)(B)(i), inserted ''(*l*)(12),'' after ''subsection (e)(1)(D)(iii),''.

Subsec. (d)(1). Pub. L. 101–239, §7841(d)(1), struck out ''45,'' after ''32, 44,''.

Subsec. (*l*)(12). Pub. L. 101–239, §6202(a)(1)(A), added par. (12).

Subsec. (p)(3)(A). Pub. L. 101–239, §6202(a)(1)(B)(ii), substituted ''(11), or (12)'' for ''or (11)''.

Subsec. (p)(4). Pub. L. 101–239, §6202(a)(1)(B)(v), inserted ''or which receives any information under subsection (*l*)(12)(B) and which discloses any such information to any agent'' after ''address to any agency'' in penultimate sentence.

Pub. L. 101–239, §6202(a)(1)(B)(iii), substituted ''(9), or (12) shall'' for ''or (9) shall'' in introductory provisions.

Subsec. (p)(4)(F)(ii). Pub. L. 101–239, §6202(a)(1)(B)(iv), substituted ''(11), or (12)'' for ''or (11)''.

1988—Subsec. (b)(5)(A). Pub. L. 100–647, §1012(bb)(3)(B), substituted ''and the Commonwealth of the Northern Mariana Islands'' for ''the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau''.

Subsec. (b)(5)(B)(i). Pub. L. 100–647, §6251, substituted ''250,000'' for ''2,000,000''.

Subsec. (d). Pub. L. 100–690, §7602(d)(2), amended subsec. (d) heading generally, inserting ''and State and local law enforcement agencies'' after ''officials''.

Subsec. (d)(3). Pub. L. 100–690, §7602(c), added par. (3).

Subsec. (e)(1)(A)(iv). Pub. L. 100–647, §1014(e)(4), substituted ''section 1(i) or 59(j)'' for ''section 1(j)''.

Subsec. (i)(8). Pub. L. 100–690, §7601(b)(1), added par. (8).

Subsec. (k)(4). Pub. L. 100–647, §1012(bb)(3)(A), substituted ''or other convention or bilateral agreement'' and ''such convention or bilateral agreement'' for ''or other convention'' and ''such convention'', respectively.

Subsec. (*l*)(10). Pub. L. 100–485, §701(b)(1), amended par. (10) generally. Prior to amendment, par. (10) read as follows:

''(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon receiving a written request, disclose to officers and employees of an agency seeking a reduction under section 6402(c) or 6402(d)—

''(i) the fact that a reduction has been made or has not been made under such subsection with respect to any person;

''(ii) the amount of such reduction; and

''(iii) taxpayer identifying information of the person against whom a reduction was made or not made.

''(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records or in the defense of any litigation or administrative

procedure ensuing from reduction made under section 6402(c) or section 6402(d).''

Subsec. (*l*)(11), (12). Pub. L. 100–485, § 701(b)(2)(A), redesignated former par. (12) as (11) and struck out former par. (11) which related to disclosure of certain information to State agencies seeking a reduction under section 6402(c) and restricted use of that information.

Subsec. (m)(6). Pub. L. 100–647, § 8008(c)(1), added par. (6).

Subsec. (p)(3)(A). Pub. L. 100–690, § 7601(b)(2)(A), substituted '', (7)(A)(ii), or (8)'' for ''or (7)(A)(ii)''.

Pub. L. 100–485, § 701(b)(2)(B), substituted ''(10), or (11)'' for ''(10), (11), or (12)''.

Subsec. (p)(4). Pub. L. 100–690, § 7601(b)(2)(B), in introductory provisions substituted ''(5), or (8)'' for ''or (5)'' and ''(i)(3)(B)(i) or (8)'' for ''(i)(3)(B)(i),''.

Pub. L. 100–647, § 8008(c)(2)(A)(ii), (iii), in concluding provisions substituted ''(m)(2), (4), or (6)'' for ''(m)(2) or (4)'' and inserted at end ''For purposes of applying this paragraph in any case to which subsection (m)(6) applies, the term 'return information' includes related blood donor records (as defined in section 1141(h)(2) of the Social Security Act).''

Pub. L. 100–485, § 701(b)(2)(B), substituted ''(10), or (11)'' for ''(10), (11), or (12)'' in introductory provisions.

Subsec. (p)(4)(F)(i). Pub. L. 100–647, § 8008(c)(2)(A)(i)(I), substituted ''manner,'' for ''manner; and''.

Subsec. (p)(4)(F)(ii). Pub. L. 100–690, § 7601(b)(2)(C), substituted ''(5), or (8)'' for ''or (5)''.

Pub. L. 100–485, § 701(b)(2)(B), substituted ''(10), or (11)'' for ''(10), (11), or (12)''.

Subsec. (p)(4)(F)(iii). Pub. L. 100–647, § 8008(c)(2)(A)(i), added cl. (iii).

1986—Subsec. (b)(5). Pub. L. 99–514, § 1568(a)(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''The term 'State' means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.''

Subsec. (b)(10). Pub. L. 99–514, § 1568(a)(2), added par. (10).

Subsec. (e)(1)(A)(iv). Pub. L. 99–514, § 1411(b), added cl. (iv).

Subsec. (*l*)(7)(D)(v). Pub. L. 99–514, § 1899A(53), substituted ''this title'' for ''this Code''.

Subsec. (*l*)(12). Pub. L. 99–335, § 310(a), added par. (12).

Subsec. (p)(3)(A). Pub. L. 99–335, § 310(b)(1), substituted ''(10), (11), or (12)'' for ''(10), or (11)''.

Subsec. (p)(4). Pub. L. 99–335, § 310(b)(2), substituted ''(10), (11), or (12)'' for ''(10), or (11)'' in provisions preceding subpar. (A) and in subpar. (F)(ii).

Subsec. (p)(5). Pub. L. 99–386 substituted ''year'' for ''quarter''.

1985—Subsec. (m)(4). Pub. L. 99–92, § 8(h)(1), inserted ''administered by the Department of Education'' in heading.

Subsec. (m)(5). Pub. L. 99–92, § 8(h)(2), added par. (5).

1984—Subsec. (a)(2). Pub. L. 98–369, § 2651(k)(2), substituted '', any local child support enforcement agency, or any local agency administering a program listed in subsection (*l*)(7)(D)'' for ''or of any local child support enforcement agency''.

Subsec. (d)(1). Pub. L. 98–369, § 449(a), substituted ''44, 45, 51'' for ''44, 51''.

Subsec. (*l*)(5). Pub. L. 98–369, § 2663(j)(5)(E), substituted ''Secretary of Health and Human Services'' for ''Secretary of Health, Education, and Welfare'' in heading and text.

Subsec. (*l*)(6)(A)(i). Pub. L. 98–378, § 19(b)(1), inserted ''social security account number (or numbers, if the individual involved has more than one such number),''.

Subsec. (*l*)(7). Pub. L. 98–369, § 2651(k)(1), substituted provisions relating to information disclosure to Federal, State and local agencies administering programs under the Social Security Act or the Food Stamp Act of 1977 for former provisions which related to information disclosure by the Social Security Administration to the Department of Agriculture and State food stamp agencies.

Pub. L. 98–369, § 453(b)(5), amended directory language of Pub. L. 96–249, § 127(a)(1). See 1980 Amendment note below.

Subsec. (*l*)(8). Pub. L. 98–369, § 453(b)(6), directed that the par. (7) added by Pub. L. 96–265 be redesignated as par. (8). See 1980 Amendment note below.

Subsec. (*l*)(8)(A). Pub. L. 98–378, § 19(b)(2), substituted ''social security account numbers, net earnings'' for ''net earnings''.

Subsec. (*l*)(9). Pub. L. 98–369, § 453(a), added par. (9).

Subsec. (*l*)(10). Pub. L. 98–369, § 2653(b)(3)(A), added par. (10).

Subsec. (*l*)(11). Pub. L. 98–378, § 21(f)(1), added par. (11).

Subsec. (p)(3)(A). Pub. L. 98–378, § 21(f)(2), substituted ''(10), or (11)'' for ''or (10)''.

Pub. L. 98–369, § 2653(b)(3)(B)(i), substituted ''(9), or (10)'' for ''or (9)''.

Pub. L. 98–369, § 453(b)(1), which directed that ''(5), (7), (8), or (9)'' be substituted for ''(5), or (7)'', was executed by substituting ''(5), (7), (8), or (9)'' for ''(5), (7), or (8)'' to reflect the probable intent of Congress.

Subsec. (p)(4). Pub. L. 98–378, § 21(f)(3), substituted ''(10), or (11)'' for ''or (10)'' in provisions preceding subpar. (A).

Pub. L. 98–369, § 2653(b)(3)(B)(ii), substituted ''(*l*)(1), (2), (3), (5), or (10)'' for ''(*l*)(1), (2), (3), or (5)'' in provisions preceding subpar. (A).

Pub. L. 98–369, § 453(b)(2), which directed that ''(7), (8), or (9)'' be substituted for ''or (7)'' in provisions preceding subpar. (A), was executed by substituting ''(7), (8), or (9)'' for ''(7), or (8)'' to reflect the probable intent of Congress.

Subsec. (p)(4)(F)(i). Pub. L. 98–369, § 453(b)(3), which directed that ''(*l*)(6), (7), (8), or (9)'' be substituted for ''(*l*)(6) or (7)'', was executed by substituting ''(*l*)(6), (7), (8), or (9)'' for ''(*l*)(6), (7), or (8)'' to reflect the probable intent of Congress.

Subsec. (p)(4)(F)(ii). Pub. L. 98–378, § 21(f)(4), substituted ''(10), or (11)'' for ''or (10)''.

Pub. L. 98–369, § 2653(b)(3)(B)(iii), substituted ''(*l*)(1), (2), (3), (5), or (10)'' for ''(*l*)(1), (2), (3), or (5)''.

1983—Subsec. (h)(6). Pub. L. 98–21, § 121(c)(3)(A), added par. (6).

Subsec. (m)(2). Pub. L. 97–452 substituted ''sections 3711, 3717, and 3718 of title 31'' for ''section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952)'', wherever appearing.

Subsec. (p)(4). Pub. L. 98–21, § 121(c)(3)(B), inserted ''(h)(6),'' after ''(h)(2),'' in introductory provisions.

Subsec. (p)(4)(F)(ii). Pub. L. 98–21, § 121(c)(3)(B), inserted ''(h)(6),'' after ''(h)(2),''.

1982—Subsec. (a)(3). Pub. L. 97–365, § 8(c)(1), substituted ''paragraph (2) or (4)(B) of subsection (m)'' for ''subsection (m)(4)(B)''.

Subsec. (i)(1) to (5). Pub. L. 97–248, § 356(a), added pars. (1) to (5). Former pars. (1) to (5) were struck out.

Subsec. (i)(6). Pub. L. 97–248, § 356(a), added par. (6). Former par. (6) redesignated (7).

Subsec. (i)(7). Pub. L. 97–258, § 3(f)(4), substituted ''section 713 of title 31, United States Code'' for ''section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67)'' in subpar. (A)(i). Notwithstanding the directory language that amendment be made to subsec. (i)(6), the amendment was executed to subsec. (i)(7) to reflect the probable intent of Congress and the intervening redesignation of subsec. (i)(6) as (i)(7) by Pub. L. 97–248.

Pub. L. 97–248, §§ 356(a), 358(a), (b), redesignated former par. (6) as (7) and, in par. (7) as so redesignated, substituted ''subparagraph (C)'' for ''subparagraph (B)'' in subpar. (A), added subpar. (B), redesignated former subpar. (B) as (C), and in subpar. (C) as so redesignated substituted ''subparagraph (A) or (B)'' for ''subparagraph (A)''.

Subsec. (*l*)(3). Pub. L. 97–365, § 7(a), substituted provisions relating to the disclosure to heads of Federal agencies administering Federal loan programs whether or not an applicant for a loan under such program has

a tax delinquent account, for provisions which related to disclosure of returns and return information to Privacy Protection Study Commission.

Subsec. (*l*)(4)(A)(ii). Pub. L. 97–258, §3(f)(5), substituted ''section 330 of title 31, United States Code'' for ''section 3 of the Act of July 7, 1884 (23 Stat. 258; 31 U.S.C. 1026)''.

Subsec. (m)(2). Pub. L. 97–365, §8(a), designated existing provisions as subpar. (A), inserted reference to exception provided by subpar. (B) and substituted ''disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer'' for ''disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding)'', and added subpar. (B).

Pub. L. 97–258, §3(f)(6), substituted ''section 3711 of title 31, United States Code'' for ''section 3 of the Federal Claims Collection Act of 1966''.

Subsec. (p)(3)(A). Pub. L. 97–248, §356(b)(1)(A), substituted ''(7)(A)(ii)'' for ''(6)(A)(ii)''.

Subsec. (p)(3)(C)(i). Pub. L. 97–365, §7(b)(1), substituted ''(*l*)(6)'' for ''(*l*)(3) or (6)''.

Pub. L. 97–248, §356(b)(1)(B), inserted '', (i)(3)(B)(i),'' after ''described in subsection (d)''.

Subsec. (p)(3)(C)(i)(II). Pub. L. 97–248, §356(b)(1)(C), inserted ''or otherwise'' after ''such requests''.

Subsec. (p)(4). Pub. L. 97–365, §7(b)(2), substituted ''(*l*)(1), (2), (3),'' for ''(*l*)(1), (2),'' and ''(*l*)(6),'' for ''(*l*)(3), (6),'' in introductory provisions, and in subpar. (F)(ii) substituted ''(*l*)(1), (2), (3), or (5), or (*o*)(1),'' for ''(*l*)(1), (2), or (5), or (*o*)(1), the commission described in subsection (*l*)(3)''.

Pub. L. 97–365, §8(b), inserted last sentence providing that in the case of any agency which receives any mailing address under subsection (m)(2) or (4) and which discloses any such mailing address to any agent, this paragraph shall apply to such agency and each such agent (except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency).

Pub. L. 97–248, §356(b)(1)(D), (E), substituted ''(i)(1), (2), (3), or (5)'' for ''(i)(1), (2), or (5)'' wherever appearing, and inserted '', (i)(3)(B)(i),'' after ''(d)'' wherever appearing.

Subsec. (p)(6)(B)(i). Pub. L. 97–248, §356(b)(1)(F), substituted ''subsection (i)(7)(A)(ii)'' for ''subsection (i)(6)(A)(ii)''.

1981—Subsec. (b)(2). Pub. L. 97–34 inserted prohibition against disclosure of methods for selection of tax returns for audit.

1980—Subsec. (d). Pub. L. 96–598 designated existing provision as par. (1), inserted heading ''In general'' and in text substituted ''to receive the returns'' for ''to receive the return'', and added par. (2).

Subsec. (e)(4). Pub. L. 96–589, §3(c)(1), added par. (4). Former par. (4), relating to public inspection of returns of persons whose property was in the hands of a trustee in bankruptcy or receiver, was struck out.

Subsec. (e)(5). Pub. L. 96–589, §3(c)(1), added par. (5). Former par. (5) redesignated (6).

Subsec. (e)(6). Pub. L. 96–589, §3(c)(1), (2), redesignated former par. (5) as (6), and in par. (6) as so redesignated, inserted reference to par. (5). Former par. (6) redesignated (7).

Subsec. (e)(7). Pub. L. 96–589, §3(c)(1), redesignated former par. (6) as (7).

Subsec. (*l*)(7). Pub. L. 96–249, §127(a)(1), as amended by Pub. L. 96–611, §11(a)(1), and Pub. L. 98–369, §453(b)(5), added par. (7). Paragraph as originally enacted by Pub. L. 96–249 was designated subsec. (i)(7), but was redesignated subsec. (*l*)(7) through amendment by Pub. L. 96–611 and Pub. L. 98–369.

Subsec. (*l*)(8). Pub. L. 96–265, §408(a)(1), as amended by Pub. L. 96–611, §11(a)(2)(A), added par. (8). Paragraph as originally enacted by Pub. L. 96–265 was designated (7), but was redesignated (8) through the amendment by Pub. L. 96–611.

Subsec. (m)(4)(A). Pub. L. 96–499 substituted references to Secretary of Education for references to Commissioner of Education, designated existing provisions in part as cl. (i) and, as so designated, inserted reference to part B of title IV of the Higher Education Act of 1965, added cl. (ii), and provided that such disclosures were for use only by officers, employees, or agents of the Department of Education.

Subsec. (m)(4)(B). Pub. L. 96–499 substituted references to Secretary of Education for references to Commissioner of Education, designated existing provisions in part as cl. (ii), and added cl. (i).

Subsec. (p)(3)(A). Pub. L. 96–265, §408(a)(2)(A), as amended by Pub. L. 96–611, §11(a)(2)(B)(i), substituted ''(*l*)(1), (4)(B), (5), (7), or (8)'' for ''(*l*)(1), (4)(B), (5), or (7)''. Section 408(a)(2)(A) of Pub. L. 96–265 was amended by Pub. L. 96–611 to reflect the redesignations of subsec. (*l*)(7) and (8) by Pub. L. 96–611.

Pub. L. 96–249, §127(a)(2)(A), substituted ''(*l*)(1), (4)(B), (5), or (7)'' for ''(*l*)(1) or (4)(B) or (5)''.

Subsec. (p)(4). Pub. L. 96–265, §408(a)(2)(B), as amended by Pub. L. 96–611, §11(a)(2)(B)(ii), substituted ''(*l*)(3), (6), (7), or (8)'' for ''(*l*)(3), (6), or (7)'' in introductory provisions. Section 408(a)(2)(B) of Pub. L. 96–265 was amended by Pub. L. 96–611 to reflect the redesignations of subsec. (*l*)(7) and (8) by Pub. L. 96–611.

Pub. L. 96–249, §127(a)(2)(B), substituted ''(*l*)(3), (6), or (7)'' for ''(*l*)(3) or (6)'' in provisions preceding subpar. (A).

Subsec. (p)(4)(F)(i). Pub. L. 96–265, §408(a)(2)(C), as amended by Pub. L. 96–611, §11(a)(2)(B)(iii), substituted ''(*l*)(6), (7), or (8)'' for ''(*l*)(6) or (7)''. Section 408(a)(2)(C) of Pub. L. 96–265 was amended by Pub. L. 96–611 to reflect the redesignations of subsec. (*l*)(7) and (8) by Pub. L. 96–611.

Pub. L. 96–249, 127(a)(2)(C), substituted ''(*l*)(6) or (7)'' for ''(*l*)(6)''.

1978—Subsec. (a)(3). Pub. L. 95–600, §701(bb)(1)(B), inserted '', subsection (m)(4)(B),'' after ''subsection (e)(1)(D)(iii)''.

Subsec. (d). Pub. L. 95–600, §701(bb)(2), inserted ''31,'' after ''21, 23, 24,''.

Subsec. (h)(2). Pub. L. 95–600, §503(a), substituted ''In a matter involving tax administration, a'' for ''A'', ''officers and employees'' for ''attorneys'' after ''open to inspection by or disclosure to'', inserted ''any proceeding before a Federal grand jury or'' after ''for their use in'', and struck out ''in a matter involving tax administration'' after ''or any Federal or State court''.

Subsec. (h)(2)(A). Pub. L. 95–600, §503(b)(1), substituted ''the proceeding'' for ''such proceeding'' and inserted ''or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability in respect of any tax imposed under this title''.

Subsec. (h)(4)(A). Pub. L. 95–600, §503(b)(2), substituted ''the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability, in respect of any tax imposed under this title'' for ''if the taxpayer is a party to such proceeding''.

Subsec. (i)(2), (3). Pub. L. 95–600, §701(bb)(3), (4), inserted provisions relating to name and address of taxpayer not being treated as return information.

Subsec. (k)(4). Pub. L. 95–600, §701(bb)(5), struck out reference to income tax in heading and inserted provisions relating to gift and estate tax and exchange of tax information.

Subsec. (m). Pub. L. 95–600, §701(bb)(1)(A), reenacted pars. (1) to (3) without change and added par. (4).

1977—Subsec. (m). Pub. L. 95–210 changed the statement in the existing provisions describing the Secretary's authority by substituting provisions that the Secretary ''may disclose'' for provisions under which the Secretary was ''authorized to disclose'', inserted headings at beginning of existing pars. (1) and (2), and added par. (3).

1976—Pub. L. 94–455 among other changes, substituted provisions treating income tax returns as public

records and allowing inspection only under regulation approved by the President except in certain enumerated situations for provisions treating return information as confidential and not subject to disclosure except in limited situations and inserted provisions defining ''return'' and ''return information'' and provisions prohibiting tax information from being furnished by the Internal Revenue Service to another agency unless the other agency establishes procedures for safeguarding the information it receives.

Subsec. (g). Pub. L. 94–202 added subsec. (g) relating to disclosure of information to Secretary of Health, Education, and Welfare.

1974—Subsec. (g). Pub. L. 93–406 added subsec. (g) relating to disclosure of information with respect to deferred compensation plans.

1966—Pub. L. 89–713 substituted ''disclosure of information as to persons filing income tax returns'' for ''lists of taxpayers'' in section catchline and, in subsec. (f), substituted provisions authorizing the furnishing to an inquirer of the information as to whether or not a person has filed an income tax return in a designated internal revenue district for a particular taxable year for provisions directing the preparation of lists containing the name and post-office address of each person making an income tax return in an internal revenue district to be made available for public inspection in the office of the principal internal revenue officer for the internal revenue district in which the return was filed.

1965—Subsec. (a)(2). Pub. L. 89–44 substituted ''B and C'' for ''B, C, and D''.

1964—Subsec. (a)(2). Pub. L. 88–563 inserted reference to chapter 41.

CHANGE OF NAME

Words ''magistrate judge'' substituted for ''magistrate'' wherever appearing in subsec. (i) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 1(a)(7) [title III, § 304(a)] of Pub. L. 106–554 effective Dec. 21, 2000, see section 1(a)(7) [title III, § 304(d)] of Pub. L. 106–554, set out as a note under section 6110 of this title.

Amendment by section 1(a)(7) [title III, § 313(c)] of Pub. L. 106–554 effective as if included in the provisions of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, to which such amendment relates, see section 1(a)(7) [title III, § 313(f)] of Pub. L. 106–554, set out as a note under section 6015 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–170, title V, § 521(a)(3), Dec. 17, 1999, 113 Stat. 1925, provided that: ''The amendments made by this subsection [amending this section and section 6110 of this title] shall take effect on the date of the enactment of this Act [Dec. 17, 1999].''

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 4002(a), (h) of Pub. L. 105–277 effective as if included in the provision of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, to which such amendment relates, see section 4002(k) of Pub. L. 105–277, set out as a note under section 1 of this title.

Pub. L. 105–277, div. J, title IV, § 4006(a)(3), Oct. 21, 1998, 112 Stat. 2681–912, provided that: ''The amendments made by this subsection [amending this section] shall apply to requests made on or after the date of the enactment of this Act [Oct. 21, 1998].''

Amendment by section 1101(b) of Pub. L. 105–206 effective July 22, 1998, see section 1101(d) of Pub. L. 105–206, set out as a note under section 7802 of this title.

Pub. L. 105–206, title III, § 3702(c), July 22, 1998, 112 Stat. 777, provided that: ''The amendments made by this section [amending this section] shall apply to requests made by the Archivist of the United States after the date of the enactment of this Act [July 22, 1998].''

Pub. L. 105–206, title III, § 3708(b), July 22, 1998, 112 Stat. 779, provided that: ''The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].''

Pub. L. 105–206, title III, § 3711(d), July 22, 1998, 112 Stat. 781, provided that: ''The amendments made by this section [amending this section and section 6402 of this title] (other than subsection (d)) shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 after December 31, 1999.''

Pub. L. 105–206, title VI, § 6019(d), July 22, 1998, 112 Stat. 823, provided that: ''The amendments made by this section [amending this section and section 6104 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].''

Amendment by section 6023(22) of Pub. L. 105–206 effective July 22, 1998, see section 6023(32) of Pub. L. 105–206, set out as a note under section 34 of this title.

Amendment by sections 6007(f)(4), 6009(d), and 6012(b)(2), (4) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Section 1023(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].''

Section 1026(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section and section 552a of Title 5, Government Organization and Employees] shall apply to levies issued after the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by section 1201(b)(2) of Pub. L. 105–34 applicable to taxable years beginning after Dec. 31, 1997, see section 1201(c) of Pub. L. 105–34, set out as a note under section 59 of this title.

Section 1205(d) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section and sections 6311 and 7431 of this title] shall take effect on the day 9 months after the date of the enactment of this Act [Aug. 5, 1997].''

Section 1283(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section] shall apply to judicial proceedings commenced after the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by section 5514(a)(1), (2) of Pub. L. 105–33 effective as if included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, at the time such section 110 became law, see section 5518(c) of Pub. L. 105–33, set out as a note under section 51 of this title.

Amendment by section 11024(b)(1)–(7) of Pub. L. 105–33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105–33, see section 11721 of Pub. L. 105–33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 110(*l*)(2), (4), (5) of 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.

For effective date of amendment by section 316(g)(4) of Pub. L. 104–193, see section 395(a)–(c) of Pub. L. 104–193, set out as a note under section 654 of Title 42.

Section 403(b) of Pub. L. 104–168 provided that: ''The amendment made by this section [amending this section] shall apply to requests made after the date of the enactment of this Act [July 30, 1996].''

Section 902(b) of Pub. L. 104–168 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 30, 1996].''

Section 1206(c) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 108(h)(6) of Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

Section 311(c) of Pub. L. 103–296 provided that: ''The amendments made by this section [amending this section and section 1306 of Title 42, The Public Health and Welfare] shall apply with respect to requests for information made after the date of the enactment of this Act [Aug. 15, 1994].''

EFFECTIVE DATE OF 1993 AMENDMENTS

Section 522(c)(1) of Pub. L. 103–182 provided that: ''The amendments made by this section [amending this section] shall take effect on the date the Agreement [North American Free Trade Agreement] enters into force with respect to the United States [Jan. 1, 1994].''

Section 13401(b) of Pub. L. 103–66 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 1993].''

Section 13402(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 1993].''

Section 13403(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 10, 1993].''

Section 13444(b) of Pub. L. 103–66 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall take effect on the date one year after the date of the enactment of this Act [Aug. 10, 1993].

''(2) SPECIAL RULE.—The amendment made by subsection (a) shall take effect on the date 2 years after the date of the enactment of this Act in the case of any State if it is established to the satisfaction of the Secretary of the Treasury that—

''(A) under the law of such State as in effect on the date of the enactment of this Act, it is impossible for such State to enter into an agreement meeting the requirements of section 6103(d)(4)(B) of the Internal Revenue Code of 1986 (as added by subsection (a)), and

''(B) it is likely that such State will enter into such an agreement during the extension period under this paragraph.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 4203(d) of Pub. L. 101–508, as amended by Pub. L. 103–432, title I, §151(c)(8), Oct. 31, 1994, 108 Stat. 4436, provided that: ''The amendments made [by] this section [amending this section and section 1395y of Title 42, The Public Health and Welfare] shall take effect on the date of the enactment of this Act [Nov. 5, 1990] and the amendment made by subsection (a)(2)(B) [amending this section] shall apply to requests made on or after such date.''

[Section 151(c)(8) of Pub. L. 103–432 provided that the amendment made by that section to section 4203(d) of Pub. L. 101–508, set out above, is effective as if included in the enactment of Pub. L. 101–508.]

Amendment by section 11101(d)(6) of Pub. L. 101–508 applicable to taxable years beginning after Dec. 31, 1990, see section 11101(e) of Pub. L. 101–508, set out as a note under section 1 of this title.

Amendment by section 11212(b)(3) of Pub. L. 101–508 effective Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101–508, set out as a note under section 4081 of this title.

Section 11313(b) of Pub. L. 101–508 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990].''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 6202(a)(1)(D) of Pub. L. 101–239 provided that: ''The amendments made by this paragraph [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [Dec. 19, 1989].''

EFFECTIVE DATE OF 1988 AMENDMENTS

Section 7601(b)(3) of Pub. L. 100–690, as amended by Pub. L. 101–647, title XXXIII, §3302(a), Nov. 29, 1990, 104 Stat. 4917, provided that: ''The amendments made by this subsection [amending this section] shall apply to requests made on or after the date of the enactment of this Act [Nov. 18, 1988], but disclosures may be made pursuant to such amendments only during the 4-year period beginning on such date.''

Section 7602(e) of Pub. L. 100–690 provided that: ''The amendments made by this section [enacting section 7624 of this title and amending this section and section 7809 of this title] shall apply to information first provided more than 90 days after the date of the enactment of this Act [Nov. 18, 1988].''

Section 1012(bb)(3)(C) of Pub. L. 100–647 provided that: ''The amendments made by this paragraph [amending this section] shall take effect on the date of the enactment of the Tax Reform Act of 1986 [Oct. 22, 1986].''

Amendment by section 1014(e)(4) 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.

Section 701(b)(3) of Pub. L. 100–485 provided that:

''(A) IN GENERAL.—The amendments made by this subsection [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [Oct. 13, 1988].

''(B) SPECIAL RULE.—Nothing in section 2653(c) of the Deficit Reduction Act of 1984 [Pub. L. 98–369, 26 U.S.C. 6402 note] shall be construed to limit the application of paragraph (10) of section 6103(*l*) of the Internal Revenue Code of 1986 (as amended by this subsection).''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1411(b) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 1411(c) of Pub. L. 99–514, set out as a note under section 1 of this title.

Section 1568(b) 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].''

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–92 effective Oct. 1, 1985, see section 10(a) of Pub. L. 99–92, set out as a note under section 296k of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1984 AMENDMENTS

Section 21(g) of Pub. L. 98–378, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [amending this section, sections 6402 and 7213 of this title, and sections 654 and 664 of Title 42, The Public Health and Welfare] shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] after December 31, 1985.''

Section 449(b) of Pub. L. 98–369 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 18, 1984].''

Amendment by section 453(a)–(b)(3), (6) of Pub. L. 98–369 effective on first day of first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

Amendment by section 2651(k) of Pub. L. 98–369 effective July 18, 1984, see section 2651(*l*)(1) of Pub. L. 98–369, set out as an Effective Date note under section 1320b–7 of Title 42, The Public Health and Welfare.

Amendment by section 2653(b)(3) of Pub. L. 98–369 applicable to refunds payable under section 6402 of this title after Dec. 31, 1985, see section 2653(c) of Pub. L. 98–369, as amended, set out as a note under section 6402 of this title.

Amendment by section 2663(j)(5)(E) of Pub. L. 98–369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98–369, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–21 applicable to benefits received after Dec. 31, 1983, in taxable years ending after such date, except for any portion of a lump-sum payment of social security benefits received after Dec. 31, 1983, if the generally applicable payment date for such portion was before Jan. 1, 1984, see section 121(g) of Pub. L. 98–21, set out as an Effective Date note under section 86 of this title.

EFFECTIVE DATE OF 1982 AMENDMENTS

Section 7(c) of Pub. L. 97–365 provided that: ''The amendments made by this section [amending this section] shall apply in the case of loan applications made after September 30, 1982.''

Section 8(d) of Pub. L. 97–365 provided that: ''The amendments made by this section [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [Oct. 25, 1982].''

Section 356(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [amending this section and section 7213 of this title] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].''

Section 358(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [amending this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 701(b) of Pub. L. 97–34 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to disclosures after July 19, 1981.''

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 11(a)(3) of Pub. L. 96–611 provided that: ''The amendment made by paragraph (1) [amending section 127(a)(1) of Pub. L. 96–249, which amended this section] shall take effect on May 26, 1980 and the amendments made by paragraph (2) [amending section 408(a)(1), (2) of Pub. L. 96–265, which amended this section and section 7213 of this title] shall take effect on June 9, 1980.''

Section 3(b) of Pub. L. 96–598 provided that: ''The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 24, 1980].''

Amendment by Pub. L. 96–589 applicable to bankruptcy cases commencing more than 90 days after Dec. 24, 1980, see section 7(b) of Pub. L. 96–589, set out as a note under section 108 of this title.

Section 302(c) of Pub. L. 96–499 provided that: ''The amendments made by subsections (a) and (b) of this section [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [Dec. 5, 1980].''

Section 408(a)(3) of Pub. L. 96–265 provided that: ''The amendments made by this subsection [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [June 9, 1980].''

Section 127(a)(3) of Pub. L. 96–249 provided that: ''The amendments made by this subsection [amending this section and section 7213 of this title] shall take effect on the date of the enactment of this Act [May 26, 1980].''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 701(bb)(8) of Pub. L. 95–600 provided that:

''(A) Except as provided in subparagraph (B), the amendments made by this subsection [amending this section and sections 7213 and 7217 of this title] shall take effect January 1, 1977.

''(B) The amendments made by paragraph (7) [amending section 7217 of this title] shall apply with respect to disclosures made after the date of the enactment of this Act [Nov. 6, 1978].''

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1202(i) of Pub. L. 94–455 provided that: ''The amendments made by this section [enacting section 7217 of this title, amending this section and sections 4102, 4924, 6108, 6323, 7213, 7513, 7809, and 7852 of this title, and repealing sections 6106 and 7515 of this title] take effect January 1, 1977.''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 1022(h) of Pub. L. 93–406 provided that the amendment made by that section is effective Sept. 2, 1974.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–713 effective Nov. 2, 1966, see section 6 of Pub. L. 89–713, set out as a note under section 6091 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 701(e) of Pub. L. 89–44 provided that: ''Each amendment made by title VI [repealing section 7275 of this title and amending this section and sections 6415, 6416, 6802, 6806, 6808, 7012, 7272, and 7326 of this title], to the extent that it relates to any tax provision changed by this Act shall take effect in a manner consistent with the effective date for such changed tax provision.''

REGULATIONS

Pub. L. 106–170, title V, § 521(c), Dec. 17, 1999, 113 Stat. 1927, provided that: ''The Secretary of the Treasury or the Secretary's delegate shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 6103(b)(2)(C), and the last sentence of section 6110(b)(1), of the Internal Revenue Code of 1986, as added by this section.''

Section 11024(c) of Pub. L. 105–33 provided that: ''The Secretary may issue regulations governing the confidentiality of the information obtained pursuant to subsection (a) [111 Stat. 721] and the provisions of law amended by subsection (b) [amending this section and section 7213 of this title].''

Section 522(c)(2) of Pub. L. 103–182 provided that: ''Not later than 90 days after the date of the enactment of this Act [Dec. 8, 1993], the Secretary of the Treasury or his delegate shall issue temporary regulations to carry out section 6103(*l*)(14) of the Internal Revenue Code of 1986, as added by this section.''

ANNUAL REPORT REGARDING ADVANCE PRICING AGREEMENTS

Pub. L. 106–170, title V, § 521(b), Dec. 17, 1999, 113 Stat. 1925, provided that:

''(1) IN GENERAL.—Not later than 90 days after the end of each calendar year, the Secretary of the Treasury shall prepare and publish a report regarding advance pricing agreements.

''(2) CONTENTS OF REPORT.—The report shall include the following for the calendar year to which such report relates:

''(A) Information about the structure, composition, and operation of the advance pricing agreement program office.

''(B) A copy of each model advance pricing agreement.

''(C) The number of—

''(i) applications filed during such calendar year for advance pricing agreements;

''(ii) advance pricing agreements executed cumulatively to date and during such calendar year;

''(iii) renewals of advance pricing agreements issued;

''(iv) pending requests for advance pricing agreements;

''(v) pending renewals of advance pricing agreements;

''(vi) for each of the items in clauses (ii) through (v), the number that are unilateral, bilateral, and multilateral, respectively;

''(vii) advance pricing agreements revoked or canceled, and the number of withdrawals from the advance pricing agreement program; and

''(viii) advance pricing agreements finalized or renewed by industry.

''(D) General descriptions of—

''(i) the nature of the relationships between the related organizations, trades, or businesses covered by advance pricing agreements;

''(ii) the covered transactions and the business functions performed and risks assumed by such organizations, trades, or businesses;

''(iii) the related organizations, trades, or businesses whose prices or results are tested to determine compliance with transfer pricing methodologies prescribed in advance pricing agreements;

''(iv) methodologies used to evaluate tested parties and transactions and the circumstances leading to the use of those methodologies;

''(v) critical assumptions made and sources of comparables used;

''(vi) comparable selection criteria and the rationale used in determining such criteria;

''(vii) the nature of adjustments to comparables or tested parties;

''(viii) the nature of any ranges agreed to, including information regarding when no range was used and why, when interquartile ranges were used, and when there was a statistical narrowing of the comparables;

''(ix) adjustment mechanisms provided to rectify results that fall outside of the agreed upon advance pricing agreement range;

''(x) the various term lengths for advance pricing agreements, including rollback years, and the number of advance pricing agreements with each such term length;

''(xi) the nature of documentation required; and

''(xii) approaches for sharing of currency or other risks.

''(E) Statistics regarding the amount of time taken to complete new and renewal advance pricing agreements.

''(F) A detailed description of the Secretary of the Treasury's efforts to ensure compliance with existing advance pricing agreements.

''(3) CONFIDENTIALITY.—The reports required by this subsection shall be treated as authorized by the Internal Revenue Code of 1986 for purposes of section 6103 of such Code, but the reports shall not include information—

''(A) which would not be permitted to be disclosed under section 6110(c) of such Code if such report were a written determination as defined in section 6110 of such Code; or

''(B) which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

''(4) FIRST REPORT.—The report for calendar year 1999 shall include prior calendar years after 1990.''

PROCEDURES FOR AUTHORIZING DISCLOSURE ELECTRONICALLY

Pub. L. 105–206, title II, §2003(e), July 22, 1998, 112 Stat. 725, provided that: ''The Secretary shall establish procedures for any taxpayer to authorize, on an electronically filed return, the Secretary to disclose information under section 6103(c) of the Internal Revenue Code of 1986 to the preparer of the return.''

ELECTRONIC ACCESS TO ACCOUNT INFORMATION

Pub. L. 105–206, title II, §2005, July 22, 1998, 112 Stat. 726, provided that:

''(a) IN GENERAL.—Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically (and their designees under section 6103(c) of the Internal Revenue Code of 1986) would be able to review the taxpayer's account electronically, but only if all necessary safeguards to ensure the privacy of such account information are in place.

''(b) REPORT.—Not later than December 31, 2003, the Secretary of the Treasury shall report on the progress the Secretary is making on the development of procedures under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.''

CONFIDENTIALITY OF TAX RETURN INFORMATION

Pub. L. 105–206, title III, §3802, July 22, 1998, 112 Stat. 782, provided that: ''The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as the Committee or the Secretary deems appropriate, to the Congress not later than 18 months after the date of the enactment of this Act [July 22, 1998]. Such study shall examine—

''(1) the present protections for taxpayer privacy;

''(2) any need for third parties to use tax return information;

''(3) whether greater levels of voluntary compliance may be achieved by allowing the public to know who is legally required to file tax returns, but does not file tax returns;

''(4) the interrelationship of the taxpayer confidentiality provisions in the Internal Revenue Code of 1986 with such provisions in other Federal law, including section 552a of title 5, United States Code (commonly known as the 'Freedom of Information Act') [probably should be a reference to the Privacy Act of 1974];

''(5) the impact on taxpayer privacy of the sharing of income tax return information for purposes of enforcement of State and local tax laws other than income tax laws, and including the impact on the taxpayer privacy intended to be protected at the Federal, State, and local levels under Public Law 105–35, the Taxpayer Browsing Protection Act of 1997 [see Tables for classification]; and

''(6) whether the public interest would be served by greater disclosure of information relating to tax exempt organizations described in section 501 of the Internal Revenue Code of 1986.''

COMBINED EMPLOYMENT TAX REPORTING DEMONSTRATION PROJECT

Section 976(a), (b) of Pub. L. 105–34 provided that:

''(a) IN GENERAL.—The Secretary of the Treasury shall provide for a demonstration project to assess the feasibility and desirability of expanding combined Federal and State tax reporting.

''(b) DESCRIPTION OF DEMONSTRATION PROJECT.—The demonstration project under subsection (a) shall be—

''(1) carried out between the Internal Revenue Service and the State of Montana for a period ending with the date which is 5 years after the date of the enactment of this Act [Aug. 5, 1997],

''(2) limited to the reporting of employment taxes, and

''(3) limited to the disclosure of the taxpayer identity (as defined in section 6103(b)(6) of such Code) and the signature of the taxpayer.''

PROCEDURES AND POLICIES TO SAFEGUARD CONFIDENTIALITY OF TAXPAYER INFORMATION

Pub. L. 106–554, § 1(a)(3) [title I, § 103], Dec. 21, 2000, 114 Stat. 2763, 2763A–132, provided that: ''The Internal Revenue Service shall institute and enforce policies and procedures that will safeguard the confidentiality of taxpayer information.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–58, title I, § 103, Sept. 29, 1999, 113 Stat. 437.

Pub. L. 105–277, div. A, § 101(h) [title I, § 105], Oct. 21, 1998, 112 Stat. 2681–480, 2681–488.

Pub. L. 105–61, title I, § 105, Oct. 10, 1997, 111 Stat. 1282.

Pub. L. 104–208, div. A, title I, § 101(f) [title I, § 114], Sept. 30, 1996, 110 Stat. 3009–314, 3009–325.

Pub. L. 104–52, title I, § 105, Nov. 19, 1995, 109 Stat. 476.

Pub. L. 103–329, title I, § 108, Sept. 30, 1994, 108 Stat. 2390.

Pub. L. 103–123, title I, § 107, Oct. 28, 1993, 107 Stat. 1234.

CONFIDENTIALITY OF TAX RETURN INFORMATION

Pub. L. 101–647, title XXXIII, § 3304, Nov. 29, 1990, 104 Stat. 4918, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of this Act [see Tables for classification], no commission established by this Act shall have access to any return or return information, except to the extent authorized by section 6103 of the Internal Revenue Code of 1986.

''(b) DEFINITIONS.—For purposes of this section, the terms 'return' and 'return information' have the respective meanings given such terms by section 6103(b) of the Internal Revenue Code of 1986.''

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98–369

For provisions that nothing in amendments by section 2653 of Pub. L. 98–369 be construed as exempting debts of corporations or any other category of persons from application of such amendments, with such amendments to extend to all Federal agencies (as defined in such amendments), see section 9402(b) of Pub. L. 100–203, set out as a note under section 6402 of this title.

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.

REIMBURSEMENT OF COSTS OF SUPPLYING INFORMATION NECESSARY FOR ADMINISTRATION OF FEDERAL RETIREMENT SYSTEMS

Section 310(c) of Pub. L. 99–335, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The Office of Personnel Management shall reimburse the costs (as determined by the Secretary of Health and Human Services) of supplying—

''(1) information under section 6103(*l*)(12) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]; and

''(2) such other information agreed upon by the Director of the Office of Personnel Management and the Secretary of Health and Human Services, which is required in the administration of chapters 83 and 84 of title 5, United States Code.

Section 1106(b) and (c) of the Social Security Act [42 U.S.C. 1306(b), (c)] shall apply to any reimbursement under this subsection.''

TAXPAYER IDENTIFYING NUMBER; PERSONS APPLYING FOR LOANS UNDER FEDERAL LOAN PROGRAMS REQUIRED TO FURNISH

Pub. L. 97–365, § 4, Oct. 25, 1982, 96 Stat. 1751, which required that each Federal agency administering an included Federal loan program require persons applying for loans to furnish their taxpayer identifying numbers, was repealed and restated in section 7701 of Title 31, Money and Finance, by Pub. L. 103–272, §§ 4(f)(1)(Y)(i), 7(b), July 5, 1994, 108 Stat. 1363, 1379.

INDIVIDUALS EXPOSED TO OCCUPATIONAL HAZARDS DURING MILITARY SERVICE; PROCEDURES APPLICABLE FOR LOCATING

Pub. L. 96–128, title V, § 502, Nov. 28, 1979, 93 Stat. 987, as amended by Pub. L. 96–466, title VII, § 702, Oct. 17, 1980, 94 Stat. 2215; Pub. L. 102–54, § 14(g)(3), June 13, 1991, 105 Stat. 288; Pub. L. 102–83, § 6(e), Aug. 6, 1991, 105 Stat. 407, provided that: ''In order to effectuate more fully the policy underlying the enactment of section 6103(m)(3) of the Internal Revenue Code of 1986 regarding the location, for certain purposes, of individuals who are, or may have been, exposed to occupational hazards, the Director of the National Institute of Occupational Safety and Health, upon request by the Secretary of Veterans Affairs (or the head of any other Federal department, agency, or instrumentality), shall (1) pursuant to such section 6103(m)(3), request the mailing addresses of individuals who such Secretary (or such department, agency, or instrumentality head) certifies may have been exposed to occupational hazards during active military, naval, or air service (as defined in section 101(24) of title 38, United States Code), and (2) provide such addresses to such Secretary (or such department, agency, or instrumentality head) to be used solely for the purpose of locating such individuals as part of an activity being carried out by or on behalf of the Department of Veterans Affairs (or such other department, agency, or instrumentality) to determine the status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards. Disclosures of information made under this section shall for all purposes be deemed to be disclosures authorized in the Internal Revenue Code of 1986.''

Section 802(g)(2) of Pub. L. 96–466 provided that: ''The amendment made by section 702 [amending section 502 of Pub. L. 96–128, set out above] shall take effect as of November 28, 1979.''

INSPECTION OF TAX RETURNS

The Executive orders listed below authorized inspection of returns for certain specified purposes:

Ex. Ord. No.	Date	Federal Register
10699	Feb. 19, 1957	22 F.R. 1059
10701	Mar. 14, 1957	22 F.R. 1629
10703	Mar. 17, 1957	22 F.R. 1797
10706	Apr. 25, 1957	22 F.R. 3027
10712	May 17, 1957	22 F.R. 3499
10738	Nov. 15, 1957	22 F.R. 9205
10801	Jan. 21, 1959	24 F.R. 521
10806	Mar. 10, 1959	24 F.R. 1823
10808	Mar. 19, 1959	24 F.R. 2221
10815	Apr. 29, 1959	24 F.R. 3474
10818	May 8, 1959	24 F.R. 3799
10846	Oct. 13, 1959	24 F.R. 8318
10855	Nov. 27, 1959	24 F.R. 9565
10871	Mar. 15, 1960	25 F.R. 2251
10876	Apr. 22, 1960	25 F.R. 3569
10906	Jan. 18, 1961	26 F.R. 508
10916	Jan. 25, 1961	26 F.R. 781
10935	Apr. 22, 1961	26 F.R. 3507
10947	June 12, 1961	26 F.R. 5283
10954	July 26, 1961	26 F.R. 6759
10962	Aug. 23, 1961	26 F.R. 8001
10966	Oct. 11, 1961	26 F.R. 9667
10981	Dec. 28, 1961	26 F.R. 12749
11020	May 8, 1962	27 F.R. 4407
11055	Oct. 9, 1962	27 F.R. 9981
11065	Nov. 21, 1962	27 F.R. 11581
11080	Jan. 29, 1963	28 F.R. 903
11082	Feb. 4, 1963	28 F.R. 1131
11083	Feb. 6, 1963	28 F.R. 1245
11099	Mar. 14, 1963	28 F.R. 2619
11102	Apr. 4, 1963	28 F.R. 3373
11109	May 28, 1963	28 F.R. 5351
11133	Dec. 17, 1963	28 F.R. 13835
11153	Apr. 17, 1964	29 F.R. 5335
11176	Sept. 3, 1964	29 F.R. 12607
11192	Jan. 13, 1965	30 F.R. 521

Ex. Ord. No.	Date	Federal Register
11194	Jan. 26, 1965	30 F.R. 877
11201	Mar. 4, 1965	30 F.R. 2921
11204	Mar. 12, 1965	30 F.R. 3417
11206	Mar. 18, 1965	30 F.R. 3741
11213	Apr. 2, 1965	30 F.R. 4389
11217	Apr. 24, 1965	30 F.R. 5819
11235	July 21, 1965	30 F.R. 9199
11332	Mar. 7, 1967	32 F.R. 3877
11337	Mar. 25, 1967	32 F.R. 5245
11358	June 6, 1967	32 F.R. 8227
11370	Aug. 30, 1967	32 F.R. 12665
11383	Nov. 30, 1967	32 F.R. 17421
11454	Feb. 7, 1969	34 F.R. 1935
11457	Mar. 4, 1969	34 F.R. 3793
11461	Mar. 27, 1969	34 F.R. 5901
11465	Apr. 10, 1969	34 F.R. 6415
11483	Sept. 23, 1969	34 F.R. 14757
11505	Jan. 21, 1970	35 F.R. 939
11535	June 12, 1970	35 F.R. 9809
11584	Mar. 3, 1971	36 F.R. 4365
11611	July 26, 1971	36 F.R. 13889
11624	Oct. 12, 1971	36 F.R. 19965
11631	Nov. 9, 1971	36 F.R. 21575
11650	Feb. 16, 1972	37 F.R. 3739
11655	Mar. 14, 1972	37 F.R. 5477
11656	Mar. 14, 1972	37 F.R. 5479
11682	Aug. 29, 1972	37 F.R. 17701
11697	Jan. 17, 1973	38 F.R. 1723
11706	Mar. 8, 1973	38 F.R. 6663
11709	Mar. 27, 1973	38 F.R. 8131
11711	Apr. 13, 1973	38 F.R. 9483
11719	May 17, 1973	38 F.R. 13315
11720	May 17, 1973	38 F.R. 13317
11722	June 9, 1973	38 F.R. 15437
11786	June 7, 1974	39 F.R. 20473
11859	May 7, 1975	40 F.R. 20265
11900	Jan. 22, 1976	41 F.R. 3461

Executive Orders 10738, 10906, 10954, 10962, 11102, 11206, 11213, 11650, and 11706, listed above, were revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER NO. 11805

Ex. Ord. No. 11805, Sept. 20, 1974, 39 F.R. 34261, which related to inspection of tax returns by the President and certain designated employees of the White House Office, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 274, 412, 2204, 3406, 4424, 6104, 6108, 6110, 7213, 7213A, 7217, 7431, 7602, 7612, 7803, 7809, 8021, 9706 of this title; title 5 sections 552a, 3111; title 8 section 1645; title 13 section 91; title 20 sections 1087e, 1091; title 23 section 143; title 28 section 594; title 29 sections 751, 1085a, 1134; title 31 sections 713, 7701; title 38 section 5317; title 42 sections 432, 653, 654a, 1320b–7, 1320b–11, 1382, 1383, 1395y, 3544; title 50 section 436; title 50 App. section 2411.

§ 6104. Publicity of information required from certain exempt organizations and certain trusts

(a) Inspection of applications for tax exemption or notice of status

(1) Public inspection

(A) Organizations described in section 501 or 527

If an organization described in section 501(c) or (d) is exempt from taxation under section 501(a) for any taxable year or a political organization is exempt from taxation under section 527 for any taxable year, the application filed by the organization with respect to which the Secretary made his determination that such organization was entitled to exemption under section 501(a) or notice of status filed by the organization under section 527(i), together with any paper submitted in support of such application or notice, and any letter or other document issued by the Internal Revenue Service with respect to such application or notice shall be open to public inspection at the national office of the Internal Revenue Service. In the case of any application or notice filed after the date of the enactment of this subparagraph, a copy of such application or notice and such letter or document shall be open to public inspection at the appropriate field office of the Internal Revenue Service (determined under regulations prescribed by the Secretary). Any inspection under this subparagraph may be made at such times, and in such manner, as the Secretary shall by regulations prescribe. After the application of any organization for exemption from taxation under section 501(a) has been opened to public inspection under this subparagraph, the Secretary shall, on the request of any person with respect to such organization, furnish a statement indicating the subsection and paragraph of section 501 which it has been determined describes such organization.

(B) Pension, etc., plans

The following shall be open to public inspection at such times and in such places as the Secretary may prescribe:

(i) any application filed with respect to the qualification of a pension, profit-sharing, or stock bonus plan under section 401(a) or 403(a), an individual retirement account described in section 408(a), or an individual retirement annuity described in section 408(b),

(ii) any application filed with respect to the exemption from tax under section 501(a) of an organization forming part of a plan or account referred to in clause (i),

(iii) any papers submitted in support of an application referred to in clause (i) or (ii), and

(iv) any letter or other document issued by the Internal Revenue Service and dealing with the qualification referred to in clause (i) or the exemption from tax referred to in clause (ii).

Except in the case of a plan participant, this subparagraph shall not apply to any plan referred to in clause (i) having not more than 25 participants.

(C) Certain names and compensation not to be opened to public inspection

In the case of any application, document, or other papers, referred to in subparagraph (B), information from which the compensation (including deferred compensation) of any individual may be ascertained shall not be open to public inspection under subparagraph (B).

(D) Withholding of certain other information

Upon request of the organization submitting any supporting papers described in subparagraph (A) or (B), the Secretary shall withhold from public inspection any information contained therein which he determines relates to any trade secret, patent, process, style of work, or apparatus, of the organization, if he determines that public disclosure of such information would ad-

versely affect the organization. The Secretary shall withhold from public inspection any information contained in supporting papers described in subparagraph (A) or (B) the public disclosure of which he determines would adversely affect the national defense.

(2) Inspection by committees of Congress

Section 6103(f) shall apply with respect to—

(A) the application for exemption of any organization described in section 501(c) or (d) which is exempt from taxation under section 501(a) for any taxable year or notice of status of any political organization which is exempt from taxation under section 527 for any taxable year, and any application referred to in subparagraph (B) of subsection (a)(1) of this section, and

(B) any other papers which are in the possession of the Secretary and which relate to such application,

as if such papers constituted returns.

(3) Information available on Internet and in person

(A) In general

The Secretary shall make publicly available, on the Internet and at the offices of the Internal Revenue Service—

(i) a list of all political organizations which file a notice with the Secretary under section 527(i), and

(ii) the name, address, electronic mailing address, custodian of records, and contact person for such organization.

(B) Time to make information available

The Secretary shall make available the information required under subparagraph (A) not later than 5 business days after the Secretary receives a notice from a political organization under section 527(i).

(b) Inspection of annual information returns

The information required to be furnished by sections 6012(a)(6), 6033, 6034, and 6058, together with the names and addresses of such organizations and trusts, shall be made available to the public at such times and in such places as the Secretary may prescribe. Nothing in this subsection shall authorize the Secretary to disclose the name or address of any contributor to any organization or trust (other than a private foundation, as defined in section 509(a) or a political organization exempt from taxation under section 527) which is required to furnish such information. In the case of an organization described in section 501(d), this subsection shall not apply to copies referred to in section 6031(b) with respect to such organization.

(c) Publication to State officials

(1) General rule

In case of any organization which is described in section 501(c)(3) and exempt from taxation under section 501(a), or has applied under section 508(a) for recognition as an organization described in section 501(c)(3), the Secretary at such times and in such manner as he may by regulations prescribe shall—

(A) notify the appropriate State officer of a refusal to recognize such organization as an organization described in section 501(c)(3), or of the operation of such organization in a manner which does not meet, or no longer meets, the requirements of its exemption,

(B) notify the appropriate State officer of the mailing of a notice of deficiency of tax imposed under section 507 or chapter 41 or 42, and

(C) at the request of such appropriate State officer, make available for inspection and copying such returns, filed statements, records, reports, and other information, relating to a determination under subparagraph (A) or (B) as are relevant to any determination under State law.

(2) Appropriate State officer

For purposes of this subsection, the term ''appropriate State officer'' means the State attorney general, State tax officer, or any State official charged with overseeing organizations of the type described in section 501(c)(3).

(d) Public inspection of certain annual returns, reports, applications for exemption, and notices of status

(1) In general

In the case of an organization described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a) or an organization exempt from taxation under section 527(a)—

(A) a copy of—

(i) the annual return filed under section 6033 (relating to returns by exempt organizations) or section 6012(a)(6) (relating to returns by political organizations) by such organization,

(ii) if the organization filed an application for recognition of exemption under section 501 or notice of status under section 527(i), the exempt status application materials or any notice materials of such organization, and

(iii) the reports filed under section 527(j) (relating to required disclosure of expenditures and contributions) by such organization,

shall be made available by such organization for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

(B) upon request of an individual made at such principal office or such a regional or district office, a copy of such annual return, reports, and exempt status application materials or such notice materials shall be provided to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

The request described in subparagraph (B) must be made in person or in writing. If such request is made in person, such copy shall be provided immediately and, if made in writing, shall be provided within 30 days.

(2) 3-year limitation on inspection of returns

Paragraph (1) shall apply to an annual return filed under section 6033 or section 6012(a)(6) only during the 3-year period beginning on the last day prescribed for filing such return (determined with regard to any extension of time for filing).

(3) Exceptions from disclosure requirement

(A) Nondisclosure of contributors, etc.

In the case of an organization which is not a private foundation (within the meaning of section 509(a)) or a political organization exempt from taxation under section 527, paragraph (1) shall not require the disclosure of the name or address of any contributor to the organization. In the case of an organization described in section 501(d), paragraph (1) shall not require the disclosure of the copies referred to in section 6031(b) with respect to such organization.

(B) Nondisclosure of certain other information

Paragraph (1) shall not require the disclosure of any information if the Secretary withheld such information from public inspection under subsection (a)(1)(D).

(4) Limitation on providing copies

Paragraph (1)(B) shall not apply to any request if, in accordance with regulations promulgated by the Secretary, the organization has made the requested documents widely available, or the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest.

(5) Exempt status application materials

For purposes of paragraph (1), the term ''exempt status application materials'' means the application for recognition of exemption under section 501 and any papers submitted in support of such application and any letter or other document issued by the Internal Revenue Service with respect to such application.

(6)[1] Application to nonexempt charitable trusts and nonexempt private foundations

The organizations referred to in paragraphs (1) and (2) of section 6033(d) shall comply with the requirements of this subsection relating to annual returns filed under section 6033 in the same manner as the organizations referred to in paragraph (1).

(6)[1] Notice materials

For purposes of paragraph (1), the term ''notice materials'' means the notice of status filed under section 527(i) and any papers submitted in support of such notice and any letter or other document issued by the Internal Revenue Service with respect to such notice.

(6)[1] Disclosure of reports by Internal Revenue Service

Any report filed by an organization under section 527(j) (relating to required disclosure of expenditures and contributions) shall be made available to the public at such times and in such places as the Secretary may prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 755; Pub. L. 85–866, title I, §75(a), Sept. 2, 1958, 72 Stat. 1660; Pub. L. 91–172, title I, §101(e)(1)–(3), (j)(36), Dec. 30, 1969, 83 Stat. 523, 530; Pub. L. 93–406, title II, §1022(g)(1)–(3), Sept. 2, 1974, 88 Stat. 940, 941; Pub. L. 94–455, title XII, §1201(d)(1), title XIII, §1307(d)(2)(B), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1667, 1727, 1834; Pub. L. 95–227, §4(e), Feb. 10, 1978, 92 Stat. 23; Pub. L. 95–488, §1(d), Oct. 20, 1978, 92 Stat. 1638; Pub. L. 95–600, title VII, §703(m), Nov. 6, 1978, 92 Stat. 2943; Pub. L. 96–603, §1(b), (d)(3), Dec. 28, 1980, 94 Stat. 3503, 3504; Pub. L. 98–369, div. A, title III, §306(b), title IV, §491(d)(49), July 18, 1984, 98 Stat. 784, 852; Pub. L. 100–203, title X, §10702(a), Dec. 22, 1987, 101 Stat. 1330–459; Pub. L. 104–168, title XIII, §1313(a), July 30, 1996, 110 Stat. 1479; Pub. L. 105–206, title VI, §6019(a), (b), July 22, 1998, 112 Stat. 823; Pub. L. 105–277, div. J, title I, §1004(b)(1), Oct. 21, 1998, 112 Stat. 2681–888; Pub. L. 106–230, §§1(b), 2(b), 3(b), July 1, 2000, 114 Stat. 478, 481, 482; Pub. L. 106–554, §1(a)(7) [title III, §312(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–640.)

REFERENCES IN TEXT

The date of enactment of this subparagraph, referred to in subsec. (a)(1)(A), is Sept. 2, 1958.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–230, §1(b)(1)(B), inserted ''or notice of status'' after ''exemption'' in heading.

Subsec. (a)(1)(A). Pub. L. 106–230, §1(b)(1)(A), in heading, inserted ''or 527'' after ''section 501'', in first sentence, inserted ''or a political organization is exempt from taxation under section 527 for any taxable year'' after ''taxable year'' and ''or notice of status filed by the organization under section 527(i)'' before '', together'', in second sentence, inserted ''or notice'' after ''any application'', in last sentence, inserted ''for exemption from taxation under section 501(a)'' after ''any organization'', and inserted ''or notice'' after ''such application'', wherever appearing.

Subsec. (a)(2)(A). Pub. L. 106–230, §1(b)(3), inserted ''or notice of status of any political organization which is exempt from taxation under section 527 for any taxable year'' after ''taxable year''.

Subsec. (a)(3). Pub. L. 106–230, §1(b)(2), added par. (3).

Subsec. (b). Pub. L. 106–230, §3(b)(1), inserted ''6012(a)(6),'' before ''6033'' and ''or a political organization exempt from taxation under section 527'' after ''509(a)''.

Subsec. (d). Pub. L. 106–230, §2(b)(1)(A), inserted ''reports,'' after ''returns,'' in heading.

Pub. L. 106–230, §1(b)(4)(A), substituted '', applications for exemption, and notices of status'' for ''and applications for exemption'' in heading.

Subsec. (d)(1). Pub. L. 106–230, §3(b)(2)(B)(i), inserted ''or an organization exempt from taxation under section 527(a)'' after ''501(a)'' in introductory provisions.

Subsec. (d)(1)(A)(i). Pub. L. 106–230, §3(b)(2)(A), inserted ''or section 6012(a)(6) (relating to returns by political organizations)'' after ''organizations)''.

Subsec. (d)(1)(A)(ii). Pub. L. 106–230, §1(b)(4)(B), inserted ''or notice of status under section 527(i)'' after ''section 501'' and ''or any notice materials'' after ''materials''.

Subsec. (d)(1)(A)(iii). Pub. L. 106–230, §2(b)(1)(B), added cl. (iii).

Subsec. (d)(1)(B). Pub. L. 106–230, §2(b)(1)(C), inserted '', reports,'' after ''return''.

Pub. L. 106–230, §1(b)(4)(C), inserted ''or such notice materials'' after ''materials''.

Subsec. (d)(2). Pub. L. 106–230, §3(b)(2)(B)(ii), inserted ''or section 6012(a)(6)'' after ''section 6033''.

[1] So in original. Three pars. (6) have been enacted.

Subsec. (d)(3)(A). Pub. L. 106–230, § 2(b)(2), inserted ''or a political organization exempt from taxation under section 527'' after ''509(a))''.

Subsec. (d)(6). Pub. L. 106–554 added par. (6) relating to application to nonexempt charitable trusts and nonexempt private foundations.

Pub. L. 106–230, § 2(b)(3), added par. (6) relating to disclosure of reports by Internal Revenue Service.

Pub. L. 106–230, § 1(b)(4)(D), added par. (6) relating to notice materials.

1998—Subsec. (b). Pub. L. 105–206, § 6019(a), inserted at end ''In the case of an organization described in section 501(d), this subsection shall not apply to copies referred to in section 6031(b) with respect to such organization.''

Subsec. (d). Pub. L. 105–277 added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: ''The annual return required to be filed under section 6033 (relating to returns by exempt organizations) by any organization which is a private foundation within the meaning of section 509(a) shall be made available by the foundation managers for inspection at the principal office of the foundation during regular business hours by any citizen on request made within 180 days after the date of the publication of notice of its availability. Such notice shall be published, not later than the day prescribed for filing such annual return (determined with regard to any extension of time for filing), in a newspaper having general circulation in the county in which the principal office of the private foundation is located. The notice shall state that the annual return of the private foundation is available at its principal office for inspection during regular business hours by any citizen who requests it within 180 days after the date of such publication, and shall state the address and the telephone number of the private foundation's principal office and the name of its principal manager.''

Subsec. (e). Pub. L. 105–277 struck out subsec. (e), which consisted of pars. (1) to (3) relating to public inspection of certain annual returns and applications for exemption with a limitation of applicability of certain provisions.

Subsec. (e)(1)(C). Pub. L. 105–206, § 6019(b), inserted at end ''In the case of an organization described in section 501(d), subparagraph (A) shall not require the disclosure of the copies referred to in section 6031(b) with respect to such organization.''

1996—Subsec. (e)(1)(A). Pub. L. 104–168, § 1313(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''During the 3-year period beginning on the filing date, a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall be made available by such organization for inspection during regular business hours by any individual at the principal office of the organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office.''

Subsec. (e)(2)(A). Pub. L. 104–168, § 1313(a)(2), inserted before the period at end ''(and, upon request of an individual made at such principal office or such a regional or district office, a copy of the material requested to be available for inspection under this subparagraph shall be provided (in accordance with the last sentence of paragraph (1)(A)) to such individual without charge other than reasonable fee for any reproduction and mailing costs)''.

Subsec. (e)(3). Pub. L. 104–168, § 1313(a)(3), added par. (3).

1987—Subsec. (e). Pub. L. 100–203 added subsec. (e).

1984—Subsec. (a)(1)(B)(i). Pub. L. 98–369, § 491(d)(49), substituted ''or 403(a)'' for '', 403(a), or 405(a)''.

Subsec. (d). Pub. L. 98–369, § 306(b), substituted ''shall state the address and the telephone number of the private foundation's principal office'' for ''shall state the address of the private foundation's principal office''.

1980—Subsec. (b). Pub. L. 96–603, § 1(d)(3), struck out ''6056,'' after ''6034,''.

Subsec. (d). Pub. L. 96–603, § 1(b), substituted in heading ''annual returns'' for ''annual reports'' and in text ''section 6033 (relating to returns by exempt organizations) by any organization which is a private foundation within the meaning of section 509(a)'' for ''section 6056 (relating to annual reports by private foundations)'' and ''annual return'' for ''annual report'' wherever appearing.

1978—Subsec. (a)(1)(A). Pub. L. 95–488, § 1(d)(1), struck out ''(other than in paragraph (21) thereof)'' after ''section 501(c)''.

Pub. L. 95–227, § 4(e)(1), inserted ''(other than in paragraph (21) thereof)'' after ''501(c)''.

Subsec. (a)(2). Pub. L. 95–600 substituted ''Section 6103(f)'' for ''Section 6103(d)''.

Subsec. (b). Pub. L. 95–488, § 1(d)(2), struck out provisions exempting from applicability of this subsec. the information required by a trust described in section 501(c)(21).

Pub. L. 95–227, § 4(e)(2), inserted provisions exempting from applicability of this subsec. the information required by a trust described in section 501(c)(21).

1976—Subsec. (a). Pub. L. 94–455, §§ 1201(d)(1), 1906(b)(13)(A), struck out in pars. (1)(A), (B), (D), and (2) ''or his delegate'' after ''Secretary'' wherever appearing and inserted in par. (1)(A) ''and any letter or other document issued by the Internal Revenue Service with respect to such application'' after ''in support of such application,'' and ''any such letter or document'' after ''a copy of such application''.

Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (c)(1). Pub. L. 94–455, §§ 1307(d)(2)(B), 1906(b)(13)(A), struck out in provisions preceding subpar. (A) ''or his delegate'' after ''Secretary'' and in subpar. (B) substituted ''chapter 41 or 42'' for ''chapter 42''.

1974—Subsec. (a)(1). Pub. L. 93–406, § 1022(g)(1), substituted ''Organizations described in section 501'' for ''In general'' in heading for subpar. (A), added subpars. (B) and (C), redesignated existing subpar. (B) as (D), and in subpar. (D) as so redesignated substituted ''Withholding of certain other information'' for ''Withholding of certain information'' in heading and ''subparagraph (A) or (B)'' for ''subparagraph (A)'' in text.

Subsec. (a)(2)(A). Pub. L. 93–406, § 1022(g)(2), inserted ''any application referred to in subparagraph (B) of subsection (a)(1) of this section, and''.

Subsec. (b). Pub. L. 93–406, § 1022(g)(3), which purported to amend subsec. (b) by substituting ''6956, and 6058'' for ''and 6056'' was executed by substituting ''6056, and 6058'' for ''and 6056'' as the probable intent of Congress. See 1980 Amendment note above.

1969—Subsec. (b). Pub. L. 91–172, § 101(e)(1), (j)(36), inserted provision prohibiting disclosure by the Secretary or his delegate of the name or address of any contributor to any organization or trust other than a private foundation and inserted reference to section 6056.

Subsecs. (c), (d). Pub. L. 91–172, § 101(e)(2), (3), added subsecs. (c) and (d).

1958—Pub. L. 85–866 designated existing provisions as subsec. (b) and added subsec. (a).

EFFECTIVE DATE OF 2000 AMENDMENTS

Pub. L. 106–554, § 1(a)(7) [title III, § 312(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A–640, provided that: ''The amendments made by this section [amending this section and provisions set out as a note under section 1 of this title] shall take effect as if included in the provisions of the Tax and Trade Relief Extension Act of 1998 [Pub. L. 105–277, div. J], to which they relate.''

Amendment by section 1(b) of Pub. L. 106–230 effective July 1, 2000, except that amendment by section 1(b)(2) of Pub. L. 106–230 effective 45 days after July 1, 2000, see section 1(d) of Pub. L. 106–230, set out as a note under section 527 of this title.

Amendment by section 3(b) of Pub. L. 106–230 applicable to returns for taxable years beginning after June 30, 2000, see section 3(d) of Pub. L. 106–230, set out as a note under section 6012 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. J, title I, § 1004(b)(3), Oct. 21, 1998, 112 Stat. 2681–890, provided that:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection [amending this section and sections 6033, 6652, 6685, and 7207 of this title] shall apply to requests made after the later of December 31, 1998, or the 60th day after the Secretary of the Treasury first issues the regulations referred to in section 6104(d)(4) of the Internal Revenue Code of 1986, as amended by this section.

''(B) PUBLICATION OF ANNUAL RETURNS.—Section 6104(d) of such Code, as in effect before the amendments made by this subsection, shall not apply to any return the due date for which is after the date such amendments take effect under subparagraph (A).''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1313(c) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section and section 6685 of this title] shall apply to requests made on or after the 60th day after the Secretary of the Treasury first issues the regulations referred to section 6104(e)(3) of the Internal Revenue Code of 1986 (as added by subsection (a)(3)).''

EFFECTIVE DATE OF 1987 AMENDMENT

Section 10702(b) of Pub. L. 100–203 provided that: ''The amendment made by subsection (a) [amending this section] shall apply—

''(1) to returns for years beginning after December 31, 1986, and

''(2) on and after the 30th day after the date of the enactment of this Act [Dec. 22, 1987] in the case of applications submitted to the Internal Revenue Service—

''(A) after July 15, 1987, or

''(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 306(b) of Pub. L. 98–369 effective Jan. 1, 1985, see section 306(c) of Pub. L. 98–369, set out as a note under section 4946 of this title.

Amendment by section 491(d)(49) of Pub. L. 98–369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98–369, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–603 applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of Pub. L. 96–603, set out as a note under section 6033 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. 95–488 effective with respect to taxable years beginning after Dec. 31, 1977, and nothing in amendment by Pub. L. 95–488 construed to permit disclosure of confidential business information of contributors to any trust described in section 501(c)(21), see section 1(e) of Pub. L. 95–488, set out as a note under section 192 of this title.

Amendment by Pub. L. 95–227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95–227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1201(d)(2) of Pub. L. 94–455 provided that: ''The amendments made by this subsection [amending this section] apply to any letter or other document issued with respect to applications filed after October 31, 1976.''

Amendment by section 1307(d)(2)(B) of Pub. L. 94–455 applicable on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94–455, set out as a note under section 6001 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 1022(g)(4) of Pub. L. 93–406 provided that: ''The amendments made by this subsection [amending this section] shall apply to applications filed (or documents issued) after the date of enactment of this Act [Sept. 2, 1974].''

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 75(c) of Pub. L. 85–866 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on the 60th day after the day on which this Act is enacted [Sept. 2, 1958]. The amendments made by subsection (b) [amending section 6033 of this title] shall apply to taxable years ending on or after December 31, 1958.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 507, 6110, 6652, 6685, 7207 of this title.

§ 6105. Confidentiality of information arising under treaty obligations

(a) In general

Tax convention information shall not be disclosed.

(b) Exceptions

Subsection (a) shall not apply—

(1) to the disclosure of tax convention information to persons or authorities (including courts and administrative bodies) which are entitled to such disclosure pursuant to a tax convention,

(2) to any generally applicable procedural rules regarding applications for relief under a tax convention, or

(3) in any case not described in paragraphs (1) or (2), to the disclosure of any tax convention information not relating to a particular taxpayer if the Secretary determines, after consultation with each other party to the tax convention, that such disclosure would not impair tax administration.

(c) Definitions

For purposes of this section—

(1) Tax convention information

The term ''tax convention information'' means any—

(A) agreement entered into with the competent authority of one or more foreign governments pursuant to a tax convention,

(B) application for relief under a tax convention,

(C) any[1] background information related to such agreement or application,

(D) document implementing such agreement, and

(E) any[1] other information exchanged pursuant to a tax convention which is treated as confidential or secret under the tax convention.

[1] So in original. The word ''any'' probably should not appear.

(2) Tax convention

The term ''tax convention'' means—

(A) any income tax or gift and estate tax convention, or

(B) any other convention or bilateral agreement (including multilateral conventions and agreements and any agreement with a possession of the United States) providing for the avoidance of double taxation, the prevention of fiscal evasion, nondiscrimination with respect to taxes, the exchange of tax relevant information with the United States, or mutual assistance in tax matters.

(d) Cross references

For penalties for the unauthorized disclosure of tax convention information which is return or return information, see sections 7213, 7213A, and 7431.

(Added Pub. L. 106–554, §1(a)(7) [title III, §304(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–633.)

PRIOR PROVISIONS

A prior section 6105, act Aug. 16, 1954, ch. 736, 68A Stat. 755, authorized the Secretary or his delegate to compile, beginning after June 31, 1941, all cases in which relief from excess profits tax has been allowed, prior to repeal by Pub. L. 94–455, title XIX, §1906(a)(7), Oct. 4, 1976, 90 Stat. 1824.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6110 of this title.

[§ 6106. Repealed. Pub. L. 94–455, title XII, § 1202(h)(1), Oct. 4, 1976, 90 Stat. 1688]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 756, related to inspection of unemployment tax returns.

§ 6107. Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or list

(a) Furnishing copy to taxpayer

Any person who is an income tax return preparer with respect to any return or claim for refund shall furnish a completed copy of such return or claim to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature.

(b) Copy or list to be retained by income tax return preparer

Any person who is an income tax return preparer with respect to a return or claim for refund shall, for the period ending 3 years after the close of the return period—

(1) retain a completed copy of such return or claim, or retain, on a list, the name and taxpayer identification number of the taxpayer for whom such return or claim was prepared, and

(2) make such copy or list available for inspection upon request by the Secretary.

(c) Regulations

The Secretary shall prescribe regulations under which, in cases where 2 or more persons are income tax return preparers with respect to the same return or claim for refund, compliance with the requirements of subsection (a) or (b), as the case may be, of one such person shall be deemed to be compliance with the requirements of such subsection by the other persons.

(d) Definitions

For purposes of this section, the terms ''return'' and ''claim for refund'' have the respective meanings given to such terms by section 6696(e), and the term ''return period'' has the meaning given to such term by section 6060(c).

(Added Pub. L. 94–455, title XII, §1203(c), Oct. 4, 1976, 90 Stat. 1690.)

PRIOR PROVISIONS

A prior section 6107, acts Aug. 16, 1954, ch. 736, 68A Stat. 756; Nov. 2, 1966, Pub. L. 89–713, §4(c), 80 Stat. 1110, authorized an alphabetical list of names of all persons who have paid special taxes under subtitle D or E of this title to be kept for public inspection, prior to repeal by Pub. L. 90–618, title II, §203(a), Oct. 22, 1968, 82 Stat. 1235.

EFFECTIVE DATE

Section applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 7701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6695 of this title.

§ 6108. Statistical publications and studies

(a) Publication or other disclosure of statistics of income

The Secretary shall prepare and publish not less than annually statistics reasonably available with respect to the operations of the internal revenue laws, including classifications of taxpayers and of income, the amounts claimed or allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

(b) Special statistical studies

The Secretary may, upon written request by any party or parties, make special statistical studies and compilations involving return information (as defined in section 6103(b)(2)) and furnish to such party or parties transcripts of any such special statistical study or compilation. A reasonable fee may be prescribed for the cost of the work or services performed for such party or parties.

(c) Anonymous form

No publication or other disclosure of statistics or other information required or authorized by subsection (a) or special statistical study authorized by subsection (b) shall in any manner permit the statistics, study, or any information so published, furnished, or otherwise disclosed to be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(Aug. 16, 1954, ch. 736, 68A Stat. 756; Pub. L. 94–455, title XII, §1202(b), Oct. 4, 1976, 90 Stat. 1685.)

AMENDMENTS

1976—Pub. L. 94–455 designated existing provisions as subsec. (a), struck out ''or his delegate'' after ''Secretary'', inserted ''not less than'' after ''prepare and publish'' and ''claimed or'' after ''income, the amounts'', substituted ''internal revenue laws'' for ''income tax laws'', and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94–455, set out as a note under section 6103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7809 of this title.

§ 6109. Identifying numbers

(a) Supplying of identifying numbers

When required by regulations prescribed by the Secretary:

(1) Inclusion in returns

Any person required under the authority of this title to make a return, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person.

(2) Furnishing number to other persons

Any person with respect to whom a return, statement, or other document is required under the authority of this title to be made by another person or whose identifying number is required to be shown on a return of another person shall furnish to such other person such identifying number as may be prescribed for securing his proper identification.

(3) Furnishing number of another person

Any person required under the authority of this title to make a return, statement, or other document with respect to another person shall request from such other person, and shall include in any such return, statement, or other document, such identifying number as may be prescribed for securing proper identification of such other person.

(4) Furnishing identifying number of income tax return preparer

Any return or claim for refund prepared by an income tax return preparer shall bear such identifying number for securing proper identification of such preparer, his employer, or both, as may be prescribed. For purposes of this paragraph, the terms ''return'' and ''claim for refund'' have the respective meanings given to such terms by section 6696(e).

For purposes of paragraphs (1), (2), and (3), the identifying number of an individual (or his estate) shall be such individual's social security account number.

(b) Limitation

(1) Except as provided in paragraph (2), a return of any person with respect to his liability for tax, or any statement or other document in support thereof, shall not be considered for purposes of paragraphs (2) and (3) of subsection (a) as a return, statement, or other document with respect to another person.

(2) For purposes of paragraphs (2) and (3) of subsection (a), a return of an estate or trust with respect to its liability for tax, and any statement or other document in support thereof, shall be considered as a return, statement, or other document with respect to each beneficiary of such estate or trust.

(c) Requirement of information

For purposes of this section, the Secretary is authorized to require such information as may be necessary to assign an identifying number to any person.

(d) Use of social security account number

The social security account number issued to an individual for purposes of section 205(c)(2)(A) of the Social Security Act shall, except as shall otherwise be specified under regulations of the Secretary, be used as the identifying number for such individual for purposes of this title.

[(e) Repealed. Pub. L. 104–188, title I, § 1615(a)(2)(A), Aug. 20, 1996, 110 Stat. 1853]

(f) Access to employer identification numbers by Secretary of Agriculture for purposes of Food Stamp Act of 1977

(1) In general

In the administration of section 9 of the Food Stamp Act of 1977 (7 U.S.C. 2018) involving the determination of the qualifications of applicants under such Act, the Secretary of Agriculture may, subject to this subsection, require each applicant retail store or wholesale food concern to furnish to the Secretary of Agriculture the employer identification number assigned to the store or concern pursuant to this section. The Secretary of Agriculture shall not have access to any such number for any purpose other than the establishment and maintenance of a list of the names and employer identification numbers of the stores and concerns for use in determining those applicants who have been previously sanctioned or convicted under section 12 or 15 of such Act (7 U.S.C. 2021 or 2024).

(2) Sharing of information and safeguards

(A) Sharing of information

The Secretary of Agriculture may share any information contained in any list referred to in paragraph (1) with any other agency or instrumentality of the United States which otherwise has access to employer identification numbers in accordance with this section or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subparagraph may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

(B) Safeguards

The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in subparagraph (A), shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this subsection only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subparagraph (A). The Secretary of Agriculture, and the head of any agency or instrumentality with which information

is shared pursuant to subparagraph (A), shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers.

(3) Confidentiality and nondisclosure rules

Employer identification numbers that are obtained or maintained pursuant to this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph (2) shall be confidential, and no officer or employee of the United States who has or had access to the employer identification numbers shall disclose any such employer identification number obtained thereby in any manner. For purposes of this paragraph, the term ''officer or employee'' includes a former officer or employee.

(4) Sanctions

Paragraphs (1), (2), and (3) of section 7213(a) shall apply with respect to the unauthorized willful disclosure to any person of employer identification numbers maintained pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2) in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) shall apply with respect to the willful offer of any item of material value in exchange for any such employer identification number in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

(g) Access to employer identification numbers by Federal Crop Insurance Corporation for purposes of the Federal Crop Insurance Act

(1) In general

In the administration of section 506 of the Federal Crop Insurance Act, the Federal Crop Insurance Corporation may require each policyholder and each reinsured company to furnish to the insurer or to the Corporation the employer identification number of such policyholder, subject to the requirements of this paragraph. No officer or employee of the Federal Crop Insurance Corporation, or authorized person shall have access to any such number for any purpose other than the establishment of a system of records necessary to the effective administration of such Act. The Manager of the Corporation may require each policyholder to provide to the Manager or authorized person, at such times and in such manner as prescribed by the Manager, the employer identification number of each entity that holds or acquires a substantial beneficial interest in the policyholder. For purposes of this subclause, the term ''substantial beneficial interest'' means not less than 5 percent of all beneficial interest in the policyholder. The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this paragraph only to officers and employees of the United States or authorized persons whose duties or responsibilities require access for the administration of the Federal Crop Insurance Act.

(2) Confidentiality and nondisclosure rules

Employer identification numbers maintained by the Secretary of Agriculture or the Federal Crop Insurance Corporation pursuant to this subsection shall be confidential, and except as authorized by this subsection, no officer or employee of the United States or authorized person who has or had access to such employer identification numbers shall disclose any such employer identification number obtained thereby in any manner. For purposes of this paragraph, the term ''officer or employee'' includes a former officer or employee. For purposes of this subsection, the term ''authorized person'' means an officer or employee of an insurer whom the Manager of the Corporation designates by rule, subject to appropriate safeguards including a prohibition against the release of such social security account numbers (other than to the Corporations) by such person.

(3) Sanctions

Paragraphs (1), (2), and (3) of section 7213(a) shall apply with respect to the unauthorized willful disclosure to any person of employer identification numbers maintained by the Secretary of Agriculture or the Federal Crop Insurance Corporation pursuant to this subsection in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) shall apply with respect to the willful offer of any item of material value in exchange for any such employer identification number in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

(h) Identifying information required with respect to certain seller-provided financing

(1) Payor

If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

(2) Recipient

If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

(3) Furnishing of information between payor and recipient

If any person is required to include the TIN of another person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

(4) Seller-provided financing

For purposes of this subsection, the term ''seller-provided financing'' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired.

(Added Pub. L. 87–397, §1(a), Oct. 5, 1961, 75 Stat. 828; amended Pub. L. 94–455, title XII, §§1203(d), 1211(c), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1691, 1712, 1834; Pub. L. 99–514, title XV, §1524(a), Oct. 22, 1986, 100 Stat. 2749; Pub. L. 100–485, title VII, §§703(c)(3), 704(a), Oct. 13, 1988, 102 Stat. 2427; Pub. L. 101–508, title XI, §11112(a), Nov. 5, 1990, 104 Stat. 1388–413; Pub. L. 101–624, title XVII, §1735(c), title XXII, §2201(d), Nov. 28, 1990, 104 Stat. 3792, 3953; Pub. L. 102–486, title XIX, §1933(a), Oct. 24, 1992, 106 Stat. 3031; Pub. L. 103–296, title III, §316(b), Aug. 15, 1994, 108 Stat. 1532; Pub. L. 103–465, title VII, §742(b), Dec. 8, 1994, 108 Stat. 5010; Pub. L. 104–188, title I, §§1615(a)(2)(A), 1704(t)(42), Aug. 20, 1996, 110 Stat. 1853, 1889; Pub. L. 105–206, title III, §3710(a), July 22, 1998, 112 Stat. 779.)

REFERENCES IN TEXT

Section 205 of the Social Security Act, referred to in subsec. (d), is classified to section 405 of Title 42, The Public Health and Welfare.

The Food Stamp Act of 1977, referred to in subsec. (f), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Federal Crop Insurance Act, referred to in subsec. (g), is title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, as amended, which is classified generally to chapter 36 (§1501 et seq.) of Title 7, Agriculture. Section 506 of the Act is classified to section 1506 of Title 7. For complete classification of this Act to the Code, see section 1501 of Title 7 and Tables.

PRIOR PROVISIONS

A prior section 6109 was renumbered section 6116 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–206 substituted ''For purposes of paragraphs (1), (2), and (3)'' for ''For purposes of this subsection'' in concluding provisions.

1996—Subsec. (e). Pub. L. 104–188, §1615(a)(2)(A), struck out subsec. (e) which read as follows:

''(e) FURNISHING NUMBER FOR DEPENDENTS.—Any taxpayer who claims an exemption under section 151 for any dependent on a return for any taxable year shall include on such return the identifying number (for purposes of this title) of such dependent.''

Subsecs. (f), (g). Pub. L. 104–188, §1704(t)(42), redesignated subsec. (f) relating to access to employer identification numbers for purposes of Federal Crop Insurance Act as subsec. (g).

1994—Subsec. (e). Pub. L. 103–465 substituted ''dependents'' for ''certain dependents'' in heading and amended text generally. Prior to amendment, text read as follows: ''If—

''(1) any taxpayer claims an exemption under section 151 for any dependent on a return for any taxable year, and

''(2) such dependent has attained the age of 1 year before the close of such taxable year,

such taxpayer shall include on such return the identifying number (for purposes of this title) of such dependent.''

Subsec. (f)(2). Pub. L. 103–296, §316(b)(1), amended subsec. (f) relating to access to employer identification numbers for purposes of Food Stamp Act of 1977 by adding par. (2) and striking out former par. (2) ''Safeguards'' which read as follows: ''The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to paragraph (1) only to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of the Food Stamp Act of 1977. The Secretary of Agriculture shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers.''

Subsec. (f)(3). Pub. L. 103–296, §316(b)(2), amended subsec. (f) relating to access to employer identification numbers for purposes of Food Stamp Act of 1977 by substituting, in par. (3), ''pursuant to this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph (2)'' for ''by the Secretary of Agriculture pursuant to this subsection'' and ''employer identification numbers shall disclose'' for ''social security account numbers shall disclose''.

Subsec. (f)(4). Pub. L. 103–296, §316(b)(3), amended subsec. (f) relating to access to employer identification numbers for purposes of Food Stamp Act of 1977 by substituting, in par. (4), ''pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2)'' for ''by the Secretary of Agriculture pursuant to this subsection''.

1992—Subsec. (h). Pub. L. 102–486 added subsec. (h).

1990—Subsec. (e)(2). Pub. L. 101–508 substituted ''1 year'' for ''2 years''.

Subsec. (f). Pub. L. 101–624, §2201(d), added subsec. (f) relating to access to employer identification numbers for purposes of Federal Crop Insurance Act.

Pub. L. 101–624, §1735(c), added subsec. (f) relating to access to employer identification numbers for purposes of Food Stamp Act of 1977.

1988—Subsec. (a). Pub. L. 100–485, §703(c)(3), substituted ''or whose identifying number is required to be shown on a return of another person shall furnish'' for ''shall furnish''.

Subsec. (e)(2). Pub. L. 100–485, §704(a), substituted ''age of 2'' for ''age of 5''.

1986—Subsec. (e). Pub. L. 99–514 added subsec. (e).

1976—Subsec. (a). Pub. L. 94–455, §§1203(d), 1906(b)(13)(A), struck out in provisions preceding par. (1) ''or his delegate'' after ''Secretary'' and added par. (4).

Subsec. (d). Pub. L. 94–455, §1211(c), added subsec. (d).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, §3710(b), July 22, 1998, 112 Stat. 779, provided that: ''The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1615(a)(2)(A) of Pub. L. 104–188 applicable with respect to returns the due date for which, without regard to extensions, is on or after the 30th day after Aug. 20, 1996, with special rule for 1995 and 1996, see section 1615(d) of Pub. L. 104–188, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 applicable to returns for taxable years beginning after Dec. 31, 1994, but not applicable to returns for taxable years beginning in 1995 with respect to individuals who are born after Oct. 31, 1995, and to returns for taxable years beginning in 1996 with respect to individuals who are born after Nov. 30, 1996, see section 742(c) of Pub. L. 103–465, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1933(c) of Pub. L. 102–486 provided that: ''The amendments made by this section [amending this sec-

tion and section 6724 of this title] shall apply to taxable years beginning after December 31, 1991.''

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by section 1735(c) of Pub. L. 101–624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1781(a) of Pub. L. 101–624, set out as a note under section 2012 of Title 7, Agriculture.

Section 11112(b) of Pub. L. 101–508 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to returns for taxable years beginning after December 31, 1990.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 703(c)(3) of Pub. L. 100–485 applicable to taxable years beginning after Dec. 31, 1988, see section 703(d) of Pub. L. 100–485, set out as a note under section 21 of this title.

Section 704(b) of Pub. L. 100–485 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1524(c) of Pub. L. 99–514 provided that: ''The amendments made by this section [amending this section and section 6676 of this title] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1987.''

EFFECTIVE DATE

Section 1(d) of Pub. L. 87–397, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Paragraph (1) of section 6109(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by subsection (a) of this section, shall apply only in respect of returns, statements, and other documents relating to periods commencing after December 31, 1961. Paragraphs (2) and (3) of such section 6109(a) shall apply only in respect of returns, statements, or other documents relating to periods commencing after December 31, 1962.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6695, 6724, 7701 of this title; title 7 section 1506; title 31 sections 3720A, 7701; title 42 sections 653a, 1320a–3, 1320a–3a.

§ 6110. Public inspection of written determinations

(a) General rule

Except as otherwise provided in this section, the text of any written determination and any background file document relating to such written determination shall be open to public inspection at such place as the Secretary may by regulations prescribe.

(b) Definitions

For purposes of this section—

(1) Written determination

(A) In general

The term ''written determination'' means a ruling, determination letter, technical advice memorandum, or Chief Counsel advice.

(B) Exceptions

Such term shall not include any matter referred to in subparagraph (C) or (D) of section 6103(b)(2).

(2) Background file document

The term ''background file document'' with respect to a written determination includes the request for that written determination, any written material submitted in support of the request, and any communication (written or otherwise) between the Internal Revenue Service and persons outside the Internal Revenue Service in connection with such written determination (other than any communication between the Department of Justice and the Internal Revenue Service relating to a pending civil or criminal case or investigation) received before issuance of the written determination.

(3) Reference and general written determinations

(A) Reference written determination

The term ''reference written determination'' means any written determination which has been determined by the Secretary to have significant reference value.

(B) General written determination

The term ''general written determination'' means any written determination other than a reference written determination.

(c) Exemptions from disclosure

Before making any written determination or background file document open or available to public inspection under subsection (a), the Secretary shall delete—

(1) the names, addresses, and other identifying details of the person to whom the written determination pertains and of any other person, other than a person with respect to whom a notation is made under subsection (d)(1), identified in the written determination or any background file document;

(2) information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and which is in fact properly classified pursuant to such Executive order;

(3) information specifically exempted from disclosure by any statute (other than this title) which is applicable to the Internal Revenue Service;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(6) information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for use of an agency responsible for the regulation or supervision of financial institutions; and

(7) geological and geophysical information and data, including maps, concerning wells.

The Secretary shall determine the appropriate extent of such deletions and, except in the case of intentional or willful disregard of this subsection, shall not be required to make such deletions (nor be liable for failure to make deletions) unless the Secretary has agreed to such deletions or has been ordered by a court (in a proceeding under subsection (f)(3)) to make such deletions.

(d) Procedures with regard to third party contacts

(1) Notations

If, before the issuance of a written determination, the Internal Revenue Service receives any communication (written or otherwise) concerning such written determination, any request for such determination, or any other matter involving such written determination from a person other than an employee of the Internal Revenue Service or the person to whom such written determination pertains (or his authorized representative with regard to such written determination), the Internal Revenue Service shall indicate, on the written determination open to public inspection, the category of the person making such communication and the date of such communication.

(2) Exception

Paragraph (1) shall not apply to any communication made by the Chief of Staff of the Joint Committee on Taxation.

(3) Disclosure of identity

In the case of any written determination to which paragraph (1) applies, any person may file a petition in the United States Tax Court or file a complaint in the United States District Court for the District of Columbia for an order requiring that the identity of any person to whom the written determination pertains be disclosed. The court shall order disclosure of such identity if there is evidence in the record from which one could reasonably conclude that an impropriety occurred or undue influence was exercised with respect to such written determination by or on behalf of such person. The court may also direct the Secretary to disclose any portion of any other deletions made in accordance with subsection (c) where such disclosure is in the public interest. If a proceeding is commenced under this paragraph, the person whose identity is subject to being disclosed and the person about whom a notation is made under paragraph (1) shall be notified of the proceeding in accordance with the procedures described in subsection (f)(4)(B) and shall have the right to intervene in the proceeding (anonymously, if appropriate).

(4) Period in which to bring action

No proceeding shall be commenced under paragraph (3) unless a petition is filed before the expiration of 36 months after the first day that the written determination is open to public inspection.

(e) Background file documents

Whenever the Secretary makes a written determination open to public inspection under this section, he shall also make available to any person, but only upon the written request of that person, any background file document relating to the written determination.

(f) Resolution of disputes relating to disclosure

(1) Notice of intention to disclose

Except as otherwise provided by subsection (i), the Secretary shall upon issuance of any written determination, or upon receipt of a request for a background file document, mail a notice of intention to disclose such determination or document to any person to whom the written determination pertains (or a successor in interest, executor, or other person authorized by law to act for or on behalf of such person).

(2) Administrative remedies

The Secretary shall prescribe regulations establishing administrative remedies with respect to—

(A) requests for additional disclosure of any written determination of any background file document, and

(B) requests to restrain disclosure.

(3) Action to restrain disclosure

(A) Creation of remedy

Any person—

(i) to whom a written determination pertains (or a successor in interest, executor, or other person authorized by law to act for or on behalf of such person), or who has a direct interest in maintaining the confidentiality of any such written determination or background file document (or portion thereof),

(ii) who disagrees with any failure to make a deletion with respect to that portion of any written determination or any background file document which is to be open or available to public inspection, and

(iii) who has exhausted his administrative remedies as prescribed pursuant to paragraph (2),

may, within 60 days after the mailing by the Secretary of a notice of intention to disclose any written determination or background file document under paragraph (1), together with the proposed deletions, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination with respect to that portion of such written determination or background file document which is to be open to public inspection.

(B) Notice to certain persons

The Secretary shall notify any person to whom a written determination pertains (unless such person is the petitioner) of the filing of a petition under this paragraph with respect to such written determination or related background file document, and any such person may intervene (anonymously, if appropriate) in any proceeding conducted pursuant to this paragraph. The Secretary shall send such notice by registered or certified mail to the last known address of such person within 15 days after such petition is served on the Secretary. No person who has received such a notice may thereafter file any petition under this paragraph with respect to such written determination or background file document with respect to which such notice was received.

(4) Action to obtain additional disclosure

(A) Creation of remedy

Any person who has exhausted the administrative remedies prescribed pursuant to

paragraph (2) with respect to a request for disclosure may file a petition in the United States Tax Court or a complaint in the United States District Court for the District of Columbia for an order requiring that any written determination or background file document (or portion thereof) be made open or available to public inspection. Except where inconsistent with subparagraph (B), the provisions of subparagraphs (C), (D), (E), (F), and (G) of section 552(a)(4) of title 5, United States Code, shall apply to any proceeding under this paragraph. The Court shall examine the matter de novo and without regard to a decision of a court under paragraph (3) with respect to such written determination or background file document, and may examine the entire text of such written determination or background file document in order to determine whether such written determination or background file document or any part thereof shall be open or available to public inspection under this section. The burden of proof with respect to the issue of disclosure of any information shall be on the Secretary and any other person seeking to restrain disclosure.

(B) Intervention

If a proceeding is commenced under this paragraph with respect to any written determination or background file document, the Secretary shall, within 15 days after notice of the petition filed under subparagraph (A) is served on him, send notice of the commencement of such proceeding to all persons who are identified by name and address in such written determination or background file document. The Secretary shall send such notice by registered or certified mail to the last known address of such person. Any person to whom such determination or background file document pertains may intervene in the proceeding (anonymously, if appropriate). If such notice is sent, the Secretary shall not be required to defend the action and shall not be liable for public disclosure of the written determination or background file document (or any portion thereof) in accordance with the final decision of the court.

(5) Expedition of determination

The Tax Court shall make a decision with respect to any petition described in paragraph (3) at the earliest practicable date.

(6) Publicity of Tax Court proceedings

Notwithstanding sections 7458 and 7461, the Tax Court may, in order to preserve the anonymity, privacy, or confidentiality of any person under this section, provide by rules adopted under section 7453 that portions of hearings, testimony, evidence, and reports in connection with proceedings under this section may be closed to the public or to inspection by the public.

(g) Time for disclosure

(1) In general

Except as otherwise provided in this section, the text of any written determination or any background file document (as modified under subsection (c)) shall be open or available to public inspection—

(A) no earlier than 75 days, and no later than 90 days, after the notice provided in subsection (f)(1) is mailed, or, if later,

(B) within 30 days after the date on which a court decision under subsection (f)(3) becomes final.

(2) Postponement by order of court

The court may extend the period referred to in paragraph (1)(B) for such time as the court finds necessary to allow the Secretary to comply with its decision.

(3) Postponement of disclosure for up to 90 days

At the written request of the person by whom or on whose behalf the request for the written determination was made, the period referred to in paragraph (1)(A) shall be extended (for not to exceed an additional 90 days) until the day which is 15 days after the date of the Secretary's determination that the transaction set forth in the written determination has been completed.

(4) Additional 180 days

If—

(A) the transaction set forth in the written determination is not completed during the period set forth in paragraph (3), and

(B) the person by whom or on whose behalf the request for the written determination was made establishes to the satisfaction of the Secretary that good cause exists for additional delay in opening the written determination to public inspection,

the period referred to in paragraph (3) shall be further extended (for not to exceed an additional 180 days) until the day which is 15 days after the date of the Secretary's determination that the transaction set forth in the written determination has been completed.

(5) Special rules for certain written determinations, etc.

Notwithstanding the provisions of paragraph (1), the Secretary shall not be required to make available to the public—

(A) any technical advice memorandum, any Chief Counsel advice, and any related background file document involving any matter which is the subject of a civil fraud or criminal investigation or jeopardy or termination assessment until after any action relating to such investigation or assessment is completed, or

(B) any general written determination and any related background file document that relates solely to approval of the Secretary of any adoption or change of—

(i) the funding method or plan year of a plan under section 412,

(ii) a taxpayer's annual accounting period under section 442,

(iii) a taxpayer's method of accounting under section 446(e), or

(iv) a partnership's or partner's taxable year under section 706,

but the Secretary shall make any such written determination and related background

file document available upon the written request of any person after the date on which (except for this subparagraph) such determination would be open to public inspection.

(h) Disclosure of prior written determinations and related background file documents

(1) In general

Except as otherwise provided in this subsection, a written determination issued pursuant to a request made before November 1, 1976, and any background file document relating to such written determination shall be open or available to public inspection in accordance with this section.

(2) Time for disclosure

In the case of any written determination or background file document which is to be made open or available to public inspection under paragraph (1)—

(A) subsection (g) shall not apply, but

(B) such written determination or background file document shall be made open or available to public inspection at the earliest practicable date after funds for that purpose have been appropriated and made available to the Internal Revenue Service.

(3) Order of release

Any written determination or background file document described in paragraph (1) shall be open or available to public inspection in the following order starting with the most recent written determination in each category:

(A) reference written determinations issued under this title;

(B) general written determinations issued after July 4, 1967; and

(C) reference written determinations issued under the Internal Revenue Code of 1939 or corresponding provisions of prior law.

General written determinations not described in subparagraph (B) shall be open to public inspection on written request, but not until after the written determinations referred to in subparagraphs (A), (B), and (C) are open to public inspection.

(4) Notice that prior written determinations are open to public inspection

Notwithstanding the provisions of subsections (f)(1) and (f)(3)(A), not less than 90 days before making any portion of a written determination described in this subsection open to public inspection, the Secretary shall issue public notice in the Federal Register that such written determination is to be made open to public inspection. The person who received a written determination may, within 75 days after the date of publication of notice under this paragraph, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination with respect to that portion of such written determination which is to be made open to public inspection. The provisions of subsections (f)(3)(B), (5), and (6) shall apply if such a petition is filed. If no petition is filed, the text of any written determination shall be open to public inspection no earlier than 90 days, and no later than 120 days, after notice is published in the Federal Register.

(5) Exclusion

Subsection (d) shall not apply to any written determination described in paragraph (1).

(i) Special rules for disclosure of Chief Counsel advice

(1) Chief Counsel advice defined

(A) In general

For purposes of this section, the term ''Chief Counsel advice'' means written advice or instruction, under whatever name or designation, prepared by any national office component of the Office of Chief Counsel which—

(i) is issued to field or service center employees of the Service or regional or district employees of the Office of Chief Counsel; and

(ii) conveys—

(I) any legal interpretation of a revenue provision;

(II) any Internal Revenue Service or Office of Chief Counsel position or policy concerning a revenue provision; or

(III) any legal interpretation of State law, foreign law, or other Federal law relating to the assessment or collection of any liability under a revenue provision.

(B) Revenue provision defined

For purposes of subparagraph (A), the term ''revenue provision'' means any existing or former internal revenue law, regulation, revenue ruling, revenue procedure, other published or unpublished guidance, or tax treaty, either in general or as applied to specific taxpayers or groups of specific taxpayers.

(2) Additional documents treated as Chief Counsel advice

The Secretary may by regulation provide that this section shall apply to any advice or instruction prepared and issued by the Office of Chief Counsel which is not described in paragraph (1).

(3) Deletions for Chief Counsel advice

In the case of Chief Counsel advice open to public inspection pursuant to this section—

(A) paragraphs (2) through (7) of subsection (c) shall not apply, but

(B) the Secretary may make deletions of material in accordance with subsections (b) and (c) of section 552 of title 5, United States Code, except that in applying subsection (b)(3) of such section, no statutory provision of this title shall be taken into account.

(4) Notice of intention to disclose

(A) Nontaxpayer-specific Chief Counsel advice

In the case of Chief Counsel advice which is written without reference to a specific taxpayer or group of specific taxpayers—

(i) subsection (f)(1) shall not apply; and

(ii) the Secretary shall, within 60 days after the issuance of the Chief Counsel advice, complete any deletions described in subsection (c)(1) or paragraph (3) and make the Chief Counsel advice, as so edited, open for public inspection.

(B) Taxpayer-specific Chief Counsel advice

In the case of Chief Counsel advice which is written with respect to a specific taxpayer or group of specific taxpayers, the Secretary shall, within 60 days after the issuance of the Chief Counsel advice, mail the notice required by subsection (f)(1) to each such taxpayer. The notice shall include a copy of the Chief Counsel advice on which is indicated the information that the Secretary proposes to delete pursuant to subsection (c)(1). The Secretary may also delete from the copy of the text of the Chief Counsel advice any of the information described in paragraph (3), and shall delete the names, addresses, and other identifying details of taxpayers other than the person to whom the advice pertains, except that the Secretary shall not delete from the copy of the Chief Counsel advice that is furnished to the taxpayer any information of which that taxpayer was the source.

(j) Civil remedies

(1) Civil action

Whenever the Secretary—

(A) fails to make deletions required in accordance with subsection (c), or

(B) fails to follow the procedures in subsection (g) or (i)(4)(B),

the recipient of the written determination or any person identified in the written determination shall have as an exclusive civil remedy an action against the Secretary in the United States Court of Federal Claims, which shall have jurisdiction to hear any action under this paragraph.

(2) Damages

In any suit brought under the provisions of paragraph (1)(A) in which the Court determines that an employee of the Internal Revenue Service intentionally or willfully failed to delete in accordance with subsection (c), or in any suit brought under subparagraph (1)(B) in which the Court determines that an employee intentionally or willfully failed to act in accordance with subsection (g) or (i)(4)(B), the United States shall be liable to the person in an amount equal to the sum of—

(A) actual damages sustained by the person but in no case shall a person be entitled to receive less than the sum of $1,000, and

(B) the costs of the action together with reasonable attorney's fees as determined by the Court.

(k) Special provisions

(1) Fees

The Secretary is authorized to assess actual costs—

(A) for duplication of any written determination or background file document made open or available to the public under this section, and

(B) incurred in searching for and making deletions required under subsection (c)(1) or (i)(3) from any written determination or background file document which is available to public inspection only upon written request.

The Secretary shall furnish any written determination or background file document without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public interest because furnishing such determination or background file document can be considered as primarily benefiting the general public.

(2) Records disposal procedures

Nothing in this section shall prevent the Secretary from disposing of any general written determination or background file document described in subsection (b) in accordance with established records disposition procedures, but such disposal shall, except as provided in the following sentence, occur not earlier than 3 years after such written determination is first made open to public inspection. In the case of any general written determination described in subsection (h), the Secretary may dispose of such determination and any related background file document in accordance with such procedures but such disposal shall not occur earlier than 3 years after such written determination is first made open to public inspection if funds are appropriated for such purpose before January 20, 1979, or not earlier than January 20, 1979, if funds are not appropriated before such date. The Secretary shall not dispose of any reference written determinations and related background file documents.

(3) Precedential status

Unless the Secretary otherwise establishes by regulations, a written determination may not be used or cited as precedent. The preceding sentence shall not apply to change the precedential status (if any) of written determinations with regard to taxes imposed by subtitle D of this title.

***(l)* Section not to apply**

This section shall not apply to—

(1) any matter to which section 6104 or 6105 applies, or

(2) any—

(A) written determination issued pursuant to a request made before November 1, 1976, with respect to the exempt status under section 501(a) of an organization described in section 501(c) or (d), the status of an organization as a private foundation under section 509(a), or the status of an organization as an operating foundation under section 4942(j)(3),

(B) written determination described in subsection (g)(5)(B) issued pursuant to a request made before November 1, 1976,

(C) determination letter not otherwise described in subparagraph (A), (B), or (E) issued pursuant to a request made before November 1, 1976,

(D) background file document relating to any general written determination issued before July 5, 1967, or

(E) letter or other document described in section 6104(a)(1)(B)(iv) issued before September 2, 1974 .

(m) Exclusive remedy

Except as otherwise provided in this title, or with respect to a discovery order made in con-

nection with a judicial proceeding, the Secretary shall not be required by any Court to make any written determination or background file document open or available to public inspection, or to refrain from disclosure of any such documents.

(Added Pub. L. 94–455, title XII, §1201(a), Oct. 4, 1976, 90 Stat. 1660; amended Pub. L. 97–164, title I, §160(a)(9), Apr. 2, 1982, 96 Stat. 48; Pub. L. 98–620, title IV, §402(28)(B), Nov. 8, 1984, 98 Stat. 3359; Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 105–206, title III, §3509(a)–(c), July 22, 1998, 112 Stat. 772, 773; Pub. L. 106–170, title V, §521(a)(2), Dec. 17, 1999, 113 Stat. 1925; Pub. L. 106–554, §1(a)(7) [title III, §§304(c), 313(e)], Dec. 21, 2000, 114 Stat. 2763, 2763A–634, 2763A–643.)

REFERENCES IN TEXT

The Internal Revenue Code of 1939, referred to in subsec. (h)(3)(C), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title.

PRIOR PROVISIONS

A prior section 6110 was renumbered 6116 of this title.

AMENDMENTS

2000—Subsec. (b)(1). Pub. L. 106–554, §1(a)(7) [title III, §304(c)(1)], amended heading and text of par. (1) generally. Prior to amendment, text read as follows: ''The term 'written determination' means a ruling, determination letter, technical advice memorandum, or Chief Counsel advice. Such term shall not include any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement.''

Subsec. (g)(5)(A). Pub. L. 106–554, §1(a)(7) [title III, §313(e)], inserted '', any Chief Counsel advice,'' after ''technical advice memorandum''.

Subsec. (*l*)(1). Pub. L. 106–554, §1(a)(7) [title III, §304(c)(2)], inserted ''or 6105'' after ''6104''.

1999—Subsec. (b)(1). Pub. L. 106–170 inserted at end ''Such term shall not include any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement.''

1998—Subsec. (b)(1). Pub. L. 105–206, §3509(a), substituted ''technical advice memorandum, or Chief Counsel advice'' for ''or technical advice memorandum''.

Subsec. (f)(1). Pub. L. 105–206, §3509(c)(1), substituted ''Except as otherwise provided by subsection (i), the Secretary'' for ''The Secretary''.

Subsec. (i). Pub. L. 105–206, §3509(b), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 105–206, §3509(b), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (j)(1)(B), (2). Pub. L. 105–206, §3509(c)(2), substituted ''subsection (g) or (i)(4)(B)'' for ''subsection (g)''.

Subsec. (k). Pub. L. 105–206, §3509(b), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (*l*).

Subsec. (k)(1)(B). Pub. L. 105–206, §3509(c)(3), substituted ''subsection (c)(1) or (i)(3)'' for ''subsection (c)''.

Subsecs. (*l*), (m). Pub. L. 105–206, §3509(b), redesignated subsecs. (k) and (*l*) as (*l*) and (m), respectively.

1992—Subsec. (i)(1). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1984—Subsec. (f)(5). Pub. L. 98–620 struck out provision that the Court of Appeals had to expedite any review of such decision in every way possible.

1982—Subsec. (i)(1). Pub. L. 97–164 substituted ''United States Claims Court'' for ''Court of Claims''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(7) [title III, §304(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A–634, provided that: ''The amendments made by this section [enacting section 6105 of this title and amending this section and section 6103 of this title] shall take effect on the date of the enactment of this Act [Dec. 21, 2000].''

Amendment by section 1(a)(7) [title III, §313(e)] of Pub. L. 106–554 effective as if included in the provisions of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, to which such amendment relates, see section 1(a)(7) [title III, §313(f)] of Pub. L. 106–554, set out as a note under section 6015 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, §3509(d), July 22, 1998, 112 Stat. 774, provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section] shall apply to any Chief Counsel advice issued more than 90 days after the date of the enactment of this Act [July 22, 1998].

''(2) TRANSITION RULES.—The amendments made by this section shall apply to any Chief Counsel advice issued after December 31, 1985, and before the 91st day after the date of the enactment of this Act [July 22, 1998] by the offices of the associate chief counsel for domestic, employee benefits and exempt organizations, and international, except that any such Chief Counsel advice shall be treated as made available on a timely basis if such advice is made available for public inspection not later than the following dates:

''(A) One year after the date of the enactment of this Act [July 22, 1998], in the case of all litigation guideline memoranda, service center advice, tax litigation bulletins, criminal tax bulletins, and general litigation bulletins.

''(B) Eighteen months after such date of enactment, in the case of field service advice and technical assistance to the field issued on or after January 1, 1994.

''(C) Three years after such date of enactment, in the case of field service advice and technical assistance to the field issued on or after January 1, 1992, and before January 1, 1994.

''(D) Six years after such date of enactment, in the case of any other Chief Counsel advice issued after December 31, 1985.

''(3) DOCUMENTS TREATED AS CHIEF COUNSEL ADVICE.—If the Secretary of the Treasury by regulation provides pursuant to section 6110(i)(2) of the Internal Revenue Code of 1986, as added by this section, that any additional advice or instruction issued by the Office of Chief Counsel shall be treated as Chief Counsel advice, such additional advice or instruction shall be made available for public inspection pursuant to section 6110 of such Code, as amended by this section, only in accordance with the effective date set forth in such regulation.

''(4) CHIEF COUNSEL ADVICE TO BE AVAILABLE ELECTRONICALLY.—The Internal Revenue Service shall make any Chief Counsel advice issued more than 90 days after the date of the enactment of this Act [July 22, 1998] and made available for public inspection pursuant to section 6110 of such Code, as amended by this section, also available by computer telecommunications within 1 year after issuance.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

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.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 1201(e) of Pub. L. 94–455 provided that: ''Except as otherwise provided in this section [enacting this section and provisions set out below], the amendments made by this section shall take effect on November 1, 1976.''

PENDING REQUESTS

Section 1201(b) of Pub. L. 94–455 provided that: ''Any written determination or background file document which is the subject of a judicial proceeding pursuant to section 552 of title 5, United States Code, commenced before January 1, 1976, shall not be treated as a written determination subject to subsection (h)(1) [subsec. (h)(1) of this section], but shall be available to the complainant along with the background file document, if requested, as soon as practicable after July 1, 1976.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 7430, 7809 of this title.

§ 6111. Registration of tax shelters

(a) Registration

(1) In general

Any tax shelter organizer shall register the tax shelter with the Secretary (in such form and in such manner as the Secretary may prescribe) not later than the day on which the first offering for sale of interests in such tax shelter occurs.

(2) Information included in registration

Any registration under paragraph (1) shall include—

(A) information identifying and describing the tax shelter,

(B) information describing the tax benefits of the tax shelter represented (or to be represented) to investors, and

(C) such other information as the Secretary may prescribe.

(b) Furnishing of tax shelter identification number; inclusion on return

(1) Sellers, etc.

Any person who sells (or otherwise transfers) an interest in a tax shelter shall (at such times and in such manner as the Secretary shall prescribe) furnish to each investor who purchases (or otherwise acquires) an interest in such tax shelter from such person the identification number assigned by the Secretary to such tax shelter.

(2) Inclusion of number on return

Any person claiming any deduction, credit, or other tax benefit by reason of a tax shelter shall include (in such manner as the Secretary may prescribe) on the return of tax on which such deduction, credit, or other benefit is claimed the identification number assigned by the Secretary to such tax shelter.

(c) Tax shelter

For purposes of this section—

(1) In general

The term ''tax shelter'' means any investment—

(A) with respect to which any person could reasonably infer from the representations made, or to be made, in connection with the offering for sale of interests in the investment that the tax shelter ratio for any investor as of the close of any of the first 5 years ending after the date on which such investment is offered for sale may be greater than 2 to 1, and

(B) which is—

(i) required to be registered under a Federal or State law regulating securities,

(ii) sold pursuant to an exemption from registration requiring the filing of a notice with a Federal or State agency regulating the offering or sale of securities, or

(iii) a substantial investment.

(2) Tax shelter ratio defined

For purposes of this subsection, the term ''tax shelter ratio'' means, with respect to any year, the ratio which—

(A) the aggregate amount of the deductions and 350 percent of the credits which are represented to be potentially allowable to any investor under subtitle A for all periods up to (and including) the close of such year, bears to

(B) the investment base as of the close of such year.

(3) Investment base

(A) In general

Except as provided in this paragraph, the term ''investment base'' means, with respect to any year, the amount of money and the adjusted basis of other property (reduced by any liability to which such other property is subject) contributed by the investor as of the close of such year.

(B) Certain borrowed amounts excluded

For purposes of subparagraph (A), there shall not be taken into account any amount borrowed from any person—

(i) who participated in the organization, sale, or management of the investment, or

(ii) who is a related person (as defined in section 465(b)(3)(C)) to any person described in clause (i),

unless such amount is unconditionally required to be repaid by the investor before the close of the year for which the determination is being made.

(C) Certain other amounts included or excluded

(i) Amounts held in cash equivalents, etc.

No amount shall be taken into account under subparagraph (A) which is to be held in cash equivalent or marketable securities.

(ii) Amounts included or excluded by Secretary

The Secretary may by regulation—

(I) exclude from the investment base any amount described in subparagraph (A), or

(II) include in the investment base any amount not described in subparagraph (A),

if the Secretary determines that such exclusion or inclusion is necessary to carry out the purposes of this section.

(4) Substantial investment

An investment is a substantial investment if—

(A) the aggregate amount which may be offered for sale exceeds $250,000, and

(B) there are expected to be 5 or more investors.

(d) Certain confidential arrangements treated as tax shelters

(1) In general

For purposes of this section, the term ''tax shelter'' includes any entity, plan, arrangement, or transaction—

(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a direct or indirect participant which is a corporation,

(B) which is offered to any potential participant under conditions of confidentiality, and

(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.

(2) Conditions of confidentiality

For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

(B) any promoter of the tax shelter—

(i) claims, knows, or has reason to know,

(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term ''promoter'' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

(3) Persons other than promoter required to register in certain cases

(A) In general

If—

(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

(ii) no tax shelter promoter is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

(B) Exception

Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

(i) such person notified the promoter in writing (not later than the close of the 90th day after the day on which such discussions began) that such person would not participate in such shelter, and

(ii) such person does not participate in such shelter.

(4) Offer to participate treated as offer for sale

For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale.

(e) Other definitions

For purposes of this section—

(1) Tax shelter organizer

The term ''tax shelter organizer'' means—

(A) the person principally responsible for organizing the tax shelter,

(B) if the requirements of subsection (a) are not met by a person described in subparagraph (A) at the time prescribed therefor, any other person who participated in the organization of the tax shelter, and

(C) if the requirements of subsection (a) are not met by a person described in subparagraph (A) or (B) at the time prescribed therefor, any person participating in the sale or management of the investment at a time when the tax shelter was not registered under subsection (a).

(2) Year

The term ''year'' means—

(A) the taxable year of the tax shelter, or

(B) if the tax shelter has no taxable year, the calendar year.

(f) Regulations

The Secretary may prescribe regulations which provide—

(1) rules for the aggregation of similar investments offered by the same person or persons for purposes of applying subsection (c)(4),

(2) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

(3) exemptions from the requirements of this section, and

(4) such rules as may be necessary or appropriate to carry out the purposes of this section in the case of foreign tax shelters.

(Added Pub. L. 98–369, div. A, title I, §141(a), July 18, 1984, 98 Stat. 677; amended Pub. L. 99–514, title II, §201(d)(13), title XV, §1531(a), title XVIII, §1899A(54), Oct. 22, 1986, 100 Stat. 2142, 2749, 2961; Pub. L. 105–34, title X, §1028(a), Aug. 5, 1997, 111 Stat. 926.)

PRIOR PROVISIONS

A prior section 6111 was renumbered 6116 of this title.

AMENDMENTS

1997—Subsecs. (d) to (f). Pub. L. 105–34 added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1986—Subsec. (c)(2)(A). Pub. L. 99–514, § 1531(a), substituted ''350 percent'' for ''200 percent''.

Subsec. (c)(3)(B)(ii). Pub. L. 99–514, § 201(d)(13), substituted ''section 465(b)(3)(C)'' for ''section 168(e)(4)''.

Subsec. (d)(1)(B). Pub. L. 99–514, § 1899A(54), substituted ''subparagraph'' for ''subpargraph''.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1028(e) of Pub. L. 105–34 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 6662 and 6707 of this title] shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.

''(2) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—The amendments made by subsection (c) [amending section 6662 of this title] shall apply to items with respect to transactions entered into after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 201(d)(13) of Pub. L. 99–514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, with exceptions, see sections 203 and 204 of Pub. L. 99–514, set out as a note under section 168 of this title.

Amendment by section 201(d)(13) of Pub. L. 99–514 not applicable to any property placed in service before Jan. 1, 1994, if such property placed in service as part of specified rehabilitations, and not applicable to certain additional rehabilitations, see section 251(d)(2), (3) of Pub. L. 99–514, set out as a note under section 46 of this title.

Section 1531(b) of Pub. L. 99–514 provided that: ''The amendment made by this section [amending this section] shall apply to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] as amended by this section) interests in which are first offered for sale after December 31, 1986.''

EFFECTIVE DATE

Section 141(d) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting this section and section 6707 of this title and renumbering former section 6111 as section 6112 of this title] shall apply to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by this section) any interest in which is first sold to any investor after August 31, 1984.

''(2) SUBSTANTIAL INVESTMENT TEST.—For purposes of determining whether any investment is a tax shelter by reason of section 6111(c)(1)(B)(iii) of such Code (as added by this section), only offers for sale after August 31, 1984, shall be taken into account.

''(3) FURNISHING OF SHELTER IDENTIFICATION NUMBER FOR INTERESTS SOLD BEFORE SEPTEMBER 1, 1984.—With respect to interests sold before September 1, 1984, any liability to act under paragraph (1) of section 6111(b) of such Code (as added by this section) which would (but for this sentence) arise before such date shall be deemed to arise on December 31, 1984.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6112, 6707 of this title.

§ 6112. Organizers and sellers of potentially abusive tax shelters must keep lists of investors

(a) In general

Any person who—

(1) organizes any potentially abusive tax shelter, or

(2) sells any interest in such a shelter,

shall maintain (in such manner as the Secretary may by regulations prescribe) a list identifying each person who was sold an interest in such shelter and containing such other information as the Secretary may by regulations require.

(b) Potentially abusive tax shelter

For purposes of this section, the term ''potentially abusive tax shelter'' means—

(1) any tax shelter (as defined in section 6111) with respect to which registration is required under section 6111, and

(2) any entity, investment plan or arrangement, or other plan or arrangement which is of a type which the Secretary determines by regulations as having a potential for tax avoidance or evasion.

(c) Special rules

(1) Availability for inspection; retention of information on list

Any person who is required to maintain a list under subsection (a)—

(A) shall make such list available to the Secretary for inspection upon request by the Secretary, and

(B) except as otherwise provided under regulations prescribed by the Secretary, shall retain any information which is required to be included on such list for 7 years.

(2) Lists which would be required to be maintained by 2 or more persons

The Secretary shall prescribe regulations which provide that, in cases in which 2 or more persons are required under subsection (a) to maintain the same list (or portion thereof), only 1 person shall be required to maintain such list (or portion).

(Added Pub. L. 98–369, div. A, title I, § 142(a), July 18, 1984, 98 Stat. 681.)

PRIOR PROVISIONS

A prior section 6112 was renumbered 6116 of this title.

EFFECTIVE DATE

Section 142(d) of Pub. L. 98–369 provided that: ''The amendments made by this section [enacting this section and section 6708 of this title and renumbering former section 6112 as section 6113 of this title] shall apply to any interest which is first sold to any investor after August 31, 1984.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6708 of this title.

§ 6113. Disclosure of nondeductibility of contributions

(a) General rule

Each fundraising solicitation by (or on behalf of) an organization to which this section applies shall contain an express statement (in a conspicuous and easily recognizable format) that

contributions or gifts to such organization are not deductible as charitable contributions for Federal income tax purposes.

(b) Organizations to which section applies

(1) In general

Except as otherwise provided in this subsection, this section shall apply to any organization which is not described in section 170(c) and which—

(A) is described in subsection (c) (other than paragraph (1) thereof) or (d) of section 501 and exempt from taxation under section 501(a),

(B) is a political organization (as defined in section 527(e)), or

(C) was an organization described in subparagraph (A) or (B) at any time during the 5-year period ending on the date of the fundraising solicitation or is a successor to an organization so described at any time during such 5-year period.

(2) Exception for small organizations

(A) Annual gross receipts do not exceed $100,000

This section shall not apply to any organization the gross receipts of which in each taxable year are normally not more than $100,000.

(B) Multiple organization rule

The Secretary may treat any group of 2 or more organizations as 1 organization for purposes of subparagraph (A) where necessary or appropriate to prevent the avoidance of this section through the use of multiple organizations.

(3) Special rule for certain fraternal organizations

For purposes of paragraph (1), an organization described in section 170(c)(4) shall be treated as described in section 170(c) only with respect to solicitations for contributions or gifts which are to be used exclusively for purposes referred to in section 170(c)(4).

(c) Fundraising solicitation

For purposes of this section—

(1) In general

Except as provided in paragraph (2), the term ''fundraising solicitation'' means any solicitation of contributions or gifts which is made—

(A) in written or printed form,

(B) by television or radio, or

(C) by telephone.

(2) Exception for certain letters or calls

The term ''fundraising solicitation'' shall not include any letter or telephone call if such letter or call is not part of a coordinated fundraising campaign soliciting more than 10 persons during the calendar year.

(Added Pub. L. 100–203, title X, § 10701(a), Dec. 22, 1987, 101 Stat. 1330–457.)

PRIOR PROVISIONS

A prior section 6113 was renumbered 6116 of this title.

EFFECTIVE DATE

Section 10701(d) of Pub. L. 100–203 provided that: ''The amendments made by this section [enacting this section and section 6710 of this title and renumbering former section 6113 as section 6114 of this title] shall apply to solicitations after January 31, 1988.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6710 of this title.

§ 6114. Treaty-based return positions

(a) In general

Each taxpayer who, with respect to any tax imposed by this title, takes the position that a treaty of the United States overrules (or otherwise modifies) an internal revenue law of the United States shall disclose (in such manner as the Secretary may prescribe) such position—

(1) on the return of tax for such tax (or any statement attached to such return), or

(2) if no return of tax is required to be filed, in such form as the Secretary may prescribe.

(b) Waiver authority

The Secretary may waive the requirements of subsection (a) with respect to classes of cases for which the Secretary determines that the waiver will not impede the assessment and collection of tax.

(Added Pub. L. 100–647, title I, § 1012(aa)(5)(A), Nov. 10, 1988, 102 Stat. 3532; amended Pub. L. 101–508, title XI, § 11702(c), Nov. 5, 1990, 104 Stat. 1388–514.)

PRIOR PROVISIONS

A prior section 6114 was renumbered 6116 of this title.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–508 struck out ''by regulations'' before ''waive the requirements''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 11702(j) of Pub. L. 101–508, set out as a note under section 59 of this title.

EFFECTIVE DATE

Section 1012(aa)(5)(D) of Pub. L. 100–647 provided that: ''The amendments made by this paragraph [enacting this section and section 6712 of this title and renumbering former section 6114 as section 6115 of this title] shall apply to taxable periods the due date for filing returns for which (without extension) occurs after December 31, 1988.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6712 of this title.

§ 6115. Disclosure related to quid pro quo contributions

(a) Disclosure requirement

If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution in excess of $75, the organization shall, in connection with the solicitation or receipt of the contribution, provide a written statement which—

(1) informs the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and

(2) provides the donor with a good faith estimate of the value of such goods or services.

(b) Quid pro quo contribution

For purposes of this section, the term ''quid pro quo contribution'' means a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization. A quid pro quo contribution does not include any payment made to an organization, organized exclusively for religious purposes, in return for which the taxpayer receives solely an intangible religious benefit that generally is not sold in a commercial transaction outside the donative context.

(Added Pub. L. 103–66, title XIII, § 13173(a), Aug. 10, 1993, 107 Stat. 456.)

PRIOR PROVISIONS

A prior section 6115 was renumbered section 6116 of this title.

EFFECTIVE DATE

Section 13173(d) of Pub. L. 103–66 provided that: ''The provisions of this section [enacting this section and section 6714 of this title and renumbering former section 6115 as 6116 of this title] shall apply to quid pro quo contributions made on or after January 1, 1994.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6714 of this title.

§ 6116. Cross reference

For inspection of records, returns, etc., concerning gasoline or lubricating oils, see section 4102.

(Aug. 16, 1954, ch. 736, 68A Stat. 756, § 6109; renumbered § 6110, Pub. L. 87–397, § 1(a), Oct. 5, 1961, 75 Stat. 828; renumbered § 6111 and amended Pub. L. 94–455, title XII, § 1201(a), title XIX, § 1906(a)(8), Oct. 4, 1976, 90 Stat. 1660, 1824; renumbered § 6112, renumbered § 6113, Pub. L. 98–369, div. A, title I, §§ 141(a), 142(a), July 18, 1984, 98 Stat. 677, 681; renumbered § 6114, Pub. L. 100–203, title X, § 10701(a), Dec. 22, 1987, 101 Stat. 1330–457; renumbered § 6115, Pub. L. 100–647, title I, § 1012(aa)(5)(A), Nov. 10, 1988, 102 Stat. 3532; renumbered § 6116, Pub. L. 103–66, title XIII, § 13173(a), Aug. 10, 1993, 107 Stat. 456.)

AMENDMENTS

1976—Pub. L. 94–455, among other changes, substituted in section catchline ''Cross reference'' for ''Cross references'' and struck out in text reference to section 4876, relating to reports of Secretary of Agriculture concerning cotton futures, reference to section 4773, relating to inspection of returns, order forms, and prescriptions concerning narcotics and marihuana, and reference to section 4775 relating to authority of Secretary or his delegate to furnish list of special taxpayers.

CHAPTER 62—TIME AND PLACE FOR PAYING TAX

Subchapter		Sec.[1]
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Subchapter A—Place and Due Date for Payment of Tax

Sec.
6151. Time and place for paying tax shown on returns.
[6152 to 6154. Repealed.]
6155. Payment on notice and demand.
6156. Installment payments of tax on use of highway motor vehicles.
6157. Payment of Federal unemployment tax on quarterly or other time period basis.
[6158. Repealed.]
6159. Agreements for payment of tax liability in installments.

AMENDMENTS

1990—Pub. L. 101–508, title XI, § 11801(b)(13), Nov. 5, 1990, 104 Stat. 1388–522, struck out item 6158 ''Installment payment of tax attributable to divestitures pursuant to Bank Holding Company Act Amendments of 1970''.

1988—Pub. L. 100–647, title VI, § 6234(b)(2), Nov. 10, 1988, 102 Stat. 3736, added item 6159.

1987—Pub. L. 100–203, title X, § 10301(b)(7), Dec. 22, 1987, 101 Stat. 1330–429, struck out item 6154 ''Installment payments of estimated income tax by corporations''.

1986—Pub. L. 99–514, title XIV, § 1404(c)(4), Oct. 22, 1986, 100 Stat. 2714, struck out item 6152 ''Installment payments''.

1984—Pub. L. 98–369, div. A, title IV, § 412(c)(3), July 18, 1984, 98 Stat. 793, struck out item 6153 ''Installment payments of estimated income tax by individuals''.

1982—Pub. L. 97–248, title II, § 280(c)(2)(F), Sept. 3, 1982, 96 Stat. 564, struck out ''and civil aircraft'' after ''motor vehicles'' in item 6156.

1976—Pub. L. 94–452, § 3(c)(1), Oct. 2, 1976, 90 Stat. 1514, added item 6158.

1970—Pub. L. 91–258, title II, § 206(d)(3), May 21, 1970, 84 Stat. 246, inserted ''and civil aircraft'' in item 6156.

1969—Pub. L. 91–53, § 2(f)(1), Aug. 7, 1969, 83 Stat. 93, substituted ''Payment of Federal unemployment tax on quarterly or other time period basis'' for ''Payment of taxes under provisions of the Tariff Act'' in item 6157.

1961—Pub. L. 87–61, title II, § 203(c)(3), June 29, 1961, 75 Stat. 126, added item 6156 and redesignated former item 6156 as 6157.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6601 of this title.

§ 6151. Time and place for paying tax shown on returns

(a) General rule

Except as otherwise provided in this subchapter, when a return of tax is required under this title or regulations, the person required to make such return shall, without assessment or notice and demand from the Secretary, pay such tax to the internal revenue officer with whom the return is filed, and shall pay such tax at the time and place fixed for filing the return (determined without regard to any extension of time for filing the return).

(b) Exceptions

(1) Income tax not computed by taxpayer

If the taxpayer elects under section 6014 not to show the tax on the return, the amount determined by the Secretary as payable shall be paid within 30 days after the mailing by the Secretary to the taxpayer of a notice stating such amount and making demand therefor.

(2) Use of government depositaries

For authority of the Secretary to require payments to Government depositaries, see section 6302(c).

(c) Date fixed for payment of tax

In any case in which a tax is required to be paid on or before a certain date, or within a cer-

[1] Section numbers editorially supplied.

tain period, any reference in this title to the date fixed for payment of such tax shall be deemed a reference to the last day fixed for such payment (determined without regard to any extension of time for paying the tax.)

(Aug. 16, 1954, ch. 736, 68A Stat. 757; Pub. L. 89–713, § 1(b), Nov. 2, 1966, 80 Stat. 1108; Pub. L. 94–452, § 3(c)(2), Oct. 2, 1976, 90 Stat. 1514; 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.

Subsec. (a). Pub. L. 94–452 substituted ''subchapter,'' for ''section,''.

1966—Subsec. (a). Pub. L. 89–713 substituted the revenue officer with whom the return is filed for the principal internal revenue officer for the internal revenue district in which the return is required to be filed as the description of the person to whom the tax is paid.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 3(e) of Pub. L. 94–452, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting section 6158 of this title and amending this section and sections 6503 and 6601 of this title] shall take effect on October 1, 1977, with respect to sales after July 7, 1970, in taxable years ending after July 7, 1970, but only in the case of qualified bank holding corporations (within the meaning of section 1103(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by section 2(a) of this Act).

''(2) SPECIAL RULE FOR CERTIFYING SALES WHICH HAVE ALREADY TAKEN PLACE.—For purposes of section 6158(a) of the Internal Revenue Code of 1986 (as added by subsection (a) of this section) in the case of any sale which takes place on or before the 90th day after the date of the enactment of this Act [Oct. 2, 1976], a certification by the Federal Reserve Board described in section 6158(a) shall be treated as made before the sale if application for such certification is made before the close of the 90th day after the date of the enactment of this Act [Oct. 2, 1976].

''(3) REFUND OF TAX.—

''(A) IN GENERAL.—If any tax attributable to a sale which occurred before October 1, 1977, is payable in annual installments by reason of an election under section 6158(a) of the Internal Revenue Code of 1986, any portion of such tax for which the due date of the installment does not occur before October 1, 1977, shall, on application of the taxpayer, be treated as an overpayment of tax.

''(B) INTEREST ON OVERPAYMENTS.—For purposes of section 6611(b) in the case of any overpayment attributable to subparagraph (A), the date of the overpayment shall be the day which is 6 months after the latest of the following:

''(i) the date on which application for refund or credit of such overpayment is filed,

''(ii) the due date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 of the Internal Revenue Code of 1986 for the taxable year the tax of which is being refunded or credited, or

''(iii) the date of the enactment of this Act [Oct. 2, 1976].

''(C) EXTENSION OF PERIOD OF LIMITATIONS.—If any refund or credit of tax attributable to the application of subparagraph (A) is prevented at any time before October 1, 1978, by the operation of any law or rule of law, refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before October 1, 1978.''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–713 effective Nov. 2, 1966, see section 6 of Pub. L. 89–713, set out as a note under section 6091 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6161, 6166, 6324A of this title.

[§ 6152. Repealed. Pub. L. 99–514, title XIV, § 1404(c)(1), Oct. 22, 1986, 100 Stat. 2714]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 757; Sept. 1, 1954, ch. 1212, § 3, 68 Stat. 1130; Oct. 4, 1976, Pub. L. 94–455, title XIX, § 1906(a)(9), (b)(13)(A), 90 Stat. 1824, 1834; Sept. 3, 1982, Pub. L. 97–248, title II, § 234(b)(1), 96 Stat. 503, related to installment payments of taxes.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1986, see section 1404(d) of Pub. L. 99–514, set out as an Effective Date of 1986 Amendment note under section 643 of this title.

[§ 6153. Repealed. Pub. L. 98–369, div. A, title IV, § 412(a)(3), July 18, 1984, 98 Stat. 792]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 758; Sept. 25, 1962, Pub. L. 87–682, § 1(a)(3), (c), 76 Stat. 575; Dec. 23, 1975, Pub. L. 94–164, § 5(b), 89 Stat. 975; June 30, 1976, Pub. L. 94–331, § 3(b), 90 Stat. 782; Sept. 3, 1976, Pub. L. 94–396, § 2(a)(2), 90 Stat. 1201; Sept. 17, 1976, Pub. L. 94–414, § 3(b), 90 Stat. 1273; Oct. 4, 1976, Pub. L. 94–455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834; Aug. 13, 1981, Pub. L. 97–34, title VII, § 725(c)(3), 95 Stat. 346; Sept. 3, 1982, Pub. L. 97–248, title III, § 328(b)(3), 96 Stat. 618, related to installment payments of estimated income tax by individuals.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98–369, set out as an Effective Date of 1984 Amendment note under section 6654 of this title.

[§ 6154. Repealed. Pub. L. 100–203, title X, § 10301(b)(1), Dec. 22, 1987, 101 Stat. 1330–429]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 760; Feb. 26, 1964, Pub. L. 88–272, title I, § 122(a), 78 Stat. 25; Mar. 15, 1966, Pub. L. 89–368, title I, § 104(a), 80 Stat. 64; June 28, 1968, Pub. L. 90–364, title I, § 103(b), 82 Stat. 260; Dec. 23, 1975, Pub. L. 94–164, § 5(c), 89 Stat. 975; June 30, 1976, Pub. L. 94–331, § 3(c), 90 Stat. 782; Sept. 3, 1976, Pub. L. 94–396, § 2(a)(3), 90 Stat. 1201; Sept. 17, 1976, Pub. L. 94–414, § 3(c), 90 Stat. 1273; Oct. 4, 1976, Pub. L. 94–455, title IX, § 901(c)(3), title XIX, § 1906(a)(10), (b)(13)(A), 90 Stat. 1607, 1825, 1834; Nov. 6, 1978, Pub. L. 95–600, title III, § 301(b)(20)(A), 92 Stat. 2823; Jan. 12, 1983, Pub. L. 97–448, title II, § 201(j)(2), 96 Stat. 2396; Oct. 17, 1986, Pub. L. 99–499, title V, § 516(b)(4)(A), 100 Stat. 1771; Oct. 22, 1986, Pub. L. 99–514, title VII, § 701(d)(1), title XV, § 1542(a), 100 Stat. 2341, 2751; Nov. 10, 1988, Pub. L. 100–647, title I, §§ 1007(g)(10), 1015(h), 102 Stat. 3435, 3571, related to installment payments of estimated income tax by corporations.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100–203, set out as an Effective Date of 1987 Amendment note under section 585 of this title.

§ 6155. Payment on notice and demand

(a) General rule

Upon receipt of notice and demand from the Secretary, there shall be paid at the place and time stated in such notice the amount of any tax (including any interest, additional amounts, additions to tax, and assessable penalties) stated in such notice and demand.

(b) Cross references

(1) For restrictions on assessment and collection of deficiency assessments of taxes subject to the ju-

risdiction of the Tax Court, see sections 6212 and 6213.

(2) For provisions relating to assessment of claims allowed in a receivership proceeding, see section 6873.

(3) For provisions relating to jeopardy assessments, see subchapter A of chapter 70.

(Aug. 16, 1954, ch. 736, 68A Stat. 760; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–589, § 6(i)(7), Dec. 24, 1980, 94 Stat. 3410.)

AMENDMENTS

1980—Subsec. (b)(2). Pub. L. 96–589 struck out reference to a bankruptcy proceeding.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7522 of this title.

§ 6156. Installment payments of tax on use of highway motor vehicles

(a) Privilege to pay tax in installments

If the taxpayer files a return of the tax imposed by section 4481 on or before the date prescribed for the filing of such return, he may elect to pay the tax shown on such return in equal installments in accordance with the following table:

If liability is incurred in—	The number of installments shall be—
July, August, or September	4
October, November, or December	3
January, February, or March	2

(b) Dates for paying installments

In the case of any tax payable in installments by reason of an election under subsection (a)—

(1) the first installment shall be paid on the date prescribed for payment of the tax,

(2) the second installment shall be paid on or before the last day of the third month following the calendar quarter in which the liability was incurred,

(3) the third installment (if any) shall be paid on or before the last day of the sixth month following the calendar quarter in which the liability was incurred, and

(4) the fourth installment (if any) shall be paid on or before the last day of the ninth month following the calendar quarter in which the liability was incurred.

(c) Proration of additional tax to installments

If an election has been made under subsection (a) in respect of tax reported on a return filed by the taxpayer and tax required to be shown but not shown on such return is assessed before the date prescribed for payment of the last installment, the additional tax shall be prorated equally to the installments for which the election was made. That part of the additional tax so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as and as part of such installment. That part of the additional tax so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary.

(d) Acceleration of payments

If the taxpayer does not pay any installment under this section on or before the date prescribed for its payment, the whole of the unpaid tax shall be paid upon notice and demand from the Secretary.

(e) Section inapplicable to certain liabilities

This section shall not apply to any liability for tax incurred in—

(1) April, May, or June of any year, or

(2) July, August, or September of 2005,.[1]

(Added Pub. L. 87–61, title II, § 203(c)(1), June 29, 1961, 75 Stat. 125; amended Pub. L. 91–258, title II, § 206(b), (d)(2), May 21, 1970, 84 Stat. 245, 246; Pub. L. 91–605, title III, § 303(a)(10), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 94–280, title III, § 303(a)(10), May 5, 1976, 90 Stat. 456; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–599, title V, § 502(a)(9), Nov. 6, 1978, 92 Stat. 2756; Pub. L. 97–248, title II, § 280(c)(2)(C)–(E), Sept. 3, 1982, 96 Stat. 564; Pub. L. 97–424, title V, § 516(a)(6), Jan. 6, 1983, 96 Stat. 2183; Pub. L. 100–17, title V, § 502(d)(2), Apr. 2, 1987, 101 Stat. 257; Pub. L. 101–508, title XI, § 11211(f)(2), Nov. 5, 1990, 104 Stat. 1388–427; Pub. L. 102–240, title VIII, § 8002(c)(2), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 105–178, title IX, § 9002(a)(2)(B), June 9, 1998, 112 Stat. 500.)

PRIOR PROVISIONS

A prior section 6156 was renumbered section 6157 of this title and later repealed by Pub. L. 91–53, § 2(a), Aug. 7, 1969, 83 Stat. 91.

AMENDMENTS

1998—Subsec. (e)(2). Pub. L. 105–178 substituted ''2005'' for ''1999''.

1991—Subsec. (e)(2). Pub. L. 102–240 substituted ''1999'' for ''1995''.

1990—Subsec. (e)(2). Pub. L. 101–508 substituted ''1995'' for ''1993''.

1987—Subsec. (e)(2). Pub. L. 100–17 substituted ''1993'' for ''1988''.

1983—Subsec. (e)(2). Pub. L. 97–424 substituted ''1988'' for ''1984''.

1982—Pub. L. 97–248, § 280(c)(2)(E), struck out ''and civil aircraft'' after ''motor vehicles'' in section catchline.

Subsec. (a). Pub. L. 97–248, § 280(c)(2)(C), struck out ''or 4491'' after ''section 4481''.

Subsec. (e)(2). Pub. L. 97–248, § 280(c)(2)(D), struck out ''in the case of the tax imposed by section 4481'' at end.

1978—Subsec. (e)(2). Pub. L. 95–599 substituted ''1984'' for ''1979''.

1976—Subsecs. (c), (d). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

Subsec. (e)(2). Pub. L. 94–280 substituted ''1979'' for ''1977''.

1970—Pub. L. 91–258, § 206(d)(2), inserted ''civil aircraft'' in section catchline.

Subsec. (a). Pub. L. 91–258, § 206(b)(1), inserted reference to section 4491.

Subsec. (e)(2). Pub. L. 91–605 substituted ''1977'' for ''1972''.

Pub. L. 91–258, § 206(b)(2), inserted '', in the case of the tax imposed by section 4481''.

[1] So in original.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable with respect to transportation beginning after Aug. 31, 1982, but inapplicable to amounts paid on or before such date, see section 280(d) of Pub. L. 97–248, set out as a note under section 4261 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

Section effective July 1, 1961, see section 208 of Pub. L. 87–61, set out as an Effective Date of 1961 Amendment note under section 4041 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4481, 6601 of this title.

§6157. Payment of Federal unemployment tax on quarterly or other time period basis

(a) General rule

Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

(1) if the person is such an employer for the preceding calendar year (determined by only taking into account wages paid and employment during such preceding calendar year), compute the tax imposed by section 3301 for each of the first 3 calendar quarters in the calendar year on wages paid for services which respect to which the person is such an employer for such preceding calendar year (as so determined), and

(2) if the person is not such an employer for the preceding calendar year with respect to any services (as so determined), compute the tax imposed by section 3301 on wages paid for services with respect to which the person is not such an employer for the preceding calendar year (as so determined)—

(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer with respect to such services, and

(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsection (c), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary.

(b) Computation of tax

The tax for any calendar quarter or other period referred to in paragraph (1) or (2) of subsection (a) shall be computed by multiplying the amount of wages (as defined in section 3306(b)) paid in such calendar quarter or other period by 0.6 percent. In the case of wages paid in any calendar quarter or other period during a calendar year to which paragraph (1) of section 3301 applies, the amount of such wages shall be multiplied by 0.8 percent in lieu of 0.6 percent.

(c) Special rule where accumulated amount does not exceed $100

Nothing in this section shall require the payment of tax with respect to any calendar quarter or other period if the tax under section 3301 for such period, plus any unpaid amounts for prior periods in the calendar year, does not exceed $100.

(Added Pub. L. 91–53, §2(a), Aug. 7, 1969, 83 Stat. 91; amended Pub. L. 91–373, title I, §101(b)(1), (2), Aug. 10, 1970, 84 Stat. 696; Pub. L. 92–329, §2(b), June 30, 1972, 86 Stat. 398; Pub. L. 94–455, title XIX, §1906(a)(11), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1825, 1834; Pub. L. 94–566, title I, §114(b), title II, §211(e)(3) [(c)(3)], Oct. 20, 1976, 90 Stat. 2669, 2677; Pub. L. 97–248, title II, §271(b)(2)(C), (c)(3)(C), Sept. 3, 1982, 96 Stat. 555; Pub. L. 98–76, title II, §231(b)(1), Aug. 12, 1983, 97 Stat. 428; Pub. L. 100–647, title VII, §7106(c)(1), Nov. 10, 1988, 102 Stat. 3773; Pub. L. 101–239, title VII, §7841(d)(12), Dec. 19, 1989, 103 Stat. 2428.)

PRIOR PROVISIONS

A prior section 6157, act Aug. 16, 1954, ch. 736, 68A Stat. 761, §6156; renumbered §6157, June 29, 1961, Pub. L. 87–61, title II, §203(c)(1), 75 Stat. 125, made a cross reference provision for payment of taxes under provisions of the Tariff Act, prior to repeal by Pub. L. 91–53, §2(a), Aug. 7, 1969, 83 Stat. 91.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–239 substituted ''subsection (c)'' for ''subsections (c) and (d)'' in last sentence.

1988—Subsec. (d). Pub. L. 100–647 struck out subsec. (d) which related to quarterly payment of railroad unemployment repayment tax.

1983—Subsec. (d). Pub. L. 98–76 added subsec. (d).

1982—Subsec. (b). Pub. L. 97–248, §271(c)(3)(C), substituted ''0.6'' for ''0.5'' in two places.

Pub. L. 97–248, §271(b)(2)(C), substituted ''0.8'' for ''0.7''.

1976—Subsec. (a). Pub. L. 94–566, §114(b), amended subsec. (a) generally, changing the general rule covering payment of Federal unemployment tax on a quarterly or other time period basis to conform to the altered definitions of employment and wages pertaining to domestic and agricultural service in section 3306 of this title.

Pub. L. 94–455, §1906(a)(11)(B), (b)(13)(A), substituted ''subsection (c)'' for ''subsections (c) and (d)'' and struck out ''or his delegate'' after ''Secretary''.

Subsec. (b). Pub. L. 94–566, §211(e)(3) [(c)(3)], substituted ''In the case of wages paid in any calendar quarter or other period during a calendar year to which paragraph (1) of section 3301 applies, the amount of such wages shall be multiplied by 0.7 percent in lieu of 0.5 percent'' for ''In the case of wages paid in any calendar quarter or other period during 1973, the amount of such wages shall be multiplied by 0.58 percent in lieu of 0.5 percent''.

Subsecs. (c), (d). Pub. L. 94–455, §1906(a)(11)(A), redesignated subsec. (d) as (c). Former subsec. (c), which related to the percentage reduction for 1970 and 1971 of the tax computed in subsec. (b), was struck out.

1972—Subsec. (b). Pub. L. 92–329 inserted provisions setting forth the computation of tax in the case of wages paid in any calendar quarter or other period during 1973.

1970—Subsec. (a)(1). Pub. L. 91–373, §101(b)(1), reduced from 4 to 1 the number of individuals which a person had to employ on each of some 20 days during the preceding calendar year and inserted provision covering persons who, during any calendar quarter in the preceding calendar year, paid wages of $1,500 or more.

Subsec. (b). Pub. L. 91–373, §101(b)(2), substituted ''0.5 percent'' for ''the number of percentage points (includ-

ing fractional points) by which the rate of tax specified in section 3301 exceeds .7 percent''. be the date on which payment would have been required if such remainder had been the tax.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 applicable to remuneration paid after Dec. 31, 1988, see section 7106(d) of Pub. L. 100–647, set out as a note under section 3321 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–76 applicable to remuneration paid after June 30, 1986, see section 231(d) of Pub. L. 98–76, set out as an Effective Date note under section 3321 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 271(b)(2)(C) of Pub. L. 97–248 applicable to remuneration paid after Dec. 31, 1982, see section 271(d)(1) of Pub. L. 97–248, as amended, set out as a note under section 3301 of this title.

Amendment by section 271(c)(3)(C) of Pub. L. 97–248 applicable to remuneration paid after Dec. 31, 1984, see section 271(d)(2) of Pub. L. 97–248, as amended, set out as a note under section 3301 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 114(b) of Pub. L. 94–566 effective with respect to remuneration paid after Dec. 31, 1977, for services performed after that date, see section 114(c) of Pub. L. 94–566 set out as a note under section 3306 of this title.

Amendment by section 211(e)(3) of Pub. L. 94–566 effective Oct. 20, 1976, see section 211(d)(3) of Pub. L. 94–566, set out as a note under section 1101 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 101(b)(1) of Pub. L. 91–373 applicable with respect to calendar years beginning after Dec. 31, 1971, see section 101(c)(1) of Pub. L. 91–373, set out as a note under section 3306 of this title.

Section 101(c)(2) of Pub. L. 91–373 provided that: ''The amendment made by subsection (b)(2) [amending this section] shall apply with respect to calendar years beginning after December 31, 1969.''

EFFECTIVE DATE

Section 4(a) of Pub. L. 91–53 provided that: ''The amendments made by the first two sections of this Act [enacting section 6317 and amending this section and sections 3306, 6201, 6513, and 6601 of this title] shall apply with respect to calendar years beginning after December 31, 1969.''

EXTENSION OF TIME FOR PAYMENT OF ADDITIONAL FUTA TAXES

Pub. L. 102–244, § 4, Feb. 7, 1992, 106 Stat. 4, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law, if a qualified taxpayer is required to pay additional taxes for taxable years beginning in 1991 with respect to any employment in any State by reason of such State being declared a credit reduction State, such taxpayer may elect to defer the filing and payment of such additional taxes to a date no later than June 30, 1992.

''(b) INTEREST.—Notwithstanding subsection (a), for purposes of section 6601(a) of the Internal Revenue Code of 1986, the last date prescribed for payment of any additional taxes for which an election is made under subsection (a) shall be January 31, 1992.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED TAXPAYER.—The term 'qualified taxpayer' means a taxpayer—

''(A) in a State which has been declared a credit reduction State for taxable years beginning in 1991, and

''(B) who did not receive notice of such credit reduction before December 1, 1991 from either the State unemployment compensation agency or the Internal Revenue Service.

''(2) CREDIT REDUCTION STATE.—The term 'credit reduction State' means a State with respect to which the Internal Revenue Service has determined that a reduction in credits is applicable for taxable years beginning in 1991 pursuant to the provisions of section 3302 of the Internal Revenue Code of 1986.

''(d) TIME AND MANNER FOR MAKING ELECTION.—An election under this section shall be made at such time and in such manner as the Secretary of the Treasury shall prescribe.''

WAGES PAID IN 1970 CALENDAR QUARTERS ENDING BEFORE AUGUST 10, 1970

Section 301(b) of Pub. L. 91–373, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''For purposes of section 6157 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to payment of Federal unemployment tax on quarterly or other time period basis), in computing tax as required by subsections (a)(1) and (2) of such section, the percentage contained in subsection (b) of such section applicable with respect to wages paid in any calendar quarter in 1970 ending before the date of the enactment of this Act [Aug. 10, 1970] shall be treated as being 0.4 percent.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3510, 6201, 6317, 6513, 6601 of this title.

[§ 6158. Repealed. Pub. L. 101–508, title XI, § 11801(a)(44), Nov. 5, 1990, 104 Stat. 1388–521]

Section, added Pub. L. 94–452, § 3(a), Oct. 2, 1976, 90 Stat. 1512; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to installment payment of tax attributable to divestitures pursuant to Bank Holding Company Act Amendments of 1970.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

§ 6159. Agreements for payment of tax liability in installments

(a) Authorization of agreements

The Secretary is authorized to enter into written agreements with any taxpayer under which such taxpayer is allowed to satisfy liability for payment of any tax in installment payments if the Secretary determines that such agreement will facilitate collection of such liability.

(b) Extent to which agreements remain in effect

(1) In general

Except as otherwise provided in this subsection, any agreement entered into by the Secretary under subsection (a) shall remain in effect for the term of the agreement.

(2) Inadequate information or jeopardy

The Secretary may terminate any agreement entered into by the Secretary under subsection (a) if—

(A) information which the taxpayer provided to the Secretary prior to the date such

agreement was entered into was inaccurate or incomplete, or

(B) the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy.

(3) Subsequent change in financial conditions

If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement.

(4) Failure to pay an installment or any other tax liability when due or to provide requested financial information

The Secretary may alter, modify, or terminate an agreement entered into by the Secretary under subsection (a) in the case of the failure of the taxpayer—

(A) to pay any installment at the time such installment payment is due under such agreement,

(B) to pay any other tax liability at the time such liability is due, or

(C) to provide a financial condition update as requested by the Secretary.

(5) Notice requirements

The Secretary may not take any action under paragraph (2), (3), or (4) unless—

(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy.

(c) Secretary required to enter into installment agreements in certain cases

In the case of a liability for tax of an individual under subtitle A, the Secretary shall enter into an agreement to accept the payment of such tax in installments if, as of the date the individual offers to enter into the agreement—

(1) the aggregate amount of such liability (determined without regard to interest, penalties, additions to the tax, and additional amounts) does not exceed $10,000;

(2) the taxpayer (and, if such liability relates to a joint return, the taxpayer's spouse) has not, during any of the preceding 5 taxable years—

(A) failed to file any return of tax imposed by subtitle A;

(B) failed to pay any tax required to be shown on any such return; or

(C) entered into an installment agreement under this section for payment of any tax imposed by subtitle A,

(3) the Secretary determines that the taxpayer is financially unable to pay such liability in full when due (and the taxpayer submits such information as the Secretary may require to make such determination);

(4) the agreement requires full payment of such liability within 3 years; and

(5) the taxpayer agrees to comply with the provisions of this title for the period such agreement is in effect.

(d) Administrative review

The Secretary shall establish procedures for an independent administrative review of terminations of installment agreements under this section for taxpayers who request such a review.

(e) Cross reference

For rights to administrative review and appeal, see section 7122(d).

(Added Pub. L. 100–647, title VI, §6234(a), Nov. 10, 1988, 102 Stat. 3735; amended Pub. L. 104–168, title II, §§201(a), (b), 202(a), July 30, 1996, 110 Stat. 1456, 1457; Pub. L. 105–206, title III, §§3462(c)(2), 3467(a), July 22, 1998, 112 Stat. 766, 769; Pub. L. 105–277, div. J, title IV, §4002(g), Oct. 21, 1998, 112 Stat. 2681–907.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–206, §3467(a), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105–277 redesignated subsec. (d), relating to cross reference, as (e).

Pub. L. 105–206, §3467(a), redesignated former subsec. (c), relating to administrative review, as (d).

Pub. L. 105–206, §3462(c)(2), added subsec. (d), relating to cross reference.

Subsec. (e). Pub. L. 105–277 redesignated subsec. (d), relating to cross reference, as (e).

1996—Subsec. (b)(3). Pub. L. 104–168, §201(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows:

''(A) IN GENERAL.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement.

''(B) NOTICE.—Action may be taken by the Secretary under subparagraph (A) only if—

''(i) notice of such determination is provided to the taxpayer no later than 30 days prior to the date of such action, and

''(ii) such notice includes the reasons why the Secretary believes a significant change in the financial condition of the taxpayer has occurred.''

Subsec. (b)(5). Pub. L. 104–168, §201(a), added par. (5).

Subsec. (c). Pub. L. 104–168, §202(a), added subsec. (c).

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–277 effective as if included in the provision of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, to which such amendment relates, see section 4002(k) of Pub. L. 105–277, set out as a note under section 1 of this title.

Amendment by section 3462(c)(2) of Pub. L. 105–206 applicable to proposed offers-in-compromise and installment agreements submitted after July 22, 1998, see section 3462(e)(1) of Pub. L. 105–206, set out as a note under section 6331 of this title.

Pub. L. 105–206, title III, §3467(b), July 22, 1998, 112 Stat. 770, provided that: ''The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 201(c) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section] shall take effect on the date 6 months after the date of the enactment of this Act [July 30, 1996].''

Section 202(b) of Pub. L. 104–168 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1997.''

EFFECTIVE DATE

Section 6234(c) of Pub. L. 100–647 provided that: ''The amendments made by this section [enacting this section and amending section 6601 of this title] shall apply to agreements entered into after the date of the enactment of this Act [Nov. 10, 1988].''

STATEMENTS REGARDING INSTALLMENT AGREEMENTS

Pub. L. 105–206, title III, § 3506, July 22, 1998, 112 Stat. 771, as amended by Pub. L. 106–554, § 1(a)(7) [title III, § 302(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–632, provided that: ''The Secretary of the Treasury or the Secretary's delegate shall, beginning not later than September 1, 2001, provide each taxpayer who has an installment agreement in effect under section 6159 of the Internal Revenue Code of 1986 an annual statement setting forth the initial balance at the beginning of the year, the payments made during the year, and the remaining balance as of the end of the year.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6323, 6330, 6331, 6343, 6601, 6651, 7122 of this title.

Subchapter B—Extensions of Time for Payment

Sec.
6161. Extension of time for paying tax.
[6162. Repealed.]
6163. Extension of time for payment of estate tax on value of reversionary or remainder interest in property.
6164. Extension of time for payment of taxes by corporations expecting carrybacks.
6165. Bonds where time to pay tax or deficiency has been extended.
6166. Extension of time for payment of estate tax where estate consists largely of interest in closely held business.
[6166A. Repealed.]
6167. Extension of time for payment of tax attributable to recovery of foreign expropriation losses.

AMENDMENTS

1981—Pub. L. 97–34, title IV, § 422(e)(5)(C), Aug. 13, 1981, 95 Stat. 316, substituted in item 6166 ''Extension of time'' for ''Alternate extension of time'' and struck out item 6166A ''Extension of time for payment of estate tax where estate consists largely of interest in closely held business''.

1976—Pub. L. 94–455, title XIX, § 1906(b)(4), title XX, § 2004(f)(5), Oct. 4, 1976, 90 Stat. 1833, 1872, struck out item 6162 ''Extension of time for payment of tax on gain attributable to liquidation of personal holding companies'', added item 6166, and renumbered former item 6166 as 6166A.

1966—Pub. L. 89–384, § 1(g)(2), Apr. 8, 1966, 80 Stat. 104, added item 6167.

1958—Pub. L. 85–866, title II, § 206(b), Sept. 2, 1958, 72 Stat. 1684, added item 6166.

§ 6161. Extension of time for paying tax

(a) Amount determined by taxpayer on return

(1) General rule

The Secretary, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months (12 months in the case of estate tax) from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

(2) Estate tax

The Secretary may, for reasonable cause, extend the time for payment of—

(A) any part of the amount determined by the executor as the tax imposed by chapter 11, or

(B) any part of any installment under section 6166 (including any part of a deficiency prorated to any installment under such section).

for a reasonable period not in excess of 10 years from the date prescribed by section 6151(a) for payment of the tax (or, in the case of an amount referred to in subparagraph (B), if later, not beyond the date which is 12 months after the due date for the last installment).

(b) Amount determined as deficiency

(1) Income, gift, and certain other taxes

Under regulations prescribed by the Secretary, the Secretary may extend the time for the payment of the amount determined as a deficiency of a tax imposed by chapter 1, 12, 41, 42, 43, or 44 for a period not to exceed 18 months from the date fixed for the payment of the deficiency, and in exceptional cases, for a further period not to exceed 12 months. An extension under this paragraph may be granted only where it is shown to the satisfaction of the Secretary that payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1, 41, 42, 43, or 44, or to the donor in the case of a tax imposed by chapter 12.

(2) Estate tax

Under regulations prescribed by the Secretary, the Secretary may, for reasonable cause, extend the time for the payment of any deficiency of a tax imposed by chapter 11 for a reasonable period not to exceed 4 years from the date otherwise fixed for the payment of the deficiency.

(3) No extension for certain deficiencies

No extension shall be granted under this subsection for any deficiency if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(c) Claims in cases under title 11 of the United States Code or in receivership proceedings

Extensions of time for payment of any portion of a claim for tax under chapter 1 or chapter 12, allowed in cases under title 11 of the United States Code or in receivership proceedings, which is unpaid, may be had in the same manner and subject to the same provisions and limitations as provided in subsection (b) in respect of a deficiency in such tax.

(d) Cross references

(1) Period of limitation

For extension of the period of limitation in case of an extension under subsection (a)(2) or subsection (b)(2), see section 6503(d).

(2) Security

For authority of the Secretary to require security in case of an extension under subsection (a)(2) or subsection (b), see section 6165.

(Aug. 16, 1954, ch. 736, 68A Stat. 762; Pub. L. 85–866, title II, § 206(c), Sept. 2, 1958, 72 Stat. 1684;

Pub. L. 91–172, title I, §101(j)(37), Dec. 30, 1969, 83 Stat. 530; Pub. L. 91–614, title I, §101(h), Dec. 31, 1970, 84 Stat. 1838; Pub. L. 93–406, title II, §1016(a)(7), Sept. 2, 1974, 88 Stat. 929; Pub. L. 94–455, title XIII, §1307(d)(2)(C), title XVI, §1605(b)(3), title XIX, §1906(b)(13)(A), title XX, §2004(c)(1), (2), Oct. 4, 1976, 90 Stat. 1727, 1754, 1834, 1867, 1868; Pub. L. 96–223, title I, §101(f)(1)(H), Apr. 2, 1980, 94 Stat. 252; Pub. L. 96–589, §6(i)(8), Dec. 24, 1980, 94 Stat. 3410; Pub. L. 97–34, title IV, §422(e)(1), Aug. 13, 1981, 95 Stat. 316; Pub. L. 100–418, title I, §1941(b)(2)(B)(viii), Aug. 23, 1988, 102 Stat. 1323.)

AMENDMENTS

1988—Subsec. (b)(1). Pub. L. 100–418 substituted ''or 44'' for ''44, or 45'' in two places.

1981—Subsec. (a)(2)(B). Pub. L. 97–34 struck out reference to section 6166A.

1980—Subsec. (b)(1). Pub. L. 96–223 inserted references to chapter 45.

Subsec. (c). Pub. L. 96–589 substituted ''Claims in cases under title 11 of the United States Code or in receivership proceedings'' for ''Claims in bankruptcy or receivership proceedings'' in heading, and substituted reference to cases under title 11 of the United States Code, for reference to bankruptcy proceedings in text.

1976—Subsec. (a)(1). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (a)(2). Pub. L. 94–455, §2004(c)(1), struck out in subpar. (A) ''that the payment, on the due date, of'' before ''any part of the amount'', in subpar. (B) provisions relating to payment, on the date fixed for payment of any installment, and subpar. (C) which related to payment upon notice and demand of a deficiency prorated under the provisions of section 6161, inserted in subpar. (B) ''or 6166A'' after ''section 6166'', substituted in subpar. (B) ''under such section'' for ''the date for payment for which had not arrived'', and inserted in text following subpar. (B) provisions relating to extension of time for payment in the case of an amount referred to in subpar. (B).

Subsec. (b). Pub. L. 94–455, §§1307(d)(2)(C), 1605(b)(3), 2004(c)(2), among other changes, inserted reference to chapter 41, effective on or after Oct. 4, 1976, and reference to chapter 44, applicable to taxable years of real estate investment trusts beginning after Oct. 4, 1976, and struck out provisions relating to grant of extensions with respect to hardships to taxpayers, applicable to the estates of decedents dying after Dec. 31, 1976.

Subsec. (d)(2). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1974—Subsec. (b). Pub. L. 93–406 inserted references to chapter 43.

1970—Subsec. (a)(1). Pub. L. 91–614 substituted ''6 months (12 months in the case of estate tax)'' for ''6 months''.

1969—Subsec. (b). Pub. L. 91–172 inserted references to chapter 42.

1958—Subsec. (a)(2). Pub. L. 85–866 inserted provisions allowing Secretary or his delegate to extend time for payment for reasonable period, not exceeding 10 years from date prescribed by section 6151(a), if he finds that payment on date fixed for payment of any installment under section 6166, or any part of such installment, or payment of any part of a deficiency prorated under section 6166 to installments the date for payment of which had arrived would result in undue hardship.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97–34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

Section 101(i) of Pub. L. 96–223, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting sections 4986 to 4998, 6050C, 6076, and 7241 of this title and amending this section and sections 164, 6211, 6212, 6213, 6214, 6302, 6344, 6501, 6511, 6512, 6601, 6611, 6652, 6653, 6862, 7422, and 7512 of this title] shall apply to periods after February 29, 1980.

''(2) TRANSITIONAL RULES.—For the period ending June 30, 1980, the Secretary of the Treasury or his delegate shall prescribe rules relating to the administration of chapter 45 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]. To the extent provided in such rules, such rules shall supplement or supplant for such period the administrative provisions contained in chapter 45 of such Code (or in so much of subtitle F of such Code [section 6001 et seq. of this title] as relates to such chapter 45).''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(C) of Pub. L. 94–455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94–455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(3) of Pub. L. 94–455, see section 1608(d) of Pub. L. 94–455, set out as a note under section 856 of this title.

Amendment by section 2004(c)(1), (2) of Pub. L. 94–455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2004(g) of Pub. L. 94–455, set out as an Effective Date note under section 6166 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91–614, set out as a note under section 2032 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 206(f) of Pub. L. 85–866, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [enacting section 6166 of this title and amending this section and sections 6503 and 6601 of this title] shall apply to estates of decedents with respect to which the date for the filing of the estate tax return (including extensions thereof) prescribed by section 6075(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] is after the date of the enactment of this Act [Sept. 2, 1958]; except that (1) section 6166(i) of such Code as added by this section shall apply to estates of decedents dying after August 16, 1954, but only if the date for the filing of the estate tax return (including extensions thereof) expired on or before the date of the enactment of this Act

[Sept. 2, 1958], and (2) notwithstanding section 6166(a) of such Code, if an election under such section is required to be made before the sixtieth day after the date of the enactment of this Act [Sept. 2, 1958] such an election shall be considered timely if made on or before such sixtieth day.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2011, 2014, 2056A, 2204, 6215, 6404, 6503, 6873 of this title.

[§ 6162. Repealed. Pub. L. 94–455, title XIX, § 1906(a)(12), Oct. 4, 1976, 90 Stat. 1825]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 763, provided for an extension of time for payment of tax on gain attributable to liquidation of personal holding companies.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of 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.

§ 6163. Extension of time for payment of estate tax on value of reversionary or remainder interest in property

(a) Extension permitted

If the value of a reversionary or remainder interest in property is included under chapter 11 in the value of the gross estate, the payment of the part of the tax under chapter 11 attributable to such interest may, at the election of the executor, be postponed until 6 months after the termination of the precedent interest or interests in the property, under such regulations as the Secretary may prescribe.

(b) Extension for reasonable cause

At the expiration of the period of postponement provided for in subsection (a), the Secretary may, for reasonable cause, extend the time for payment for a reasonable period or periods not in excess of 3 years from the expiration of the period of postponement provided in subsection (a).

(c) Cross reference

For authority of the Secretary to require security in the case of an extension under this section, see section 6165.

(Aug. 16, 1954, ch. 736, 68A Stat. 763; Pub. L. 85–866, title I, § 66(b)(1), Sept. 2, 1958, 72 Stat. 1658; Pub. L. 88–272, title II, § 240(a), Feb. 26, 1964, 78 Stat. 129; Pub. L. 93–625, § 7(d)(1), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), title XX, § 2004(c)(3), Oct. 4, 1976, 90 Stat. 1834, 1868.)

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, § 2004(c)(3), substituted provisions relating to extension of time for payment for a reasonable cause for provisions relating to extension of time for payment for undue hardship to the estate.

Subsec. (c). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1975—Subsec. (c). Pub. L. 93–625 struck out par. (1) cross reference to interest provisions of section 6601(b) of this title and struck out par. (2) designation of cross reference to security, now incorporated in present subsec. (c) provision.

1964—Subsec. (b). Pub. L. 88–272 substituted ''or periods not in excess of 3'' for ''not in excess of 2''.

1958—Subsecs. (b), (c). Pub. L. 85–866 added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 2004(c)(3) of Pub. L. 94–455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2004(g) of Pub. L. 94–455, set out as an Effective Date note under section 6166 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–625 effective on July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93–625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 240(c) of Pub. L. 88–272, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) The amendment made by subsection (a) [amending this section] shall apply in the case of any reversionary or remainder interest only if the time for payment of the tax under chapter 11 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] attributable to such interest, including any extensions thereof, has not expired on the date of the enactment of this Act [Feb. 26, 1964].

''(2) The amendment made by subsection (b) [amending section 925 of I.R.C. 1939] shall apply in the case of any reversionary or remainder interest only if the time for payment of the tax under chapter 3 of the Internal Revenue Code of 1939 attributable to such interest, including any extensions thereof, has not expired on the date of the enactment of this Act [Feb. 26, 1964].''

EFFECTIVE DATE OF 1958 AMENDMENT

Section 66(b)(3) of Pub. L. 85–866 provided that: ''The amendments made by paragraphs (1) and (2) [amending this section and sections 925 and 926 of I.R.C. 1939] shall apply in the case of any reversionary or remainder interest only if the precedent interest or interests in the property did not terminate before the beginning of the 6-month period which ends on the date of the enactment of this Act [Sept. 2, 1958].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 163, 2015, 2204, 6503 of this title.

§ 6164. Extension of time for payment of taxes by corporations expecting carrybacks

(a) In general

If a corporation, in any taxable year, files with the Secretary a statement, as provided in subsection (b), with respect to an expected net operating loss carryback from such taxable year, the time for payment of all or part of any tax imposed by subtitle A for the taxable year immediately preceding such taxable year shall be extended, to the extent and subject to the conditions and limitations hereinafter provided in this section.

(b) Contents of statement

The statement shall be filed at such time and in such manner and form as the Secretary may by regulations prescribe. Such statement shall set forth that the corporation expects to have a net operating loss carryback, as provided in section 172(b), from the taxable year in which such statement is made, and shall set forth, in such detail and with such supporting data and explanation as such regulations shall require—

(1) the estimated amount of the expected net operating loss;

(2) the reasons, facts, and circumstances which cause the corporation to expect such net operating loss;

(3) the amount of the reduction of the tax previously determined attributable to the expected carryback, such tax previously determined being ascertained in accordance with the method prescribed in section 1314(a); and such reduction being determined by applying the expected carryback in the manner provided by law to the items on the basis of which such tax was determined;

(4) the tax and the part thereof the time for payment of which is to be extended; and

(5) such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

The Secretary shall, upon request, furnish a receipt for any statement filed, which shall set forth the date of such filing.

(c) Amount to which extension relates and installment payments

The amount the time for payment of which may be extended under subsection (a) with respect to any tax shall not exceed the amount of such tax shown on the return, increased by any amount assessed as a deficiency (or as interest or addition to the tax) prior to the date of filing the statement and decreased by any amount paid or required to be paid prior to the date of such filing, and the total amount of the tax the time for payment of which may be extended shall not exceed the amount stated under subsection (b)(3). For purposes of this subsection, an amount shall not be considered as required to be paid unless shown on the return or assessed as a deficiency (or as interest or addition to the tax), and an amount assessed as a deficiency (or as interest or addition to the tax) shall be considered to be required to be paid prior to the date of filing of the statement if the 10th day after notice and demand for its payment occurs prior to such date. If an extension of time under this section relates to only a part of the tax, the time for payment of the remainder shall be the date on which payment would have been required if such remainder had been the tax.

(d) Period of extension

The extension of time for payment provided in this section shall expire—

(1) on the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for the filing of the return for the taxable year of the expected net operating loss, or

(2) if an application for tentative carryback adjustment provided in section 6411 with respect to such loss is filed before the expiration of the period prescribed in paragraph (1), on the date on which notice is mailed by certified mail or registered mail by the Secretary to the taxpayer that such application is allowed or disallowed in whole or in part.

(e) Revised statements

Each statement filed under subsection (a) with respect to any taxable year shall be in lieu of the last statement previously filed with respect to such year. If the amount the time for payment of which is extended under a statement filed is less than the amount under the last statement previously filed, the extension of time shall be terminated as to the difference between the two amounts.

(f) Termination

The Secretary is not required to make any examination of the statement, but he may make such examination thereof as he deems necessary and practicable. The Secretary shall terminate the extension as to any part of the amount to which it relates which he deems should be terminated because, upon such examination, he believes that, as of the time such examination is made, all or any part of the statement clearly is in a material respect erroneous or unreasonable.

(g) Payments on termination

If an extension of time is terminated under subsection (e) or (f) with respect to any amount, then—

(1) no further extension of time shall be made under this section with respect to such amount, and

(2) the time for payment of such amount shall be considered to be the date on which payment would have been required if there had been no extension with respect to such amount.

(h) Jeopardy

If the Secretary believes that collection of the amount to which an extension under this section relates is in jeopardy, he shall immediately terminate such extension, and notice and demand shall be made by him for payment of such amount.

(i) Consolidated returns

If the corporation seeking an extension of time under this section made or was required to make a consolidated return, either for the taxable year within which the net operating loss arises or for the preceding taxable year affected by such loss, the provisions of such section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary may by regulations prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 764; Pub. L. 85–866, title I, §89(b), Sept. 2, 1958, 72 Stat. 1665; Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title II, §234(b)(2)(C), Sept. 3, 1982, 96 Stat. 503.)

AMENDMENTS

1982—Subsec. (c). Pub. L. 97–248, §234(b)(2)(C)(i), substituted ''shall be the date on which payment would have been required if such remainder had been the tax'' for ''shall be considered to be the dates on which payments would have been required if such remainder had been the tax and the taxpayer had elected to pay the tax in installments as provided in section 6152'' in last sentence.

Subsec. (g)(2). Pub. L. 97–248, §234(b)(2)(C)(ii), substituted ''date on which payment would have been required if there had been no extension with respect to such amount'' for ''dates on which payments would have been required if there had been no extension with respect to such amount and the taxpayer had elected to pay the tax in installments as provided in section 6152''.

1976—Subsecs. (a), (b), (d), (f), (h), (i). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1958—Subsec. (d)(2). Pub. L. 85–866 inserted ''certified mail or'' before ''registered mail''.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to taxable years beginning after Dec. 31, 1982, see section 234(e) of Pub. L. 97–248, set out as a note under section 6655 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 applicable only if mailing occurs after Sept. 2, 1958, see section 89(d) of Pub. L. 85–866, set out as a note under section 7502 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6040, 6411, 6864 of this title.

§ 6165. Bonds where time to pay tax or deficiency has been extended

In the event the Secretary grants any extension of time within which to pay any tax or any deficiency therein, the Secretary may require the taxpayer to furnish a bond in such amount (not exceeding double the amount with respect to which the extension is granted) conditioned upon the payment of the amount extended in accordance with the terms of such extension.

(Aug. 16, 1954, ch. 736, 68A Stat. 766; 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 sections 1294, 6163, 6166, 6167, 6324A, 7103 of this title.

§ 6166. Extension of time for payment of estate tax where estate consists largely of interest in closely held business

(a) 5-year deferral; 10-year installment payment

(1) In general

If the value of an interest in a closely held business which is included in determining the gross estate of a decedent who was (at the date of his death) a citizen or resident of the United States exceeds 35 percent of the adjusted gross estate, the executor may elect to pay part or all of the tax imposed by section 2001 in 2 or more (but not exceeding 10) equal installments.

(2) Limitation

The maximum amount of tax which may be paid in installments under this subsection shall be an amount which bears the same ratio to the tax imposed by section 2001 (reduced by the credits against such tax) as—

(A) the closely held business amount, bears to

(B) the amount of the adjusted gross estate.

(3) Date for payment of installments

If an election is made under paragraph (1), the first installment shall be paid on or before the date selected by the executor which is not more than 5 years after the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this paragraph for payment of the preceding installment.

(b) Definitions and special rules

(1) Interest in closely held business

For purposes of this section, the term ''interest in a closely held business'' means—

(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

(B) an interest as a partner in a partnership carrying on a trade or business, if—

(i) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

(ii) such partnership had 15 or fewer partners; or

(C) stock in a corporation carrying on a trade or business if—

(i) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

(ii) such corporation had 15 or fewer shareholders.

(2) Rules for applying paragraph (1)

For purposes of paragraph (1)—

(A) Time for testing

Determinations shall be made as of the time immediately before the decedent's death.

(B) Certain interests held by husband and wife

Stock or a partnership interest which—

(i) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

(ii) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

shall be treated as owned by one shareholder or one partner, as the case may be.

(C) Indirect ownership

Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

(D) Certain interests held by members of decedent's family

All stock and all partnership interests held by the decedent or by any member of his family (within the meaning of section 267(c)(4)) shall be treated as owned by the decedent.

(3) Farmhouses and certain other structures taken into account

For purposes of the 35-percent requirement of subsection (a)(1), an interest in a closely

held business which is the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

(4) Value

For purposes of this section, value shall be value determined for purposes of chapter 11 (relating to estate tax).

(5) Closely held business amount

For purposes of this section, the term ''closely held business amount'' means the value of the interest in a closely held business which qualifies under subsection (a)(1).

(6) Adjusted gross estate

For purposes of this section, the term, ''adjusted gross estate'' means the value of the gross estate reduced by the sum of the amounts allowable as a deduction under section 2053 or 2054. Such sum shall be determined on the basis of the facts and circumstances in existence on the date (including extensions) for filing the return of tax imposed by section 2001 (or, if earlier, the date on which such return is filed).

(7) Partnership interests and stock which is not readily tradable

(A) In general

If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then—

(i) for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate,

(ii) the executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a), and

(iii) for purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.

(B) Non-readily-tradable stock defined

For purposes of this paragraph, the term ''non-readily-tradable stock'' means stock for which, at the time of the decedent's death, there was no market on a stock exchange or in an over-the-counter market.

(8) Stock in holding company treated as business company stock in certain cases

(A) In general

If the executor elects the benefits of this paragraph, then—

(i) Holding company stock treated as business company stock

For purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.

(ii) 5-year deferral for principal not to apply

The executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a).

(iii) 2-percent interest rate not to apply

For purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.

(B) All stock must be non-readily-tradable stock

No stock shall be taken into account for purposes of applying this paragraph unless it is non-readily-tradable stock (within the meaning of paragraph (7)(B)).

(C) Application of voting stock requirement of paragraph (1)(C)(i)

For purposes of clause (i) of paragraph (1)(C), the deemed stock resulting from the application of subparagraph (A) shall be treated as voting stock to the extent that voting stock in the holding company owns directly (or through the voting stock of 1 or more other holding companies) voting stock in the business company.

(D) Definitions

For purposes of this paragraph—

(i) Holding company

The term ''holding company'' means any corporation holding stock in another corporation.

(ii) Business company

The term ''business company'' means any corporation carrying on a trade or business.

(9) Deferral not available for passive assets

(A) In general

For purposes of subsection (a)(1) and determining the closely held business amount (but not for purposes of subsection (g)), the value of any interest in a closely held business shall not include the value of that portion of such interest which is attributable to passive assets held by the business.

(B) Passive asset defined

For purposes of this paragraph—

(i) In general

The term ''passive asset'' means any asset other than an asset used in carrying on a trade or business.

(ii) Stock treated as passive asset

The term ''passive asset'' includes any stock in another corporation unless—

(I) such stock is treated as held by the decedent by reason of an election under paragraph (8), and

(II) such stock qualified under subsection (a)(1).

(iii) Exception for active corporations

If—

(I) a corporation owns 20 percent or more in value of the voting stock of another corporation, or such other corporation has 15 or fewer shareholders, and

(II) 80 percent or more of the value of the assets of each such corporation is attributable to assets used in carrying on a trade or business,

then such corporations shall be treated as 1 corporation for purposes of clause (ii). For purposes of applying subclause (II) to the corporation holding the stock of the other corporation, such stock shall not be taken into account.

(c) Special rule for interest in 2 or more closely held businesses

For purposes of this section, interest in 2 or more closely held businesses, with respect to each of which there is included in determining the value of the decedent's gross estate 20 percent or more of the total value of each such business, shall be treated as an interest in a single closely held business. For purposes of the 20-percent requirement of the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property or as joint tenants, tenants by the entirety, or tenants in common shall be treated as having been included in determining the value of the decedent's gross estate.

(d) Election

Any election under subsection (a) shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe. If an election under subsection (a) is made, the provisions of this subtitle shall apply as though the Secretary were extending the time for payment of the tax.

(e) Proration of deficiency to installments

If an election is made under subsection (a) to pay any part of the tax imposed by section 2001 in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by subsection (a)(2)) be prorated to the installments payable under subsection (a). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(f) Time for payment of interest

If the time for payment of any amount of tax has been extended under this section—

(1) Interest for first 5 years

Interest payable under section 6601 of any unpaid portion of such amount attributable to the first 5 years after the date prescribed by section 6151(a) for payment of the tax shall be paid annually.

(2) Interest for periods after first 5 years

Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after the 5-year period referred to in paragraph (1) shall be paid annually at the same time as, and as a part of, each installment payment of the tax.

(3) Interest in the case of certain deficiencies

In the case of a deficiency to which subsection (e) applies which is assessed after the close of the 5-year period referred to in paragraph (1), interest attributable to such 5-year period, and interest assigned under paragraph (2) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

(4) Selection of shorter period

If the executor has selected a period shorter than 5 years under subsection (a)(3), such shorter period shall be substituted for 5 years in paragraphs (1), (2), and (3) of this subsection.

(g) Acceleration of payment

(1) Disposition of interest; withdrawal of funds from business

(A) If—

(i)(I) any portion of an interest in a closely held business which qualifies under subsection (a)(1) is distributed, sold, exchanged, or otherwise disposed of, or

(II) money and other property attributable to such an interest is withdrawn from such trade or business, and

(ii) the aggregate of such distributions, sales, exchanges, or other dispositions and withdrawals equals or exceeds 50 percent of the value of such interest,

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

(B) In the case of a distribution in redemption of stock to which section 303 (or so much of section 304 as relates to section 303) applies—

(i) the redemption of such stock, and the withdrawal of money and other property distributed in such redemption, shall not be treated as a distribution or withdrawal for purposes of subparagraph (A), and

(ii) for purposes of subparagraph (A), the value of the interest in the closely held business shall be considered to be such value reduced by the value of the stock redeemed.

This subparagraph shall apply only if, on or before the date prescribed by subsection (a)(3) for the payment of the first installment which becomes due after the date of the distribution (or, if earlier, on or before the day which is 1 year after the date of the distribution), there is paid an amount of the

tax imposed by section 2001 not less than the amount of money and other property distributed.

(C) Subparagraph (A)(i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A)(i) as an interest qualifying under subsection (a)(1).

(D) Subparagraph (A)(i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent. A similar rule shall apply in the case of a series of subsequent transfers of the property by reason of death so long as each transfer is to a member of the family (within the meaning of section 267(c)(4)) of the transferor in such transfer.

(E) Changes in interest in holding company

If any stock in a holding company is treated as stock in a business company by reason of subsection (b)(8)(A)—

(i) any disposition of any interest in such stock in such holding company which was included in determining the gross estate of the decedent, or

(ii) any withdrawal of any money or other property from such holding company attributable to any interest included in determining the gross estate of the decedent,

shall be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) the stock qualifying under subsection (a)(1).

(F) Changes in interest in business company

If any stock in a holding company is treated as stock in a business company by reason of subsection (b)(8)(A)—

(i) any disposition of any interest in such stock in the business company by such holding company, or

(ii) any withdrawal of any money or other property from such business company attributable to such stock by such holding company owning such stock,

shall be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) the stock qualifying under subsection (a)(1).

(2) Undistributed income of estate

(A) If an election is made under this section and the estate has undistributed net income for any taxable year ending on or after the due date for the first installment, the executor shall, on or before the date prescribed by law for filing the income tax return for such taxable year (including extensions thereof), pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments.

(B) For purposes of subparagraph (A), the undistributed net income of the estate for any taxable year is the amount by which the distributable net income of the estate for such taxable year (as defined in section 643) exceeds the sum of—

(i) the amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a) (relating to deductions for distributions, etc.);

(ii) the amount of tax imposed for the taxable year on the estate under chapter 1; and

(iii) the amount of the tax imposed by section 2001 (including interest) paid by the executor during the taxable year (other than any amount paid pursuant to this paragraph).

(C) For purposes of this paragraph, if any stock in a corporation is treated as stock in another corporation by reason of subsection (b)(8)(A), any dividends paid by such other corporation to the corporation shall be treated as paid to the estate of the decedent to the extent attributable to the stock qualifying under subsection (a)(1).

(3) Failure to make payment of principal or interest

(A) In general

Except as provided in subparagraph (B), if any payment of principal or interest under this section is not paid on or before the date fixed for its payment by this section (including any extension of time), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

(B) Payment within 6 months

If any payment of principal or interest under this section is not paid on or before the date determined under subparagraph (A) but is paid within 6 months of such date—

(i) the provisions of subparagraph (A) shall not apply with respect to such payment,

(ii) the provisions of section 6601(j) shall not apply with respect to the determination of interest on such payment, and

(iii) there is imposed a penalty in an amount equal to the product of—

(I) 5 percent of the amount of such payment, multiplied by

(II) the number of months (or fractions thereof) after such date and before payment is made.

The penalty imposed under clause (iii) shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68.

(h) Election in case of certain deficiencies

(1) In general

If—

(A) a deficiency in the tax imposed by section 2001 is assessed,

(B) the estate qualifies under subsection (a)(1), and

(C) the executor has not made an election under subsection (a),

the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(2) Time of election

An election under this subsection shall be made not later than 60 days after issuance of notice and demand by the Secretary for the payment of the deficiency, and shall be made in such manner as the Secretary shall by regulations prescribe.

(3) Effect of election on payment

If an election is made under this subsection, the deficiency shall (subject to the limitation provided by subsection (a)(2)) be prorated to the installments which would have been due if an election had been timely made under subsection (a) at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date for payment of which would have arrived shall be paid at the time of the making of the election under this subsection. The portion of the deficiency so prorated to installments the date for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.

(i) Special rule for certain direct skips

To the extent that an interest in a closely held business is the subject of a direct skip (within the meaning of section 2612(c)) occurring at the same time as and as a result of the decedent's death, then for purposes of this section any tax imposed by section 2601 on the transfer of such interest shall be treated as if it were additional tax imposed by section 2001.

(j) Regulations

The Secretary shall prescribe such regulations as may be necessary to the application of this section.

(k) Cross references

(1) Security

For authority of the Secretary to require security in the case of an extension under this section, see section 6165.

(2) Lien

For special lien (in lieu of bond) in the case of an extension under this section, see section 6324A.

(3) Period of limitation

For extension of the period of limitation in the case of an extension under this section, see section 6503(d).

(4) Interest

For provisions relating to interest on tax payable in installments under this section, see subsection (j) of section 6601.

(5) Transfers within 3 years of death

For special rule for qualifying an estate under this section where property has been transferred within 3 years of decedent's death, see section 2035(c)(2).

(Added Pub. L. 94–455, title XX, § 2004(a), Oct. 4, 1976, 90 Stat. 1862; amended Pub. L. 95–600, title V, § 512(a), (b), Nov. 6, 1978, 92 Stat. 2882, 2883; Pub. L. 97–34, title IV, § 422(a), (c), (e)(5)(A), (B), Aug. 13, 1981, 95 Stat. 314–316; Pub. L. 97–448, title I, § 104(c), (d)(1)(B), Jan. 12, 1983, 96 Stat. 2382, 2383; Pub. L. 98–369, div. A, title V, § 544(b)(4), title X, § 1021(a)–(d), July 18, 1984, 98 Stat. 894, 1024–1026; Pub. L. 99–514, title XIV, § 1432(e), Oct. 22, 1986, 100 Stat. 2730; Pub. L. 104–188, title I, § 1704(t)(15), Aug. 20, 1996, 110 Stat. 1888; Pub. L. 105–34, title V, § 503(c)(1), Aug. 5, 1997, 111 Stat. 853; Pub. L. 105–206, title VI, § 6007(c), July 22, 1998, 112 Stat. 809; Pub. L. 106–554, § 1(a)(7) [title III, § 319(18)], Dec. 21, 2000, 114 Stat. 2763, 2763A–647.)

PRIOR PROVISIONS

A prior section 6166 was renumbered section 6166A of this title and later repealed by Pub. L. 97–34, title IV, § 422(d), Aug. 13, 1981, 95 Stat. 315.

AMENDMENTS

2000—Subsec. (k)(5). Pub. L. 106–554 substituted ''2035(c)(2)'' for ''2035(d)(4)''.

1998—Subsec. (b)(7)(A)(iii). Pub. L. 105–206, § 6007(c)(1), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''section 6601(j) (relating to 2-percent rate of interest) shall not apply.''

Subsec. (b)(8)(A)(iii). Pub. L. 105–206, § 6007(c)(2), reenacted heading without change and amended text of cl. (iii) generally. Prior to amendment, text read as follows: ''Section 6601(j) (relating to 2-percent rate of interest) shall not apply.''

1997—Subsec. (b)(7)(A)(iii). Pub. L. 105–34 substituted ''2-percent'' for ''4-percent''.

Subsec. (b)(8)(A)(iii). Pub. L. 105–34 substituted ''2-percent'' for ''4-percent'' in heading and text.

1996—Subsec. (k)(6). Pub. L. 104–188 struck out par. (6) which provided cross reference to former section 2210(c) of this title authorizing payment of certain portion of estate tax in installments under provisions of this section.

1986—Subsecs. (i) to (k). Pub. L. 99–514 added subsec. (i) and redesignated former subsecs. (i) and (j) as (j) and (k), respectively.

1984—Subsec. (b)(8). Pub. L. 98–369, § 1021(a), added par. (8).

Subsec. (b)(9). Pub. L. 98–369, § 1021(b), added par. (9).

Subsec. (g)(1)(E), (F). Pub. L. 98–369, § 1021(c), added subpars. (E) and (F).

Subsec. (g)(2)(C). Pub. L. 98–369, § 1021(d), added subpar. (C).

Subsec. (j)(6). Pub. L. 98–369, § 544(b)(4), added par. (6).

1983—Subsec. (b)(3). Pub. L. 97–448, § 104(c)(1), substituted ''35-percent requirement'' for ''65-percent requirement''.

Subsec. (g)(1)(B)(i). Pub. L. 97–448, § 104(c)(2), substituted ''the redemption of such stock, and the withdrawal of money or other property distributed in such redemption, shall not be treated as a distribution or withdrawal for purposes of subparagraph (A), and'' for ''subparagraph (A)(i) does not apply with respect to the stock redeemed; and for purposes of such subparagraph the interest in the closely held business shall be considered to be such interest reduced by the value of the stock redeemed, and''.

Subsec. (g)(1)(B)(ii). Pub. L. 97–448, § 104(c)(2), substituted ''for purposes of subparagraph (A), the value of the interest in the closely held business shall be considered to be such value reduced by the value of the stock redeemed'' for ''subparagraph (A)(ii) does not apply with respect to withdrawals of money and other property distributed; and for purposes of such subparagraph the value of the trade or business shall be considered to be such value reduced by the amount of money and other property distributed''.

Subsec. (j)(5). Pub. L. 97–448, § 104(d)(1)(B), added par. (5).

1981—Pub. L. 97–34, § 422(e)(5)(B), substituted ''Extension of time'' for ''Alternate extension of time'' in section catchline.

Subsec. (a). Pub. L. 97–34, § 422(a)(1), (e)(5)(A), substituted in par. (1) ''35 percent'' for ''65 percent'' and struck out par. (4) which provided that no election be made under this section by the executor of the estate of any decedent if an election under section 6166A applies with respect to the estate of such decedent.

Subsec. (c). Pub. L. 97–34, § 422(a)(2), substituted ''20 percent or more'' for ''more than 20 percent''.

Subsec. (g)(1)(A). Pub. L. 97–34, § 422(c)(1), redesignated cl. (i) as cl. (i)(I), substituted ''any portion'' for ''one-third or more in value'', added cl. (i)(II), substituted in cl. (ii) ''the aggregate of such distributions, sales, exchanges, or other dispositions and withdrawals equals or exceeds 50 percent of the value of such interest'' for ''aggregate withdrawals of money and other property from the trade or business, an interest in which qualifies under subsection (a)(1), made with respect to such interest, equal or exceed one-third of the value of such trade or business'' and in provision following cl. (ii) substituted ''the unpaid portion'' for ''any unpaid portion''.

Subsec. (g)(1)(D). Pub. L. 97–34, § 422(c)(3), inserted provision for application of a similar rule in the case of a series of subsequent transfers of the property by reason of death so long as each transfer is to a member of the family of the transferor in such transfer.

Subsec. (g)(3). Pub. L. 97–34, § 422(c)(2), substituted as heading ''Failure to make payment of principal or interest'' for ''Failure to pay installment'', designated existing provisions as subpar. (A), and in subpar. (A) as so designated, substituted ''Except as provided in subparagraph (B), if any payment of principal or interest'' for ''If any installment'' and ''extension of time'' for ''extension of time for the payment of such installment'', and added subpar. (B).

1978—Subsec. (b)(2)(D). Pub. L. 95–600, § 512(a), added subpar. (D).

Subsec. (b)(7). Pub. L. 95–600, § 512(b), added par. (7).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to estates of decedents dying after Dec. 31, 1997, with special rule in case of estate of any decedent dying before Jan. 1, 1998, with respect to which there is an election under section 6166 of this title, see section 503(d) of Pub. L. 105–34, set out as a note under section 163 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to generation-skipping transfers (within the meaning of section 2611 of this title) made after Oct. 22, 1986, except as otherwise provided, see section 1433 of Pub. L. 99–514, set out as an Effective Date note under section 2601 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 544(b)(4) of Pub. L. 98–369 applicable to estates of decedents which are required to file returns on a date (including any extensions) after July 18, 1984, see section 544(d) of Pub. L. 98–369, set out as a note under section 2002 of this title.

Section 1021(e) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply with respect to estates of decedents dying after the date of the enactment of this Act [July 18, 1984].

''(2) SPECIAL RULE.—

''(A) IN GENERAL.—At the election of the executor, if—

''(i) a corporation has 15 or fewer shareholders on June 22, 1984, and at all times thereafter before the date of the decedent's death, and

''(ii) stock of such corporation is included in the gross estate of the decedent,

then all other corporations all of the stock of which is owned directly or indirectly by the corporation described in clauses (i) and (ii) shall be treated as one corporation for purposes of section 6166 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

''(B) EFFECT OF ELECTION.—Any executor who elects the application of this paragraph shall be treated as having made the election under paragraph (8) of section 6166(b) of such Code.''

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97–34, to which such amendment relates, see section 109 of Pub. L. 97–448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 422(f) of Pub. L. 97–34 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 303, 2011, 2204, 2621, 6161, 6324A, 6503, and 7403 of this title and repealing section 6166A of this title] shall apply to the estates of decedents dying after December 31, 1981.

''(2) ACCELERATION BY REASON OF SUBSEQUENT DEATH.—The amendment made by subsection (c)(3) [amending this section] shall apply to transfers after December 31, 1981.''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 512(c) of Pub. L. 95–600 provided that: ''The amendments made by this section [amending this section] shall apply with respect to the estates of decedents dying after the date of the enactment of this Act [Nov. 6, 1978].''

EFFECTIVE DATE

Section 2004(g) of Pub. L. 94–455 provided that: ''The amendments made by this section [enacting this section and section 6324A of this title and amending sections 303, 2011, 2204, 6136, 6161, 6503, 6601, and 7403 of this title] shall apply to the estates of decedents dying after December 31, 1976.''

LAND DIVERTED UNDER 1983 PAYMENT-IN-KIND PROGRAM

Land diverted from production of agricultural commodities under a 1983 payment-in-kind program to be treated, for purposes of this section, as used during the 1983 crop year by qualified taxpayers in the active conduct of the trade or business of farming, with qualified taxpayers who materially participate in the diversion and devotion to conservation uses under a 1983 payment-in-kind program to be treated as materially participating in the operation of such land during the 1983 crop year, see section 3 of Pub. L. 98–4, set out as a note under section 61 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 163, 303, 2011, 2032A, 2035, 2053, 2056A, 2057, 6324A, 6503, 6601, 7403, 7422, 7479, 7481 of this title.

[§ 6166A. Repealed. Pub. L. 97–34, title IV, § 422(d), Aug. 13, 1981, 95 Stat. 315]

Section, added Pub. L. 85–866, title II, § 206(a), Sept. 2, 1958, 72 Stat. 1681, § 6166; amended Pub. L. 93–625, § 7(d)(2), (3), Jan. 3, 1975, 88 Stat. 2115; renumbered § 6166A and amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), title XX, § 2004(a), Oct. 4, 1976, 90 Stat. 1834, 1862, provided for an extension of time for payment of estate tax where estate consists largely of interest in closely held business.

EFFECTIVE DATE OF REPEAL

Repeal applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97–34, set out as an Effective Date of 1981 Amendment note under section 6166 of this title.

§ 6167. Extension of time for payment of tax attributable to recovery of foreign expropriation losses

(a) Extension allowed by election

If—

(1) a corporation has a recovery of a foreign expropriation loss to which section 1351 applies, and

(2) the portion of the recovery received in money is less than 25 percent of the amount of such recovery (as defined in section 1351(c)) and is not greater than the tax attributable to such recovery,

the tax attributable to such recovery shall, at the election of the taxpayer, be payable in 10 equal installments on the 15th day of the third month of each of the taxable years following the taxable year of the recovery. Such election shall be made at such time and in such manner as the Secretary may prescribe by regulations. If an election is made under this subsection, the provisions of this subtitle shall apply as though the Secretary were extending the time for payment of such tax.

(b) Extension permitted by Secretary

If a corporation has a recovery of a foreign expropriation loss to which section 1351 applies and if an election is not made under subsection (a), the Secretary may, upon finding that the payment of the tax attributable to such recovery at the time otherwise provided in this subtitle would result in undue hardship, extend the time for payment of such tax for a reasonable period or periods not in excess of 9 years from the date on which such tax is otherwise payable.

(c) Acceleration of payments

If—

(1) an election is made under subsection (a),

(2) during any taxable year before the tax attributable to such recovery is paid in full—

(A) any property (other than money) received on such recovery is sold or exchanged, or

(B) any property (other than money) received on any sale or exchange described in subparagraph (A) is sold or exchanged, and

(3) the amount of money received on such sale or exchange (reduced by the amount of the tax imposed under chapter 1 with respect to such sale or exchange), when added to the amount of money—

(A) received on such recovery, and

(B) received on previous sales or exchanges described in subparagraphs (A) and (B) of paragraph (2) (as so reduced),

exceeds the amount of money which may be received under subsection (a)(2),

an amount of the tax attributable to such recovery equal to such excess shall be payable on the 15th day of the third month of the taxable year following the taxable year in which such sale or exchange occurs. The amount of such tax so paid shall be treated, for purposes of this section, as a payment of the first unpaid installment or installments (or portion thereof) which become payable under subsection (a) following such taxable year.

(d) Proration of deficiency to installments

If an election is made under subsection (a), and a deficiency attributable to the recovery of a foreign expropriation loss has been assessed, the deficiency shall be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(e) Time for payment of interest

If the time for payment for any amount of tax has been extended under this section, interest payable under section 6601 on any unpaid portion of such amount shall be paid annually at the same time as, and as part of, each installment payment of the tax. Interest, on that part of a deficiency prorated under this section to any installment the date for payment of which has not arrived, for the period before the date fixed for the last installment preceding the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

(f) Tax attributable to recovery of foreign expropriation loss

For purposes of this section, the tax attributable to a recovery of a foreign expropriation loss is the sum of—

(1) the additional tax imposed by section 1351(d)(1) on such recovery, and

(2) the amount by which the tax imposed under subtitle A is increased by reason of the gain on such recovery which under section 1351(e) is considered as gain on the involuntary conversion of property.

(g) Failure to pay installment

If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

(h) Cross-references

(1) Security.—For authority of the Secretary to require security in the case of an extension under this section, see section 6165.

(2) Period of limitation.—For extension of the period of limitation in the case of an extension under this section, see section 6503(e).

(Added Pub. L. 89–384, § 1(d), Apr. 8, 1966, 80 Stat. 102; amended Pub. L. 93–625, § 7(d)(2), (3), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94–455, title XIX, §§ 1902(b)(2)(B), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1806, 1834.)

AMENDMENTS

1976—Subsecs. (a), (b), (d), (e), (g). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (h). Pub. L. 94–455, §§ 1902(b)(2)(B), 1906(b)(13)(A), substituted ''section 6503(e)'' for ''section 6503(f)'', and struck out ''or his delegate'' after ''Secretary''.

1975—Subsec. (e). Pub. L. 93–625, § 7(d)(2), struck out provision that in applying section 6601(j) (relating to the application of the 4-percent interest rate in the case of recoveries of foreign expropriation losses to which this section applies) in the case of a deficiency, the entire amount which was prorated to installments under this section shall be treated as an amount of tax the payment of which was extended under this section.

Subsec. (h). Pub. L. 93–625, § 7(d)(3), struck out par. (1) providing a cross reference for payment of interest at 4 percent per annum for period of an extension under section 6601(j) of this title, and redesignated pars. (2) and (3) as (1) and (2), respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1902(b)(2)(B) of Pub. L. 94–455 applicable to estates of decedents dying after Oct. 4, 1976, see section 1902(c)(1) of Pub. L. 94–455, set out as a note under section 2011 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93–625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE

Section applicable with respect to amounts received after Dec. 31, 1964, in respect of foreign expropriation losses (as defined in section 1351(b) of this title) sustained after Dec. 31, 1958, see section 2 of Pub. L. 89–384, set out as a note under section 1351 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6503 of this title.

CHAPTER 63—ASSESSMENT

Subchapter		Sec.[1]
A.	In general	6201
B.	Deficiency procedures in the case of income, estate, gift, and certain excise taxes	6211
C.	Tax treatment of partnership items	6221
D.	Treatment of electing large partnerships	6240

AMENDMENTS

1997—Pub. L. 105–34, title XII, § 1222(c), Aug. 5, 1997, 111 Stat. 1019, added item for subchapter D.

1996—Pub. L. 104–188, title I, § 1307(c)(3)(C), Aug. 20, 1996, 110 Stat. 1782, struck out item for subchapter D ''Tax treatment of subchapter S items''.

1982—Pub. L. 97–354, § 4(b), Oct. 19, 1982, 96 Stat. 1692, added item for subchapter D.

Pub. L. 97–248, title IV, § 402(b), Sept. 3, 1982, 96 Stat. 667, added item for subchapter C.

1969—Pub. L. 91–172, title I, § 101(j)(63), Dec. 30, 1969, 83 Stat. 532, inserted reference to certain excise taxes in item for subchapter B.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6867 of this title.

Subchapter A—In General

Sec.
6201. Assessment authority.
6202. Establishment by regulations of mode or time of assessment.
6203. Method of assessment.
6204. Supplemental assessments.
6205. Special rules applicable to certain employment taxes.
6206. Special rules applicable to excessive claims under sections 6420, 6421, and 6427.
6207. Cross references.

AMENDMENTS

1983—Pub. L. 97–424, title V, § 515(b)(3)(B), Jan. 6, 1983, 96 Stat. 2181, struck out reference to section 6424 in item 6206.

1970—Pub. L. 91–258, title II, § 207(d)(11), May 21, 1970, 84 Stat. 249, inserted reference to section 6427 in item 6206.

1965—Pub. L. 89–44, title II, § 202(c)(2)(B), June 21, 1965, 79 Stat. 139, substituted ''6420, 6421, and 6424'' for ''6420 and 6421'' in item 6206.

1956—Act June 29, 1956, ch. 462, title II, § 208(e)(3), 70 Stat. 397, substituted ''sections 6420 and 6421'' for ''section 6420'' in item 6206.

Act Apr. 2, 1956, ch. 160, § 4(b)(2), 70 Stat. 91, inserted item ''6206. Special rules applicable to excessive claims under section 6420'', and renumbered former item 6206 as 6207.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7851 of this title.

§ 6201. Assessment authority

(a) Authority of Secretary

The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:

(1) Taxes shown on return

The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title.

(2) Unpaid taxes payable by stamp

(A) Omitted stamps

Whenever any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale or use by the manufacturer thereof or whenever any transaction or act upon which a tax is required to be paid by means of a stamp occurs without the use of the proper stamp, it shall be the duty of the Secretary, upon such information as he can obtain, to estimate the amount of tax which has been omitted to be paid and to make assessment therefor upon the person or persons the Secretary determines to be liable for such tax.

(B) Check or money order not duly paid

In any case in which a check or money order received under authority of section 6311 as payment for stamps is not duly paid, the unpaid amount may be immediately assessed as if it were a tax imposed by this

[1] Section numbers editorially supplied.

title, due at the time of such receipt, from the person who tendered such check or money order.

(3) Erroneous income tax prepayment credits

If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit for income tax withheld at the source, or of the amount paid as estimated income tax, the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary in the same manner as in the case of a mathematical or clerical error appearing upon the return, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph.

(b) Amount not to be assessed

(1) Estimated income tax

No unpaid amount of estimated income tax required to be paid under section 6654 or 6655 shall be assessed.

(2) Federal unemployment tax

No unpaid amount of Federal unemployment tax for any calendar quarter or other period of a calendar year, computed as provided in section 6157, shall be assessed.

(c) Compensation of child

Any income tax under chapter 1 assessed against a child, to the extent attributable to amounts includible in the gross income of the child, and not of the parent, solely by reason of section 73(a), shall, if not paid by the child, for all purposes be considered as having also been properly assessed against the parent.

(d) Required reasonable verification of information returns

In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return.

(e) Deficiency proceedings

For special rules applicable to deficiencies of income, estate, gift, and certain excise taxes, see subchapter B.

(Aug. 16, 1954, ch. 736, 68A Stat. 767; Pub. L. 89–44, title VIII, § 809(d)(4)(A), June 21, 1965, 79 Stat. 168; Pub. L. 91–53, § 2(b), Aug. 7, 1969, 83 Stat. 92; Pub. L. 91–172, title I, § 101(j)(38), Dec. 30, 1969, 83 Stat. 530; Pub. L. 91–258, title II, § 207(d)(1), (2), May 21, 1970, 84 Stat. 248; Pub. L. 93–406, title II, § 1016(a)(8), Sept. 2, 1974, 88 Stat. 929; Pub. L. 94–12, title II, § 204(b)(2), Mar. 29, 1975, 89 Stat. 31; Pub. L. 94–455, title XII, § 1206(c)(2), title XIII, § 1307(d)(2)(D), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1704, 1727, 1834; Pub. L. 97–424, title V, § 515(b)(6)(E), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 98–76, title II, § 231(b)(2)(A), Aug. 12, 1983, 97 Stat. 429; Pub. L. 98–369, div. A, title IV, §§ 412(b)(5), 474(r)(32), July 18, 1984, 98 Stat. 792, 845; Pub. L. 100–203, title X, § 10301(b)(3), Dec. 22, 1987, 101 Stat. 1330–429; Pub. L. 100–647, title I, § 1015(r)(1), title VII, § 7106(c)(2), Nov. 10, 1988, 102 Stat. 3572, 3773; Pub. L. 104–168, title VI, § 602(a), July 30, 1996, 110 Stat. 1463.)

AMENDMENTS

1996—Subsecs. (d), (e). Pub. L. 104–168 added subsec. (d) and redesignated former subsec. (d) as (e).

1988—Subsec. (a)(4). Pub. L. 100–647, § 1015(r)(1), struck out par. (4) which read as follows: ''If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit allowable by section 34 (relating to certain uses of gasoline and special fuels) or section 32 (relating to earned income), the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary in the same manner as in the case of a mathematical or clerical error appearing upon the return, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph.''

Subsec. (b)(2). Pub. L. 100–647, § 7106(c)(2), struck out ''or tax imposed by section 3321'' after ''employment tax''.

1987—Subsec. (b)(1). Pub. L. 100–203 substituted ''section 6654 or 6655'' for ''section 6154 or 6654''.

1984—Subsec. (a)(4). Pub. L. 98–369, § 474(r)(32), substituted ''section 32 or 34'' for ''section 39 or 43'' in heading, and in text substituted ''section 34'' for ''section 39'' and ''section 32'' for ''section 43''.

Subsec. (b)(1). Pub. L. 98–369, § 412(b)(5), amended par. (1) generally, substituting ''estimated income tax required to be paid under section 6154 or 6654'' for ''estimated tax under section 6153 or 6154''.

1983—Subsec. (a)(4). Pub. L. 97–424 substituted ''and special fuels'' for '', special fuels, and lubricating oil'' after ''gasoline''.

Subsec. (b)(2). Pub. L. 98–76 substituted ''Federal unemployment tax or tax imposed by section 3321'' for ''Federal unemployment tax''.

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

Subsec. (a)(3), (4). Pub. L. 94–455, §§ 1206(c)(2), 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'', substituted ''mathematical or clerical error'' for ''mathematical error'' after ''the case of'', and inserted '', except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph'' after ''upon the return''.

Subsec. (d). Pub. L. 94–455, § 1307(d)(2)(D), substituted ''and certain excise taxes'' for ''chapter 42, and chapter 43 taxes'' after ''estate, gift''.

1975—Subsec. (a)(4). Pub. L. 94–12 inserted reference to section 43 in heading and substituted ''oil) or section 43 (relating to earned income),'' for ''oil),'' in text.

1974—Subsec. (d). Pub. L. 93–406 inserted reference to chapter 43 taxes.

1970—Subsec. (a)(4). Pub. L. 91–258 inserted provision for overstatement of credit allowable by section 39 (relating to certain uses of special fuels) in text and substituted ''under section 39'' for ''for use of gasoline'' in heading.

1969—Subsec. (b). Pub. L. 91–53 added subsec. (b) heading and par. (2), and redesignated former subsec. (b), including its heading, as par. (1).

Subsec. (d). Pub. L. 91–172 inserted reference to chapter 42 taxes.

1965—Subsec. (a)(4). Pub. L. 89–44 added par. (4).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 602(b) of Pub. L. 104–168 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(r)(4) of Pub. L. 100–647 provided that: ''The amendments made by this subsection [amending this section and sections 6211 and 6213 of this title] shall apply to notices of deficiencies mailed after the date of the enactment of this Act [Nov. 10, 1988].''

Amendment by section 7106(c)(2) of Pub. L. 100–647 applicable to remuneration paid after Dec. 31, 1988, see section 7106(d) of Pub. L. 100–647, set out as a note under section 3321 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100–203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 412(b)(5) of Pub. L. 98–369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98–369, set out as a note under section 6654 of this title.

Amendment by section 474(r)(32) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–76 applicable to remuneration paid after June 30, 1986, see section 231(d) of Pub. L. 98–76, set out as an Effective Date note under section 3321 of this title.

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 1976 AMENDMENT

Amendment by section 1206(c)(2) of Pub. L. 94–455 applicable with respect to returns filed after Dec. 31, 1976, see section 1206(d) of Pub. L. 94–455, set out as a note under section 6213 of this title.

Amendment by section 1307(d)(2)(D) of Pub. L. 94–455 effective on and after Oct. 4, 1976, see section 1307(e) of Pub. L. 94–455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–12 applicable to taxable years beginning after Dec. 31, 1974, see section 209(b) of Pub. L. 94–12, as amended, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 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 AMENDMENTS

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

Amendment by Pub. L. 91–53 applicable with respect to calendar years beginning after Dec. 31, 1969, see section 4(a) of Pub. L. 91–53, set out as an Effective Date note under section 6157 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89–44, set out as a note under section 6420 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 73, 5007, 6213 of this title.

§ 6202. Establishment by regulations of mode or time of assessment

If the mode or time for the assessment of any internal revenue tax (including interest, additional amounts, additions to the tax, and assessable penalties) is not otherwise provided for, the Secretary may establish the same by regulations.

(Aug. 16, 1954, ch. 736, 68A Stat. 768; 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''.

§ 6203. Method of assessment

The assessment shall be made by recording the liability of the taxpayer in the office of the Secretary in accordance with rules or regulations prescribed by the Secretary. Upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment.

(Aug. 16, 1954, ch. 736, 68A Stat. 768; 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 6303 of this title.

§ 6204. Supplemental assessments

(a) General rule

The Secretary may, at any time within the period prescribed for assessment, make a supplemental assessment whenever it is ascertained that any assessment is imperfect or incomplete in any material respect.

(b) Restrictions on assessment

For restrictions on assessment of deficiencies in income, estate, gift, and certain excise taxes, see section 6213.

(Aug. 16, 1954, ch. 736, 68A Stat. 768; Pub. L. 93–406, title II, § 1016(a)(27), Sept. 2, 1974, 88 Stat. 932; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1974—Subsec. (b). Pub. L. 93–406 substituted ''gift, and certain excise taxes'' for ''and gift taxes''.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, and, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

§ 6205. Special rules applicable to certain employment taxes

(a) Adjustment of tax

(1) General rule

If less than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of wages or compensation, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary may by regulations prescribe.

(2) United States as employer

For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(3) Guam or American Samoa as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the Government of Guam, the Government of American Samoa, a political subdivision of either, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, the Governor of Guam, the Governor of American Samoa, and each agent designated by either who makes a return pursuant to section 3125 shall be deemed a separate employer.

(4) District of Columbia as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the District of Columbia or any instrumentality which is wholly owned thereby, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section 3125 shall be deemed a separate employer.

(5) States and political subdivisions as employer

For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer.

(b) Underpayments

If less than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid or deducted with respect to any payment of wages or compensation and the underpayment cannot be adjusted under subsection (a) of this section, the amount of the underpayment shall be assessed and collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary may by regulations prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 768; Pub. L. 86–778, title I, § 103(r)(1), Sept. 13, 1960, 74 Stat. 940; Pub. L. 89–97, title III, § 317(d), July 30, 1965, 79 Stat. 389; Pub. L. 94–455, title XIX, § 1906(a)(13), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1825, 1834; Pub. L. 99–272, title XIII, § 13205(a)(2)(D), Apr. 7, 1986, 100 Stat. 315.)

AMENDMENTS

1986—Subsec. (a)(5). Pub. L. 99–272 added par. (5).

1976—Subsec. (a)(1). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (a)(4). Pub. L. 94–455, § 1906(a)(13), substituted ''Mayor of the District of Columbia and each agent designated by him'' for ''Commissioners of the District of Columbia and each agent designated by them'' after ''owned thereby, the''.

Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1965—Subsec. (a)(4). Pub. L. 89–97 added par. (4).

1960—Subsec. (a)(3). Pub. L. 86–778 added par. (3).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–272 applicable to services performed after Mar. 31, 1986, see section 13205(d)(1) of Pub. L. 99–272, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

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.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–97 applicable with respect to services performed after quarter ending Sept. 30, 1965, and after quarter in which Secretary of the Treasury receives a certification from Commissioners of District of Columbia expressing their desire to have insurance system established by sections 401 et seq. and 1395c et seq. of Title 42, The Public Health and Welfare, extended to officers and employees coming under provisions of such amendments, see section 317(g) of Pub. L. 89–97, set out as a note under section 410 of Title 42.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–778 applicable only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, The Public Health and Welfare, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to

have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of Title 42.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6601 of this title.

§ 6206. Special rules applicable to excessive claims under sections 6420, 6421, and 6427

Any portion of a payment made under section 6420, 6421, or 6427 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if it were a tax imposed by section 4081 (with respect to payments under sections 6420 and 6421), or 4041, 4081, or 4091 (with respect to payments under section 6427) and as if the person who made the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for the filing of the claim under section 6420, 6421, or 6427, as the case may be.

(Added Apr. 2, 1956, ch. 160, § 4(b)(1), 70 Stat. 90; amended June 29, 1956, ch. 462, title II, § 208(d)(1), 70 Stat. 396; Pub. L. 89–44, title II, § 202(c)(2)(A), June 21, 1965, 79 Stat. 139; Pub. L. 91–258, title II, § 207(d)(3), May 21, 1970, 84 Stat. 248; Pub. L. 97–424, title V, § 515(b)(3)(A), Jan. 6, 1983, 96 Stat. 2181; Pub. L. 100–203, title X, § 10502(d)(5), Dec. 22, 1987, 101 Stat. 1330–444; Pub. L. 103–66, title XIII, § 13242(d)(14), Aug. 10, 1993, 107 Stat. 524.)

PRIOR PROVISIONS

A prior section 6206 was renumbered 6207 of this title.

AMENDMENTS

1993—Pub. L. 103–66 substituted ''4041, 4081, or 4091'' for ''4041 or 4091''.

1987—Pub. L. 100–203 substituted ''or 4041 or 4091'' for ''or 4041''.

1983—Pub. L. 97–424 struck out reference to section 6424 in section catchline, and in text struck out ''4091 (with respect to payments under section 6424),'' after ''6421),'', and ''6424,'' wherever appearing.

1970—Pub. L. 91–258 inserted reference to section 6427 in section catchline, inserted reference to section 6427 in first and second sentences, and substituted ''by section 4081 (with respect to payments under sections 6420 and 6421), 4091 (with respect to payments under section 6424), or 4041 (with respect to payments under section 6427)'' for ''by section 4081 (or, in the case of lubricating oil, by section 4091)'', in first sentence, respectively.

1965—Pub. L. 89–44 struck out ''6420 and 6421'' wherever appearing in section catchline and text and substituted therefor ''6420, 6421, and 6424'' and inserted ''(or, in the case of lubricating oil, by section 4091)'' after ''4081'' in text.

1956—Act June 29, 1956, inserted reference to excessive claims under section 6421 in section catchline and text.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103–66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100–203, set out as a note under section 40 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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6504, 6675 of this title.

§ 6207. Cross references

(1) For prohibition of suits to restrain assessment of any tax, see section 7421.

(2) For prohibition of assessment of taxes against insolvent banks, see section 7507.

(3) For assessment where property subject to tax has been sold in a distraint proceeding without the tax having been assessed prior to such sale, see section 6342.

(4) For assessment with respect to taxes required to be paid by chapter 52, see section 5703.

(5) For assessment in case of distilled spirits removed from place where distilled and not deposited in bonded warehouse, see section 5006(c).

(6) For period of limitation upon assessment, see chapter 66.

(Aug. 16, 1954, ch. 736, 68A Stat. 769, § 6206; renumbered § 6207, Apr. 2, 1956, ch. 160, § 4(b)(1), 70 Stat. 90; amended Pub. L. 85–859, title II, § 204(2), (3), Sept. 2, 1958, 72 Stat. 1428; Pub. L. 94–455, title XIX, § 1906(a)(14), Oct. 4, 1976, 90 Stat. 1825.)

AMENDMENTS

1976—Par. (7). Pub. L. 94–455 struck out par. (7) relating to cross reference for assessment under the provisions of the Tariff Act of 1930.

1958—Par. (4). Pub. L. 85–859, § 204(2), substituted ''with respect to taxes required to be paid by chapter 52, see section 5703'' for ''in case of sale or removal of tobacco, snuff, cigars, and cigarettes without the use of the proper stamps, see section 5703(d)''.

Pars. (6) to (9). Pub. L. 85–859, § 204(3), redesignated pars. (8) and (9) as (6) and (7), respectively, and struck out former pars. (6) and (7) which contained cross references relating to assessments in case of certain spirits subject to excessive leakage and to assessment of deficiencies in production of distilled spirits.

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.

Subchapter B—Deficiency Procedures in the Case of Income, Estate, Gift, and Certain Excise Taxes

Sec.
6211. Definition of a deficiency.
6212. Notice of deficiency.
6213. Restrictions applicable to deficiencies; petition to Tax Court.

Sec.
6214. Determinations by Tax Court.
6215. Assessment of deficiency found by Tax Court.
6216. Cross references.

AMENDMENTS

1969—Pub. L. 91–172, title I, § 101(j)(62), Dec. 30, 1969, 83 Stat. 532, inserted reference to certain excise taxes in subchapter heading.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 32, 6230, 6234, 6241, 6601, 6662, 6665, 6677, 6679, 6682, 6693, 6696, 6697, 6698, 6703, 6706, 6713, 7463, 7611 of this title.

§ 6211. Definition of a deficiency

(a) In general

For purposes of this title in the case of income, estate, and gift taxes imposed by subtitles A and B and excise taxes imposed by chapters 41, 42, 43, and 44 the term ''deficiency'' means the amount by which the tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44 exceeds the excess of—

(1) the sum of

(A) the amount shown as the tax by the taxpayer upon his return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

(B) the amounts previously assessed (or collected without assessment) as a deficiency, over—

(2) the amount of rebates, as defined in subsection (b)(2), made.

(b) Rules for application of subsection (a)

For purposes of this section—

(1) The tax imposed by subtitle A and the tax shown on the return shall both be determined without regard to payments on account of estimated tax, without regard to the credit under section 31, without regard to the credit under section 33, and without regard to any credits resulting from the collection of amounts assessed under section 6851 or 6852 (relating to termination assessments).

(2) The term ''rebate'' means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed by subtitle A or B or chapter 41, 42, 43, or 44 was less than the excess of the amount specified in subsection (a)(1) over the rebates previously made.

(3) The computation by the Secretary, pursuant to section 6014, of the tax imposed by chapter 1 shall be considered as having been made by the taxpayer and the tax so computed considered as shown by the taxpayer upon his return.

(4) For purposes of subsection (a)—

(A) any excess of the sum of the credits allowable under sections 24(d), 32, and 34 over the tax imposed by subtitle A (determined without regard to such credits), and

(B) any excess of the sum of such credits as shown by the taxpayer on his return over the amount shown as the tax by the taxpayer on such return (determined without regard to such credits),

shall be taken into account as negative amounts of tax.

(c) Coordination with subchapters C and D

In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapters C and D.

(Aug. 16, 1954, ch. 736, 68A Stat. 770; Pub. L. 89–44, title VIII, § 809(d)(5)(A), June 21, 1965, 79 Stat. 168; Pub. L. 89–368, title I, § 102(b)(4), Mar. 15, 1966, 80 Stat. 64; Pub. L. 91–172, title I, § 101(f)(1), (j)(39), Dec. 30, 1969, 83 Stat. 524, 530; Pub. L. 93–406, title II, § 1016(a)(9), Sept. 2, 1974, 88 Stat. 929; Pub. L. 94–455, title XII, § 1204(c)(4), title XIII, § 1307(d)(2)(E), (F)(i), title XVI, § 1605(b)(4), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1698, 1728, 1754, 1834; Pub. L. 96–223, title I, § 101(f)(1)(A), (B), (2), (3), Apr. 2, 1980, 94 Stat. 252; Pub. L. 98–369, div. A, title IV, § 474(r)(33), July 18, 1984, 98 Stat. 845; Pub. L. 100–203, title X, § 10713(b)(2)(B), Dec. 22, 1987, 101 Stat. 1330–470; Pub. L. 100–418, title I, § 1941(b)(2)(B)(i), (ii), (C), (D), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100–647, title I, § 1015(r)(2), Nov. 10, 1988, 102 Stat. 3572; Pub. L. 105–34, title XII, § 1231(b), Aug. 5, 1997, 111 Stat. 1023; Pub. L. 105–206, title VI, § 6012(f), July 22, 1998, 112 Stat. 819; Pub. L. 106–554, § 1(a)(7) [title III, § 314(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–643.)

AMENDMENTS

2000—Subsec. (b)(4)(A). Pub. L. 106–554 substituted ''sections 24(d), 32, and 34'' for ''sections 32 and 34''.

1998—Subsec. (c). Pub. L. 105–206 substituted ''subchapters C and D'' for ''subchapter C'' in heading and in text.

1997—Subsec. (c). Pub. L. 105–34 added subsec. (c).

1988—Subsec. (a). Pub. L. 100–418, § 1941(b)(2)(B)(i), (C), in introductory provisions, substituted ''and 44'' for ''44, and 45'' and ''or 44'' for ''44, or 45''.

Subsec. (b)(2). Pub. L. 100–418, § 1941(b)(2)(B)(ii), substituted ''or 44'' for ''44, or 45''.

Subsec. (b)(4). Pub. L. 100–647, § 1015(r)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''The tax imposed by subtitle A and the tax shown on the return shall both be determined without regard to the credit under section 34, unless, without regard to such credit, the tax imposed by subtitle A exceeds the excess of the amount specified in subsection (a)(1) over the amount specified in subsection (a)(2).''

Subsec. (b)(5), (6). Pub. L. 100–418, § 1941(b)(2)(D), struck out pars. (5) and (6) which read as follows:

''(5) The amount withheld under section 4995(a) from amounts payable to any producer for crude oil removed during any taxable period (as defined in section 4996(b)(7)) which is not otherwise shown on a return by such producer shall be treated as tax shown by the producer on a return for the taxable period.

''(6) Any liability to pay amounts required to be withheld under section 4995(a) shall not be treated as a tax imposed by chapter 45.''

1987—Subsec. (b)(1). Pub. L. 100–203 inserted reference to section 6852.

1984—Subsec. (b)(1). Pub. L. 98–369, § 474(r)(33)(A), substituted ''without regard to the credit under section 33'' for ''without regard to so much of the credit under section 32 as exceeds 2 percent of the interest on obligations described in section 1451''.

Subsec. (b)(4). Pub. L. 98–369, § 474(r)(33)(B), substituted ''section 34'' for ''section 39''.

1980—Subsec. (a). Pub. L. 96–223, § 101(f)(1)(A), (2), inserted references to chapter 45 in provisions preceding par. (1).

Subsec. (b)(2). Pub. L. 96–223, § 101(f)(1)(B), inserted reference to chapter 45.

Subsec. (b)(5), (6). Pub. L. 96–223, § 101(f)(3), added pars. (5) and (6).

1976—Subsec. (a). Pub. L. 94–455, §§1307(d)(2)(E), (F)(i), 1605(b)(4)(A), (B), substituted ''chapters 41, 42, 43, and 44'' for ''chapters 42 and 43'' after ''taxes imposed by'' and ''chapter 41, 42, 43, or 44'' for ''chapter 42 or 43'' after ''A or B, or''.

Subsec. (b)(1). Pub. L. 94–455, §1204(c)(4), struck out ''and'' after ''31'' and inserted '', and without regard to any credits resulting from the collection of amounts assessed under section 6851 (relating to termination assessments)'' after ''section 1451''.

Subsec. (b)(2). Pub. L. 94–455, §§1307(d)(2)(F)(i), 1605(b)(4)(C), substituted ''chapter 41, 42, 43, or 44'' for ''chapter 42 or 43'' after ''A or B or''.

Subsec. (b)(3). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1974—Subsec. (a). Pub. L. 93–406, §1016(a)(9)(A), inserted reference in introductory provisions to taxes imposed by chapter 43.

Subsec. (b)(2). Pub. L. 93–406, §1016(a)(9)(B), inserted reference to taxes imposed by chapter 43.

1969—Subsec. (a). Pub. L. 91–172, §101(f)(1), inserted references to excise taxes and chapter 42.

Subsec. (b)(2). Pub. L. 91–172, §101(j)(39), inserted reference to chapter 42.

1966—Subsec. (b)(1). Pub. L. 89–368 substituted ''subtitle A'' for ''chapter 1''.

1965—Subsec. (b)(4). Pub. L. 89–44 added par. (4).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–554 effective as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 1(a)(7) [title III, §314(g)] of Pub. L. 106–554, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1231(d) of Pub. L. 105–34 provided that: ''The amendments made by this section [enacting section 6234 of this title and amending this section] shall apply to partnership taxable years ending after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–647 applicable to notices of deficiencies mailed after Nov. 10, 1988, see section 1015(r)(4) of Pub. L. 100–647, set out as a note under section 6201 of this title.

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1204(c)(4) of Pub. L. 94–455 applicable to action taken under section 6851, 6861, or 6862 of this title where the notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94–455, as amended, set out as a note under section 6851 of this title.

Amendment by section 1307(d)(2)(E), (F)(i) of Pub. L. 94–455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94–455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(4) of Pub. L. 94–455, see section 1608(d)(1) of Pub. L. 94–455, set out as a note under section 856 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–368 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 102(d) of Pub. L. 89–368, set out as a note under section 6654 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89–44, set out as a note under section 6420 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1314, 6213, 6234, 6503, 6601, 6662, 6665, 6861 of this title.

§ 6212. Notice of deficiency

(a) In general

If the Secretary determines that there is a deficiency in respect of any tax imposed by subtitles A or B or chapter 41, 42, 43, or 44 he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail. Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and phone number of the appropriate office.

(b) Address for notice of deficiency

(1) Income and gift taxes and certain excise taxes

In the absence of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by subtitle A, chapter 12, chapter 41, chapter 42, chapter 43, or chapter 44 if mailed to the taxpayer at his last known address, shall be sufficient for purposes of subtitle A, chapter 12, chapter 41, chapter 42, chapter 43, chapter 44, and this chapter even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(2) Joint income tax return

In the case of a joint income tax return filed by husband and wife, such notice of deficiency may be a single joint notice, except that if the Secretary has been notified by either spouse that separate residences have been established, then, in lieu of the single joint notice, a duplicate original of the joint notice shall be sent by certified mail or registered mail to each spouse at his last known address.

(3) Estate tax

In the absence of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by chapter 11, if addressed in the name of the decedent or other person subject to liability and mailed to his last known address, shall be sufficient for purposes of chapter 11 and of this chapter.

(c) Further deficiency letters restricted

(1) General rule

If the Secretary has mailed to the taxpayer a notice of deficiency as provided in subsection (a), and the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a), the Secretary shall have no right to determine any additional deficiency of income tax for the same taxable year, of gift tax for the same calendar year, of estate tax in respect of the taxable estate of the same decedent, of chapter 41 tax for the same taxable year, of chapter 43 tax for the same taxable year, of chapter 44 tax for the same taxable year, of section 4940 tax for the same taxable year, or of chapter 42 tax, (other than under section 4940) with respect to any act (or failure to act) to which such petition relates, except in the case of fraud, and except as provided in section 6214(a) (relating to assertion of greater deficiencies before the Tax Court), in section 6213(b)(1) (relating to mathematical or clerical errors), in section 6851 or 6852 (relating to termination assessments), or in section 6861(c) (relating to the making of jeopardy assessments).

(2) Cross references

For assessment as a deficiency notwithstanding the prohibition of further deficiency letters, in the case of—

(A) Deficiency attributable to change of treatment with respect to itemized deductions, see section 63(e)(3).

(B) Deficiency attributable to gain on involuntary conversion, see section 1033(a)(2)(C) and (D).

(C) Deficiency attributable to activities not engaged in for profit, see section 183(e)(4).

For provisions allowing determination of tax in title 11 cases, see section 505(a) of title 11 of the United States Code.

(d) Authority to rescind notice of deficiency with taxpayer's consent

The Secretary may, with the consent of the taxpayer, rescind any notice of deficiency mailed to the taxpayer. Any notice so rescinded shall not be treated as a notice of deficiency for purposes of subsection (c)(1) (relating to further deficiency letters restricted), section 6213(a) (relating to restrictions applicable to deficiencies; petition to Tax Court), and section 6512(a) (relating to limitations in case of petition to Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

(Aug. 16, 1954, ch. 736, 68A Stat. 770; Pub. L. 85–866, title I, §§76, 89(b), Sept. 2, 1958, 72 Stat. 1661, 1665; Pub. L. 88–272, title I, §112(d)(1), Feb. 26, 1964, 78 Stat. 24; Pub. L. 91–172, title I, §101(f)(2), (j)(40), (41), Dec. 30, 1969, 83 Stat. 524, 530; Pub. L. 91–614, title I, §102(d)(5), Dec. 31, 1970, 84 Stat. 1842; Pub. L. 93–406, title II, §1016(a)(10), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94–455, title II, §214(b), title XII, §§1204(c)(5), 1206(c)(3), title XIII, §1307(d)(2)(F)(ii), (G), title XVI, §1605(b)(5), title XIX, §§1901(b)(31)(C), (37)(C), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1549, 1698, 1704, 1728, 1754, 1800, 1803, 1834; Pub. L. 95–30, title I, §101(d)(15), May 23, 1977, 91 Stat. 134; Pub. L. 95–600, title IV, §405(c)(5), title VII, §701(t)(3)(C), Nov. 6, 1978, 92 Stat. 2871, 2912; Pub. L. 96–223, title I, §101(f)(1)(C), (4), (5), Apr. 2, 1980, 94 Stat. 252, 253; Pub. L. 96–589, §6(d)(2), Dec. 24, 1980, 94 Stat. 3408; Pub. L. 97–34, title IV, §442(d)(4), Aug. 13, 1981, 95 Stat. 323; Pub. L. 99–514, title I, §104(b)(17), title XV, §1562(a), Oct. 22, 1986, 100 Stat. 2106, 2761; Pub. L. 100–203, title X, §10713(b)(2)(C), Dec. 22, 1987, 101 Stat. 1330–470; Pub. L. 100–418, title I, §1941(b)(2)(B)(iii), (E), (F), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100–647, title I, §1015(m), Nov. 10, 1988, 102 Stat. 3572; Pub. L. 105–34, title III, §312(d)(12), Aug. 5, 1997, 111 Stat. 840; Pub. L. 105–206, title I, §1102(b), July 22, 1998, 112 Stat. 703.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–206 inserted at end "Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and phone number of the appropriate office."

1997—Subsec. (c)(2)(C) to (E). Pub. L. 105–34, which directed the amendment of par. (2) by striking out subpar. (C) and redesignating succeeding subpars. accordingly, was executed by redesignating subpar. (E) as (C) and striking out former subpar. (C). Prior to amendment, subpar. (C) read as follows: "Deficiency attributable to gain on sale or exchange of principal residence, see section 1034(j)." Former subpar. (D) was repealed previously.

1988—Subsec. (a). Pub. L. 100–418, §1941(b)(2)(B)(iii), substituted "or 44" for "44, or 45".

Subsec. (b)(1). Pub. L. 100–418, §1941(b)(2)(E), substituted "or chapter 44" for "chapter 44, or chapter 45" and "chapter 44, and this chapter" for "chapter 44, chapter 45, and this chapter".

Subsec. (c)(1). Pub. L. 100–418, §1941(b)(2)(F), substituted "or of chapter 42 tax" for "of chapter 42 tax" and struck out ", or of chapter 45 tax for the same taxable period" after "such petition relates".

Subsec. (d). Pub. L. 100–647 inserted sentence at end that nothing in this subsection shall affect suspension of running of period of limitations during period during which rescinded notice was outstanding.

1987—Subsec. (c)(1). Pub. L. 100–203 inserted reference to section 6852.

1986—Subsec. (c)(2)(A). Pub. L. 99–514, §104(b)(17), amended subpar. (A) generally, substituting ", see section 63(e)(3)" for "and zero bracket amount, see section 63(g)(5)".

Subsec. (d). Pub. L. 99–514, §1562(a), added subsec. (d).

1981—Subsec. (c)(1). Pub. L. 97–34 substituted "calendar year" for "calendar quarter".

1980—Subsec. (a). Pub. L. 96–223, §101(f)(1)(C), inserted reference to chapter 45.

Subsec. (b)(1). Pub. L. 96–223, §101(f)(4), substituted "and certain excise taxes" for "taxes imposed by chapter 42" in section catchline and inserted references to chapter 45 in two places in text.

Subsec. (c)(1). Pub. L. 96–223, §101(f)(5), substituted "of chapter 42 tax" for "or of chapter 42 tax" and inserted ", or of chapter 45 tax for the same taxable period" after "to which such petition relates".

Subsec. (c)(2). Pub. L. 96–589 inserted cross reference to section 505(a) of title 11 for provisions allowing determination of tax in title 11 cases.

1978—Subsec. (c)(1). Pub. L. 95–600, § 701(t)(3)(C), substituted ''same taxable year'' for ''same taxable years'' in two places.

Subsec. (c)(2)(C). Pub. L. 95–600, § 405(c)(5), substituted ''principal residence'' for ''personal residence''.

1977—Subsec. (c)(2)(A). Pub. L. 95–30 substituted ''change of treatment with respect to itemized deductions and zero bracket amount, see section 63(g)(5)'' for ''change of election with respect to the standard deduction where taxpayer and his spouse made separate returns, see section 144(b)''.

1976—Subsec. (a). Pub. L. 94–455, §§ 1307(d)(2)(F)(ii), 1605(b)(5)(A), 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'', and substituted ''chapter 41, 42, 43, or 44'' for ''chapter 42 or 43''.

Subsec. (b)(1). Pub. L. 94–455, §§ 1307(d)(2)(G)(i), 1605(b)(5)(B), (C), 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'', and substituted ''chapter 41, chapter 42, chapter 43, or chapter 44'' for ''chapter 42, or chapter 43'', and ''chapter 41, chapter 42, chapter 43, chapter 44, and this chapter'' for ''chapter 42, chapter 43, and this chapter''.

Subsec. (c)(1). Pub. L. 94–455, §§ 1204(c)(5), 1206(c)(3), 1307(d)(2)(G)(ii), 1605(b)(5)(D), 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing, substituted ''of chapter 41 tax for the same taxable year, of chapter 43 tax for the same taxable years, of chapter 44 tax for the same taxable years'' for ''of chapter 43 tax for the same taxable years'', and ''(relating to mathematical or clerical errors), in section 6851 (relating to termination assessments)'' for ''(relating to mathematical errors)''.

Subsec. (c)(2)(B). Pub. L. 94–455, § 1901(b)(31)(C), substituted ''1033(a)(2)(C) and (D)'' for ''1033(a)(3)(C) and (D)''.

Subsec. (c)(2)(D). Pub. L. 94–455, § 1901(b)(37)(C), struck out subsec. (c)(2)(D) which set forth a cross reference to section 1335 of this title relating to a deficiency attributable to war loss recoveries where prior benefit rule is elected.

Subsec. (c)(2)(E). Pub. L. 94–455, § 214(b), added subpar. (E).

1974—Subsec. (a). Pub. L. 93–406, § 1016(a)(10)(A), inserted reference to taxes imposed by chapter 43.

Subsec. (b)(1). Pub. L. 93–406, § 1016(a)(10)(B), (C), inserted reference to chapter 43 in two places.

Subsec. (c)(1). Pub. L. 93–406, § 1016(a)(10)(D), substituted ''of the same decedent, of chapter 43 tax for the same taxable years,'' for ''of the same decedent,''.

1970—Subsec. (c)(1). Pub. L. 91–614 substituted ''calendar quarter'' for ''calendar year''.

1969—Subsec. (a). Pub. L. 91–172, § 101(j)(40), inserted reference to chapter 42.

Subsec. (b)(1). Pub. L. 91–172, § 101(j)(41), inserted reference to chapter 42 taxes in heading and text.

Subsec. (c)(1). Pub. L. 91–172, § 101(f)(2), included section 4940 tax and chapter 42 tax (other than under section 4940), among the classes of taxes with respect to which the Secretary cannot determine additional deficiencies after the taxpayer has filed a petition for redetermination of any deficiency about which he has been notified.

1964—Subsec. (c)(2)(A). Pub. L. 88–272 substituted ''with respect to the'' for ''to take''.

1958—Subsec. (a). Pub. L. 85–866, § 89(b), inserted ''certified mail or'' before ''registered mail''.

Subsec. (b)(1). Pub. L. 85–866, § 76, substituted ''subtitle A or chapter 12'' for ''chapter 1 or 12'' and ''subtitle A, chapter 12,'' for ''such chapter''.

Subsec. (b)(2). Pub. L. 85–866, § 89(b), inserted ''certified mail or'' before ''registered mail''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105–34, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

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.

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 104(b)(17) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99–514, set out as a note under section 1 of this title.

Section 1562(b) of Pub. L. 99–514 provided that: ''The amendment made by this section [amending this section] shall apply to notices of deficiency issued on or after January 1, 1986.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable with respect to gifts made after Dec. 31, 1981, see section 442(e) of Pub. L. 97–34, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 405(c)(5) of Pub. L. 95–600 applicable to sales and exchanges of residences after July 26, 1978, in taxable years ending after such date, see section 405(d) of Pub. L. 95–600, set out as a note under section 1038 of this title.

Amendment by section 701(t)(3)(C) of Pub. L. 95–600 effective Oct. 4, 1976, see section 701(t)(5) of Pub. L. 95–600, set out as a note under section 859 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95–30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 214(b) of Pub. L. 94–455 applicable to taxable years beginning after Dec. 31, 1969, except that such amendments shall not apply to any taxable year ending before Oct. 4, 1976 with respect to which the period for assessing a deficiency has expired before Oct. 4, 1976, see section 214(c) of Pub. L. 94–455, set out as a note under section 183 of this title.

Amendment by section 1204(c)(5) of Pub. L. 94–455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where the notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94–455, as amended, set out as a note under section 6851 of this title.

Amendment by section 1206(c)(3) of Pub. L. 94–455 applicable to returns filed after Dec. 31, 1976, see section 1206(d) of Pub. L. 94–455, set out as a note under section 6213 of this title.

Amendment by section 1307(d)(2)(F)(ii), (G) of Pub. L. 94–455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94–455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(5) of Pub. L. 94–455, see section 1608(d) of Pub. L. 94–455, set out as a note under section 856 of this title.

Amendment by section 1901(b)(31)(C), (37)(C) of Pub. L. 94–455 applicable to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91–614, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–272, except for purposes of section 21 of this title, effective with respect to taxable years beginning after Dec. 31, 1963, see section 131 of Pub. L. 88–272, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 76 of Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

Amendment by section 89(b) of Pub. L. 85–866 applicable only if mailing occurs after Sept. 2, 1958, see section 89(d) of Pub. L. 85–866, set out as a note under section 7502 of this title.

NOTICE OF DEFICIENCY TO SPECIFY DEADLINES FOR FILING TAX COURT PETITION

Pub. L. 105–206, title III, § 3463(a), July 22, 1998, 112 Stat. 767, provided that: ''The Secretary of the Treasury or the Secretary's delegate shall include on each notice of deficiency under section 6212 of the Internal Revenue Code of 1986 the date determined by such Secretary (or delegate) as the last day on which the taxpayer may file a petition with the Tax Court.''

[Section 3463(a) of Pub. L. 105–206, set out above, applicable to notices mailed after Dec. 31, 1998, see section 3463(c) of Pub. L. 105–206, set out as an Effective Date of 1998 Amendment note under section 6213 of this title.]

EXPLANATIONS OF APPEALS AND COLLECTION PROCESS

Pub. L. 105–206, title III, § 3504, July 22, 1998, 112 Stat. 771, provided that: ''The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act [July 22, 1998], include with any first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals an explanation of the entire process from examination through collection with respect to such proposed deficiency, including the assistance available to the taxpayer from the National Taxpayer Advocate at various points in the process.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1033, 1311, 2513, 4941, 4942, 4943, 4945, 4951, 4952, 4955, 4958, 4963, 4975, 6013, 6040, 6155, 6213, 6234, 6404, 6503, 6512, 6621, 6672, 6851, 6861, 6901, 7421, 7422, 7463, 7522 of this title; title 29 section 1342.

§ 6213. Restrictions applicable to deficiencies; petition to Tax Court

(a) Time for filing petition and restriction on assessment

Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the notice of deficiency authorized in section 6212 is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day), the taxpayer may file a petition with the Tax Court for a redetermination of the deficiency. Except as otherwise provided in section 6851, 6852, or 6861 no assessment of a deficiency in respect of any tax imposed by subtitle A, or B, chapter 41, 42, 43, or 44 and no levy or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such 90-day or 150-day period, as the case may be, nor, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Notwithstanding the provisions of section 7421(a), the making of such assessment or the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court, including the Tax Court, and a refund may be ordered by such court of any amount collected within the period during which the Secretary is prohibited from collecting by levy or through a proceeding in court under the provisions of this subsection. The Tax Court shall have no jurisdiction to enjoin any action or proceeding or order any refund under this subsection unless a timely petition for a redetermination of the deficiency has been filed and then only in respect of the deficiency that is the subject of such petition. Any petition filed with the Tax Court on or before the last date specified for filing such petition by the Secretary in the notice of deficiency shall be treated as timely filed.

(b) Exceptions to restrictions on assessment

(1) Assessments arising out of mathematical or clerical errors

If the taxpayer is notified that, on account of a mathematical or clerical error appearing on the return, an amount of tax in excess of that shown on the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical or clerical error, such notice shall not be considered as a notice of deficiency for the purposes of subsection (a) (prohibiting assessment and collection until notice of the deficiency has been mailed), or of section 6212(c)(1) (restricting further deficiency letters), or of section 6512(a) (prohibiting credits or refunds after petition to the Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section. Each notice under this paragraph shall set forth the error alleged and an explanation thereof.

(2) Abatement of assessment of mathematical or clerical errors

(A) Request for abatement

Notwithstanding section 6404(b), a taxpayer may file with the Secretary within 60 days after notice is sent under paragraph (1) a request for an abatement of any assessment specified in such notice, and upon re-

ceipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by this subchapter.

(B) Stay of collection

In the case of any assessment referred to in paragraph (1), notwithstanding paragraph (1), no levy or proceeding in court for the collection of such assessment shall be made, begun, or prosecuted during the period in which such assessment may be abated under this paragraph.

(3) Assessments arising out of tentative carryback or refund adjustments

If the Secretary determines that the amount applied, credited, or refunded under section 6411 is in excess of the overassessment attributable to the carryback or the amount described in section 1341(b)(1) with respect to which such amount was applied, credited, or refunded, he may assess without regard to the provisions of paragraph (2) the amount of the excess as a deficiency as if it were due to a mathematical or clerical error appearing on the return.

(4) Assessment of amount paid

Any amount paid as a tax or in respect of a tax may be assessed upon the receipt of such payment notwithstanding the provisions of subsection (a). In any case where such amount is paid after the mailing of a notice of deficiency under section 6212, such payment shall not deprive the Tax Court of jurisdiction over such deficiency determined under section 6211 without regard to such assessment.

(c) Failure to file petition

If the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (a), the deficiency, notice of which has been mailed to the taxpayer, shall be assessed, and shall be paid upon notice and demand from the Secretary.

(d) Waiver of restrictions

The taxpayer shall at any time (whether or not a notice of deficiency has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the assessment and collection of the whole or any part of the deficiency.

(e) Suspension of filing period for certain excise taxes

The running of the time prescribed by subsection (a) for filing a petition in the Tax Court with respect to the taxes imposed by section 4941 (relating to taxes on self-dealing), 4942 (relating to taxes on failure to distribute income), 4943 (relating to taxes on excess business holdings), 4944 (relating to investments which jeopardize charitable purpose), 4945 (relating to taxes on taxable expenditures), 4951 (relating to taxes on self-dealing), or 4952 (relating to taxes on taxable expenditures), 4955 (relating to taxes on political expenditures), 4958 (relating to private excess benefit), 4971 (relating to excise taxes on failure to meet minimum funding standard), 4975 (relating to excise taxes on prohibited transactions) shall be suspended for any period during which the Secretary has extended the time allowed for making correction under section 4963(e).

(f) Coordination with title 11

(1) Suspension of running of period for filing petition in title 11 cases

In any case under title 11 of the United States Code, the running of the time prescribed by subsection (a) for filing a petition in the Tax Court with respect to any deficiency shall be suspended for the period during which the debtor is prohibited by reason of such case from filing a petition in the Tax Court with respect to such deficiency, and for 60 days thereafter.

(2) Certain action not taken into account

For purposes of the second and third sentences of subsection (a), the filing of a proof of claim or request for payment (or the taking of any other action) in a case under title 11 of the United States Code shall not be treated as action prohibited by such second sentence.

(g) Definitions

For purposes of this section—

(1) Return

The term ''return'' includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44.

(2) Mathematical or clerical error

The term ''mathematical or clerical error'' means—

(A) an error in addition, subtraction, multiplication, or division shown on any return,

(B) an incorrect use of any table provided by the Internal Revenue Service with respect to any return if such incorrect use is apparent from the existence of other information on the return,

(C) an entry on a return of an item which is inconsistent with another entry of the same or another item on such return,

(D) an omission of information which is required to be supplied on the return to substantiate an entry on the return,

(E) an entry on a return of a deduction or credit in an amount which exceeds a statutory limit imposed by subtitle A or B, or chapter 41, 42, 43, or 44, if such limit is expressed—

(i) as a specified monetary amount, or

(ii) as a percentage, ratio, or fraction,

and if the items entering into the application of such limit appear on such return,

(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income credit) to be included on a return,

(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid,

(H) an omission of a correct TIN required under section 21 (relating to expenses for household and dependent care services necessary for gainful employment) or section 151 (relating to allowance of deductions for personal exemptions),

(I) an omission of a correct TIN required under section 24(e) (relating to child tax credit) to be included on a return,

(J) an omission of a correct TIN required under section 25A(g)(1) (relating to higher education tuition and related expenses) to be included on a return,

(K) an omission of information required by section 32(k)(2) (relating to taxpayers making improper prior claims of earned income credit), and

(L) the inclusion on a return of a TIN required to be included on the return under section 21, 24, or 32 if—

(i) such TIN is of an individual whose age affects the amount of the credit under such section, and

(ii) the computation of the credit on the return reflects the treatment of such individual as being of an age different from the individual's age based on such TIN.

A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN.

(h) Cross references

(1) For assessment as if a mathematical error on the return, in the case of erroneous claims for income tax prepayment credits, see section 6201(a)(3).

(2) For assessments without regard to restrictions imposed by this section in the case of—

(A) Recovery of foreign income taxes, see section 905(c).

(B) Recovery of foreign estate tax, see section 2016.

(3) For provisions relating to application of this subchapter in the case of certain partnership items, etc., see section 6230(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 771; Pub. L. 89–44, title VIII, § 809(d)(4)(B), June 21, 1965, 79 Stat. 168; Pub. L. 91–172, title I, § 101(f)(3), (j)(42), Dec. 30, 1969, 83 Stat. 524, 530; Pub. L. 93–406, title II, § 1016(a)(11), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94–455, title XII, §§ 1204(c)(6), 1206(a)–(c)(1), title XIII, § 1307(d)(2)(F)(iii), title XVI, § 1605(b)(6), title XIX, §§ 1906(a)(15), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1698, 1703, 1704, 1728, 1755, 1825, 1834; Pub. L. 95–227, § 4(d)(1), (2), Feb. 10, 1978, 92 Stat. 23; Pub. L. 95–600, title V, § 504(b)(2), Nov. 6, 1978, 92 Stat. 2881; Pub. L. 96–223, title I, § 101(f)(1)(D), (E), Apr. 2, 1980, 94 Stat. 252; Pub. L. 96–589, § 6(b)(1), Dec. 24, 1980, 94 Stat. 3407; Pub. L. 96–596, § 2(a)(4)(C), Dec. 24, 1980, 94 Stat. 3472; Pub. L. 97–248, title IV, § 402(c)(2), Sept. 3, 1982, 96 Stat. 667; Pub. L. 98–369, title III, § 305(b)(4), title IV, § 474(r)(34), July 18, 1984, 98 Stat. 784, 845; Pub. L. 99–514, title XVIII, § 1875(d)(2)(B)(i), Oct. 22, 1986, 100 Stat. 2896; Pub. L. 100–203, title X, §§ 10712(c)(1), 10713(b)(2)(D), Dec. 22, 1987, 101 Stat. 1330–467, 1330–470; Pub. L. 100–418, title I, § 1941(b)(2)(B)(iv), (v), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100–647, title I, § 1015(r)(3), title VI, § 6243(a), Nov. 10, 1988, 102 Stat. 3573, 3749; Pub. L. 101–239, title VII, § 7811(k)(1), Dec. 19, 1989, 103 Stat. 2412; Pub. L. 104–168, title XIII, § 1311(c)(3), July 30, 1996, 110 Stat. 1478; Pub. L. 104–188, title I, § 1615(c), Aug. 20, 1996, 110 Stat. 1853; Pub. L. 104–193, title IV, § 451(c), Aug. 22, 1996, 110 Stat. 2277; Pub. L. 105–34, title I, § 101(d)(2), title II, § 201(b), title X, § 1085(a)(3), Aug. 5, 1997, 111 Stat. 799, 803, 956; Pub. L. 105–206, title III, §§ 3463(b), 3464(a), title VI, § 6010(p)(3), July 22, 1998, 112 Stat. 767, 817; Pub. L. 105–277, div. J, title III, § 3003(a), (b), Oct. 21, 1998, 112 Stat. 2681–905.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–206, § 3464(a), substituted ", including the Tax Court, and a refund may be ordered by such court of any amount collected within the period during which the Secretary is prohibited from collecting by levy or through a proceeding in court under the provisions of this subsection." for ", including the Tax Court." and "to enjoin any action or proceeding or order any refund" for "to enjoin any action or proceeding".

Pub. L. 105–206, § 3463(b), inserted at end "Any petition filed with the Tax Court on or before the last date specified for filing such petition by the Secretary in the notice of deficiency shall be treated as timely filed."

Subsec. (g)(2). Pub. L. 105–277, § 3003(a), inserted concluding provisions.

Subsec. (g)(2)(K). Pub. L. 105–206, § 6010(p)(3), amended Pub. L. 105–34, § 1085(a)(3). See 1997 Amendment note below.

Subsec. (g)(2)(L). Pub. L. 105–277, § 3003(b), added subpar. (L).

1997—Subsec. (g)(2)(I). Pub. L. 105–34, § 101(d)(2), added subpar. (I).

Subsec. (g)(2)(J). Pub. L. 105–34, § 201(b), added subpar. (J).

Subsec. (g)(2)(K). Pub. L. 105–34, § 1085(a)(3), as amended by Pub. L. 105–206, § 6010(p)(3), added subpar. (K).

1996—Subsec. (e). Pub. L. 104–168 inserted "4958 (relating to private excess benefit)," before "4971".

Subsec. (g)(2)(F), (G). Pub. L. 104–193 added subpars. (F) and (G).

Subsec. (g)(2)(H). Pub. L. 104–188 added subpar. (H).

1989—Subsec. (h)(3), (4). Pub. L. 101–239 made technical correction to directory language of Pub. L. 100–647, § 1015(r)(3), see 1988 Amendment note below.

1988—Subsec. (a). Pub. L. 100–647, § 6243(a), substituted for period at end ", including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a redetermination of the deficiency has been filed and then only in respect of the deficiency that is the subject of such petition."

Pub. L. 100–418, § 1941(b)(2)(B)(iv), substituted "or 44" for "44, or 45".

Subsec. (g)(1), (2)(E). Pub. L. 100–418, § 1941(b)(2)(B)(v), substituted "or 44" for "44, or 45".

Subsec. (h)(3), (4). Pub. L. 100–647, § 1015(r)(3), as amended by Pub. L. 101–239, redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "For assessment as if a mathematical error on the return, in the case of erroneous claims for credits under section 32 or 34, see section 6201(a)(4)."

1987—Subsec. (a). Pub. L. 100–203, § 10713(b)(2)(D), inserted reference to section 6852.

Subsec. (e). Pub. L. 100–203, § 10712(c)(1), inserted "4955 (relating to taxes on political expenditures),".

1986—Subsec. (h)(4). Pub. L. 99–514 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "For provision that this subchapter shall not apply in the case of computational adjustments attributable to partnership items, see section 6230(a)."

1984—Subsec. (e). Pub. L. 98–369, § 305(b)(4), substituted "section 4963(e)" for "section 4962(e)".

Subsec. (h)(3). Pub. L. 98–369, § 474(r)(34), substituted "section 32 or 34" for "section 39".

1982—Subsec. (h)(4). Pub. L. 97–248 added par. (4).

1980—Subsec. (a). Pub. L. 96–223, §101(f)(1)(D), inserted reference to chapter 45.

Subsec. (e). Pub. L. 96–596 substituted ''section 4962(e)'' for ''section 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6)''.

Subsec. (f). Pub. L. 96–589 added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (f)(1), (2)(E). Pub. L. 96–223, §101(f)(1)(E), inserted reference to chapter 45.

Subsecs. (g), (h). Pub. L. 96–589 redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

1978—Subsec. (b)(3). Pub. L. 95–600 inserted ''or refund'' after ''carryback'' in heading, and ''or the amount described in section 1341(b)(1)'' after ''carryback'' in text.

Subsec. (e). Pub. L. 95–227, §4(d)(1), inserted provisions relating to sections 4951 and 4952 of this title, and substituted ''4975(f)(6)'' for ''4975(f)(4)''.

Subsec. (f). Pub. L. 95–227, §4(d)(2), inserted references to chapters 41 and 44.

1976—Subsec. (a). Pub. L. 94–455, §§1204(c)(6), 1307(d)(2)(F)(iii), 1605(b)(6), 1906(a)(15), inserted ''section 6851 or'' before ''section 6861'' and references to chapter 41 and chapter 44 and substituted ''United States'' for ''States of the Union and the District of Columbia''.

Subsec. (b)(1). Pub. L. 94–455, §1206(a)(2), substituted in heading ''Assessments arising out of mathematical or clerical errors'' for ''Mathematical errors'' and in text inserted ''or clerical'' after ''mathematical'' in two places and inserted provision that each notice under this paragraph shall set forth the error alleged and an explanation thereof.

Subsec. (b)(2). Pub. L. 94–455, §1206(a)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 94–455, §§1206(a)(1), (c)(1), 1906(b)(13)(A), redesignated former par. (2) as (3), and as so redesignated, struck out ''or his delegate'' after ''Secretary'' and inserted ''without regard to the provisions of paragraph (2)'' after ''he may assess'' and ''or clerical'' after ''mathematical''. Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 94–455, §1206(a)(1), redesignated former par. (3) as (4).

Subsecs. (c) to (e). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsecs. (f), (g). Pub. L. 94–455, §1206(b), added subsec. (f) and redesignated former subsec. (f) as (g).

1974—Subsec. (a). Pub. L. 93–406, §1016(a)(11)(A), inserted reference to tax imposed by chapter 43.

Subsec. (e). Pub. L. 93–406, §1016(a)(11)(B)–(D), substituted ''excise taxes'' for ''chapter 42 taxes'' in heading, and in text substituted ''4945 (relating to taxes on taxable expenditures), 4971 (relating to excise taxes on failure to meet minimum funding standard), 4975 (relating to excise tax on prohibited transactions)'' for ''or 4945 (relating to taxes on taxable expenditures)'' and '', 4945(i)(2), 4971(c)(3), or 4975(f)(4)'' for ''or 4945(h)(2)''.

1969—Subsec. (a). Pub. L. 91–172, §101(j)(42), inserted reference to chapter 42.

Subsecs. (e), (f). Pub. L. 91–172, §101(f)(3), added subsec. (e) and redesignated former subsec. (e) as (f).

1965—Subsec. (e)(3). Pub. L. 89–44 added par. (3).

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105–277, div. J, title III, §3003(c), Oct. 21, 1998, 112 Stat. 2681–905, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 21, 1998].''

Pub. L. 105–206, title III, §3463(c), July 22, 1998, 112 Stat. 767, provided that: ''Subsection (a) and the amendment made by subsection (b) [amending this section and enacting provisions set out as a note under section 6212 of this title] shall apply to notices mailed after December 31, 1998.''

Pub. L. 105–206, title III, §3464(d), July 22, 1998, 112 Stat. 767, provided that: ''The amendments made by this section [amending this section and section 6512 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].''

Amendment by section 6010(p)(3) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 101(d)(2) of Pub. L. 105–34 applicable to taxable years beginning after Dec. 31, 1997, see section 101(e) of Pub. L. 105–34, set out as an Effective Date note under section 24 of this title.

Amendment by section 201(b) of Pub. L. 105–34 applicable to expenses paid after Dec. 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date, see section 201(f) of Pub. L. 105–34, set out as an Effective Date note under section 25A of this title.

Amendment by section 1085(a)(3) of Pub. L. 105–34 applicable to taxable years beginning after Dec. 31, 1996, see section 1085(e)(1) of Pub. L. 105–34, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104–193 applicable with respect to returns the due date for which (without regard to extensions) is more than 30 days after Aug. 22, 1996, see section 451(d) of Pub. L. 104–193, set out as a note under section 32 of this title.

Amendment by Pub. L. 104–188 applicable with respect to returns the due date for which, without regard to extensions, is on or after the 30th day after Aug. 20, 1996, with special rule for 1995 and 1996, see section 1615(d) of Pub. L. 104–188, set out as a note under section 21 of this title.

Amendment by Pub. L. 104–168 applicable to excess benefit transactions occurring on or after Sept. 14, 1995, and not applicable to any benefit arising from a transaction pursuant to any written contract which was binding on Sept. 13, 1995, and at all times thereafter before such transaction occurred, see section 1311(d)(1), (2) of Pub. L. 104–168, set out as a note under section 4955 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 1015(r)(3) of Pub. L. 100–647 applicable to notices of deficiencies mailed after Nov. 10, 1988, see section 1015(r)(4) of Pub. L. 100–647, set out as a note under section 6201 of this title.

Section 6243(c) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending this section and section 7482 of this title] shall apply to orders entered after the date of the enactment of this Act [Nov. 10, 1988].''

Amendment by Pub. L. 100–418 applicable to crude oil removed from premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10712(c)(1) of Pub. L. 100–203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100–203, set out as an Effective Date note under section 4955 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective as if included in the Tax Equity and Fiscal Responsibility Act of 1982,

Pub. L. 97–248, see section 1875(d)(2)(C) of Pub. L. 99–514, set out as a note under section 6230 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 305(b)(4) of Pub. L. 98–369 applicable to taxable events occurring after Dec. 31, 1984, see section 305(c) of Pub. L. 98–369, set out as an Effective Date note under section 4962 of this title.

Amendment by section 474(r)(34) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

For effective date of amendment by Pub. L. 96–596 with respect to any first tier tax and to any second tier tax, see section 2(d) of Pub. L. 96–596, set out as an Effective Date note under section 4961 of this title.

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–600 applicable to tentative refund claims filed on and after Nov. 6, 1978, see section 504(c) of Pub. L. 95–600, set out as a note under section 6411 of this title.

Amendment by Pub. L. 95–227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95–227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1204(c)(6) of Pub. L. 94–455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where the notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94–455, as amended, set out as a note under section 6851 of this title.

Section 1206(d) of Pub. L. 94–455, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [amending this section and sections 6201 and 6212 of this title] shall apply with respect to returns (within the meaning of section 6213(f)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) filed after December 31, 1976.''

Amendment by section 1307(d)(2)(F)(iii) of Pub. L. 94–455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94–455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(6) of Pub. L. 94–455, see section 1608(d) of Pub. L. 94–455, set out as a note under section 856 of this title.

Amendment by section 1906(a)(15), (b)(13)(A) of 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.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89–44, set out as a note under section 6420 of this title.

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 sections 303, 2011, 2014, 4942, 4961, 4963, 6013, 6034A, 6037, 6155, 6201, 6204, 6212, 6230, 6234, 6241, 6246, 6255, 6404, 6501, 6512, 6601, 6651, 6861, 6863, 6871, 7404, 7421, 7429, 7436, 7482 of this title.

§ 6214. Determinations by Tax Court

(a) Jurisdiction as to increase of deficiency, additional amounts, or additions to the tax

Except as provided by section 7463, the Tax Court shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any additional amount, or any addition to the tax should be assessed, if claim therefor is asserted by the Secretary at or before the hearing or a rehearing.

(b) Jurisdiction over other years and quarters

The Tax Court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year or calendar quarter shall consider such facts with relation to the taxes for other years or calendar quarters as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year or calendar quarter has been overpaid or underpaid.

(c) Taxes imposed by section 507 or chapter 41, 42, 43, or 44

The Tax Court, in redetermining a deficiency of any tax imposed by section 507 or chapter 41, 42, 43, or 44 for any period, act, or failure to act, shall consider such facts with relation to the taxes under chapter 41, 42, 43, or 44 for other periods, acts, or failures to act as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the taxes under chapter 41, 42, 43, or 44 for any other period, act, or failure to act have been overpaid or

underpaid. The Tax Court, in redetermining a deficiency of any second tier tax (as defined in section 4963(b)), shall make a determination with respect to whether the taxable event has been corrected.

(d) Final decisions of Tax Court

For purposes of this chapter, chapter 41, 42, 43, or 44, and subtitles A or B the date on which a decision of the Tax Court becomes final shall be determined according to the provisions of section 7481.

(e) Cross reference

For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2).

(Aug. 16, 1954, ch. 736, 68A Stat. 773; Pub. L. 91–172, title I, §101(j)(43), (44), title IX, §960(a), Dec. 30, 1969, 83 Stat. 530, 531, 734; Pub. L. 91–614, title I, §102(d)(6), Dec. 31, 1970, 84 Stat. 1842; Pub. L. 93–406, title II, §1016(a)(12), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94–455, title XIII, §1307(d)(2)(F)(iv), (H), title XVI, §1605(b)(7), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1728, 1755, 1834; Pub. L. 96–223, title I, §101(f)(1)(F), (G), Apr. 2, 1980, 94 Stat. 252; Pub. L. 96–596, §2(b), Dec. 24, 1980, 94 Stat. 3472; Pub. L. 98–369, div. A, title I, §144(b), July 18, 1984, 98 Stat. 683; Pub. L. 99–514, title XV, §§1511(c)(8), 1554(a), title XVIII, §1833, Oct. 22, 1986, 100 Stat. 2745, 2754, 2852; Pub. L. 100–418, title I, §1941(b)(2)(B)(vi), (vii), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100–647, title VI, §6244(b)(1), Nov. 10, 1988, 102 Stat. 3750; Pub. L. 104–188, title I, §1704(t)(16), Aug. 20, 1996, 110 Stat. 1888.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–188 amended subsec. (e) generally, striking par. (2) designation and par. (1) which provided cross reference to section 6621(c)(4) of this title for provision giving Tax Court jurisdiction to determine whether any portion of deficiency is a substantial underpayment attributable to tax motivated transactions.

1988—Subsec. (c). Pub. L. 100–418, §1941(b)(2)(B)(vi), substituted ''or 44'' for ''44, or 45'' in heading and wherever appearing in text.

Subsec. (d). Pub. L. 100–418, §1941(b)(2)(B)(vii), substituted ''or 44'' for ''44, or 45''.

Subsec. (e). Pub. L. 100–647 substituted ''references'' for ''reference'' in heading, designated existing provisions as par. (1), and added par. (2).

1986—Subsec. (a). Pub. L. 99–514, §1554(a), substituted ''any addition to the tax'' for ''addition to the tax''.

Subsec. (c). Pub. L. 99–514, §1833, substituted ''section 4963(b)'' for ''section 4962(b)''.

Subsec. (e). Pub. L. 99–514, §1511(c)(8), substituted ''section 6621(c)(4)'' for ''section 6621(d)(4)''.

1984—Subsec. (e). Pub. L. 98–369 added subsec. (e).

1980—Subsec. (c). Pub. L. 96–596 inserted provision directing the Tax Court, in redetermining a deficiency of any second tier tax, to make a determination with respect to whether the taxable event has been corrected.

Pub. L. 96–223, §101(f)(1)(F), inserted reference to chapter 45.

Subsec. (d). Pub. L. 96–223, §101(f)(1)(G), inserted reference to chapter 45.

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

Subsec. (c). Pub. L. 94–455, §§1307(d)(2)(F)(iv), (H), 1605(b)(7)(A), (B), substituted in heading and in text ''41, 42, 43, or 44'' for ''42 or 43''.

Subsec. (d). Pub. L. 94–455, §§1307(d)(2)(F)(iv), 1605(b)(7)(C), substituted ''41, 42, 43, or 44'' for ''42 or 43''.

1974—Subsec. (c). Pub. L. 93–406, §1016(a)(12)(A), (B), inserted reference to chapter 43 in heading and in text.

Subsec. (d). Pub. L. 93–406, §1016(a)(12)(C), inserted reference to chapter 43.

1970—Subsec. (b). Pub. L. 91–614 inserted reference to calendar quarters in heading and in text in regard to gift tax deficiencies.

1969—Subsec. (a). Pub. L. 91–172, §960(a), inserted reference to exception provided for in section 7463 of this title.

Subsecs. (c), (d). Pub. L. 91–172, §101(j)(43), (44), added subsec. (c), redesignated former subsec. (c) as (d), and, in subsec. (d) as so redesignated, inserted reference to chapter 42.

EFFECTIVE DATE OF 1988 AMENDMENTS

Section 6244(c) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending this section and section 6512 of this title] shall apply to overpayments determined by the Tax Court which have not yet been refunded by the 90th day after the date of the enactment of this Act [Nov. 10, 1988].''

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1511(c)(8) of Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

Section 1554(b) of Pub. L. 99–514 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1954 [now 1986]) before the date of the enactment of this Act [Oct. 22, 1986].''

Amendment by section 1833 of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable with respect to interest accruing after Dec. 31, 1984, see section 144(c) of Pub. L. 98–369, set out as a note under section 6621 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

For effective date of amendment by Pub. L. 96–596 with respect to any first tier tax and to any second tier tax, see section 2(d) of Pub. L. 96–596, set out as an Effective Date note under section 4961 of this title.

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(F)(iv), (H) of Pub. L. 94–455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94–455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(7) of Pub. L. 94–455, see section 1608(d) of Pub. L. 94–455, set out as a note under section 856 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91–614, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(43), (44) of Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 960(a) of Pub. L. 91–172 effective one year after Dec. 30, 1969, see section 962(e) of Pub. L. 91–172, set out as an Effective Date note under section 7463 of this title.

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 sections 6212, 6234, 7436, 7463 of this title.

§ 6215. Assessment of deficiency found by Tax Court

(a) General rule

If the taxpayer files a petition with the Tax Court, the entire amount redetermined as the deficiency by the decision of the Tax Court which has become final shall be assessed and shall be paid upon notice and demand from the Secretary. No part of the amount determined as a deficiency by the Secretary but disallowed as such by the decision of the Tax Court which has become final shall be assessed or be collected by levy or by proceeding in court with or without assessment.

(b) Cross references

(1) For assessment or collection of the amount of the deficiency determined by the Tax Court pending appellate court review, see section 7485.

(2) For dismissal of petition by Tax Court as affirmation of deficiency as determined by the Secretary, see section 7459(d).

(3) For decision of Tax Court that tax is barred by limitation as its decision that there is no deficiency, see section 7459(e).

(4) For assessment of damages awarded by Tax Court for instituting proceedings merely for delay, see section 6673.

(5) For treatment of certain deficiencies as having been paid, in connection with sale of surplus war-built vessels, see section 9(b)(8) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742).

(6) For rules applicable to Tax Court proceedings, see generally subchapter C of chapter 76.

(7) For extension of time for paying amount determined as deficiency, see section 6161(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 773; Pub. L. 94–455, title XIX, § 1906(a)(16), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1825, 1834; Pub. L. 99–514, title XIV, § 1404(c)(2), Oct. 22, 1986, 100 Stat. 2714.)

AMENDMENTS

1986—Subsec. (b)(7), (8). Pub. L. 99–514 redesignated par. (8) as (7) and struck out former par. (7) which read as follows: ''For proration of deficiency to installments, see section 6152(c).''

1976—Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (b)(5). Pub. L. 94–455, § 1906(a)(16), struck out ''60 Stat. 48;'' before ''50 U.S.C. App. 1742''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 1404(d) of Pub. L. 99–514, set out as a note under section 643 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7436, 7481 of this title.

§ 6216. Cross references

(1) For procedures relating to receivership proceedings, see subchapter B of chapter 70.

(2) For procedures relating to jeopardy assessments, see subchapter A of chapter 70.

(3) For procedures relating to claims against transferees and fiduciaries, see chapter 71.

(4) For procedure relating to partnership items, see subchapter C.

(Aug. 16, 1954, ch. 736, 68A Stat. 773; Pub. L. 96–589, § 6(i)(9), Dec. 24, 1980, 94 Stat. 3411; Pub. L. 97–248, title IV, § 402(c)(3), Sept. 3, 1982, 96 Stat. 667.)

AMENDMENTS

1982—Par. (4). Pub. L. 97–248 added par. (4).

1980—Par. (1). Pub. L. 96–589 struck out reference to bankruptcy proceedings.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

Subchapter C—Tax Treatment of Partnership Items

Sec.
6221. Tax treatment determined at partnership level.
6222. Partner's return must be consistent with partnership return or Secretary notified of inconsistency.
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6224. Participation in administrative proceedings; waivers; agreements.
6225. Assessments made only after partnership level proceedings are completed.
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6228. Judicial review where administrative adjustment request is not allowed in full.
6229. Period of limitations for making assessments.
6230. Additional administrative provisions.
6231. Definitions and special rules.
[6232. Repealed.]

Sec.
6233. Extension to entities filing partnership returns, etc.
6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.

AMENDMENTS

1997—Pub. L. 105–34, title XII, § 1231(c), Aug. 5, 1997, 111 Stat. 1023, added item 6234.

1988—Pub. L. 100–418, title I, § 1941(b)(3)(D), Aug. 23, 1988, 102 Stat. 1324, struck out item 6232 ''Extension of subchapter to windfall profit tax''.

1984—Pub. L. 98–369, div. A, title VII, § 714(p)(2)(E), July 18, 1984, 98 Stat. 965, added item 6233.

1982—Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 648, added subchapter C heading and items 6221 to 6232.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 702, 6012, 6211, 6216, 6240, 6512 of this title.

§ 6221. Tax treatment determined at partnership level

Except as otherwise provided in this subchapter, the tax treatment of any partnership item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item) shall be determined at the partnership level.

(Added Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 648; amended Pub. L. 105–34, title XII, § 1238(a), Aug. 5, 1997, 111 Stat. 1026.)

AMENDMENTS

1997—Pub. L. 105–34 inserted ''(and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)'' after ''item''.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1238(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section and sections 6226 and 6230 of this title] shall apply to partnership taxable years ending after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE

Section 407(a) of Pub. L. 97–248, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) Except as provided in paragraph (2), the amendments made by sections 402, 403, and 404 [enacting this subchapter and section 1508 of Title 28, Judiciary and Judicial Procedure, amending sections 702, 6031, 6213, 6216, 6422, 6501, 6504, 6511, 6512, 6515, 7422, 7451, 7456, 7459, 7482, and 7485 of this title and section 1346 of Title 28, and enacting provisions set out as a note under section 6031 of this title] shall apply to partnership taxable years beginning after the date of the enactment of this Act [Sept. 3, 1982].

''(2) Section 6232 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall apply to periods after December 31, 1982.

''(3) The amendments made by sections 402, 403, and 404 shall apply to any partnership taxable year (or in the case of section 6232 of such Code, to any period) ending after the date of the enactment of this Act [Sept. 3, 1982] if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application.''

SHORT TITLE

For short title of title IV of Pub. L. 97–248 as the ''Tax Treatment of Partnership Items Act of 1982'', see Short Title of 1982 Amendments note set out under section 1 of this title.

§ 6222. Partner's return must be consistent with partnership return or Secretary notified of inconsistency

(a) In general

A partner shall, on the partner's return, treat a partnership item in a manner which is consistent with the treatment of such partnership item on the partnership return.

(b) Notification of inconsistent treatment

(1) In general

In the case of any partnership item, if—

(A)(i) the partnership has filed a return but the partner's treatment on his return is (or may be) inconsistent with the treatment of the item on the partnership return, or

(ii) the partnership has not filed a return, and

(B) the partner files with the Secretary a statement identifying the inconsistency,

subsection (a) shall not apply to such item.

(2) Partner receiving incorrect information

A partner shall be treated as having complied with subparagraph (B) of paragraph (1) with respect to a partnership item if the partner—

(A) demonstrates to the satisfaction of the Secretary that the treatment of the partnership item on the partner's return is consistent with the treatment of the item on the schedule furnished to the partner by the partnership, and

(B) elects to have this paragraph apply with respect to that item.

(c) Effect of failure to notify

In any case—

(1) described in paragraph (1)(A)(i) of subsection (b), and

(2) in which the partner does not comply with paragraph (1)(B) of subsection (b),

section 6225 shall not apply to any part of a deficiency attributable to any computational adjustment required to make the treatment of the items by such partner consistent with the treatment of the items on the partnership return.

(d) Addition to tax for failure to comply with section

For addition to tax in the case of a partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

(Added Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 648; amended Pub. L. 99–514, title XV, § 1503(c)(1), Oct. 22, 1986, 100 Stat. 2743; Pub. L. 101–239, title VII, § 7721(c)(7), Dec. 19, 1989, 103 Stat. 2400.)

AMENDMENTS

1989—Subsec. (d). Pub. L. 101–239 substituted ''part II of subchapter A of chapter 68'' for ''section 6653(a)''.

1986—Subsec. (d). Pub. L. 99–514 struck out ''intentional or negligent'' after ''case of a partner's''.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to returns the due date for which (determined without regard to

extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as a note under section 461 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1503(e) of Pub. L. 99–514, set out as a note under section 6653 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6229, 6231 of this title.

§ 6223. Notice to partners of proceedings

(a) Secretary must give partners notice of beginning and completion of administrative proceedings

The Secretary shall mail to each partner whose name and address is furnished to the Secretary notice of—

(1) the beginning of an administrative proceeding at the partnership level with respect to a partnership item, and

(2) the final partnership administrative adjustment resulting from any such proceeding.

A partner shall not be entitled to any notice under this subsection unless the Secretary has received (at least 30 days before it is mailed to the tax matters partner) sufficient information to enable the Secretary to determine that such partner is entitled to such notice and to provide such notice to such partner.

(b) Special rules for partnership with more than 100 partners

(1) Partner with less than 1 percent interest

Except as provided in paragraph (2), subsection (a) shall not apply to a partner if—

(A) the partnership has more than 100 partners, and

(B) the partner has a less than 1 percent interest in the profits of the partnership.

(2) Secretary must give notice to notice group

If a group of partners in the aggregate having a 5 percent or more interest in the profits of a partnership so request and designate one of their members to receive the notice, the member so designated shall be treated as a partner to whom subsection (a) applies.

(c) Information base for Secretary's notices, etc.

For purposes of this subchapter—

(1) Information on partnership return

Except as provided in paragraphs (2) and (3), the Secretary shall use the names, addresses, and profits interests shown on the partnership return.

(2) Use of additional information

The Secretary shall use additional information furnished to him by the tax matters partner or any other person in accordance with regulations prescribed by the Secretary.

(3) Special rule with respect to indirect partners

If any information furnished to the Secretary under paragraph (1) or (2)—

(A) shows that a person has a profits interest in the partnership by reason of ownership of an interest through 1 or more pass-thru partners, and

(B) contains the name, address, and profits interest of such person,

then the Secretary shall use the name, address, and profits interest of such person with respect to such partnership interest (in lieu of the names, addresses, and profits interests of the pass-thru partners).

(d) Period for mailing notice

(1) Notice of beginning of proceedings

The Secretary shall mail the notice specified in paragraph (1) of subsection (a) to each partner entitled to such notice not later than the 120th day before the day on which the notice specified in paragraph (2) of subsection (a) is mailed to the tax matters partner.

(2) Notice of final partnership administrative adjustment

The Secretary shall mail the notice specified in paragraph (2) of subsection (a) to each partner entitled to such notice not later than the 60th day after the day on which the notice specified in such paragraph (2) was mailed to the tax matters partner.

(e) Effect of Secretary's failure to provide notice

(1) Application of subsection

(A) In general

This subsection applies where the Secretary has failed to mail any notice specified in subsection (a) to a partner entitled to such notice within the period specified in subsection (d).

(B) Special rules for partnerships with more than 100 partners

For purposes of subparagraph (A), any partner described in paragraph (1) of subsection (b) shall be treated as entitled to notice specified in subsection (a). The Secretary may provide such notice—

(i) except as provided in clause (ii), by mailing notice to the tax matters partner, or

(ii) in the case of a member of a notice group which qualified under paragraph (2) of subsection (b), by mailing notice to the partner designated for such purpose by the group.

(2) Proceedings finished

In any case to which this subsection applies, if at the time the Secretary mails the partner notice of the proceeding—

(A) the period within which a petition for review of a final partnership administrative adjustment under section 6226 may be filed has expired and no such petition has been filed, or

(B) the decision of a court in an action begun by such a petition has become final,

the partner may elect to have such adjustment, such decision, or a settlement agreement described in paragraph (2) of section 6224(c) with respect to the partnership taxable year to which the adjustment relates apply to such partner. If the partner does not make an election under the preceding sentence, the

partnership items of the partner for the partnership taxable year to which the proceeding relates shall be treated as nonpartnership items.

(3) Proceedings still going on

In any case to which this subsection applies, if paragraph (2) does not apply, the partner shall be a party to the proceeding unless such partner elects—

(A) to have a settlement agreement described in paragraph (2) of section 6224(c) with respect to the partnership taxable year to which the proceeding relates apply to the partner, or

(B) to have the partnership items of the partner for the partnership taxable year to which the proceeding relates treated as nonpartnership items.

(f) Only one notice of final partnership administrative adjustment

If the Secretary mails a notice of final partnership administrative adjustment for a partnership taxable year with respect to a partner, the Secretary may not mail another such notice to such partner with respect to the same taxable year of the same partnership in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

(g) Tax matters partner must keep partners informed of proceedings

To the extent and in the manner provided by regulations, the tax matters partner of a partnership shall keep each partner informed of all administrative and judicial proceedings for the adjustment at the partnership level of partnership items.

(h) Pass-thru partner required to forward notice

(1) In general

If a pass-thru partner receives a notice with respect to a partnership proceeding from the Secretary, the tax matters partner, or another pass-thru partner, the pass-thru partner shall, within 30 days of receiving that notice, forward a copy of that notice to the person or persons holding an interest (through the pass-thru partner) in the profits or losses of the partnership for the partnership taxable year to which the notice relates.

(2) Partnership as pass-thru partner

In the case of a pass-thru partner which is a partnership, the tax matters partner of such partnership shall be responsible for forwarding copies of the notice to the partners of such partnership.

(Added Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 649.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6224, 6229, 6230, 6231 of this title.

§ 6224. Participation in administrative proceedings; waivers; agreements

(a) Participation in administrative proceedings

Any partner has the right to participate in any administrative proceeding relating to the determination of partnership items at the partnership level.

(b) Partner may waive rights

(1) In general

A partner may at any time waive—

(A) any right such partner has under this subchapter, and

(B) any restriction under this subchapter on action by the Secretary.

(2) Form

Any waiver under paragraph (1) shall be made by a signed notice in writing filed with the Secretary.

(c) Settlement agreement

In the absence of a showing of fraud, malfeasance, or misrepresentation of fact—

(1) Binds all parties

A settlement agreement between the Secretary and 1 or more partners in a partnership with respect to the determination of partnership items for any partnership taxable year shall (except as otherwise provided in such agreement) be binding on all parties to such agreement with respect to the determination of partnership items for such partnership taxable year. An indirect partner is bound by any such agreement entered into by the pass-thru partner unless the indirect partner has been identified as provided in section 6223(c)(3).

(2) Other partners have right to enter into consistent agreements

If the Secretary enters into a settlement agreement with any partner with respect to partnership items for any partnership taxable year, the Secretary shall offer to any other partner who so requests settlement terms for the partnership taxable year which are consistent with those contained in such settlement agreement. Except in the case of an election under paragraph (2) or (3) of section 6223(e) to have a settlement agreement described in this paragraph apply, this paragraph shall apply with respect to a settlement agreement entered into with a partner before notice of a final partnership administrative adjustment is mailed to the tax matters partner only if such other partner makes the request before the expiration of 150 days after the day on which such notice is mailed to the tax matters partner.

(3) Tax matters partner may bind certain other partners

(A) In general

A partner who is not a notice partner (and not a member of a notice group described in subsection (b)(2) of section 6223) shall be bound by any settlement agreement—

(i) which is entered into by the tax matters partner, and

(ii) in which the tax matters partner expressly states that such agreement shall bind the other partners.

(B) Exception

Subparagraph (A) shall not apply to any partner who (within the time prescribed by the Secretary) files a statement with the

Secretary providing that the tax matters partner shall not have the authority to enter into a settlement agreement on behalf of such partner.

(Added Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 651.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6223, 6234, 6601 of this title.

§ 6225. Assessments made only after partnership level proceedings are completed

(a) Restriction on assessment and collection

Except as otherwise provided in this subchapter, no assessment of a deficiency attributable to any partnership item may be made (and no levy or proceeding in any court for the collection of any such deficiency may be made, begun, or prosecuted) before—

(1) the close of the 150th day after the day on which a notice of a final partnership administrative adjustment was mailed to the tax matters partner, and

(2) if a proceeding is begun in the Tax Court under section 6226 during such 150-day period, the decision of the court in such proceeding has become final.

(b) Premature action may be enjoined

Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition.

(c) Limit where no proceeding begun

If no proceeding under section 6226 is begun with respect to any final partnership administrative adjustment during the 150-day period described in subsection (a), the deficiency assessed against any partner with respect to the partnership items to which such adjustment relates shall not exceed the amount determined in accordance with such adjustment.

(Added Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 652; amended Pub. L. 105–34, title XII, § 1239(a), Aug. 5, 1997, 111 Stat. 1027.)

AMENDMENTS

1997—Pub. L. 105–34 substituted ''the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition.'' for ''the proper court.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1239(f) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section and sections 6226, 6230, 6501, 6512, 7421, 7459, and 7482 of this title] shall apply to partnership taxable years ending after the date of the enactment of this Act [Aug. 5, 1997].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6222, 6230, 7421 of this title.

§ 6226. Judicial review of final partnership administrative adjustments

(a) Petition by tax matters partner

Within 90 days after the day on which a notice of a final partnership administrative adjustment is mailed to the tax matters partner, the tax matters partner may file a petition for a readjustment of the partnership items for such taxable year with—

(1) the Tax Court,

(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

(3) the Court of Federal Claims.

(b) Petition by partner other than tax matters partner

(1) In general

If the tax matters partner does not file a readjustment petition under subsection (a) with respect to any final partnership administrative adjustment, any notice partner (and any 5-percent group) may, within 60 days after the close of the 90-day period set forth in subsection (a), file a petition for a readjustment of the partnership items for the taxable year involved with any of the courts described in subsection (a).

(2) Priority of the Tax Court action

If more than 1 action is brought under paragraph (1) with respect to any partnership for any partnership taxable year, the first such action brought in the Tax Court shall go forward.

(3) Priority outside the Tax Court

If more than 1 action is brought under paragraph (1) with respect to any partnership for any taxable year but no such action is brought in the Tax Court, the first such action brought shall go forward.

(4) Dismissal of other actions

If an action is brought under paragraph (1) in addition to the action which goes forward under paragraph (2) or (3), such action shall be dismissed.

(5) Treatment of premature petitions

If—

(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period.

(6) Tax matters partner may intervene

The tax matters partner may intervene in any action brought under this subsection.

(c) Partners treated as parties

If an action is brought under subsection (a) or (b) with respect to a partnership for any partnership taxable year—

(1) each person who was a partner in such partnership at any time during such year shall be treated as a party to such action, and

(2) the court having jurisdiction of such action shall allow each such person to participate in the action.

(d) Partner must have interest in outcome

(1) In order to be party to action

Subsection (c) shall not apply to a partner after the day on which—

(A) the partnership items of such partner for the partnership taxable year became nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231, or

(B) the period within which any tax attributable to such partnership items may be assessed against that partner expired.

Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion.

(2) To file petition

No partner may file a readjustment petition under subsection (b) unless such partner would (after the application of paragraph (1) of this subsection) be treated as a party to the proceeding.

(e) Jurisdictional requirement for bringing action in district court or Court of Federal Claims

(1) In general

A readjustment petition under this section may be filed in a district court of the United States or the Court of Federal Claims only if the partner filing the petition deposits with the Secretary, on or before the day the petition is filed, the amount by which the tax liability of the partner would be increased if the treatment of partnership items on the partner's return were made consistent with the treatment of partnership items on the partnership return, as adjusted by the final partnership administrative adjustment. In the case of a petition filed by a 5-percent group, the requirement of the preceding sentence shall apply to each member of the group. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirements and any shortfall in the amount required to be deposited is timely corrected.

(2) Refund on request

If an action brought in a district court of the United States or in the Court of Federal Claims is dismissed by reason of the priority of a Tax Court action under paragraph (2) of subsection (b), the Secretary shall, at the request of the partner who made the deposit, refund the amount deposited under paragraph (1).

(3) Interest payable

Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

(f) Scope of judicial review

A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of final partnership administrative adjustment relates, the proper allocation of such items among the partners, and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item.

(g) Determination of court reviewable

Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Court of Federal Claims, as the case may be, and shall be reviewable as such. With respect to the partnership, only the tax matters partner, a notice partner, or a 5-percent group may seek review of a determination by a court under this section.

(h) Effect of decision dismissing action

If an action brought under this section is dismissed (other than under paragraph (4) of subsection (b)), the decision of the court dismissing the action shall be considered as its decision that the notice of final partnership administrative adjustment is correct, and an appropriate order shall be entered in the records of the court.

(Added Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 653; amended Pub. L. 97–448, title III, § 306(c)(1)(A), Jan. 12, 1983, 96 Stat. 2406; Pub. L. 102–572, title IX, § 902(b)(2), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 105–34, title XII, §§ 1238(b)(1), 1239(b), 1240(a), Aug. 5, 1997, 111 Stat. 1026–1028.)

AMENDMENTS

1997—Subsec. (b)(5), (6). Pub. L. 105–34, § 1240(a), added par. (5) and redesignated former par. (5) as (6).

Subsec. (d)(1). Pub. L. 105–34, § 1239(b), inserted concluding provisions.

Subsec. (f). Pub. L. 105–34, § 1238(b)(1), substituted ''relates,'' for ''relates and'' and inserted '', and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item'' before period at end.

1992—Subsecs. (a)(3), (e), (g). Pub. L. 102–572 substituted ''Court of Federal Claims'' for ''Claims Court'' wherever appearing.

1983—Subsec. (g). Pub. L. 97–448 substituted ''With respect to the partnership, only the tax matters partner'' for ''Only the tax matters partner''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1238(b)(1) of Pub. L. 105–34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1238(c) of Pub. L. 105–34, set out as a note under section 6221 of this title.

Amendment by section 1239(b) of Pub. L. 105–34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1239(f) of Pub. L. 105–34, set out as a note under section 6225 of this title.

Section 1240(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall apply to petitions filed after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 311(d) of Pub. L. 97–448, set out as a note under section 31 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6223, 6225, 6228, 6229, 6230, 6234, 7451, 7459, 7482, 7485 of this title; title 28 sections 1346, 1508.

§ 6227. Administrative adjustment requests

(a) General rule

A partner may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

(1) within 3 years after the later of—

(A) the date on which the partnership return for such year is filed, or

(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

(2) before the mailing to the tax matters partner of a notice of final partnership administrative adjustment with respect to such taxable year.

(b) Special rule in case of extension of period of limitations under section 6229

The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

(2) for 6 months thereafter.

(c) Requests by tax matters partner on behalf of partnership

(1) Substituted return

If the tax matters partner—

(A) files a request for an administrative adjustment, and

(B) asks that the treatment shown on the request be substituted for the treatment of partnership items on the partnership return to which the request relates,

the Secretary may treat the changes shown on such request as corrections of mathematical or clerical errors appearing on the partnership return.

(2) Requests not treated as substituted returns

(A) In general

If the tax matters partner files an administrative adjustment request on behalf of the partnership which is not treated as a substituted return under paragraph (1), the Secretary may, with respect to all or any part of the requested adjustments—

(i) without conducting any proceeding, allow or make to all partners the credits or refunds arising from the requested adjustments,

(ii) conduct a partnership proceeding under this subchapter, or

(iii) take no action on the request.

(B) Exceptions

Clause (i) of subparagraph (A) shall not apply with respect to a partner after the day on which the partnership items become nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231.

(3) Request must show effect on distributive shares

The tax matters partner shall furnish with any administrative adjustment request on behalf of the partnership revised schedules showing the effect of such request on the distributive shares of the partners and such other information as may be required under regulations.

(d) Other requests

If any partner files a request for an administrative adjustment (other than a request described in subsection (b)), the Secretary may—

(1) process the request in the same manner as a claim for credit or refund with respect to items which are not partnership items,

(2) assess any additional tax that would result from the requested adjustments,

(3) mail to the partner, under subparagraph (A) of section 6231(b)(1) (relating to items becoming nonpartnership items), a notice that all partnership items of the partner for the partnership taxable year to which such request relates shall be treated as nonpartnership items, or

(4) conduct a partnership proceeding.

(e) Requests with respect to bad debts or worthless securities

In the case of that portion of any request for an administrative adjustment which relates to the deductibility by the partnership under section 166 of a debt as a debt which became worthless, or under section 165(g) of a loss from worthlessness of a security, the period prescribed in subsection (a)(1) shall be 7 years from the last day for filing the partnership return for the year with respect to which such request is made (determined without regard to extensions).

(Added Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 655; amended Pub. L. 105–34, title XII, §§ 1236(a), 1243(a), Aug. 5, 1997, 111 Stat. 1025, 1029.)

AMENDMENTS

1997—Subsecs. (b) to (d). Pub. L. 105–34, § 1236(a), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (e). Pub. L. 105–34, § 1243(a), added subsec. (e).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1236(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97–248].''

Section 1243(b) of Pub. L. 105–34 provided that:

''(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97–248].

''(2) TREATMENT OF REQUESTS FILED BEFORE DATE OF ENACTMENT.—In the case of that portion of any request (filed before the date of the enactment of this Act [Aug. 5, 1997]) for an administrative adjustment which relates to the deductibility of a debt as a debt which became worthless or the deductibility of a loss from the worthlessness of a security—

''(A) paragraph (2) of section 6227(a) of the Internal Revenue Code of 1986 shall not apply,

''(B) the period for filing a petition under section 6228 of the Internal Revenue Code of 1986 with respect to such request shall not expire before the date 6 months after the date of the enactment of this Act, and

''(C) such a petition may be filed without regard to whether there was a notice of the beginning of an administrative proceeding or a final partnership administrative adjustment.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6228, 6230, 6231, 6422, 6515 of this title.

§ 6228. Judicial review where administrative adjustment request is not allowed in full

(a) Request on behalf of partnership

(1) In general

If any part of an administrative adjustment request filed by the tax matters partner under subsection (b)[1] of section 6227 is not allowed by the Secretary, the tax matters partner may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

(A) the Tax Court,

(B) the district court of the United States for the district in which the principal place of business of the partnership is located, or

(C) the Court of Federal Claims.

(2) Period for filing petition

(A) In general

A petition may be filed under paragraph (1) with respect to partnership items for a partnership taxable year only—

(i) after the expiration of 6 months from the date of filing of the request under section 6227, and

(ii) before the date which is 2 years after the date of such request.

(B) No petition after notice of beginning of administrative proceeding

No petition may be filed under paragraph (1) after the day the Secretary mails to the partnership a notice of the beginning of an administrative proceeding with respect to the partnership taxable year to which such request relates.

(C) Failure by Secretary to issue timely notice of adjustment

If the Secretary—

(i) mails the notice referred to in subparagraph (B) before the expiration of the 2-year period referred to in clause (ii) of subparagraph (A), and

(ii) fails to mail a notice of final partnership administrative adjustment with respect to the partnership taxable year to which the request relates before the expiration of the period described in section 6229(a) (including any extension by agreement),

subparagraph (B) shall cease to apply with respect to such request, and the 2-year period referred to in clause (ii) of subparagraph (A) shall not expire before the date 6 months after the expiration of the period described in section 6229(a) (including any extension by agreement).

(D) Extension of time

The 2-year period described in subparagraph (A)(ii) shall be extended for such period as may be agreed upon in writing between the tax matters partner and the Secretary.

(3) Coordination with administrative adjustment

(A) Administrative adjustment before filing of petition

No petition may be filed under this subsection after the Secretary mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the request under subsection (b)[1] of section 6227 relates.

(B) Administrative adjustment after filing but before hearing of petition

If the Secretary mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the request under section 6227 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6226 with respect to that administrative adjustment, except that subsection (e) of section 6226 shall not apply.

(C) Notice must be before expiration of statute of limitations

A notice of final partnership administrative adjustment for the partnership taxable year shall be taken into account under subparagraphs (A) and (B) only if such notice is mailed before the expiration of the period prescribed by section 6229 for making assessments of tax attributable to partnership items for such taxable year.

(4) Partners treated as party to action

(A) In general

If an action is brought by the tax matters partner under paragraph (1) with respect to any request for an adjustment of a partnership item for any taxable year—

(i) each person who was a partner in such partnership at any time during the partnership taxable year involved shall be treated as a party to such action, and

(ii) the court having jurisdiction of such action shall allow each such person to participate in the action.

[1] See References in Text note below.

(B) Partners must have interest in outcome

For purposes of subparagraph (A), rules similar to the rules of paragraph (1) of section 6226(d) shall apply.

(5) Scope of judicial review

Except in the case described in subparagraph (B) of paragraph (3), a court with which a petition is filed in accordance with this subsection shall have jurisdiction to determine only those partnership items to which the part of the request under section 6227 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the tax matters partner.

(6) Determination of court reviewable

Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Court of Federal Claims, as the case may be, and shall be reviewable as such. With respect to the partnership, only the tax matters partner, a notice partner, or a 5-percent group may seek review of a determination by a court under this subsection.

(b) Other requests

(1) Notice providing that items become nonpartnership items

If the Secretary mails to a partner, under subparagraph (A) of section 6231(b)(1) (relating to items ceasing to be partnership items), a notice that all partnership items of the partner for the partnership taxable year to which a timely request for administrative adjustment under subsection (c)[1] of section 6227 relates shall be treated as nonpartnership items—

(A) such request shall be treated as a claim for credit or refund of an overpayment attributable to nonpartnership items, and

(B) the partner may bring an action under section 7422 with respect to such claim at any time within 2 years of the mailing of such notice.

(2) Other cases

(A) In general

If the Secretary fails to allow any part of an administrative adjustment request filed under subsection (c)[1] of section 6227 by a partner and paragraph (1) does not apply—

(i) such partner may, pursuant to section 7422, begin a civil action for refund of any amount due by reason of the adjustments described in such part of the request, and

(ii) on the beginning of such civil action, the partnership items of such partner for the partnership taxable year to which such part of such request relates shall be treated as nonpartnership items for purposes of this subchapter.

(B) Period for filing petition

(i) In general

An action may be begun under subparagraph (A) with respect to an administrative adjustment request for a partnership taxable year only—

(I) after the expiration of 6 months from the date of filing of the request under section 6227, and

(II) before the date which is 2 years after the date of filing of such request.

(ii) Extension of time

The 2-year period described in subclause (II) of clause (i) shall be extended for such period as may be agreed upon in writing between the partner and the Secretary.

(C) Action barred after partnership proceeding has begun

No petition may be filed under subparagraph (A) with respect to an administrative adjustment request for a partnership taxable year after the Secretary mails to the partnership a notice of the beginning of a partnership proceeding with respect to such year.

(D) Failure by Secretary to issue timely notice of adjustment

If the Secretary—

(i) mails the notice referred to in subparagraph (C) before the expiration of the 2-year period referred to in clause (i)(II) of subparagraph (B), and

(ii) fails to mail a notice of final partnership administrative adjustment with respect to the partnership taxable year to which the request relates before the expiration of the period described in section 6229(a) (including any extension by agreement),

subparagraph (C) shall cease to apply with respect to such request, and the 2-year period referred to in clause (i)(II) of subparagraph (B) shall not expire before the date 6 months after the expiration of the period described in section 6229(a) (including any extension by agreement).

(Added Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 656; amended Pub. L. 97–448, title III, § 306(c)(1)(B), Jan. 12, 1983, 96 Stat. 2406; Pub. L. 102–572, title IX, § 902(b)(2), Oct. 29, 1992, 106 Stat. 4516.)

REFERENCES IN TEXT

Subsections (b) and (c) of section 6227 of this title, referred to in subsecs. (a)(1), (3)(A) and (b)(1), (2)(A), were redesignated subsecs. (c) and (d), respectively, of section 6227 of this title and a new subsec. (b) was added by Pub. L. 105–34, title XII, § 1236(a), Aug. 5, 1997, 111 Stat. 1025.

AMENDMENTS

1992—Subsec. (a)(1)(C), (6). Pub. L. 102–572 substituted ''Court of Federal Claims'' for ''Claims Court''.

1983—Subsec. (a)(6). Pub. L. 97–448 substituted ''With respect to the partnership, only the tax matters partner'' for ''Only the tax matters partner''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective as if included in the provisions of the Tax Equity and Fiscal Respon-

sibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 311(d) of Pub. L. 97–448, set out as a note under section 31 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6230, 6231, 7422, 7451, 7459, 7482, 7485 of this title; title 28 sections 1346, 1508.

§ 6229. Period of limitations for making assessments

(a) General rule

Except as otherwise provided in this section, the period for assessing any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (or affected item) for a partnership taxable year shall not expire before the date which is 3 years after the later of—

(1) the date on which the partnership return for such taxable year was filed, or

(2) the last day for filing such return for such year (determined without regard to extensions).

(b) Extension by agreement

(1) In general

The period described in subsection (a) (including an extension period under this subsection) may be extended—

(A) with respect to any partner, by an agreement entered into by the Secretary and such partner, and

(B) with respect to all partners, by an agreement entered into by the Secretary and the tax matters partner (or any other person authorized by the partnership in writing to enter into such an agreement),

before the expiration of such period.

(2) Special rule with respect to debtors in title 11 cases

Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary.

(3) Coordination with section 6501(c)(4)

Any agreement under section 6501(c)(4) shall apply with respect to the period described in subsection (a) only if the agreement expressly provides that such agreement applies to tax attributable to partnership items.

(c) Special rule in case of fraud, etc.

(1) False return

If any partner has, with the intent to evade tax, signed or participated directly or indirectly in the preparation of a partnership return which includes a false or fraudulent item—

(A) in the case of partners so signing or participating in the preparation of the return, any tax imposed by subtitle A which is attributable to any partnership item (or affected item) for the partnership taxable year to which the return relates may be assessed at any time, and

(B) in the case of all other partners, subsection (a) shall be applied with respect to such return by substituting ''6 years'' for ''3 years''.

(2) Substantial omission of income

If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting ''6 years'' for ''3 years''.

(3) No return

In the case of a failure by a partnership to file a return for any taxable year, any tax attributable to a partnership item (or affected item) arising in such year may be assessed at any time.

(4) Return filed by Secretary

For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

(d) Suspension when Secretary makes administrative adjustment

If notice of a final partnership administrative adjustment with respect to any taxable year is mailed to the tax matters partner, the running of the period specified in subsection (a) (as modified by other provisions of this section) shall be suspended—

(1) for the period during which an action may be brought under section 6226 (and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and

(2) for 1 year thereafter.

(e) Unidentified partner

If—

(1) the name, address, and taxpayer identification number of a partner are not furnished on the partnership return for a partnership taxable year, and

(2)(A) the Secretary, before the expiration of the period otherwise provided under this section with respect to such partner, mails to the tax matters partner the notice specified in paragraph (2) of section 6223(a) with respect to such taxable year, or

(B) the partner has failed to comply with subsection (b) of section 6222 (relating to notification of inconsistent treatment) with respect to any partnership item for such taxable year,

the period for assessing any tax imposed by subtitle A which is attributable to any partnership item (or affected item) for such taxable year shall not expire with respect to such partner before the date which is 1 year after the date on which the name, address, and taxpayer identification number of such partner are furnished to the Secretary.

(f) Special rules

(1) Items becoming nonpartnership items

If before the expiration of the period otherwise provided in this section for assessing any tax imposed by subtitle A with respect to the partnership items of a partner for the partnership taxable year, such items become nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231, the period for assessing any tax imposed by subtitle A which is attributable to such items (or any item affected by such items) shall not expire before the date which is 1 year after the date on which the items become nonpartnership items. The period described in the preceding sentence (including any extension period under this sentence) may be extended with respect to any partner by agreement entered into by the Secretary and such partner.

(2) Special rule for partial settlement agreements

If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into.

(g) Period of limitations for penalties

The provisions of this section shall apply also in the case of any addition to tax or an additional amount imposed under subchapter A of chapter 68 which arises with respect to any tax imposed under subtitle A in the same manner as if such addition or additional amount were a tax imposed by subtitle A.

(h) Suspension during pendency of bankruptcy proceeding

If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

(2) for 60 days thereafter.

(Added Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 659; amended Pub. L. 99–514, title XVIII, § 1875(d)(1), Oct. 22, 1986, 100 Stat. 2896; Pub. L. 100–647, title I, § 1018(*o*)(3), Nov. 10, 1988, 102 Stat. 3585; Pub. L. 105–34, title XII, §§ 1233(a)–(c), 1235(a), Aug. 5, 1997, 111 Stat. 1023, 1024.)

AMENDMENTS

1997—Subsec. (b)(2), (3). Pub. L. 105–34, § 1233(c), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(1). Pub. L. 105–34, § 1233(a), substituted ''(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and'' for ''(and, if an action with respect to such administrative adjustment is brought during such period, until the decision of the court in such action becomes final), and''.

Subsec. (f). Pub. L. 105–34, § 1235(a), substituted ''Special rules'' for ''Items becoming nonpartnership items'' in heading, designated existing provisions as par. (1), added heading, and realigned margins, and added par. (2).

Subsec. (h). Pub. L. 105–34, § 1233(b), added subsec. (h).

1988—Subsec. (f). Pub. L. 100–647 inserted sentence at end relating to extension of period with respect to any partner by agreement entered into by Secretary and such partner.

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

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1233(d) of Pub. L. 105–34 provided that:

''(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) [amending this section] shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 [26 U.S.C. 6229] for assessing tax has not expired on or before the date of the enactment of this Act [Aug. 5, 1997].

''(2) SUBSECTION (c).—The amendment made by subsection (c) [amending this section] shall apply to agreements entered into after the date of the enactment of this Act.''

Section 1235(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall apply to settlements entered into after the date of the enactment of this Act [Aug. 5, 1997].''

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 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

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 sections 6227, 6228, 6230, 6234, 6255, 6501, 6503, 6504, 6512 of this title.

§ 6230. Additional administrative provisions

(a) Coordination with deficiency proceedings

(1) In general

Except as provided in paragraph (2) or (3), subchapter B of this chapter shall not apply to the assessment or collection of any computational adjustment.

(2) Deficiency proceedings to apply in certain cases

(A) Subchapter B shall apply to any deficiency attributable to—

(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or

(ii) items which have become nonpartnership items (other than by reason of sec-

tion 6231(b)(1)(C)) and are described in section 6231(e)(1)(B).

(B) Subchapter B shall be applied separately with respect to each deficiency described in subparagraph (A) attributable to each partnership.

(C) Notwithstanding any other law or rule of law, any notice or proceeding under subchapter B with respect to a deficiency described in this paragraph shall not preclude or be precluded by any other notice, proceeding, or determination with respect to a partner's tax liability for a taxable year.

(3) Special rule in case of assertion by partner's spouse of innocent spouse relief

(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item (including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment), then such spouse may file with the Secretary within 60 days after the notice of computational adjustment is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items (and the applicability of any penalties, additions to tax, or additional amounts) under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph.

(b) Mathematical and clerical errors appearing on partnership return

(1) In general

Section 6225 shall not apply to any adjustment necessary to correct a mathematical or clerical error (as defined in section 6213(g)(2)) appearing on the partnership return.

(2) Exception

Paragraph (1) shall not apply to a partner if, within 60 days after the day on which notice of the correction of the error is mailed to the partner, such partner files with the Secretary a request that the correction not be made.

(c) Claims arising out of erroneous computations, etc.

(1) In general

A partner may file a claim for refund on the grounds that—

(A) the Secretary erroneously computed any computational adjustment necessary—

(i) to make the partnership items on the partner's return consistent with the treatment of the partnership items on the partnership return, or

(ii) to apply to the partner a settlement, a final partnership administrative adjustment, or the decision of a court in an action brought under section 6226 or section 6228(a),

(B) the Secretary failed to allow a credit or to make a refund to the partner in the amount of the overpayment attributable to the application to the partner of a settlement, a final partnership administrative adjustment, or the decision of a court in an action brought under section 6226 or section 6228(a), or

(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item.

(2) Time for filing claim

(A) Under paragraph (1)(A) or (C)

Any claim under subparagraph (A) or (C) of paragraph (1) shall be filed within 6 months after the day on which the Secretary mails the notice of computational adjustment to the partner.

(B) Under paragraph (1)(B)

Any claim under paragraph (1)(B) shall be filed within 2 years after whichever of the following days is appropriate:

(i) the day on which the settlement is entered into,

(ii) the day on which the period during which an action may be brought under section 6226 with respect to the final partnership administrative adjustment expires, or

(iii) the day on which the decision of the court becomes final.

(3) Suit if claim not allowed

If any portion of a claim under paragraph (1) is not allowed, the partner may bring suit with respect to such portion within the period specified in subsection (a) of section 6532 (relating to periods of limitations on refund suits).

(4) No review of substantive issues

For purposes of any claim or suit under this subsection, the treatment of partnership items on the partnership return, under the settlement, under the final partnership administrative adjustment, or under the decision of the court (whichever is appropriate) shall be conclusive. In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjust-

ment to a partnership item shall also be conclusive. Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment.

(5) Rules for seeking innocent spouse relief

(A) In general

The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6015 from a liability that is attributable to an adjustment to a partnership item (including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment).

(B) Time for filing claim

Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice of computational adjustment referred to in subsection (a)(3)(A).

(C) Suit if claim not allowed

If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

(D) Prior determinations are binding

For purposes of any claim or suit under this paragraph, the treatment of partnership items (and the applicability of any penalties, additions to tax, or additional amounts) under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

(d) Special rules with respect to credits or refunds attributable to partnership items

(1) In general

Except as otherwise provided in this subsection, no credit or refund of an overpayment attributable to a partnership item (or an affected item) for a partnership taxable year shall be allowed or made to any partner after the expiration of the period of limitation prescribed in section 6229 with respect to such partner for assessment of any tax attributable to such item.

(2) Administrative adjustment request

If a request for an administrative adjustment under section 6227 with respect to a partnership item is timely filed, credit or refund of any overpayment attributable to such partnership item (or an affected item) may be allowed or made at any time before the expiration of the period prescribed in section 6228 for bringing suit with respect to such request.

(3) Claim under subsection (c)

If a timely claim is filed under subsection (c) for a credit or refund of an overpayment attributable to a partnership item (or affected item), credit or refund of such overpayment may be allowed or made at any time before the expiration of the period specified in section 6532 (relating to periods of limitations on suits) for bringing suit with respect to such claim.

(4) Timely suit

Paragraph (1) shall not apply to any credit or refund of any overpayment attributable to a partnership item (or an item affected by such partnership item) if a partner brings a timely suit with respect to a timely administrative adjustment request under section 6228 or a timely claim under subsection (c) relating to such overpayment.

(5) Overpayments refunded without requirement that partner file claim

In the case of any overpayment by a partner which is attributable to a partnership item (or an affected item) and which may be refunded under this subchapter, to the extent practicable credit or refund of such overpayment shall be allowed or made without any requirement that the partner file a claim therefor.

(6) Subchapter B of chapter 66 not applicable

Subchapter B of chapter 66 (relating to limitations on credit or refund) shall not apply to any credit or refund of an overpayment attributable to a partnership item.

(e) Tax matters partner required to furnish names of partners to Secretary

If the Secretary mails to any partnership the notice specified in paragraph (1) of section 6223(a) with respect to any partnership taxable year, the tax matters partner shall furnish to the Secretary the name, address, profits interest, and taxpayer identification number of each person who was a partner in such partnership at any time during such taxable year. If the tax matters partner later discovers that the information furnished to the Secretary was incorrect or incomplete, the tax matters partner shall furnish such revised or additional information as may be necessary.

(f) Failure of tax matters partner, etc., to fulfill responsibility does not affect applicability of proceeding

The failure of the tax matters partner, a pass-thru partner, the representative of a notice group, or any other representative of a partner to provide any notice or perform any act required under this subchapter or under regulations prescribed under this subchapter on behalf of such partner does not affect the applicability of any proceeding or adjustment under this subchapter to such partner.

(g) Date decision of court becomes final

For purposes of section 6229(d)(1) and section 6230(c)(2)(B), the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Court of Federal Claims becomes final.

(h) Examination authority not limited

Nothing in this subchapter shall be construed as limiting the authority granted to the Secretary under section 7602.

(i) Time and manner of filing statements, making elections, etc.

Except as otherwise provided in this subchapter, each—

(1) statement,
(2) election,
(3) request, and
(4) furnishing of information,

shall be filed or made at such time, in such manner, and at such place as may be prescribed in regulations.

(j) Partnerships having principal place of business outside the United States

For purposes of sections 6226 and 6228, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

(k) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter. Any reference in this subchapter to regulations is a reference to regulations prescribed by the Secretary.

(*l*) Court rules

Any action brought under any provision of this subchapter shall be conducted in accordance with such rules of practice and procedure as may be prescribed by the Court in which the action is brought.

(Added Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 660; amended Pub. L. 98–369, div. A, title VII, § 714(p)(2)(A), July 18, 1984, 98 Stat. 964; Pub. L. 99–514, title XVIII, § 1875(d)(2)(A), Oct. 22, 1986, 100 Stat. 2896; Pub. L. 100–647, title I, § 1018(*o*)(1), Nov. 10, 1988, 102 Stat. 3584; Pub. L. 102–572, title IX, § 902(b)(2), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 105–34, title XII, §§ 1237(a)–(c)(1), 1238(b)(2)–(6), 1239(c)(1), Aug. 5, 1997, 111 Stat. 1025–1028; Pub. L. 105–206, title III, § 3201(e)(2), July 22, 1998, 112 Stat. 740.)

AMENDMENTS

1998—Subsec. (c)(5)(A). Pub. L. 105–206 substituted ''section 6015'' for ''section 6013(e)''.

1997—Subsec. (a)(1). Pub. L. 105–34, § 1237(c)(1), substituted ''paragraph (2) or (3)'' for ''paragraph (2)''.

Subsec. (a)(2)(A)(i). Pub. L. 105–34, § 1238(b)(2), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''affected items which require partner level determinations, or''.

Subsec. (a)(3). Pub. L. 105–34, § 1237(a), added par. (3).

Subsec. (a)(3)(A). Pub. L. 105–34, § 1238(b)(3)(A), inserted ''(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)'' after ''partnership item''.

Subsec. (a)(3)(B). Pub. L. 105–34, § 1238(b)(3)(B), inserted ''(and the applicability of any penalties, additions to tax, or additional amounts)'' after ''partnership items''.

Subsec. (c)(1)(C). Pub. L. 105–34, § 1238(b)(4), added subpar. (C).

Subsec. (c)(2)(A). Pub. L. 105–34, § 1238(b)(5), inserted ''or (C)'' after ''(1)(A)'' in subpar. heading and substituted ''subparagraph (A) or (C) of paragraph (1)'' for ''paragraph (1)(A)'' in text.

Subsec. (c)(4). Pub. L. 105–34, § 1238(b)(6), inserted at end ''In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive. Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment.''

Subsec. (c)(5). Pub. L. 105–34, § 1237(b), added par. (5).

Subsec. (c)(5)(A). Pub. L. 105–34, § 1238(b)(3)(C), inserted before period at end ''(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)''.

Subsec. (c)(5)(D). Pub. L. 105–34, § 1238(b)(3)(D), inserted ''(and the applicability of any penalties, additions to tax, or additional amounts)'' after ''partnership items''.

Subsec. (d)(6). Pub. L. 105–34, § 1239(c)(1), struck out ''(or an affected item)'' after ''partnership item''.

1992—Subsec. (g). Pub. L. 102–572 substituted ''Court of Federal Claims'' for ''Claims Court''.

1988—Subsec. (a)(2)(A)(ii). Pub. L. 100–647 inserted ''(other than by reason of section 6231(b)(1)(C))'' after ''nonpartnership items''.

1986—Subsec. (a). Pub. L. 99–514 substituted ''Coordination with deficiency proceedings'' for ''Normal deficiency proceedings do not apply to computational adjustments'' as subsec. heading, and amended text generally. Prior to amendment text read as follows: ''Subchapter B of this chapter shall not apply to the assessment or collection of any computational adjustment.''

1984—Subsec. (c)(1)(B). Pub. L. 98–369 struck out ''(or erroneously computed the amount of any such credit or refund)'' after ''section 6228(a)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 applicable to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date, see section 3201(g)(1) of Pub. L. 105–206, set out as a note under section 6015 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1237(d) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section and section 6503 of this title] shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97–248].''

Amendment by section 1238(b)(2)–(6) of Pub. L. 105–34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1238(c) of Pub. L. 105–34, set out as a note under section 6221 of this title.

Amendment by section 1239(c)(1) of Pub. L. 105–34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1239(f) of Pub. L. 105–34, set out as a note under section 6225 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

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

Section 1875(d)(2)(C) of Pub. L. 99–514 provided that: ''The amendments made by this paragraph [amending this section and sections 6213 and 6503 of this title] shall take effect as if included in the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97–248].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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.

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 sections 6213, 6234, 6422, 6503, 6512, 6515, 7422 of this title.

§ 6231. Definitions and special rules

(a) Definitions

For purposes of this subchapter—

(1) Partnership

(A) In general

Except as provided in subparagraph (B), the term ''partnership'' means any partnership required to file a return under section 6031(a).

(B) Exception for small partnerships

(i) In general

The term ''partnership'' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner.

(ii) Election to have subchapter apply

A partnership (within the meaning of subparagraph (A)) may for any taxable year elect to have clause (i) not apply. Such election shall apply for such taxable year and all subsequent taxable years unless revoked with the consent of the Secretary.

(2) Partner

The term ''partner'' means—

(A) a partner in the partnership, and

(B) any other person whose income tax liability under subtitle A is determined in whole or in part by taking into account directly or indirectly partnership items of the partnership.

(3) Partnership item

The term ''partnership item'' means, with respect to a partnership, any item required to be taken into account for the partnership's taxable year under any provision of subtitle A to the extent regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the partnership level than at the partner level.

(4) Nonpartnership item

The term ''nonpartnership item'' means an item which is (or is treated as) not a partnership item.

(5) Affected item

The term ''affected item'' means any item to the extent such item is affected by a partnership item.

(6) Computational adjustment

The term ''computational adjustment'' means the change in the tax liability of a partner which properly reflects the treatment under this subchapter of a partnership item. All adjustments required to apply the results of a proceeding with respect to a partnership under this subchapter to an indirect partner shall be treated as computational adjustments.

(7) Tax matters partner

The tax matters partner of any partnership is—

(A) the general partner designated as the tax matters partner as provided in regulations, or

(B) if there is no general partner who has been so designated, the general partner having the largest profits interest in the partnership at the close of the taxable year involved (or, where there is more than 1 such partner, the 1 of such partners whose name would appear first in an alphabetical listing).

If there is no general partner designated under subparagraph (A) and the Secretary determines that it is impracticable to apply subparagraph (B), the partner selected by the Secretary shall be treated as the tax matters partner. The Secretary shall, within 30 days of selecting a tax matters partner under the preceding sentence, notify all partners required to receive notice under section 6223(a) of the name and address of the person selected.

(8) Notice partner

The term ''notice partner'' means a partner who, at the time in question, would be entitled to notice under subsection (a) of section 6223 (determined without regard to subsections (b)(2) and (e)(1)(B) thereof).

(9) Pass-thru partner

The term ''pass-thru partner'' means a partnership, estate, trust, S corporation, nominee, or other similar person through whom other persons hold an interest in the partnership with respect to which proceedings under this subchapter are conducted.

(10) Indirect partner

The term ''indirect partner'' means a person holding an interest in a partnership through 1 or more pass-thru partners.

(11) 5-percent group

A 5-percent group is a group of partners who for the partnership taxable year involved had profits interests which aggregated 5 percent or more.

(12) Husband and wife

Except to the extent otherwise provided in regulations, a husband and wife who have a joint interest in a partnership shall be treated as 1 person.

(b) Items cease to be partnership items in certain cases

(1) In general

For purposes of this subchapter, the partnership items of a partner for a partnership taxable year shall become nonpartnership items as of the date—

(A) the Secretary mails to such partner a notice that such items shall be treated as nonpartnership items,

(B) the partner files suit under section 6228(b) after the Secretary fails to allow an administrative adjustment request with respect to any of such items,

(C) the Secretary enters into a settlement agreement with the partner with respect to such items, or

(D) such change occurs under subsection (e) of section 6223 (relating to effect of Secretary's failure to provide notice) or under subsection (c) of this section.

(2) Circumstances in which notice is permitted

The Secretary may mail the notice referred to in subparagraph (A) of paragraph (1) to a partner with respect to partnership items for a partnership taxable year only if—

(A) such partner—

(i) has complied with subparagraph (B) of section 6222(b)(1) (relating to notification of inconsistent treatment) with respect to one or more of such items, and

(ii) has not, as of the date on which the Secretary mails the notice, filed a request for administrative adjustments which would make the partner's treatment of the item or items with respect to which the partner complied with subparagraph (B) of section 6222(b)(1) consistent with the treatment of such item or items on the partnership return, or

(B)(i) such partner has filed a request under section 6227(c)[1] for administrative adjustment of one or more of such items, and

(ii) the adjustments requested would not make such partner's treatment of such items consistent with the treatment of such items on the partnership return.

(3) Notice must be mailed before beginning of partnership proceeding

Any notice to a partner under subparagraph (A) of paragraph (1) with respect to partnership items for a partnership taxable year shall be mailed before the day on which the Secretary mails to the tax matters partner a notice of the beginning of an administrative proceeding at the partnership level with respect to such items.

(c) Regulations with respect to certain special enforcement areas

(1) Applicability of subsection

This subsection applies in the case of—

(A) assessments under section 6851 (relating to termination assessments of income tax) or section 6861 (relating to jeopardy assessments of income, estate, gift, and certain excise taxes),

(B) criminal investigations,

(C) indirect methods of proof of income,

(D) foreign partnerships, and

(E) other areas that the Secretary determines by regulation to present special enforcement considerations.

(2) Items may be treated as nonpartnership items

To the extent that the Secretary determines and provides by regulations that to treat items as partnership items will interfere with the effective and efficient enforcement of this title in any case described in paragraph (1), such items shall be treated as nonpartnership items for purposes of this subchapter.

(3) Special rules

The Secretary may prescribe by regulation such special rules as the Secretary determines to be necessary to achieve the purposes of this subchapter in any case described in paragraph (1).

(d) Time for determining partner's profits interest in partnership

(1) In general

For purposes of section 6223(b) (relating to special rules for partnerships with more than 100 partners) and paragraph (11) of subsection (a) (relating to 5-percent group), the interest of a partner in the profits of a partnership for a partnership taxable year shall be determined—

(A) in the case of a partner whose entire interest in the partnership is disposed of during such partnership taxable year, as of the moment immediately before such disposition, or

(B) in the case of any other partner, as of the close of the partnership taxable year.

(2) Indirect partners

The Secretary shall prescribe regulations consistent with the principles of paragraph (1) to be applied in the case of indirect partners.

(e) Effect of judicial decisions in certain proceedings

(1) Determinations at partner level

No judicial determination with respect to the income tax liability of any partner not conducted under this subchapter shall be a bar to any adjustment in such partner's income tax liability resulting from—

(A) a proceeding with respect to partnership items under this subchapter, or

(B) a proceeding with respect to items which become nonpartnership items—

(i) by reason of 1 or more of the events described in subsection (b), and

(ii) after the appropriate time for including such items in any other proceeding with respect to nonpartnership items.

(2) Proceedings under section 6228(a)

No judicial determination in any proceeding under subsection (a) of section 6228 with respect to any partnership item shall be a bar to any adjustment in any other partnership item.

(f) Special rule for deductions, losses, and credits of foreign partnerships

Except to the extent otherwise provided in regulations, in the case of any partnership the tax matters partner of which resides outside the United States or the books of which are maintained outside the United States, no deduction, loss, or credit shall be allowable to any partner unless section 6031 is complied with for the partnership's taxable year in which such deduction, loss, or credit arose at such time as the Secretary prescribes by regulations.

[1] See References in Text note below.

(g) Partnership return to be determinative of whether subchapter applies

(1) Determination that subchapter applies

If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

(2) Determination that subchapter does not apply

If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership.

(Added Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 663; amended Pub. L. 98–369, div. A, title VII, § 714(p)(2)(B)–(D), (I), July 18, 1984, 98 Stat. 964, 965; Pub. L. 105–34, title XI, § 1141(b), title XII, §§ 1232(a), 1234(a), Aug. 5, 1997, 111 Stat. 981, 1023, 1024; Pub. L. 105–206, title III, § 3507(a), July 22, 1998, 112 Stat. 772.)

REFERENCES IN TEXT

Section 6227(c) of this title, referred to in subsec. (b)(2)(B)(i), was redesignated section 6227(d) of this title by Pub. L. 105–34, title XII, § 1236(a), Aug. 5, 1997, 111 Stat. 1025.

AMENDMENTS

1998—Subsec. (a)(7). Pub. L. 105–206 inserted at end ''The Secretary shall, within 30 days of selecting a tax matters partner under the preceding sentence, notify all partners required to receive notice under section 6223(a) of the name and address of the person selected.''

1997—Subsec. (a)(1)(B)(i). Pub. L. 105–34, § 1234(a), reenacted heading of cl. (i) without change and amended text generally. Prior to amendment, text read as follows: ''The term 'partnership' shall not include any partnership if—

''(I) such partnership has 10 or fewer partners each of whom is a natural person (other than a nonresident alien) or an estate, and

''(II) each partner's share of each partnership item is the same as his share of every other item.

For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner.''

Subsec. (f). Pub. L. 105–34, § 1141(b), substituted ''deductions, losses, and'' for ''losses and'' in subsec. heading and ''deduction, loss, or'' for ''loss or'' in two places in text.

Subsec. (g). Pub. L. 105–34, § 1232(a), added subsec. (g).

1984—Subsec. (a)(9). Pub. L. 98–369, § 714(p)(2)(B), substituted ''S corporation'' for ''electing small business corporation''.

Subsec. (b)(2)(B). Pub. L. 98–369, § 714(p)(2)(I), substituted section ''6227(c)'' for ''6227(b)''.

Subsec. (d)(1)(A). Pub. L. 98–369, § 714(p)(2)(C), amended subpar. (A) generally, substituting ''disposed of'' and ''disposition'' for ''liquidated, sold, or exchanged'' and ''liquidation, sale, or exchange'', respectively.

Subsec. (f). Pub. L. 98–369, § 714(p)(2)(D), substituted ''such loss or credit'' for ''such deduction or credit''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3507(b), July 22, 1998, 112 Stat. 772, provided that: ''The amendment made by this section [amending this section] shall apply to selections of tax matters partners made by the Secretary of the Treasury after the date of the enactment of this Act [July 22, 1998].''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1141(b) of Pub. L. 105–34 applicable to taxable years beginning after Aug. 5, 1997, see section 1141(c) of Pub. L. 105–34, set out as a note under section 6031 of this title.

Section 1232(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall apply to partnership taxable years ending after the date of the enactment of this Act [Aug. 5, 1997].''

Section 1234(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall apply to partnership taxable years ending after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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.

SPECIAL RULE FOR CERTAIN INTERNATIONAL SATELLITE PARTNERSHIPS

Section 406 of Pub. L. 97–248, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Subchapter C of chapter 63 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to tax treatment of partnership items), section 6031 of such Code (relating to returns of partnership income), and section 6046A of such Code (relating to returns as to interest in foreign partnerships) shall not apply to the International Telecommunications Satellite Organization, the International Maritime Satellite Organization, and any organization which is a successor of either of such organizations.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6226, 6227, 6228, 6229, 6230, 6234, 6255, 6501, 6511, 6512, 6601, 7422 of this title.

[§ 6232. Repealed. Pub. L. 100–418, title I, § 1941(b)(1), Aug. 23, 1988, 102 Stat. 1323]

Section, added Pub. L. 97–248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 666, related to extension of subchapter provisions, respecting tax treatment of partnership items, to windfall profit tax.

EFFECTIVE DATE OF REPEAL

Repeal applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as an Effective Date of 1988 Amendment note under section 164 of this title.

§ 6233. Extension to entities filing partnership returns, etc.

(a) General rule

If a partnership return is filed by an entity for a taxable year but it is determined that the entity is not a partnership for such year, then, to the extent provided in regulations, the provisions of this subchapter are hereby extended in respect of such year to such entity and its items and to persons holding an interest in such entity.

(b) Similar rules in certain cases

If a partnership return is filed for any taxable year but it is determined that there is no entity

for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply.

(Added Pub. L. 98–369, div. A, title VII, § 714(p)(1), July 18, 1984, 98 Stat. 964; amended Pub. L. 104–188, title I, § 1307(c)(3)(B), Aug. 20, 1996, 110 Stat. 1782.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–188 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''If for any taxable year—

''(1) an entity files a return as an S corporation but it is determined that the entity was not an S corporation for such year, or

''(2) a partnership return or S corporation return is filed but it is determined that there is no entity for such taxable year,

then, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 applicable to taxable years beginning after Dec. 31, 1996, see section 1317(a) of Pub. L. 104–188, set out as a note under section 641 of this title.

EFFECTIVE DATE

Section 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 an Effective Date of 1984 Amendment note under section 31 of this title.

§ 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return

(a) General rule

If—

(1) a taxpayer files an oversheltered return for a taxable year,

(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

(b) Oversheltered return

For purposes of this section, the term ''oversheltered return'' means an income tax return which—

(1) shows no taxable income for the taxable year, and

(2) shows a net loss from partnership items.

(c) Judicial review in the Tax Court

Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

(d) Failure to file petition

(1) In general

Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

(2) Exception

Paragraph (1) shall not apply after the date that the taxpayer—

(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

(e) Limitations period

(1) In general

Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

(2) Suspension when Secretary mails notice of adjustment

If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

(3) Restrictions on assessment

Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A

attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

(f) Further notices of adjustment restricted

If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

(g) Coordination with other proceedings under this subchapter

(1) In general

The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

(2) Special rule in case of computational adjustment

In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

(3) Conversion to deficiency proceeding

If—

(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

(4) Finally determined

For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

(B) a notice of final partnership administrative adjustment has been issued and—

(i) no petition has been filed under section 6226 and the time for doing so has expired, or

(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

(h) Special rules if Secretary incorrectly determines applicable procedure

(1) Special rule if Secretary erroneously mails notice of adjustment

If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

(2) Special rule if Secretary erroneously mails notice of deficiency

If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c).

(Added Pub. L. 105–34, title XII, § 1231(a), Aug. 5, 1997, 111 Stat. 1020.)

EFFECTIVE DATE

Section applicable to partnership taxable years ending after Aug. 5, 1997, see section 1231(d) of Pub. L. 105–34, set out as an Effective Date of 1997 Amendment note under section 6211 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6501, 7459, 7482 of this title.

Subchapter D—Treatment of Electing Large Partnerships

Part

I. Treatment of partnership items and adjustments.

Part
II. Partnership level adjustments.
III. Definitions and special rules.

PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

Sec.
6240. Application of subchapter.
6241. Partner's return must be consistent with partnership return.
6242. Procedures for taking partnership adjustments into account.

PRIOR PROVISIONS

A prior subchapter D, Tax Treatment of Subchapter S Items, consisted of sections 6241 to 6245, prior to repeal by Pub. L. 104–188, title I, § 1307(c)(1), Aug. 20, 1996, 110 Stat. 1781.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6012 of this title.

§ 6240. Application of subchapter

(a) General rule

This subchapter shall only apply to electing large partnerships and partners in such partnerships.

(b) Coordination with other partnership audit procedures

(1) In general

Subchapter C of this chapter shall not apply to any electing large partnership other than in its capacity as a partner in another partnership which is not an electing large partnership.

(2) Treatment where partner in other partnership

If an electing large partnership is a partner in another partnership which is not an electing large partnership—

(A) subchapter C of this chapter shall apply to items of such electing large partnership which are partnership items with respect to such other partnership, but

(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

(Added Pub. L. 105–34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1009.)

EFFECTIVE DATE

Subchapter applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105–34, as amended, set out as an Effective Date of 1997 Amendment note under section 6011 of this title.

§ 6241. Partner's return must be consistent with partnership return

(a) General rule

A partner of any electing large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

(b) Underpayment due to inconsistent treatment assessed as math error

Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

(c) Adjustments not to affect prior year of partners

(1) In general

Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

(2) Certain changes in distributive share taken into account by partner

(A) In general

To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

(B) Coordination with deficiency procedures

(i) In general

Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

(ii) Adjustment not precluded

Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

(C) Period of limitations

The period for—

(i) assessing any underpayment of tax, or

(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

(D) Tiered structures

If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is an electing large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

(d) Addition to tax for failure to comply with section

For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

(Added Pub. L. 105–34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1009.)

PRIOR PROVISIONS

A prior section 6241, added Pub. L. 97–354, § 4(a), Oct. 19, 1982, 96 Stat. 1691, directed that tax treatment be determined at the corporate level, prior to repeal by Pub. L. 104–188, title I, §§ 1307(c)(1), 1317(a), Aug. 20, 1996, 110 Stat. 1781, 1787, applicable to taxable years beginning after Dec. 31, 1996.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6246 of this title.

§ 6242. Procedures for taking partnership adjustments into account

(a) Adjustments flow through to partners for year in which adjustment takes effect

(1) In general

If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

(2) Partnership liable in certain cases

If—

(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

(3) Offsetting adjustments taken into account

If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

(4) Coordination with part II

Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

(b) Partnership liable for interest and penalties

(1) In general

If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

(A) shall pay to the Secretary interest computed under paragraph (2), and

(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

(2) Determination of amount of interest

The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

(3) Penalties

A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

(4) Imputed underpayment

For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

(A) by netting all adjustments to items of income, gain, loss, or deduction and by treating any net increase in income as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, and

(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

(c) Administrative provisions

(1) In general

Any payment required by subsection (a)(2) or (b)(1)(A)—

(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

(2) Interest

For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

(3) Penalties

(A) In general

In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term ''underpayment'' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

(B) Accuracy-related and fraud penalties made applicable

For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

(d) Definitions and special rules

For purposes of this section—

(1) Partnership adjustment

The term ''partnership adjustment'' means any adjustment in the amount of any partnership item of an electing large partnership.

(2) When adjustment takes effect

A partnership adjustment takes effect—

(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

(C) in any other case, when such adjustment is made.

(3) Adjusted year

The term ''adjusted year'' means the partnership taxable year to which the item being adjusted relates.

(4) Return due date

The term ''return due date'' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

(5) Adjustments involving changes in character

Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

(e) Payments nondeductible

No deduction shall be allowed under subtitle A for any payment required to be made by an electing large partnership under this section.

(Added Pub. L. 105–34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1010.)

PRIOR PROVISIONS

A prior section 6242, added Pub. L. 97–354, § 4(a), Oct. 19, 1982, 96 Stat. 1691, directed that shareholder's return be consistent with corporate return, prior to repeal by Pub. L. 104–188, title I, §§ 1307(c)(1), 1317(a), Aug. 20, 1996, 110 Stat. 1781, 1787, applicable to taxable years beginning after Dec. 31, 1996.

A prior section 6243, added Pub. L. 97–354, § 4(a), Oct. 19, 1982, 96 Stat. 1691, directed that shareholders be notified of proceedings and given opportunity to participate, prior to repeal by Pub. L. 104–188, title I, §§ 1307(c)(1), 1317(a), Aug. 20, 1996, 110 Stat. 1781, 1787, applicable to taxable years beginning after Dec. 31, 1996.

A prior section 6244, added Pub. L. 97–354, § 4(a), Oct. 19, 1982, 96 Stat. 1691, directed that certain provisions of subchapter C apply to subchapter S items, prior to repeal by Pub. L. 104–188, title I, §§ 1307(c)(1), 1317(a), Aug. 20, 1996, 110 Stat. 1781, 1787, applicable to taxable years beginning after Dec. 31, 1996.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6240, 6241, 6246, 6247, 6255 of this title.

PART II—PARTNERSHIP LEVEL ADJUSTMENTS

Subpart
A. Adjustments by Secretary.
B. Claims for adjustments by partnership.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6241, 6242 of this title.

SUBPART A—ADJUSTMENTS BY SECRETARY

Sec.
6245. Secretarial authority.
6246. Restrictions on partnership adjustments.
6247. Judicial review of partnership adjustment.
6248. Period of limitations for making adjustments.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 6252 of this title.

§ 6245. Secretarial authority

(a) General rule

The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

(b) Notice of partnership adjustment

(1) In general

If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known ad-

dress even if the partnership has terminated its existence.

(2) Further notices restricted

If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

(3) Authority to rescind notice with partnership consent

The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

(Added Pub. L. 105–34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1013.)

PRIOR PROVISIONS

A prior section 6245, added Pub. L. 97–354, § 4(a), Oct. 19, 1982, 96 Stat. 1692, defined ''subchapter S item'' for purposes of subchapter, prior to repeal by Pub. L. 104–188, title I, §§ 1307(c)(1), 1317(a), Aug. 20, 1996, 110 Stat. 1781, 1787, applicable to taxable years beginning after Dec. 31, 1996.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6247 of this title.

§ 6246. Restrictions on partnership adjustments

(a) General rule

Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

(b) Premature action may be enjoined

Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

(c) Exceptions to restrictions on adjustments

(1) Adjustments arising out of math or clerical errors

(A) In general

If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

(B) Special rule

If an electing large partnership is a partner in another electing large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

(2) Partnership may waive restrictions

The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

(d) Limit where no proceeding begun

If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

(Added Pub. L. 105–34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1013.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6245, 6255, 7421 of this title.

§ 6247. Judicial review of partnership adjustment

(a) General rule

Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

(1) the Tax Court,

(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

(3) the Claims Court.

(b) Jurisdictional requirement for bringing action in district court or Claims Court

(1) In general

A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional

requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

(2) Interest payable

Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

(c) Scope of judicial review

A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

(d) Determination of court reviewable

Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

(e) Effect of decision dismissing action

If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

(Added Pub. L. 105–34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1014.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6245, 6246, 6248, 6252, 6255, 7459, 7482, 7485 of this title.

§ 6248. Period of limitations for making adjustments

(a) General rule

Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

(1) the date on which the partnership return for such taxable year was filed, or

(2) the last day for filing such return for such year (determined without regard to extensions).

(b) Extension by agreement

The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

(c) Special rule in case of fraud, etc.

(1) False return

In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

(2) Substantial omission of income

If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting ''6 years'' for ''3 years''.

(3) No return

In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

(4) Return filed by Secretary

For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

(d) Suspension when Secretary mails notice of adjustment

If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

(2) for 1 year thereafter.

(Added Pub. L. 105–34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1015.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6241, 6251, 6252 of this title.

SUBPART B—CLAIMS FOR ADJUSTMENTS BY PARTNERSHIP

Sec.
6251. Administrative adjustment requests.
6252. Judicial review where administrative adjustment request is not allowed in full.

§ 6251. Administrative adjustment requests

(a) General rule

A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

(1) within 3 years after the later of—

(A) the date on which the partnership return for such year is filed, or

(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

(b) Secretarial action

If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

(c) Special rule in case of extension under section 6248

If the period described in section 6248(a) is extended pursuant to an agreement under section

6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

(Added Pub. L. 105–34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1016.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6242, 6252 of this title.

§ 6252. Judicial review where administrative adjustment request is not allowed in full

(a) In general

If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

(1) the Tax Court,

(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

(3) the Claims Court.

(b) Period for filing petition

A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

(c) Coordination with subpart A

(1) Notice of partnership adjustment before filing of petition

No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

(2) Notice of partnership adjustment after filing but before hearing of petition

If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

(3) Notice must be before expiration of statute of limitations

A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

(d) Scope of judicial review

Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

(e) Determination of court reviewable

Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

(Added Pub. L. 105–34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1016.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6255, 7459, 7482, 7485 of this title.

PART III—DEFINITIONS AND SPECIAL RULES

Sec.
6255. Definitions and special rules.

§ 6255. Definitions and special rules

(a) Definitions

For purposes of this subchapter—

(1) Electing large partnership

The term ''electing large partnership'' has the meaning given to such term by section 775.

(2) Partnership item

The term ''partnership item'' has the meaning given to such term by section 6231(a)(3).

(b) Partners bound by actions of partnership, etc.

(1) Designation of partner

Each electing large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

(2) Binding effect

An electing large partnership and all partners of such partnership shall be bound—

(A) by actions taken under this subchapter by the partnership, and

(B) by any decision in a proceeding brought under this subchapter.

(c) Partnerships having principal place of business outside the United States

For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

(d) Treatment where partnership ceases to exist

If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into ac-

count by the former partners of such partnership under regulations prescribed by the Secretary.

(e) Date decision becomes final

For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

(f) Partnerships in cases under title 11 of the United States Code

(1) Suspension of period of limitations on making adjustment, assessment, or collection

The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

(A) for adjustment or assessment, 60 days thereafter, and

(B) for collection, 6 months thereafter.

A rule similar to the rule of section 6213(f)(2) shall apply for purposes of section 6246.

(2) Suspension of period of limitation for filing for judicial review

The running of the period specified in section 6247(a) or 6252(b) shall, in a case under title 11 of the United States Code, be suspended during the period during which the partnership is prohibited by reason of such case from filing a petition under section 6247 or 6252 and for 60 days thereafter.

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

(1) to prevent abuse through manipulation of the provisions of this subchapter, and

(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply.

(Added Pub. L. 105–34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1017.)

CHAPTER 64—COLLECTION

Subchapter		Sec.[1]
A.	General provisions	6301
B.	Receipt of payment	6311
C.	Lien for taxes	6321
D.	Seizure of property for collection of taxes	6331
[E.	Repealed.]	

[1] Section numbers editorially supplied.

AMENDMENTS

1990—Pub. L. 101–508, title XI, § 11801(b)(14), Nov. 5, 1990, 104 Stat. 1388–522, struck out item for subchapter E ''Collection of State individual income taxes''.

1972—Pub. L. 92–512, title II, § 202(b), Oct. 20, 1972, 86 Stat. 944, added item for subchapter E.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7804 of this title.

Subchapter A—General Provisions

Sec.
6301. Collection authority
6302. Mode or time of collection.
6303. Notice and demand for tax.
6304. Fair tax collection practices.
6305. Collection of certain liability.

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3466(b), July 22, 1998, 112 Stat. 769, added item 6304.

1976—Pub. L. 94–455, title XIX, § 1906(b)(5), Oct. 4, 1976, 90 Stat. 1833, struck out item ''6304. Collection under the Tariff Act''.

1975—Pub. L. 93–647, § 101(b)(2), Jan. 4, 1975, 88 Stat. 2358, added item 6305.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6867, 7410, 7811 of this title.

§ 6301. Collection authority

The Secretary shall collect the taxes imposed by the internal revenue laws.

(Aug. 16, 1954, ch. 736, 68A Stat. 775; 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''.

APPROVAL PROCESS FOR LIENS, LEVIES, AND SEIZURES

Pub. L. 105–206, title III, § 3421, July 22, 1998, 112 Stat. 758, provided that:

''(a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement procedures under which—

''(1) a determination by an employee to file a notice of lien or levy with respect to, or to levy or seize, any property or right to property would, where appropriate, be required to be reviewed by a supervisor of the employee before the action was taken; and

''(2) appropriate disciplinary action would be taken against the employee or supervisor where the procedures under paragraph (1) were not followed.

''(b) REVIEW PROCESS.—The review process under subsection (a)(1) may include a certification that the employee has—

''(1) reviewed the taxpayer's information;

''(2) verified that a balance is due; and

''(3) affirmed that the action proposed to be taken is appropriate given the taxpayer's circumstances, considering the amount due and the value of the property or right to property.

''(c) EFFECTIVE DATES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect on the date of the enactment of this Act [July 22, 1998].

''(2) AUTOMATED COLLECTION SYSTEM ACTIONS.—In the case of any action under an automated collection system, this section shall apply to actions initiated after December 31, 2000.''

§ 6302. Mode or time of collection

(a) Establishment by regulations

If the mode or time for collecting any tax is not provided for by this title, the Secretary may establish the same by regulations.

(b) Discretionary method

Whether or not the method of collecting any tax imposed by chapter 21, 31, 32, or 33, or by section 4481 is specifically provided for by this title, any such tax may, under regulations prescribed by the Secretary, be collected by means of returns, stamps, coupons, tickets, books, or such other reasonable devices or methods as may be necessary or helpful in securing a complete and proper collection of the tax.

(c) Use of Government depositaries

The Secretary may authorize Federal Reserve banks, and incorporated banks, trust companies, domestic building and loan associations, or credit unions which are depositaries or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks, trust companies, domestic building and loan associations, and credit unions is to be treated as payment of such tax to the Secretary.

(d) Time for payment of manufacturers' excise tax on sporting goods

The taxes imposed by subsections (a) and (b) of section 4161 (relating to taxes on sporting goods) shall be due and payable on the date for filing the return for such taxes.

(e) Time for deposit of taxes on communications services and airline tickets

(1) In general

Except as provided in paragraph (2), if, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.

(2) Special rule for tax due in September

(A) Amounts considered collected

In the case of a person required to make deposits of the tax imposed by—

(i) section 4251, or

(ii) effective on January 1, 1997, section 4261 or 4271,

with respect to amounts considered collected by such person during any semimonthly period, the amount of such tax included in bills rendered or tickets sold during the period beginning on September 1 and ending on September 11 shall be deposited not later than September 29.

(B) Special rule where September 29 is on Saturday or Sunday

If September 29 falls on a Saturday or Sunday, the due date under subparagraph (A) shall be—

(i) in the case of Saturday, the preceding day, and

(ii) in the case of Sunday, the following day.

(C) Taxpayers not required to use electronic funds transfer

In the case of deposits not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting ''September 10'' for ''September 11'' and ''September 28'' for ''September 29''.

(f) Time for deposit of certain excise taxes

(1) General rule

Except as otherwise provided in this subsection and subsection (e), if any person is required under regulations to make deposits of taxes under subtitle D with respect to semimonthly periods, such person shall make deposits of such taxes for the period beginning on September 16 and ending on September 26 not later than September 29. In the case of taxes imposed by sections 4261 and 4271, this paragraph shall not apply to periods before January 1, 1997.

(2) Taxes on ozone depleting chemicals

If any person is required under regulations to make deposits of taxes under subchapter D of chapter 38 with respect to semimonthly periods, in lieu of paragraph (1), such person shall make deposits of such taxes for—

(A) the second semimonthly period in August, and

(B) the period beginning on September 1 and ending on September 11,

not later than September 29.

(3) Taxpayers not required to use electronic funds transfer

In the case of deposits not required to be made by electronic funds transfer, paragraphs (1) and (2) shall be applied by substituting ''September 25'' for ''September 26'', ''September 10'' for ''September 11'', and ''September 28'' for ''September 29''.

(4) Special rule where due date on Saturday or Sunday

If, but for this paragraph, the due date under paragraph (1), (2), or (3) would fall on a Saturday or Sunday, such due date shall be deemed to be—

(A) in the case of Saturday, the preceding day, and

(B) in the case of Sunday, the following day.

(g) Deposits of social security taxes and withheld income taxes

If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21, 22, and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit.

(h) Use of electronic fund transfer system for collection of certain taxes

(1) Establishment of system

(A) In general

The Secretary shall prescribe such regulations as may be necessary for the develop-

ment and implementation of an electronic fund transfer system which is required to be used for the collection of depository taxes. Such system shall be designed in such manner as may be necessary to ensure that such taxes are credited to the general account of the Treasury on the date on which such taxes would otherwise have been required to be deposited under the Federal tax deposit system.

(B) Exemptions

The regulations prescribed under subparagraph (A) may contain such exemptions as the Secretary may deem appropriate.

(2) Phase-in requirements

(A) In general

Except as provided in subparagraph (B), the regulations referred to in paragraph (1)—

(i) shall contain appropriate procedures to assure that an orderly conversion from the Federal tax deposit system to the electronic fund transfer system is accomplished, and

(ii) may provide for a phase-in of such electronic fund transfer system by classes of taxpayers based on the aggregate undeposited taxes of such taxpayers at the close of specified periods and any other factors the Secretary may deem appropriate.

(B) Phase-in requirements

The phase-in of the electronic fund transfer system shall be designed in such manner as may be necessary to ensure that—

(i) during each fiscal year beginning after September 30, 1993, at least the applicable required percentage of the total depository taxes imposed by chapters 21, 22, and 24 shall be collected by means of electronic fund transfer, and

(ii) during each fiscal year beginning after September 30, 1993, at least the applicable required percentage of the total other depository taxes shall be collected by means of electronic fund transfer.

(C) Applicable required percentage

(i) In the case of the depository taxes imposed by chapters 21, 22, and 24, the applicable required percentage is—

(I) 3 percent for fiscal year 1994,

(II) 16.9 percent for fiscal year 1995,

(III) 20.1 percent for fiscal year 1996,

(IV) 58.3 percent for fiscal years 1997 and 1998, and

(V) 94 percent for fiscal year 1999 and all fiscal years thereafter.

(ii) In the case of other depository taxes, the applicable required percentage is—

(I) 3 percent for fiscal year 1994,

(II) 20 percent for fiscal year 1995,

(III) 30 percent for fiscal year 1996,

(IV) 60 percent for fiscal years 1997 and 1998, and

(V) 94 percent for fiscal year 1999 and all fiscal years thereafter.

(3) Definitions

For purposes of this subsection—

(A) Depository tax

The term ''depository tax'' means any tax if the Secretary is authorized to require deposits of such tax.

(B) Electronic fund transfer

The term ''electronic fund transfer'' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution or other financial intermediary to debit or credit an account.

(4) Coordination with other electronic fund transfer requirements

(A) Coordination with certain excise taxes

In determining whether the requirements of subparagraph (B) of paragraph (2) are met, taxes required to be paid by electronic fund transfer under sections 5061(e) and 5703(b) shall be disregarded.

(B) Additional requirement

Under regulations, any tax required to be paid by electronic fund transfer under section 5061(e) or 5703(b) shall be paid in such a manner as to ensure that the requirements of the second sentence of paragraph (1)(A) of this subsection are satisfied.

(i) Cross references

For treatment of earned income advance amounts as payment of withholding and FICA taxes, see section 3507(d).

(Aug. 16, 1954, ch. 736, 68A Stat. 775; June 29, 1956, ch. 462, title II, § 206(b), 70 Stat. 391; Pub. L. 94–455, title XIX, § 1906(a)(17), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1825, 1834; Pub. L. 95–147, § 3(a), Oct. 28, 1977, 91 Stat. 1228; Pub. L. 95–600, title I, § 105(e), Nov. 6, 1978, 92 Stat. 2776; Pub. L. 96–223, title I, § 101(c)(2), Apr. 2, 1980, 94 Stat. 250; Pub. L. 98–369, div. A, title X, § 1015(c), July 18, 1984, 98 Stat. 1018; Pub. L. 100–418, title I, § 1941(b)(2)(G), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100–647, title VI, § 6107(a), Nov. 10, 1988, 102 Stat. 3712; Pub. L. 101–239, title VII, §§ 7502(a), 7507(a), 7632(a), Dec. 19, 1989, 103 Stat. 2362, 2369, 2379; Pub. L. 101–508, title XI, §§ 11217(b)(1), 11334(a), 11801(c)(22)(A), Nov. 5, 1990, 104 Stat. 1388–437, 1388–470, 1388–528; Pub. L. 103–66, title XIII, § 13242(d)(15), Aug. 10, 1993, 107 Stat. 524; Pub. L. 103–182, title V, § 523(a), Dec. 8, 1993, 107 Stat. 2161; Pub. L. 103–465, title VII, § 712(a), (d), Dec. 8, 1994, 108 Stat. 4999, 5001; Pub. L. 104–188, title I, §§ 1702(c)(3), 1704(t)(52), Aug. 20, 1996, 110 Stat. 1869, 1890.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–188, § 1704(t)(52), provided that section 11801(c)(22)(A) of Pub. L. 101–508 shall be applied as if ''chapters 21'' appeared instead of ''chapter 21'' in the material to be stricken. See 1990 Amendment note below.

Subsec. (g). Pub. L. 104–188, § 1702(c)(3), inserted '', 22,'' after ''chapters 21''.

1994—Subsec. (e). Pub. L. 103–465, § 712(d), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''If, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section

4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.''

Subsec. (f). Pub. L. 103–465, § 712(a), substituted ''certain excise taxes'' for ''taxes on gasoline and diesel fuel'' in heading and amended text generally. Prior to amendment, text read as follows:

''(1) GENERAL RULE.—Notwithstanding section 518 of the Highway Revenue Act of 1982, any person whose liability for tax under section 4081 is payable with respect to semimonthly periods shall, not later than September 27, make deposits of such tax for the period beginning on September 16 and ending on September 22.

''(2) SPECIAL RULE WHERE DUE DATE FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this paragraph, the due date under paragraph (1) would fall on a Saturday, Sunday, or holiday in the District of Columbia, such due date shall be deemed to be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.''

1993—Subsec. (f). Pub. L. 103–66 inserted ''and diesel fuel'' after ''gasoline'' in heading.

Subsecs. (h), (i). Pub. L. 103–182 added subsec. (h) and redesignated former subsec. (h) as (i).

1990—Subsec. (b). Pub. L. 101–508, § 11801(c)(22)(A), which directed the substitution of ''chapter 21, 31, 32, or 33, or by section 4481'' for ''chapter 21'' and all that follows down through ''chapter 37,'', was executed by making the substitution for ''chapters 21, 31, 32, 33, section 4481 of chapter 36, section 4501(a) of chapter 37'' to reflect the probable intent of Congress. See 1996 Amendment note above.

Subsec. (e). Pub. L. 101–508, § 11217(b)(1), inserted ''communications services and'' before ''airline'' in heading and ''section 4251 or'' after ''imposed by'' in text.

Subsec. (g). Pub. L. 101–508, § 11334(a), amended subsec. (g) generally, striking out par. (1) designation and striking heading, striking out '', for the years specified in paragraph (2),'' after ''such person shall'', substituting ''on the 1st banking day'' for ''on the applicable banking day'', and striking out par. (2), which provided that for purposes of par. (1) the applicable banking day for 1990 is the 1st, for 1991 the 2nd, for 1992 the 3rd, for 1993 the 1st, and for 1994 the 1st.

1989—Subsec. (e). Pub. L. 101–239, § 7502(a), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 101–239, § 7507(a), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 101–239, § 7502(a), redesignated former subsec. (e) as (f).

Subsec. (g). Pub. L. 101–239, § 7632(a), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 101–239, § 7507(a), redesignated former subsec. (f) as (g).

Subsec. (h). Pub. L. 101–239, § 7632(a), redesignated former subsec. (g) as (h).

1988—Subsec. (d). Pub. L. 100–647 substituted ''Time for payment of manufacturers' excise tax on sporting goods'' for ''Time for payment of manufacturers excise tax on sport fishing equipment'' in heading and amended text generally. Prior to amendment, subsec. (d) read as follows: ''The tax imposed by section 4161(a) (relating to manufacturers excise tax on sport fishing equipment) shall be due and payable on the date for filing the return for such tax.''

Subsec. (e). Pub. L. 100–418 substituted ''For'' for ''(1) For'' and struck out par. (2) which read as follows: ''For depositary requirements applicable to the windfall profit tax imposed by section 4986, see section 4995(b).''

1984—Subsecs. (d), (e). Pub. L. 98–369 added subsec. (d) and redesignated former subsec. (d) as (e).

1980—Subsec. (d). Pub. L. 96–223 designated existing cross reference as par. (1), substituted ''For treatment of earned income advance amounts'' for ''For treatment of payment of earned income advance amounts'', and added par. (2).

1978—Subsec. (d). Pub. L. 95–600 added subsec. (d).

1977—Subsec. (c). Pub. L. 95–147 substituted '', trust companies, domestic building and loan associations, or credit unions'' for ''or trust companies'' and '', trust companies, domestic building and loan associations, and credit unions'' for ''and trust companies''.

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(a)(17), (b)(13)(A), substituted ''section 4501(a) of chapter 37'' for ''sections 4501(a) or 4511 of chapter 37, or section 4701 or 4721 of chapter 39'' and struck out ''or his delegate'' after ''Secretary''.

Subsec. (c). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1956—Subsec. (b). Act June 29, 1956, inserted reference to section 4481 of chapter 36.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1702(c)(3) of Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective Jan. 1, 1995, see section 712(e) of Pub. L. 103–465, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1993 AMENDMENTS

Section 523(b)(1) of Pub. L. 103–182 provided that: ''The amendments made by this section [amending this section] shall take effect on the date the Agreement [North American Free Trade Agreement] enters into force with respect to the United States [Jan. 1, 1994].''

Amendment by Pub. L. 103–66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103–66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11217(b)(2) of Pub. L. 101–508 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to payments of taxes considered collected during semimonthly periods beginning after December 31, 1990.''

Section 11334(c) of Pub. L. 101–508 provided that: ''The amendments made by this section [amending this section and provisions set out below] shall apply to amounts required to be deposited after December 31, 1990.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7502(b) of Pub. L. 101–239 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to payments of taxes considered collected for semimonthly periods beginning after June 30, 1990.''

Section 7507(b) of Pub. L. 101–239 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to payments of taxes for tax periods beginning after December 31, 1989.''

Section 7632(b) of Pub. L. 101–239, as amended by Pub. L. 101–508, title XI, § 11334(b), Nov. 5, 1990, 104 Stat. 1388–470, provided that:

''(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall apply to amounts required to be deposited after July 31, 1990.

''[(2) Repealed. Pub. L. 101–508, title XI, § 11334(b), Nov. 5, 1990, 104 Stat. 1388–470.]''

EFFECTIVE DATE OF 1988 AMENDMENTS

Section 6107(b) of Pub. L. 100–647 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to articles sold by the

manufacturer, producer, or importer after December 31, 1988.''

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable with respect to articles sold by manufacturer, producer, or importer after Sept. 30, 1984, see section 1015(e) of Pub. L. 98–369, set out as an Effective Date note under section 4162 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 effective with respect to remuneration paid after June 30, 1979, see section 105(g)(2) of Pub. L. 95–600, set out as an Effective Date note under section 3507 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 3(c) of Pub. L. 95–147 provided that: ''The amendments made by this section [amending this section and section 7502 of this title] shall apply to amounts deposited after the date of the enactment of this Act [Oct. 28, 1977].''

REGULATIONS

Section 523(b)(2) of Pub. L. 103–182 provided that: ''Not later than 210 days after the date of enactment of this Act [Dec. 8, 1993], the Secretary of the Treasury or his delegate shall prescribe temporary regulations under section 6302(h) of the Internal Revenue Code of 1986 (as added by this section).''

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(c)(22)(A) of Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

DELAYED DEPOSITS OF HIGHWAY MOTOR FUEL TAX REVENUES

Pub. L. 105–34, title IX, § 901(e), Aug. 5, 1997, 111 Stat. 872, provided that: ''Notwithstanding section 6302 of the Internal Revenue Code of 1986, in the case of deposits of taxes imposed by sections 4041 and 4081 (other than subsection (a)(2)(A)(ii)) of the Internal Revenue Code of 1986, the due date for any deposit which would (but for this subsection) be required to be made after July 31, 1998, and before October 1, 1998, shall be October 5, 1998.''

WAIVER OF PENALTY THROUGH JUNE 30, 1998, ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES

Pub. L. 105–34, title IX, § 931, Aug. 5, 1997, 111 Stat. 881, provided that: ''No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

''(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

''(2) such failure occurs before July 1, 1998.''

DELAYED DEPOSITS OF AIRPORT TRUST FUND TAX REVENUES

Pub. L. 105–34, title X, § 1031(g), Aug. 5, 1997, 111 Stat. 933, provided that: ''Notwithstanding section 6302 of the Internal Revenue Code of 1986—

''(1) in the case of deposits of taxes imposed by section 4261 of such Code, the due date for any such deposit which would (but for this subsection) be required to be made after August 14, 1997, and before October 1, 1997, shall be October 10, 1997,

''(2) in the case of deposits of taxes imposed by section 4261 of such Code, the due date for any such deposit which would (but for this subsection) be required to be made after August 14, 1998, and before October 1, 1998, shall be October 5, 1998, and

''(3) in the case of deposits of taxes imposed by sections 4081(a)(2)(A)(ii), 4091, and 4271 of such Code, the due date for any such deposit which would (but for this subsection) be required to be made after July 31, 1998, and before October 1, 1998, shall be October 5, 1998.''

DELAY OF ELECTRONIC FUND TRANSFER REQUIREMENT

Section 1809 of Pub. L. 104–188 provided that: ''Notwithstanding any other provision of law, the increase in the applicable required percentages for fiscal year 1997 in clauses (i)(IV) and (ii)(IV) of section 6302(h)(2)(C) of the Internal Revenue Code of 1986 shall not take effect before July 1, 1997.''

DEPOSITARY SCHEDULES

Pub. L. 98–76, title II, § 226, Aug. 12, 1983, 97 Stat. 426, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Effective on and after January 1, 1984, the times for making payments prescribed under section 6302 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] with respect to the taxes imposed by chapter 22 of such Code shall be the same as the times prescribed under such section which apply to the taxes imposed by chapters 21 and 24 of such Code.''

Pub. L. 98–76, title II, § 227(c), Aug. 12, 1983, 97 Stat. 426, provided that: ''Section 226 [set out above] shall take effect on January 1, 1984.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6656, 6802, 7502, 7652 of this title.

§ 6303. Notice and demand for tax

(a) General rule

Where it is not otherwise provided by this title, the Secretary shall, as soon as practicable, and within 60 days, after the making of an assessment of a tax pursuant to section 6203, give notice to each person liable for the unpaid tax, stating the amount and demanding payment thereof. Such notice shall be left at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address.

(b) Assessment prior to last date for payment

Except where the Secretary believes collection would be jeopardized by delay, if any tax is assessed prior to the last date prescribed for payment of such tax, payment of such tax shall not be demanded under subsection (a) until after such date.

(Aug. 16, 1954, ch. 736, 68A Stat. 775; 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 sections 6305, 6656, 7522 of this title.

§ 6304. Fair tax collection practices

(a) Communication with the taxpayer

Without the prior consent of the taxpayer given directly to the Secretary or the express permission of a court of competent jurisdiction, the Secretary may not communicate with a taxpayer in connection with the collection of any unpaid tax—

(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the taxpayer;

(2) if the Secretary knows the taxpayer is represented by any person authorized to practice before the Internal Revenue Service with respect to such unpaid tax and has knowledge of, or can readily ascertain, such person's name and address, unless such person fails to respond within a reasonable period of time to a communication from the Secretary or unless such person consents to direct communication with the taxpayer; or

(3) at the taxpayer's place of employment if the Secretary knows or has reason to know that the taxpayer's employer prohibits the taxpayer from receiving such communication.

In the absence of knowledge of circumstances to the contrary, the Secretary shall assume that the convenient time for communicating with a taxpayer is after 8 a.m. and before 9 p.m., local time at the taxpayer's location.

(b) Prohibition of harassment and abuse

The Secretary may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of any unpaid tax. Without limiting the general application of the foregoing, the following conduct is a violation of this subsection:

(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

(3) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

(4) Except as provided under rules similar to the rules in section 804 of the Fair Debt Collection Practices Act (15 U.S.C. 1692b), the placement of telephone calls without meaningful disclosure of the caller's identity.

(c) Civil action for violations of section

For civil action for violations of this section, see section 7433.

(Added Pub. L. 105–206, title III, § 3466(a), July 22, 1998, 112 Stat. 768.)

PRIOR PROVISIONS

A prior section 6304, act Aug. 16, 1954, ch. 736, 68A Stat. 776, related to a cross reference to sections 4504 and 4601 for collection under the Tariff Act of 1930, prior to repeal by Pub. L. 94–455, title XIX, § 1906(a)(18), (d)(1), Oct. 4, 1976, 90 Stat. 1825, 1835, effective on first day of first month which begins more than 90 days after Oct. 4, 1976.

EFFECTIVE DATE

Pub. L. 105–206, title III, § 3466(c), July 22, 1998, 112 Stat. 769, 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].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7803 of this title.

§ 6305. Collection of certain liability

(a) In general

Upon receiving a certification from the Secretary of Health and Human Services, under section 452(b) of the Social Security Act with respect to any individual, the Secretary shall assess and collect the amount certified by the Secretary of Health and Human Services, in the same manner, with the same powers, and (except as provided in this section) subject to the same limitations as if such amount were a tax imposed by subtitle C the collection of which would be jeopardized by delay, except that—

(1) no interest or penalties shall be assessed or collected,

(2) for such purposes, paragraphs (4), (6), and (8) of section 6334(a) (relating to property exempt from levy) shall not apply,

(3) there shall be exempt from levy so much of the salary, wages, or other income of an individual as is being withheld therefrom in garnishment pursuant to a judgment entered by a court of competent jurisdiction for the support of his minor children,

(4) in the case of the first assessment against an individual for delinquency under a court or administrative order against such individual for a particular person or persons, the collection shall be stayed for a period of 60 days immediately following notice and demand as described in section 6303, and

(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor.

(b) Review of assessments and collections

No court of the United States, whether established under article I or article III of the Constitution, shall have jurisdiction of any action, whether legal or equitable, brought to restrain or review the assessment and collection of amounts by the Secretary under subsection (a), nor shall any such assessment and collection be subject to review by the Secretary in any proceeding. This subsection does not preclude any legal, equitable, or administrative action against the State by an individual in any State court or before any State agency to determine his liability for any amount assessed against him and collected, or to recover any such amount collected from him, under this section.

(Added Pub. L. 93–647, § 101(b)(1), Jan. 4, 1975, 88 Stat. 2358; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–35, title XXIII, § 2332(g), Aug. 13, 1981, 95 Stat. 862; Pub. L. 104–193, title III, § 361(a), Aug. 22, 1996, 110 Stat. 2242.)

REFERENCES IN TEXT

Section 452(b) of the Social Security Act, referred to in subsec. (a), is classified to section 652(b) of Title 42, The Public Health and Welfare.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–193, §361(a)(4), substituted ''Secretary of Health and Human Services'' for ''Secretary of Health, Education, and Welfare'' in two places in introductory provisions.

Subsec. (a)(5). Pub. L. 104–193, §361(a)(1)–(3), added par. (5).

1981—Subsec. (a)(4). Pub. L. 97–35 inserted reference to administrative order.

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 361(b) of Pub. L. 104–193 provided that: ''The amendments made by this section [amending this section] shall become effective October 1, 1997.''

For provisions relating to effective date of title III of Pub. L. 104–193, see section 395(a)–(c) of Pub. L. 104–193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective, except as otherwise specifically provided, on Oct. 1, 1981, see section 2336 of Pub. L. 97–35, set out as a note under section 651 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective Aug. 1, 1975, see section 101(f) of Pub. L. 93–647, set out as a note under section 651 of Title 42, the Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 652.

Subchapter B—Receipt of Payment

Sec.
6311. Payment of tax by commercially acceptable means.
[6312. Repealed.]
6313. Fractional parts of a cent.
6314. Receipt for taxes.
6315. Payments of estimated income tax.
6316. Payment by foreign currency.
6317. Payments of Federal unemployment tax for calendar quarter.

AMENDMENTS

1997—Pub. L. 105–34, title XII, §1205(b), Aug. 5, 1997, 111 Stat. 998, substituted ''Payment of tax by commercially acceptable means'' for ''Payment by check or money order'' in item 6311.

1971—Pub. L. 92–5, title I, §4(a)(2), Mar. 17, 1971, 85 Stat. 5, struck out item 6312 ''Payment by United States notes and certificates of indebtedness''.

1969—Pub. L. 91–53, §2(f)(2), Aug. 7, 1969, 83 Stat. 93, added item 6317.

REPEALS

Pub. L. 92–5, title I, §4(a)(2), Mar. 17, 1971, 85 Stat. 5, which struck out item 6312, was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, 1081.

§6311. Payment of tax by commercially acceptable means

(a) Authority to receive

It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

(b) Ultimate liability

If a check, money order, or other method of payment, including payment by credit card, debit card, or charge card so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

(c) Liability of banks and others

If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, or charge card transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

(2) the amount of such money order upon all the assets of the issuer thereof, or

(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

(d) Payment by other means

(1) Authority to prescribe regulations

The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

(A) specify which methods of payment by commercially acceptable means will be acceptable,

(B) specify when payment by such means will be considered received,

(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

(2) Authority to enter into contracts

Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the Government. The Secretary may not pay any fee or provide any other consideration under any such contract for the use of credit, debit, or charge cards for the payment of taxes imposed by subtitle A.

(3) Special provisions for use of credit cards

If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth in Lending Act (15 U.S.C. 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card,

(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth in Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law,

(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card,

(D) the term ''creditor'' under section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps), and

(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction of an amount owed to a person as the result of the correction of an error under section 161 of the Truth in Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

(e) Confidentiality of information

(1) In general

Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(9) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

(2) Exceptions

(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

(i) statistical risk and profitability assessment;

(ii) transferring receivables, accounts, or interest therein;

(iii) auditing the account information;

(iv) complying with Federal, State, or local law; and

(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

(3) Procedures

Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

(4) Cross reference

For provision providing for civil damages for violation of paragraph (1), see section 7431.

(Aug. 16, 1954, ch. 736, 68A Stat. 777; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. A, title IV, § 448(a), July 18, 1984, 98 Stat. 817; Pub. L. 105–34, title XII, § 1205(a), Aug. 5, 1997, 111 Stat. 995; Pub. L. 105–206, title VI, § 6012(b)(1), July 22, 1998, 112 Stat. 819; Pub. L. 105–277, div. J, title IV, § 4003(k), Oct. 21, 1998, 112 Stat. 2681–910.)

AMENDMENTS

1998—Subsec. (d)(2). Pub. L. 105–277 substituted ''under any such contract for the use of credit, debit, or charge cards for the payment of taxes imposed by subtitle A'' for ''under such contracts''.

Subsec. (e)(1). Pub. L. 105–206 substituted ''section 6103(k)(9)'' for ''section 6103(k)(8)''.

1997—Pub. L. 105–34 amended section catchline and text generally, substituting provisions relating to payment of tax by commercially acceptable means for provisions consisting of subsecs. (a) and (b) relating to payment by check or money order and liability if a check or money order received is not duly paid.

1984—Subsec. (b)(2). Pub. L. 98–369 substituted ''or cashier's check (or other guaranteed draft)'' for ''or cashier's check'', ''the amount of such check (or draft)'' for ''the amount of such check'', and ''the financial institution'' for ''the bank or trust company'', and substituted ''such financial institution'' for ''such bank'' in two places.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–277 effective as if included in the provision of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 4003(*l*) of Pub. L. 105–277, set out as a note under section 86 of this title.

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective on the day 9 months after Aug. 5, 1997, see section 1205(d) of Pub. L. 105–34, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 448(b) of Pub. L. 98–369 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 18, 1984].''

REGULATIONS

Pub. L. 105–206, title III, § 3703, July 22, 1998, 112 Stat. 777, provided that: ''The Secretary of the Treasury or the Secretary's delegate shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order made payable to the United States Treasury.''

REQUIRED NOTICE OF CERTAIN PAYMENTS

Pub. L. 104–168, title XII, § 1202, July 30, 1996, 110 Stat. 1470, provided that: ''If any payment is received by the Secretary of the Treasury or his delegate from any taxpayer and the Secretary cannot associate such payment with such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6201, 7431 of this title.

[§ 6312. Repealed. Pub. L. 92–5, title I, § 4(a)(2), Mar. 17, 1971, 85 Stat. 5]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 777, permitted the Secretary to receive Treasury bills, notes and certificates of indebtedness issued by the United States in payment of any internal revenue taxes or stamps.

EFFECTIVE DATE OF REPEAL

Section 4(a) of Pub. L. 92–5 provided that the repeal of this section is effective with respect to obligations issued after Mar. 3, 1971.

REPEALS

Pub. L. 92–5, title I, § 4(a)(2), Mar. 17, 1971, 85 Stat. 5, which repealed this section and provided for the effective date of that repeal, was itself repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, 1081.

§ 6313. Fractional parts of a cent

In the payment of any tax imposed by this title, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(Aug. 16, 1954, ch. 736, 68A Stat. 778; Pub. L. 94–455, title XIX, § 1906(a)(19), Oct. 4, 1976, 90 Stat. 1825.)

AMENDMENTS

1976—Pub. L. 94–455 struck out ''not payable by stamp'' after ''title''.

§ 6314. Receipt for taxes

(a) General rule

The Secretary shall, upon request, give receipts for all sums collected by him, excepting only when the same are in payment for stamps sold and delivered; but no receipt shall be issued in lieu of a stamp representing a tax.

(b) Duplicate receipts for payment of estate taxes

The Secretary shall, upon request, give to the person paying the tax under chapter 11 (relating to the estate tax) duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts.

(c) Cross references

(1) For receipt required to be furnished by employer to employee with respect to employment taxes, see section 6051.

(2) For receipt of discharge of fiduciary from personal liability, see section 2204.

(Aug. 16, 1954, ch. 736, 68A Stat. 778; Pub. L. 91–614, title I, § 101(d)(2), Dec. 31, 1970, 84 Stat. 1837; 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.

1970—Subsec. (c)(2). Pub. L. 91–614 substituted ''fiduciary'' for ''executor''.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91–614, set out as a note under section 2032 of this title.

§ 6315. Payments of estimated income tax

Payment of the estimated income tax, or any installment thereof, shall be considered payment on account of the income taxes imposed by subtitle A for the taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 778.)

§ 6316. Payment by foreign currency

The Secretary is authorized in his discretion to allow payment of taxes in the currency of a foreign country under such circumstances and subject to such conditions as the Secretary may by regulations prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 778; 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'' in two places.

§ 6317. Payments of Federal unemployment tax for calendar quarter

Payment of Federal unemployment tax for a calendar quarter or other period within a calendar year pursuant to section 6157 shall be considered payment on account of the tax imposed by chapter 23 of such calendar year.

(Added Pub. L. 91–53, § 2(c), Aug. 7, 1969, 83 Stat. 92; amended Pub. L. 98–76, title II, § 231(b)(2)(B), Aug. 12, 1983, 97 Stat. 429; Pub. L. 100–647, title VII, § 7106(c)(3), Nov. 10, 1988, 102 Stat. 3773.)

AMENDMENTS

1988—Pub. L. 100–647 struck out ''or tax imposed by section 3321'' after ''unemployment tax'' and ''and 23A, as the case may be,'' after ''chapter 23''.

1983—Pub. L. 98–76 inserted ''or tax imposed by section 3321'' after ''Federal unemployment tax'', and substituted ''chapter 23 and 23A, as the case may be,'' for ''chapter 23''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 applicable to remuneration paid after Dec. 31, 1988, see section 7106(d) of Pub. L. 100–647, set out as a note under section 3321 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–76 applicable to remuneration paid after June 30, 1986, see section 231(d) of Pub. L. 98–76, set out as an Effective Date note under section 3321 of this title.

EFFECTIVE DATE

Section applicable with respect to calendar years beginning after Dec. 31, 1969, see section 4(a) of Pub. L. 91–53, set out as a note under section 6157 of this title.

Subchapter C—Lien for Taxes

Part
I. Due process for liens.
II. Liens.

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3401(a), July 22, 1998, 112 Stat. 746, added part analysis.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2035, 6335 of this title.

PART I—DUE PROCESS FOR LIENS

Sec.
6320. Notice and opportunity for hearing upon filing of notice of lien.

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3401(a), July 22, 1998, 112 Stat. 746, added part heading and analysis consisting of item 6320.

§ 6320. Notice and opportunity for hearing upon filing of notice of lien

(a) Requirement of notice

(1) In general

The Secretary shall notify in writing the person described in section 6321 of the filing of a notice of lien under section 6323.

(2) Time and method for notice

The notice required under paragraph (1) shall be—

(A) given in person;

(B) left at the dwelling or usual place of business of such person; or

(C) sent by certified or registered mail to such person's last known address,

not more than 5 business days after the day of the filing of the notice of lien.

(3) Information included with notice

The notice required under paragraph (1) shall include in simple and nontechnical terms—

(A) the amount of unpaid tax;

(B) the right of the person to request a hearing during the 30-day period beginning on the day after the 5-day period described in paragraph (2);

(C) the administrative appeals available to the taxpayer with respect to such lien and the procedures relating to such appeals; and

(D) the provisions of this title and procedures relating to the release of liens on property.

(b) Right to fair hearing

(1) In general

If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

(2) One hearing per period

A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

(3) Impartial officer

The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6330. A taxpayer may waive the requirement of this paragraph.

(4) Coordination with section 6330

To the extent practicable, a hearing under this section shall be held in conjunction with a hearing under section 6330.

(c) Conduct of hearing; review; suspensions

For purposes of this section, subsections (c), (d) (other than paragraph (2)(B) thereof), and (e) of section 6330 shall apply.

(Added Pub. L. 105–206, title III, § 3401(a), July 22, 1998, 112 Stat. 746.)

EFFECTIVE DATE

Pub. L. 105–206, title III, § 3401(d), July 22, 1998, 112 Stat. 750, provided that: "The amendments made by this section [enacting this section and section 6330 of this title and amending section 7443A of this title] shall apply to collection actions initiated after the date which is 180 days after the date of the enactment of this Act [July 22, 1998]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6330, 7443A, 7803 of this title.

PART II—LIENS

Sec.
6321. Lien for taxes.
6322. Period of lien.
6323. Validity and priority against certain persons.
6324. Special liens for estate and gift taxes.
6324A. Special lien for estate tax deferred under section 6166.
6324B. Special lien for additional estate tax attributable to farm, etc., valuation.
6325. Release of lien or discharge of property.
6326. Administrative appeal of liens.
6327. Cross references.

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3401(a), July 22, 1998, 112 Stat. 747, added part heading.

1988—Pub. L. 100–647, title VI, § 6238(c), Nov. 10, 1988, 102 Stat. 3743, added item 6326 and redesignated former item 6326 as 6327.

1981—Pub. L. 97–34, title IV, § 422(e)(6)(D), Aug. 13, 1981, 95 Stat. 316, struck out "or 6166A" after "section 6166" in item 6324A.

1976—Pub. L. 94–455, title XX, §§ 2003(d)(2), 2004(f)(1), Oct. 4, 1976, 90 Stat. 1862, 1871, added items 6324A and 6324B.

1966—Pub. L. 89–719, title I, §§ 101(b)(1), 103(b), Nov. 2, 1966, 80 Stat. 1131, 1135, substituted "Validity and priority against certain persons" for "Validity against mortgagees, pledgees, purchasers, and judgment creditors" in item 6323, and struck out "partial" before "discharge" in item 6325.

§ 6321. Lien for taxes

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty,

together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person.

(Aug. 16, 1954, ch. 736, 68A Stat. 779.)

SHORT TITLE

Pub. L. 89–719, § 1(a), Nov. 2, 1966, 80 Stat. 1125, provided that: ''This Act [enacting sections 3505, 7425, 7426, and 7810 of this title, amending sections 545, 6322 to 6325, 6331, 6332, 6334, 6335, 6337 to 6339, 6342, 6343, 6502, 6503, 6532, 7402, 7403, 7421, 7424, 7505, 7506, and 7809 of this title, sections 1346, 1402, and 2410 of Title 28, Judiciary and Judicial Procedure, and section 270a of Title 40, Public Buildings, Property, and Works, redesignating section 7425 as 7427 of this title, and enacting provisions set out as notes under sections 6323 and 7424 of this title, and under section 1346 of Title 28] may be cited as the 'Federal Tax Lien Act of 1966'.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6320, 6322, 6323, 6325 of this title; title 29 section 1368; title 30 section 934.

§ 6322. Period of lien

Unless another date is specifically fixed by law, the lien imposed by section 6321 shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time.

(Aug. 16, 1954, ch. 736, 68A Stat. 779; Pub. L. 89–719, title I, § 113(a), Nov. 2, 1966, 80 Stat. 1146.)

AMENDMENTS

1966—Pub. L. 89–719 inserted ''(or a judgment against the taxpayer arising out of such liability)''.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

§ 6323. Validity and priority against certain persons

(a) Purchasers, holders of security interests, mechanic's lienors, and judgment lien creditors

The lien imposed by section 6321 shall not be valid as against any purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor until notice thereof which meets the requirements of subsection (f) has been filed by the Secretary.

(b) Protection for certain interests even though notice filed

Even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid—

(1) Securities

With respect to a security (as defined in subsection (h)(4))—

(A) as against a purchaser of such security who at the time of purchase did not have actual notice or knowledge of the existence of such lien; and

(B) as against a holder of a security interest in such security who, at the time such interest came into existence, did not have actual notice or knowledge of the existence of such lien.

(2) Motor vehicles

With respect to a motor vehicle (as defined in subsection (h)(3)), as against a purchaser of such motor vehicle, if—

(A) at the time of the purchase such purchaser did not have actual notice or knowledge of the existence of such lien, and

(B) before the purchaser obtains such notice or knowledge, he has acquired possession of such motor vehicle and has not thereafter relinquished possession of such motor vehicle to the seller or his agent.

(3) Personal property purchased at retail

With respect to tangible personal property purchased at retail, as against a purchaser in the ordinary course of the seller's trade or business, unless at the time of such purchase such purchaser intends such purchase to (or knows such purchase will) hinder, evade, or defeat the collection of any tax under this title.

(4) Personal property purchased in casual sale

With respect to household goods, personal effects, or other tangible personal property described in section 6334(a) purchased (not for resale) in a casual sale for less than $1,000, as against the purchaser, but only if such purchaser does not have actual notice or knowledge (A) of the existence of such lien, or (B) that this sale is one of a series of sales.

(5) Personal property subject to possessory lien

With respect to tangible personal property subject to a lien under local law securing the reasonable price of the repair or improvement of such property, as against a holder of such a lien, if such holder is, and has been, continuously in possession of such property from the time such lien arose.

(6) Real property tax and special assessment liens

With respect to real property, as against a holder of a lien upon such property, if such lien is entitled under local law to priority over security interests in such property which are prior in time, and such lien secures payment of—

(A) a tax of general application levied by any taxing authority based upon the value of such property;

(B) a special assessment imposed directly upon such property by any taxing authority, if such assessment is imposed for the purpose of defraying the cost of any public improvement; or

(C) charges for utilities or public services furnished to such property by the United States, a State or political subdivision thereof, or an instrumentality of any one or more of the foregoing.

(7) Residential property subject to a mechanic's lien for certain repairs and improvements

With respect to real property subject to a lien for repair or improvement of a personal residence (containing not more than four dwelling units) occupied by the owner of such residence, as against a mechanic's lienor, but only if the contract price on the contract with the owner is not more than $5,000.

(8) Attorneys' liens

With respect to a judgment or other amount in settlement of a claim or of a cause of action, as against an attorney who, under local law, holds a lien upon or a contract enforcible against such judgment or amount, to the extent of his reasonable compensation for obtaining such judgment or procuring such settlement, except that this paragraph shall not apply to any judgment or amount in settlement of a claim or of a cause of action against the United States to the extent that the United States offsets such judgment or amount against any liability of the taxpayer to the United States.

(9) Certain insurance contracts

With respect to a life insurance, endowment, or annuity contract, as against the organization which is the insurer under such contract, at any time—

(A) before such organization had actual notice or knowledge of the existence of such lien;

(B) after such organization had such notice or knowledge, with respect to advances required to be made automatically to maintain such contract in force under an agreement entered into before such organization had such notice or knowledge; or

(C) after satisfaction of a levy pursuant to section 6332(b), unless and until the Secretary delivers to such organization a notice, executed after the date of such satisfaction, of the existence of such lien.

(10) Deposit-secured loans

With respect to a savings deposit, share, or other account with an institution described in section 581 or 591, to the extent of any loan made by such institution without actual notice or knowledge of the existence of such lien, as against such institution, if such loan is secured by such account.

(c) Protection for certain commercial transactions financing agreements, etc.

(1) In general

To the extent provided in this subsection, even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid with respect to a security interest which came into existence after tax lien filing but which—

(A) is in qualified property covered by the terms of a written agreement entered into before tax lien filing and constituting—

(i) a commercial transactions financing agreement,

(ii) a real property construction or improvement financing agreement, or

(iii) an obligatory disbursement agreement, and

(B) is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

(2) Commercial transactions financing agreement

For purposes of this subsection—

(A) Definition

The term ''commercial transactions financing agreement'' means an agreement (entered into by a person in the course of his trade or business)—

(i) to make loans to the taxpayer to be secured by commercial financing security acquired by the taxpayer in the ordinary course of his trade or business, or

(ii) to purchase commercial financing security (other than inventory) acquired by the taxpayer in the ordinary course of his trade or business;

but such an agreement shall be treated as coming within the term only to the extent that such loan or purchase is made before the 46th day after the date of tax lien filing or (if earlier) before the lender or purchaser had actual notice or knowledge of such tax lien filing.

(B) Limitation on qualified property

The term ''qualified property'', when used with respect to a commercial transactions financing agreement, includes only commercial financing security acquired by the taxpayer before the 46th day after the date of tax lien filing.

(C) Commercial financing security defined

The term ''commercial financing security'' means (i) paper of a kind ordinarily arising in commercial transactions, (ii) accounts receivable, (iii) mortgages on real property, and (iv) inventory.

(D) Purchaser treated as acquiring security interest

A person who satisfies subparagraph (A) by reason of clause (ii) thereof shall be treated as having acquired a security interest in commercial financing security

(3) Real property construction or improvement financing agreement

For purposes of this subsection—

(A) Definition

The term ''real property construction or improvement financing agreement'' means an agreement to make cash disbursements to finance—

(i) the construction or improvement of real property,

(ii) a contract to construct or improve real property, or

(iii) the raising or harvesting of a farm crop or the raising of livestock or other animals.

For purposes of clause (iii), the furnishing of goods and services shall be treated as the disbursement of cash.

(B) Limitation on qualified property

The term ''qualified property'', when used with respect to a real property construction or improvement financing agreement, includes only—

(i) in the case of subparagraph (A)(i), the real property with respect to which the construction or improvement has been or is to be made,

(ii) in the case of subparagraph (A)(ii), the proceeds of the contract described therein, and

(iii) in the case of subparagraph (A)(iii), property subject to the lien imposed by section 6321 at the time of tax lien filing and the crop or the livestock or other animals referred to in subparagraph (A)(iii).

(4) Obligatory disbursement agreement

For purposes of this subsection—

(A) Definition

The term ''obligatory disbursement agreement'' means an agreement (entered into by a person in the course of his trade or business) to make disbursements, but such an agreement shall be treated as coming within the term only to the extent of disbursements which are required to be made by reason of the intervention of the rights of a person other than the taxpayer.

(B) Limitation on qualified property

The term ''qualified property'', when used with respect to an obligatory disbursement agreement, means property subject to the lien imposed by section 6321 at the time of tax lien filing and (to the extent that the acquisition is directly traceable to the disbursements referred to in subparagraph (A)) property acquired by the taxpayer after tax lien filing.

(C) Special rules for surety agreements

Where the obligatory disbursement agreement is an agreement ensuring the performance of a contract between the taxpayer and another person—

(i) the term ''qualified property'' shall be treated as also including the proceeds of the contract the performance of which was ensured, and

(ii) if the contract the performance of which was ensured was a contract to construct or improve real property, to produce goods, or to furnish services, the term ''qualified property'' shall be treated as also including any tangible personal property used by the taxpayer in the performance of such ensured contract.

(d) 45-day period for making disbursements

Even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made before the 46th day after the date of tax lien filing, or (if earlier) before the person making such disbursements had actual notice or knowledge of tax lien filing, but only if such security interest—

(1) is in property (A) subject, at the time of tax lien filing, to the lien imposed by section 6321, and (B) covered by the terms of a written agreement entered into before tax lien filing, and

(2) is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

(e) Priority of interest and expenses

If the lien imposed by section 6321 is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to—

(1) any interest or carrying charges upon the obligation secured,

(2) the reasonable charges and expenses of an indenture trustee or agent holding the security interest for the benefit of the holder of the security interest,

(3) the reasonable expenses, including reasonable compensation for attorneys, actually incurred in collecting or enforcing the obligation secured,

(4) the reasonable costs of insuring, preserving, or repairing the property to which the lien or security interest relates,

(5) the reasonable costs of insuring payment of the obligation secured, and

(6) amounts paid to satisfy any lien on the property to which the lien or security interest relates, but only if the lien so satisfied is entitled to priority over the lien imposed by section 6321,

to the extent that, under local law, any such item has the same priority as the lien or security interest to which it relates.

(f) Place for filing notice; form

(1) Place for filing

The notice referred to in subsection (a) shall be filed—

(A) Under State laws

(i) Real property

In the case of real property, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated; and

(ii) Personal property

In the case of personal property, whether tangible or intangible, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated, except that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State; or

(B) With clerk of district court

In the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated one office which meets the requirements of subparagraph (A); or

(C) With Recorder of Deeds of the District of Columbia

In the office of the Recorder of Deeds of the District of Columbia, if the property

subject to the lien is situated in the District of Columbia.

(2) Situs of property subject to lien

For purposes of paragraphs (1) and (4), property shall be deemed to be situated—

(A) Real property

In the case of real property, at its physical location; or

(B) Personal property

In the case of personal property, whether tangible or intangible, at the residence of the taxpayer at the time the notice of lien is filed.

For purposes of paragraph (2)(B), the residence of a corporation or partnership shall be deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is without the United States shall be deemed to be in the District of Columbia.

(3) Form

The form and content of the notice referred to in subsection (a) shall be prescribed by the Secretary. Such notice shall be valid notwithstanding any other provision of law regarding the form or content of a notice of lien.

(4) Indexing required with respect to certain real property

In the case of real property, if—

(A) under the laws of the State in which the real property is located, a deed is not valid as against a purchaser of the property who (at the time of purchase) does not have actual notice or knowledge of the existence of such deed unless the fact of filing of such deed has been entered and recorded in a public index at the place of filing in such a manner that a reasonable inspection of the index will reveal the existence of the deed, and

(B) there is maintained (at the applicable office under paragraph (1)) an adequate system for the public indexing of Federal tax liens,

then the notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in the index referred to in subparagraph (B) in such a manner that a reasonable inspection of the index will reveal the existence of the lien.

(5) National filing systems

The filing of a notice of lien shall be governed solely by this title and shall not be subject to any other Federal law establishing a place or places for the filing of liens or encumbrances under a national filing system.

(g) Refiling of notice

For purposes of this section—

(1) General rule

Unless notice of lien is refiled in the manner prescribed in paragraph (2) during the required refiling period, such notice of lien shall be treated as filed on the date on which it is filed (in accordance with subsection (f)) after the expiration of such refiling period.

(2) Place for filing

A notice of lien refiled during the required refiling period shall be effective only—

(A) if—

(i) such notice of lien is refiled in the office in which the prior notice of lien was filed, and

(ii) in the case of real property, the fact of refiling is entered and recorded in an index to the extent required by subsection (f)(4); and

(B) in any case in which, 90 days or more prior to the date of a refiling of notice of lien under subparagraph (A), the Secretary received written information (in the manner prescribed in regulations issued by the Secretary) concerning a change in the taxpayer's residence, if a notice of such lien is also filed in accordance with subsection (f) in the State in which such residence is located.

(3) Required refiling period

In the case of any notice of lien, the term ''required refiling period'' means—

(A) the one-year period ending 30 days after the expiration of 10 years after the date of the assessment of the tax, and

(B) the one-year period ending with the expiration of 10 years after the close of the preceding required refiling period for such notice of lien.

(4) Transitional rule

Notwithstanding paragraph (3), if the assessment of the tax was made before January 1, 1962, the first required refiling period shall be the calendar year 1967.

(h) Definitions

For purposes of this section and section 6324—

(1) Security interest

The term ''security interest'' means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time (A) if, at such time, the property is in existence and the interest has become protected under local law against a subsequent judgment lien arising out of an unsecured obligation, and (B) to the extent that, at such time, the holder has parted with money or money's worth.

(2) Mechanic's lienor

The term ''mechanic's lienor'' means any person who under local law has a lien on real property (or on the proceeds of a contract relating to real property) for services, labor, or materials furnished in connection with the construction or improvement of such property. For purposes of the preceding sentence, a person has a lien on the earliest date such lien becomes valid under local law against subsequent purchasers without actual notice, but not before he begins to furnish the services, labor, or materials.

(3) Motor vehicle

The term ''motor vehicle'' means a self-propelled vehicle which is registered for highway

use under the laws of any State or foreign country.

(4) Security

The term ''security'' means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by a corporation or a government or political subdivision thereof, with interest coupons or in registered form, share of stock, voting trust certificate, or any certificate of interest or participation in, certificate of deposit or receipt for, temporary or interim certificate for, or warrant or right to subscribe to or purchase, any of the foregoing; negotiable instrument; or money.

(5) Tax lien filing

The term ''tax lien filing'' means the filing of notice (referred to in subsection (a)) of the lien imposed by section 6321.

(6) Purchaser

The term ''purchaser'' means a person who, for adequate and full consideration in money or money's worth, acquires an interest (other than a lien or security interest) in property which is valid under local law against subsequent purchasers without actual notice. In applying the preceding sentence for purposes of subsection (a) of this section, and for purposes of section 6324—

(A) a lease of property,

(B) a written executory contract to purchase or lease property,

(C) an option to purchase or lease property or any interest therein, or

(D) an option to renew or extend a lease of property,

which is not a lien or security interest shall be treated as an interest in property.

(i) Special rules

(1) Actual notice or knowledge

For purposes of this subchapter, an organization shall be deemed for purposes of a particular transaction to have actual notice or knowledge of any fact from the time such fact is brought to the attention of the individual conducting such transaction, and in any event from the time such fact would have been brought to such individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routine. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(2) Subrogation

Where, under local law, one person is subrogated to the rights of another with respect to a lien or interest, such person shall be subrogated to such rights for purposes of any lien imposed by section 6321 or 6324.

(3) Forfeitures

For purposes of this subchapter, a forfeiture under local law of property seized by a law enforcement agency of a State, county, or other local governmental subdivision shall relate back to the time of seizure, except that this paragraph shall not apply to the extent that under local law the holder of an intervening claim or interest would have priority over the interest of the State, county, or other local governmental subdivision in the property.

(4) Cost-of-living adjustment

In the case of notices of liens imposed by section 6321 which are filed in any calendar year after 1998, each of the dollar amounts under paragraph (4) or (7) of subsection (b) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting ''calendar year 1996'' for ''calendar year 1992'' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.

(j) Withdrawal of notice in certain circumstances

(1) In general

The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

(D) with the consent of the taxpayer or the National Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States.

Any such withdrawal shall be made by filing notice at the same office as the withdrawn notice. A copy of such notice of withdrawal shall be provided to the taxpayer.

(2) Notice to credit agencies, etc.

Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and any financial institution or creditor whose name and address is specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 779; Pub. L. 88–272, title II, § 236(a), (c)(1), Feb. 26, 1964, 78 Stat. 127, 128; Pub. L. 89–493, § 17(a), July 5, 1966, 80 Stat. 266; Pub. L. 89–719, title I, § 101(a), Nov. 2, 1966, 80 Stat. 1125; Pub. L. 94–455, title XII, § 1202(h)(2), title XIX, § 1906(b)(13)(A), title XX,

§ 2008(c), Oct. 4, 1976, 90 Stat. 1688, 1834, 1892; Pub. L. 95–600, title VII, § 702(q)(1), (2), Nov. 6, 1978, 92 Stat. 2937, 2938; Pub. L. 99–514, title XV, § 1569(a), Oct. 22, 1986, 100 Stat. 2764; Pub. L. 100–647, title I, § 1015(s)(1), Nov. 10, 1988, 102 Stat. 3573; Pub. L. 101–508, title XI, §§ 11317(b), 11704(a)(26), Nov. 5, 1990, 104 Stat. 1388–458, 1388–519; Pub. L. 104–168, title V, § 501(a), July 30, 1996, 110 Stat. 1460; Pub. L. 105–206, title I, § 1102(d)(1)(A), title III, § 3435(a), (b), July 22, 1998, 112 Stat. 704, 760, 761.)

ADJUSTMENT OF APPLICABLE DOLLAR AMOUNTS IN DETERMINING VALIDITY OF FEDERAL TAX LIENS FOR CALENDAR YEAR 2001

For adjustment of applicable dollar amounts under subsec. (b)(4), (7) of this section in determining validity of certain Federal tax liens for calendar year 2001, see section 3.23 of Revenue Procedure 2001–13, set out as a note under section 1 of this title.

AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105–206, § 3435(a)(1)(A), substituted ''$1,000'' for ''$250''.

Subsec. (b)(7). Pub. L. 105–206, § 3435(a)(1)(B), substituted ''$5,000'' for ''$1,000''.

Subsec. (b)(10). Pub. L. 105–206, § 3435(b), in heading substituted ''Deposit-secured loans'' for ''Passbook loans'', and in text struck out '', evidenced by a passbook,'' after ''other account'' and substituted period at end for ''and if such institution has been continuously in possession of such passbook from the time the loan is made.''

Subsec. (i)(4). Pub. L. 105–206, § 3435(a)(2), added par. (4).

Subsec. (j)(1)(D). Pub. L. 105–206, § 1102(d)(1)(A), substituted ''National Taxpayer Advocate'' for ''Taxpayer Advocate'' in two places.

1996—Subsec. (j). Pub. L. 104–168 added subsec. (j).

1990—Subsec. (a). Pub. L. 101–508, § 11704(a)(26), substituted ''Purchasers'' for ''Purchases'' in heading.

Subsec. (g)(3). Pub. L. 101–508, § 11317(b), substituted ''10 years'' for ''6 years'' wherever appearing.

1988—Subsec. (f)(1)(A)(ii). Pub. L. 100–647, § 1015(s)(1)(A), inserted exception that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State.

Subsec. (f)(5). Pub. L. 100–647, § 1015(s)(1)(B), added par. (5).

1986—Subsec. (i)(3). Pub. L. 99–514 added par. (3).

1978—Subsec. (f)(4). Pub. L. 95–600, § 702(q)(1), in heading substituted ''Indexing required with respect to certain real property'' for ''Index'' and in text inserted provisions relating to the validity of a deed, under the laws of the State in which the real property is located, as against a purchaser who does not have actual notice or knowledge of the existence of such deed and provisions relating to the maintenance of an adequate system for the public indexing of Federal tax liens.

Subsec. (g)(2)(A). Pub. L. 95–600, § 702(q)(2), inserted reference to real property.

1976—Subsecs. (a), (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (f)(2). Pub. L. 94–455, § 2008(c)(1)(B), inserted introductory reference to par. (4).

Subsec. (f)(3). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (f)(4). Pub. L. 94–455, § 2008(c)(1)(A), added par. (4).

Subsec. (g)(2)(A), (B). Pub. L. 94–455, §§ 1906(b)(13)(A), 2008(c)(2), required the fact of refiling be entered and recorded in an index in accordance with subsec. (f)(4), and struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (i)(3). Pub. L. 94–455, § 1202(h)(2), struck out par. (3) which related to a special rule respecting disclosure of amount of outstanding lien.

1966—Subsec. (a). Pub. L. 89–719 redesignated as subsec. (a) that part of former subsec. (a) which preceded pars. (1) to (3) thereof, and, in subsec. (a) as so redesignated, substituted holder of a security interest, mechanic's lienor, and judgment lien creditor for mortgagee, pledgee, and judgment creditor, struck out reference to an exception provided in subsecs. (c) and (d), and inserted reference to requirements of subsec. (f).

Subsec. (a)(3). Pub. L. 89–493 substituted the Recorder of Deeds of the District of Columbia for the clerk of the United States District Court for the District of Columbia.

Subsec. (b)(1). Pub. L. 89–719 redesignated provisions of subsec. (c)(1) as subsec. (b)(1) and substituted ''holder of a security interest'' for ''mortgagee and pledgee'' and purchaser of such security interest for purchaser of such security for any adequate and full consideration in money or money's worth.

Subsec. (b)(2). Pub. L. 89–719 redesignated provisions of subsec. (d)(1) as subsec. (b)(2) and substituted purchaser of such motor vehicle for purchaser of such motor vehicle for an adequate and full consideration in money or money's worth and substituted actual notice or knowledge for notice or knowledge.

Subsec. (b)(3) to (10). Pub. L. 89–719 added pars. (3) to (10).

Subsecs. (c) to (e). Pub. L. 89–719 added subsecs. (c) to (e).

Subsec. (f)(1). Pub. L. 89–719 redesignated provisions of former subsec. (a)(1) to (3) as subsec. (f)(1).

Subsec. (f)(2). Pub. L. 89–719 added par. (2).

Subsec. (f)(3). Pub. L. 89–719 redesignated provisions of former subsec. (b) as subsec. (f)(3) and substituted provisions that the form and content of the notice be prescribed by the Secretary or his delegate for provisions limiting the effectiveness of the notice to situations in which the notice is in such form as would be valid if filed with the clerk of the United States district court when state or territory law fails to designate an office for the filing of notice.

Subsec. (g). Pub. L. 89–719 added subsec. (g).

Subsec. (h)(1), (2). Pub. L. 89–719 added pars. (1) and (2).

Subsec. (h)(3). Pub. L. 89–719 redesignated provisions of former subsec. (d)(2) as subsec. (h)(3).

Subsec. (h)(4). Pub. L. 89–719 redesignated provisions of former subsec. (c)(2) as subsec. (h)(4).

Subsec. (h)(5), (6). Pub. L. 89–719 added pars. (5), (6).

Subsec. (i)(1), (2). Pub. L. 89–719 added pars. (1), (2).

Subsec. (i)(3). Pub. L. 89–719 redesignated provisions of former subsec. (e) as subsec. (i)(3) and substituted ''regulations'' for ''rules and relations''.

1964—Subsec. (a). Pub. L. 88–272, § 236(c)(1), substituted ''subsections (c) and (d)'' for ''subsection (c)''.

Subsecs. (d), (e). Pub. L. 88–272, § 236(a), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1102(d)(1)(A) of Pub. L. 105–206 effective July 22, 1998, see section 1102(f)(1) of Pub. L. 105–206, set out as a note under section 7803 of this title.

Pub. L. 105–206, title III, § 3435(c), July 22, 1998, 112 Stat. 761, provided that: ''The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 501(d) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section and section 6343 of this title] shall take effect on the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11317(c) of Pub. L. 101–508 provided that: ''The amendments made by this section [amending this section and section 6502 of this title] shall apply to—

''(1) taxes assessed after the date of the enactment of this Act [Nov. 5, 1990], and

''(2) taxes assessed on or before such date if the period specified in section 6502 of the Internal Revenue

Code of 1986 (determined without regard to the amendments made by subsection (a) [amending section 6502 of this title]) for collection of such taxes has not expired as of such date.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(s)(2) 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].''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1569(b) of Pub. L. 99–514 provided that: ''The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 22, 1986].''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 702(q)(3) of Pub. L. 95–600, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(A) The amendments made by this subsection [amending this section] shall apply with respect to liens, other security interests, and other interests in real property acquired after the date of the enactment of this Act [Nov. 6, 1978].

''(B) If, after the date of the enactment of this Act, there is a change in the application (or nonapplication) of section 6323(f)(4) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by paragraph (1)) with respect to any filing jurisdiction, such change shall apply only with respect to liens, other security interests, and other interests in real property acquired after the date of such change.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1202(h)(2) of Pub. L. 94–455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94–455, set out as a note under section 6103 of this title.

Section 2008(d)(3) of Pub. L. 94–455 provided that: ''The amendment made by subsection (c) [amending this section] shall take effect—

''(A) in the case of liens filed before the date of the enactment of this Act [Oct. 4, 1976], on the 270th day after such date of enactment, or

''(B) in the case of liens filed on or after the date of enactment of this Act [Oct. 4, 1976], on the 120th day after such date of enactment.''

EFFECTIVE DATE OF 1966 AMENDMENTS

Section 114(a)–(c) of title I of Pub. L. 89–719 provided that:

''(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this title [enacting sections 3505, 7425, 7426, and 7810 of this title, amending this section, sections 545, 6322, 6324, 6325, 6331, 6332, 6334, 6335, 6337, 6338, 6339, 6342, 6343, 6502, 6503, 6532, 7402, 7403, 7421, 7424, 7505, 7506, and 7809 of this title, and section 270a of Title 40, Public Buildings, Property, and Works, redesignating former section 7425 as 7427 of this title, and enacting provisions set out as notes under this section and section 7424 of this title] shall apply after the date of enactment of this Act [Nov. 2, 1966], regardless of when a lien or a title of the United States arose or when the lien or interest of any other person was acquired.

''(b) EXCEPTIONS.—The amendments made by this title shall not apply in any case—

''(1) in which a lien or a title derived from enforcement of a lien held by the United States has been enforced by a civil action or suit which has become final by judgment, sale, or agreement before the date of enactment of this Act; or

''(2) in which such amendments would—

''(A) impair a priority enjoyed by any person (other than the United States) holding a lien or interest prior to the date of enactment of this Act;

''(B) operate to increase the liability of any such person; or

''(C) shorten the time for bringing suit with respect to transactions occurring before the date of enactment of this Act.

''(c) LIABILITY FOR WITHHELD TAXES.—

''(1) The amendments made by section 105(a) (relating to effect on third parties) [adding section 3505 of this title] shall apply only with respect to wages paid on or after January 1, 1967.

''(2) The amendments made by section 105(b) (relating to performance bonds of contractors for public buildings or works) [amending section 270a of Title 40] shall apply to contracts entered into pursuant to invitations for bids issued after June 30, 1967.''

Section 21 of Pub. L. 89–493 provided that: ''This Act [amending this section] shall take effect on the first day of the first month which is at least ninety days after the date of approval of this Act [July 5, 1966].''

EFFECTIVE DATE OF 1964 AMENDMENT

Section 236(d) of Pub. L. 88–272 provided that: ''The amendments made by this section [amending this section and section 6324 of this title] shall apply only with respect to purchases made after the date of the enactment of this Act [Feb. 26, 1964.]''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4101, 6320, 6324, 6324A, 6325, 6332 of this title; title 11 section 724; title 18 section 3613; title 30 section 934; title 42 section 9607.

§ 6324. Special liens for estate and gift taxes

(a) Liens for estate tax

Except as otherwise provided in subsection (c)—

(1) Upon gross estate

Unless the estate tax imposed by chapter 11 is sooner paid in full, or becomes unenforceable by reason of lapse of time, it shall be a lien upon the gross estate of the decedent for 10 years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien.

(2) Liability of transferees and others

If the estate tax imposed by chapter 11 is not paid when due, then the spouse, transferee, trustee (except the trustee of an employees' trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive, to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax. Any part of such property transferred by (or transferred by a transferee of) such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, to a purchaser or holder of a security interest shall be divested of the lien provided in paragraph (1) and a like lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, or transferee of any such person, except any part transferred to a purchaser or a holder of a security interest.

(3) Continuance after discharge of fiduciary

The provisions of section 2204 (relating to discharge of fiduciary from personal liability)

shall not operate as a release of any part of the gross estate from the lien for any deficiency that may thereafter be determined to be due, unless such part of the gross estate (or any interest therein) has been transferred to a purchaser or a holder of a security interest, in which case such part (or such interest) shall not be subject to a lien or to any claim or demand for any such deficiency, but the lien shall attach to the consideration received from such purchaser or holder of a security interest, by the heirs, legatees, devisees, or distributees.

(b) Lien for gift tax

Except as otherwise provided in subsection (c), unless the gift tax imposed by chapter 12 is sooner paid in full or becomes unenforceable by reason of lapse of time, such tax shall be a lien upon all gifts made during the period for which the return was filed, for 10 years from the date the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift transferred by the donee (or by a transferee of the donee) to a purchaser or holder of a security interest shall be divested of the lien imposed by this subsection and such lien, to the extent of the value of such gift, shall attach to all the property (including after-acquired property) of the donee (or the transferee) except any part transferred to a purchaser or holder of a security interest.

(c) Exceptions

(1) The lien imposed by subsection (a) or (b) shall not be valid as against a mechanic's lienor and, subject to the conditions provided by section 6323(b) (relating to protection for certain interests even though notice filed), shall not be valid with respect to any lien or interest described in section 6323(b).

(2) If a lien imposed by subsection (a) or (b) is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to any item described in section 6323(e) (relating to priority of interest and expenses) to the extent that, under local law, such item has the same priority as the lien or security interest to which it relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 780; Pub. L. 88–272, title II, § 236(b), (c)(2), Feb. 26, 1964, 78 Stat. 127, 128; Pub. L. 89–719, title I, § 102, Nov. 2, 1966, 80 Stat. 1132; Pub. L. 91–614, title I, §§ 101(d)(2), 102(d)(7), Dec. 31, 1970, 84 Stat. 1837, 1842.)

AMENDMENTS

1970—Subsec. (a)(3). Pub. L. 91–614, § 101(d)(2), substituted ''fiduciary'' for ''executor'' in heading and text.

Subsec. (b). Pub. L. 91–614, § 102(d)(7), substituted ''period for which the return was filed'' for ''calendar year''.

1966—Subsec. (a)(1). Pub. L. 89–719 inserted '', or becomes unenforceable by reason of lapse of time,'' after ''sooner paid in full'' and substituted ''10 years from the date of death'' for ''10 years upon the gross estate of the decedent''.

Subsec. (a)(2). Pub. L. 89–719 substituted ''person in possession, or beneficiary, to a purchaser or holder of a security interest'' for ''person in possession of property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, to a bona fide purchaser, mortgagee, or pledgee, for an adequate and full consideration in money and money's worth'' and ''except any part transferred to a purchaser or a holder of a security interest'' for ''except any part transferred to a bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth''.

Subsec. (a)(3). Pub. L. 89–719 substituted ''purchaser or a holder of a security interest'' for ''bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth'' and ''purchaser or holder of a security interest'' for ''purchaser, mortgagee, or pledgee''.

Subsec. (b). Pub. L. 89–719 substituted reference to exception provided in subsec. (c) for reference to exceptions provided in subsecs. (c) and (d), inserted reference to tax becoming unenforceable by reason of lapse of time, and substituted ''purchaser or holder of a security interest'' for ''bona-fide purchaser, mortgagee, or pledgee, for an adequate and full consideration in money or money's worth''.

Subsec. (c). Pub. L. 89–719 redesignated as par. (1) provisions formerly constituting subsec. (c), substituted ''valid as against a mechanic's lienor and, subject to the conditions provided by section 6323(b) (relating to protection for certain interests even though noticed filed), shall not be valid with respect to any lien or interest described in section 6323(b)'' for ''valid with respect to a security, as defined in section 6323(c)(2), as against any mortgagee, pledgee, or purchaser of any such security, for an adequate and full consideration in money or money's worth, if at the time of such mortgage, pledge, or purchase such mortgagee, pledgee, or purchaser is without notice or knowledge of the existence of such lien'', and added par. (2).

Subsec. (d). Pub. L. 89–719 struck out subsec. (d) dealing with exceptions in the case of motor vehicles. See subsec. (c) above and reference therein to section 6323(b).

1964—Subsecs. (a), (b). Pub. L. 88–272, § 236(c)(2), inserted ''and subsection (d) (relating to purchases of motor vehicles)''.

Subsec. (d). Pub. L. 88–272, § 236(b), added subsec. (d).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 101(d)(2) of Pub. L. 91–614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91–614, set out as a note under section 2032 of this title.

Amendment by section 102(d)(7) of Pub. L. 91–614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91–614, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–272 applicable to purchases made after Feb. 26, 1964, see section 236(d) of Pub. L. 88–272, set out as a note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2056A, 6323, 6324A, 6325, 6901 of this title.

§ 6324A. Special lien for estate tax deferred under section 6166

(a) General rule

In the case of any estate with respect to which an election has been made under section 6166, if

the executor makes an election under this section (at such time and in such manner as the Secretary shall by regulations prescribe) and files the agreement referred to in subsection (c), the deferred amount (plus any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on the section 6166 lien property.

(b) Section 6166 lien property

(1) In general

For purposes of this section, the term ''section 6166 lien property'' means interests in real and other property to the extent such interests—

(A) can be expected to survive the deferral period, and

(B) are designated in the agreement referred to in subsection (c).

(2) Maximum value of required property

The maximum value of the property which the Secretary may require as section 6166 lien property with respect to any estate shall be a value which is not greater than the sum of—

(A) the deferred amount, and

(B) the required interest amount.

For purposes of the preceding sentence, the value of any property shall be determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11 and shall be determined by taking into account any encumbrance such as a lien under section 6324B.

(3) Partial substitution of bond for lien

If the value required as section 6166 lien property pursuant to paragraph (2) exceeds the value of the interests in property covered by the agreement referred to in subsection (c), the Secretary may accept bond in an amount equal to such excess conditioned on the payment of the amount extended in accordance with the terms of such extension.

(c) Agreement

The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement—

(1) consenting to the creation of the lien under this section with respect to such property, and

(2) designating a responsible person who shall be the agent for the beneficiaries of the estate and for the persons who have consented to the creation of the lien in dealings with the Secretary on matters arising under section 6166 or this section.

(d) Special rules

(1) Requirement that lien be filed

The lien imposed by this section shall not be valid as against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor until notice thereof which meets the requirements of section 6323(f) has been filed by the Secretary. Such notice shall not be required to be refiled.

(2) Period of lien

The lien imposed by this section shall arise at the time the executor is discharged from liability under section 2204 (or, if earlier, at the time notice is filed pursuant to paragraph (1)) and shall continue until the liability for the deferred amount is satisfied or becomes unenforceable by reason of lapse of time.

(3) Priorities

Even though notice of a lien imposed by this section has been filed as provided in paragraph (1), such lien shall not be valid—

(A) Real property tax and special assessment liens

To the extent provided in section 6323(b)(6).

(B) Real property subject to a mechanic's lien for repairs and improvement

In the case of any real property subject to a lien for repair or improvement, as against a mechanic's lienor.

(C) Real property construction or improvement financing agreement

As against any security interest set forth in paragraph (3) of section 6323(c) (whether such security interest came into existence before or after tax lien filing).

Subparagraphs (B) and (C) shall not apply to any security interest which came into existence after the date on which the Secretary filed notice (in a manner similar to notice filed under section 6323(f)) that payment of the deferred amount has been accelerated under section 6166(g).

(4) Lien to be in lieu of section 6324 lien

If there is a lien under this section on any property with respect to any estate, there shall not be any lien under section 6324 on such property with respect to the same estate.

(5) Additional lien property required in certain cases

If at any time the value of the property covered by the agreement is less than the unpaid portion of the deferred amount and the required interest amount, the Secretary may require the addition of property to the agreement (but he may not require under this paragraph that the value of the property covered by the agreement exceed such unpaid portion). If property having the required value is not added to the property covered by the agreement (or if other security equal to the required value is not furnished) within 90 days after notice and demand therefor by the Secretary, the failure to comply with the preceding sentence shall be treated as an act accelerating payment of the installments under section 6166(g).

(6) Lien to be in lieu of bond

The Secretary may not require under section 6165 the furnishing of any bond for the payment of any tax to which an agreement which meets the requirements of subsection (c) applies.

(e) Definitions

For purposes of this section—

(1) Deferred amount

The term ''deferred amount'' means the aggregate amount deferred under section 6166

(determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

(2) Required interest amount

The term ''required interest amount'' means the aggregate amount of interest which will be payable over the first 4 years of the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for the payment of the tax imposed by chapter 11).

(3) Deferral period

The term ''deferral period'' means the period for which the payment of tax is deferred pursuant to the election under section 6166.

(4) Application of definitions in case of deficiencies

In the case of a deficiency, a separate deferred amount, required interest amount, and deferral period shall be determined as of the due date of the first installment after the deficiency is prorated to installments under section 6166.

(Added Pub. L. 94–455, title XX, § 2004(d)(1), Oct. 4, 1976, 90 Stat. 1868; amended Pub. L. 95–600, title VII, § 702(e)(1), Nov. 6, 1978, 92 Stat. 2929; Pub. L. 97–34, title IV, § 422(e)(6)(A)–(C), Aug. 13, 1981, 95 Stat. 316.)

AMENDMENTS

1981—Pub. L. 97–34, § 422(e)(6)(C), struck out ''or 6166A'' after ''section 6166'' in section catchline.

Subsecs. (a), (c)(2). Pub. L. 97–34, § 422(e)(6)(A), struck out ''or 6166A'' after ''section 6166''.

Subsec. (d)(3), (5). Pub. L. 97–34, § 422(e)(6)(B), struck out ''or 6166A(h)'' after ''section 6166(g)''.

Subsec. (e)(1), (3), (4). Pub. L. 97–34, § 422(e)(6)(A), struck out ''or 6166A'' after ''section 6166''.

1978—Subsec. (b)(2)(B). Pub. L. 95–600, § 702(e)(1)(B), substituted ''required interest amount'' for ''aggregate interest amount''.

Subsec. (d)(5). Pub. L. 95–600, § 702(e)(1)(C), substituted ''required interest amount'' for ''aggregate interest amount''.

Subsec. (e)(2). Pub. L. 95–600, § 702(e)(1)(A), substituted ''Required interest amount'' for ''Aggregate interest amount'' in heading and in text ''required interest amount'', ''over the first 4 years of the deferral period'' and ''for the payment'' for ''aggregate interest amount'', ''over the deferral period'' and ''for payment'', respectively.

Subsec. (e)(4). Pub. L. 95–600, § 702(e)(1)(D), substituted ''required interest amount'' for ''aggregate interest amount''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97–34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 702(e)(2) of Pub. L. 95–600 provided that: ''The amendments made by this section [amending this section] shall apply to the estates of decedents dying after December 31, 1976.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2204, 6324B, 6166 of this title.

§ 6324B. Special lien for additional estate tax attributable to farm, etc., valuation

(a) General rule

In the case of any interest in qualified real property (within the meaning of section 2032A(b)), an amount equal to the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B)) shall be a lien in favor of the United States on the property in which such interest exists.

(b) Period of lien

The lien imposed by this section shall arise at the time an election is filed under section 2032A and shall continue with respect to any interest in the qualified real property—

(1) until the liability for tax under subsection (c) of section 2032A with respect to such interest has been satisfied or has become unenforceable by reason of lapse of time, or

(2) until it is established to the satisfaction of the Secretary that no further tax liability may arise under section 2032A(c) with respect to such interest.

(c) Certain rules and definitions made applicable

(1) In general

The rule set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

(2) Qualified real property

For purposes of this section, the term ''qualified real property'' includes qualified replacement property (within the meaning of section 2032A(h)(3)(B)) and qualified exchange property (within the meaning of section 2032A(i)(3)).

(d) Substitution of security for lien

To the extent provided in regulations prescribed by the Secretary, the furnishing of security may be substituted for the lien imposed by this section.

(Added Pub. L. 94–455, title XX, § 2003(b), Oct. 4, 1976, 90 Stat. 1861; amended Pub. L. 95–600, title VII, § 702(r)(4), Nov. 6, 1978, 92 Stat. 2939; Pub. L. 96–222, title I, § 108(d), Apr. 1, 1980, 94 Stat. 228; Pub. L. 97–34, title IV, § 421(d)(2)(B), Aug. 13, 1981, 95 Stat. 309.)

AMENDMENTS

1981—Subsec. (c)(2). Pub. L. 97–34 defined ''qualified real property'' to include qualified exchange property (within the meaning of section 2032A(i)(3)).

1980—Subsec. (c). Pub. L. 96–222 designated existing provisions as par. (1), substituted ''The rule'' for ''The rules'', and added par. (2).

1978—Subsec. (b). Pub. L. 95–600 substituted ''qualified real property'' for ''qualified farm real property''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable with respect to exchanges after Dec. 31, 1981, see section 421(k)(3) of Pub. L. 97–34, set out as a note under section 2032A of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95–600, to

which such amendment relates, see section 201 of Pub. L. 96–222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 applicable to estates of decedents dying after Dec. 31, 1976, see section 702(r)(5) of Pub. L. 95–600, set out as a note under section 2051 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2032A, 2057, 6324A, 6325 of this title.

§ 6325. Release of lien or discharge of property

(a) Release of lien

Subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any internal revenue tax not later than 30 days after the day on which—

(1) Liability satisfied or unenforceable

The Secretary finds that the liability for the amount assessed, together with all interest in respect thereof, has been fully satisfied or has become legally unenforceable; or

(2) Bond accepted

There is furnished to the Secretary and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and form of the bond and sureties thereon, as may be specified by such regulations.

(b) Discharge of property

(1) Property double the amount of the liability

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of discharge of any part of the property subject to any lien imposed under this chapter if the Secretary finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the unsatisfied liability secured by such lien and the amount of all other liens upon such property which have priority over such lien.

(2) Part payment; interest of United States valueless

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of discharge of any part of the property subject to the lien if—

(A) there is paid over to the Secretary in partial satisfaction of the liability secured by the lien an amount determined by the Secretary, which shall not be less than the value, as determined by the Secretary, of the interest of the United States in the part to be so discharged, or

(B) the Secretary determines at any time that the interest of the United States in the part to be so discharged has no value.

In determining the value of the interest of the United States in the part to be so discharged, the Secretary shall give consideration to the value of such part and to such liens thereon as have priority over the lien of the United States.

(3) Substitution of proceeds of sale

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of discharge of any part of the property subject to the lien if such part of the property is sold and, pursuant to an agreement with the Secretary, the proceeds of such sale are to be held, as a fund subject to the liens and claims of the United States, in the same manner and with the same priority as such liens and claims had with respect to the discharged property.

(4) Right of substitution of value

(A) In general

At the request of the owner of any property subject to any lien imposed by this chapter, the Secretary shall issue a certificate of discharge of such property if such owner—

(i) deposits with the Secretary an amount of money equal to the value of the interest of the United States (as determined by the Secretary) in the property; or

(ii) furnishes a bond acceptable to the Secretary in a like amount.

(B) Refund of deposit with interest and release of bond

The Secretary shall refund the amount so deposited (and shall pay interest at the overpayment rate under section 6621), and shall release such bond, to the extent that the Secretary determines that—

(i) the unsatisfied liability giving rise to the lien can be satisfied from a source other than such property; or

(ii) the value of the interest of the United States in the property is less than the Secretary's prior determination of such value.

(C) Use of deposit, etc., if action to contest lien not filed

If no action is filed under section 7426(a)(4) within the period prescribed therefor, the Secretary shall, within 60 days after the expiration of such period—

(i) apply the amount deposited, or collect on such bond, to the extent necessary to satisfy the unsatisfied liability secured by the lien; and

(ii) refund (with interest as described in subparagraph (B)) any portion of the amount deposited which is not used to satisfy such liability.

(D) Exception

Subparagraph (A) shall not apply if the owner of the property is the person whose unsatisfied liability gave rise to the lien.

(c) Estate or gift tax

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of discharge of any or all of the property subject to any lien imposed by section 6324 if the Secretary finds that the liability secured by such lien has been fully satisfied or provided for.

(d) Subordination of lien

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of subordination of any lien imposed by this chapter upon any part of the property subject to such lien if—

(1) there is paid over to the Secretary an amount equal to the amount of the lien or interest to which the certificate subordinates the lien of the United States,

(2) the Secretary believes that the amount realizable by the United States from the property to which the certificate relates, or from any other property subject to the lien, will ultimately be increased by reason of the issuance of such certificate and that the ultimate collection of the tax liability will be facilitated by such subordination, or

(3) in the case of any lien imposed by section 6324B, if the Secretary determines that the United States will be adequately secured after such subordination.

(e) Nonattachment of lien

If the Secretary determines that, because of confusion of names or otherwise, any person (other than the person against whom the tax was assessed) is or may be injured by the appearance that a notice of lien filed under section 6323 refers to such person, the Secretary may issue a certificate that the lien does not attach to the property of such person.

(f) Effect of certificate

(1) Conclusiveness

Except as provided in paragraphs (2) and (3), if a certificate is issued pursuant to this section by the Secretary and is filed in the same office as the notice of lien to which it relates (if such notice of lien has been filed) such certificate shall have the following effect:

(A) in the case of a certificate of release, such certificate shall be conclusive that the lien referred to in such certificate is extinguished;

(B) in the case of a certificate of discharge, such certificate shall be conclusive that the property covered by such certificate is discharged from the lien;

(C) in the case of a certificate of subordination, such certificate shall be conclusive that the lien or interest to which the lien of the United States is subordinated is superior to the lien of the United States; and

(D) in the case of a certificate of nonattachment, such certificate shall be conclusive that the lien of the United States does not attach to the property of the person referred to in such certificate.

(2) Revocation of certificate of release or nonattachment

If the Secretary determines that a certificate of release or nonattachment of a lien imposed by section 6321 was issued erroneously or improvidently, or if a certificate of release of such lien was issued pursuant to a collateral agreement entered into in connection with a compromise under section 7122 which has been breached, and if the period of limitation on collection after assessment has not expired, the Secretary may revoke such certificate and reinstate the lien—

(A) by mailing notice of such revocation to the person against whom the tax was assessed at his last known address, and

(B) by filing notice of such revocation in the same office in which the notice of lien to which it relates was filed (if such notice of lien had been filed).

Such reinstated lien (i) shall be effective on the date notice of revocation is mailed to the taxpayer in accordance with the provisions of subparagraph (A), but not earlier than the date on which any required filing of notice of revocation is filed in accordance with the provisions of subparagraph (B), and (ii) shall have the same force and effect (as of such date), until the expiration of the period of limitation on collection after assessment, as a lien imposed by section 6321 (relating to lien for taxes).

(3) Certificates void under certain conditions

Notwithstanding any other provision of this subtitle, any lien imposed by this chapter shall attach to any property with respect to which a certificate of discharge has been issued if the person liable for the tax reacquires such property after such certificate has been issued.

(g) Filing of certificates and notices

If a certificate or notice issued pursuant to this section may not be filed in the office designated by State law in which the notice of lien imposed by section 6321 is filed, such certificate or notice shall be effective if filed in the office of the clerk of the United States district court for the judicial district in which such office is situated.

(h) Cross reference

For provisions relating to bonds, see chapter 73 (sec. 7101 and following).

(Aug. 16, 1954, ch. 736, 68A Stat. 783; Pub. L. 85–866, title I, § 77, Nov. 2, 1966, 72 Stat. 1662; Pub. L. 89–719, title I, § 103(a), Nov. 2, 1966, 80 Stat. 1133; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–600, title V, § 513(a), Nov. 6, 1978, 92 Stat. 2883; Pub. L. 97–248, title III, § 348(a), Sept. 3, 1982, 96 Stat. 638; Pub. L. 105–206, title III, § 3106(a), July 22, 1998, 112 Stat. 732.)

AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105–206 added par. (4).

1982—Subsec. (a). Pub. L. 97–248 in introductory provisions substituted ''shall issue'' for ''may issue'' and ''not later than 30 days after the day on which'' for ''if''.

1978—Subsec. (d)(3). Pub. L. 95–600 added par. (3).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1966—Subsec. (b)(3). Pub. L. 89–719 added par. (3).

Subsecs. (d), (e). Pub. L. 89–719 added subsecs. (d) and (e). Former subsecs. (d) and (e) redesignated, with amendments, as subsecs. (f)(1) and (h), respectively.

Subsec. (f). Pub. L. 89–719 redesignated as par. (1) provisions formerly constituting subsec. (d), inserted reference to exceptions provided in pars. (2) and (3) and reference to the filing of the certificate in the same office as the notice of lien to which it refers and expanded the types of certificates to include separate cer-

tificates of release, discharge, subordination, and nonattachment, and added pars. (2) and (3).

Subsec. (g). Pub. L. 89–719 added subsec. (g).

Subsec. (h). Pub. L. 89–719 redesignated as subsec. (h) provisions formerly constituting subsec. (e) and struck out cross references for single bonds, suits to enforce liens, and suits to clear title to realty.

1958—Subsec. (a)(1). Pub. L. 85–866, § 77(1), substituted ''or'' for '','' after ''satisfied'' and struck out '', or, in the case of the estate tax imposed by chapter 11 or the gift tax imposed by chapter 12, has been fully satisfied or provided for'' after ''unenforceable''.

Subsec. (c). Pub. L. 85–866, § 77(2), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d). Pub. L. 85–866. § 77(2), (3), redesignated former subsec. (c) as (d) and in heading and text struck out ''partial'' before ''discharge''. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 85–866, § 77(2), redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3106(c), July 22, 1998, 112 Stat. 734, provided that: ''The amendments made by this section [amending this section and sections 6503 and 7426 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].''

EFFECTIVE DATE OF 1982 AMENDMENT

Section 348(b) of Pub. L. 97–248 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to liens—

''(1) which are filed after December 31, 1982,

''(2) which are satisfied after December 31, 1982, or

''(3) with respect to which the taxpayer after December 31, 1982, requests the Secretary of the Treasury or his delegate to issue a certificate of release on the grounds that the liability was satisfied or legally unenforceable.''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 513(b) of Pub. L. 95–600 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to the estates of decedents dying after December 31, 1976.''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6503, 7103, 7426, 7432 of this title; title 28 section 3201.

§ 6326. Administrative appeal of liens

(a) In general

In such form and at such time as the Secretary shall prescribe by regulations, any person shall be allowed to appeal to the Secretary after the filing of a notice of a lien under this subchapter on the property or the rights to property of such person for a release of such lien alleging an error in the filing of the notice of such lien.

(b) Certificate of release

If the Secretary determines that the filing of the notice of any lien was erroneous, the Secretary shall expeditiously (and, to the extent practicable, within 14 days after such determination) issue a certificate of release of such lien and shall include in such certificate a statement that such filing was erroneous.

(Added Pub. L. 100–647, title VI, § 6238(a), Nov. 10, 1988, 102 Stat. 3743.)

PRIOR PROVISIONS

A prior section 6326 was renumbered 6327 of this title.

EFFECTIVE DATE

Section 6238(d) of Pub. L. 100–647 provided that: ''The amendments made by this section [enacting this section] shall take effect on the date which is 60 days after the date regulations are issued under subsection (b) [set out below].''

REGULATIONS

Section 6238(b) of Pub. L. 100–647 required Secretary of the Treasury or Secretary's delegate to prescribe regulations necessary to implement administrative appeal provided for in amendment made by subsection (a) [enacting this section] within 180 days after Nov. 10, 1988.

§ 6327. Cross references

(1) For lien in case of tax on distilled spirits, see section 5004.

(2) For exclusion of tax liability from discharge in cases under title 11 of the United States Code, see section 523 of such title 11.

(3) For recognition of tax liens in cases under title 11 of the United States Code, see sections 545 and 724 of such title 11.

(4) For collection of taxes in connection with plans for individuals with regular income in cases under title 11 of the United States Code, see section 1328 of such title 11.

(5) For provisions permitting the United States to be made party defendant in a proceeding in a State court for the foreclosure of a lien upon real estate where the United States may have a claim upon the premises involved, see section 2410 of Title 28 of the United States Code.

(6) For priority of lien of the United States in case of insolvency, see section 3713(a) of title 31, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 782, § 6326; Pub. L. 94–455, title XIX, § 1906(a)(20), Oct. 4, 1976, 90 Stat. 1825; Pub. L. 96–589, § 6(i)(10), Dec. 24, 1980, 94 Stat. 3411; Pub. L. 97–258, § 3(f)(7), Sept. 13, 1982, 96 Stat. 1064; renumbered § 6327, Pub. L. 100–647, title VI, § 6238(a), Nov. 10, 1988, 102 Stat. 3743.)

AMENDMENTS

1982—Par. (6). Pub. L. 97–258 substituted ''section 3713(a) of title 31, United States Code'' for ''R.S. 3466 (31 U.S.C. 191)''.

1980—Par. (2). Pub. L. 96–589, § 6(i)(10)(A), substituted ''cases under title 11 of the United States Code, see section 523 of such title 11'' for ''bankruptcy, see section 17 of the Bankruptcy Act, as amended (11 U.S.C. 35)''.

Par. (3). Pub. L. 96–589, § 6(i)(10)(A), redesignated par. (4) as (3) and substituted ''cases under title 11 of the United States Code, see sections 545 and 724 of such title 11'' for ''proceedings under the Bankruptcy Act, see section 67(b) and (c) of that act, as amended (11 U.S.C. 107)''. Former par. (3), which provided cross reference to section 93 of title 11 for limit on amount allowed in bankruptcy proceedings on debts owing to the United States, was struck out.

Par. (4). Pub. L. 96–589, § 6(i)(10)(A), redesignated par. (5) as (4) and substituted ''plans for individuals with

regular income in cases under title 11 of the United States Code, see section 1328 of such title 11'' for ''wage earners' plans in bankruptcy courts, see section 680 of the Bankruptcy Act, as added by the act of June 22, 1938 (11 U.S.C. 1080)''. Former par. (4) redesignated (3).

Pars. (5) to (7). Pub. L. 96–589, § 6(i)(10)(A), (B), redesignated pars. (6) and (7) as (5) and (6), respectively. Former par. (5) redesignated (4).

1976—Pars. (2) to (5). Pub. L. 94–455 struck out parenthetical references to ''52 Stat. 851;'', ''52 Stat. 867;'', ''52 Stat. 867–877;'' and ''52 Stat. 938;'' preceding parenthetical references to sections of title 11.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

Subchapter D—Seizure of Property for Collection of Taxes

Part
I. Due process for collections.
II. Levy.

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3401(b), July 22, 1998, 112 Stat. 747, added part analysis.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7803 of this title; title 38 sections 1970, 5301.

PART I—DUE PROCESS FOR COLLECTIONS

Sec.
6330. Notice and opportunity for hearing before levy.

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3401(b), July 22, 1998, 112 Stat. 747, added part heading and analysis consisting of item 6330.

§ 6330. Notice and opportunity for hearing before levy

(a) Requirement of notice before levy

(1) In general

No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of their right to a hearing under this section before such levy is made. Such notice shall be required only once for the taxable period to which the unpaid tax specified in paragraph (3)(A) relates.

(2) Time and method for notice

The notice required under paragraph (1) shall be—

(A) given in person;

(B) left at the dwelling or usual place of business of such person; or

(C) sent by certified or registered mail, return receipt requested, to such person's last known address;

not less than 30 days before the day of the first levy with respect to the amount of the unpaid tax for the taxable period.

(3) Information included with notice

The notice required under paragraph (1) shall include in simple and nontechnical terms—

(A) the amount of unpaid tax;

(B) the right of the person to request a hearing during the 30-day period under paragraph (2); and

(C) the proposed action by the Secretary and the rights of the person with respect to such action, including a brief statement which sets forth—

(i) the provisions of this title relating to levy and sale of property;

(ii) the procedures applicable to the levy and sale of property under this title;

(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals;

(iv) the alternatives available to taxpayers which could prevent levy on property (including installment agreements under section 6159); and

(v) the provisions of this title and procedures relating to redemption of property and release of liens on property.

(b) Right to fair hearing

(1) In general

If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

(2) One hearing per period

A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

(3) Impartial officer

The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6320. A taxpayer may waive the requirement of this paragraph.

(c) Matters considered at hearing

In the case of any hearing conducted under this section—

(1) Requirement of investigation

The appeals officer shall at the hearing obtain verification from the Secretary that the requirements of any applicable law or administrative procedure have been met.

(2) Issues at hearing

(A) In general

The person may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including—

(i) appropriate spousal defenses;

(ii) challenges to the appropriateness of collection actions; and

(iii) offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.

(B) Underlying liability

The person may also raise at the hearing challenges to the existence or amount of the

underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.

(3) Basis for the determination

The determination by an appeals officer under this subsection shall take into consideration—

(A) the verification presented under paragraph (1);

(B) the issues raised under paragraph (2); and

(C) whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.

(4) Certain issues precluded

An issue may not be raised at the hearing if—

(A) the issue was raised and considered at a previous hearing under section 6320 or in any other previous administrative or judicial proceeding; and

(B) the person seeking to raise the issue participated meaningfully in such hearing or proceeding.

This paragraph shall not apply to any issue with respect to which subsection (d)(2)(B) applies.

(d) Proceeding after hearing

(1) Judicial review of determination

The person may, within 30 days of a determination under this section, appeal such determination—

(A) to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter); or

(B) if the Tax Court does not have jurisdiction of the underlying tax liability, to a district court of the United States.

If a court determines that the appeal was to an incorrect court, a person shall have 30 days after the court determination to file such appeal with the correct court.

(2) Jurisdiction retained at IRS Office of Appeals

The Internal Revenue Service Office of Appeals shall retain jurisdiction with respect to any determination made under this section, including subsequent hearings requested by the person who requested the original hearing on issues regarding—

(A) collection actions taken or proposed with respect to such determination; and

(B) after the person has exhausted all administrative remedies, a change in circumstances with respect to such person which affects such determination.

(e) Suspension of collections and statute of limitations

(1) In general

Except as provided in paragraph (2), if a hearing is requested under subsection (a)(3)(B), the levy actions which are the subject of the requested hearing and the running of any period of limitations under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), or section 6532 (relating to other suits) shall be suspended for the period during which such hearing, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such hearing. Notwithstanding the provisions of section 7421(a), the beginning of a levy or proceeding during the time the suspension under this paragraph is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this paragraph to enjoin any action or proceeding unless a timely appeal has been filed under subsection (d)(1) and then only in respect of the unpaid tax or proposed levy to which the determination being appealed relates.

(2) Levy upon appeal

Paragraph (1) shall not apply to a levy action while an appeal is pending if the underlying tax liability is not at issue in the appeal and the court determines that the Secretary has shown good cause not to suspend the levy.

(f) Jeopardy and State refund collection

If—

(1) the Secretary has made a finding under the last sentence of section 6331(a) that the collection of tax is in jeopardy; or

(2) the Secretary has served a levy on a State to collect a Federal tax liability from a State tax refund,

this section shall not apply, except that the taxpayer shall be given the opportunity for the hearing described in this section within a reasonable period of time after the levy.

(Added Pub. L. 105–206, title III, § 3401(b), July 22, 1998, 112 Stat. 747; amended Pub. L. 106–554, § 1(a)(7) [title III, § 313(b)(2)(A), (d)], Dec. 21, 2000, 114 Stat. 2763, 2763A–642, 2763A–643.)

AMENDMENTS

2000—Subsec. (d)(1)(A). Pub. L. 106–554, § 1(a)(7) [title III, § 313(d)], substituted ''with respect to'' for ''to hear''.

Subsec. (e)(1). Pub. L. 106–554, § 1(a)(7) [title III, § 313(b)(2)(A)], inserted at end ''Notwithstanding the provisions of section 7421(a), the beginning of a levy or proceeding during the time the suspension under this paragraph is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this paragraph to enjoin any action or proceeding unless a timely appeal has been filed under subsection (d)(1) and then only in respect of the unpaid tax or proposed levy to which the determination being appealed relates.''

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 1(a)(7) [title III, § 313(b)(2)(A)] of Pub. L. 106–554 effective Dec. 21, 2000, and amendment by section 1(a)(7) [title III, § 313(d)] of Pub. L. 106–554, effective as if included in the provisions of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, to which such amendment relates, see section 1(a)(7) [title III, § 313(f)] of Pub. L. 106–554, set out as a note under section 6015 of this title.

EFFECTIVE DATE

Section applicable to collection actions initiated after the date which is 180 days after July 22, 1998, see

section 3401(d) of Pub. L. 105–206, set out as a note under section 6320 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6320, 7421, 7443A, 7463, 7803 of this title.

PART II—LEVY

Sec.
6331. Levy and distraint.
6332. Surrender of property subject to levy.
6333. Production of books.
6334. Property exempt from levy.
6335. Sale of seized property.
6336. Sale of perishable goods.
6337. Redemption of property.
6338. Certificate of sale; deed of real property.
6339. Legal effect of certificate of sale of personal property and deed of real property.
6340. Records of sale.
6341. Expense of levy and sale.
6342. Application of proceeds of levy.
6343. Authority to release levy and return property.
6344. Cross references.

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3401(b), July 22, 1998, 112 Stat. 749, added part heading.

1966—Pub. L. 89–719, title I, § 104(j), Nov. 2, 1966, 80 Stat. 1138, inserted ''and return property'' in item 6343.

§ 6331. Levy and distraint

(a) Authority of Secretary

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

(b) Seizure and sale of property

The term ''levy'' as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

(c) Successive seizures

Whenever any property or right to property upon which levy has been made by virtue of subsection (a) is not sufficient to satisfy the claim of the United States for which levy is made, the Secretary may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

(d) Requirement of notice before levy

(1) In general

Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

(2) 30-day requirement

The notice required under paragraph (1) shall be—

(A) given in person,

(B) left at the dwelling or usual place of business of such person, or

(C) sent by certified or registered mail to such persons's last known address,

no less than 30 days before the day of the levy.

(3) Jeopardy

Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

(4) Information included with notice

The notice required under paragraph (1) shall include a brief statement which sets forth in simple and nontechnical terms—

(A) the provisions of this title relating to levy and sale of property,

(B) the procedures applicable to the levy and sale of property under this title,

(C) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

(D) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159),

(E) the provisions of this title relating to redemption of property and release of liens on property, and

(F) the procedures applicable to the redemption of property and the release of a lien on property under this title.

(e) Continuing levy on salary and wages

The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 6343.

(f) Uneconomical levy

No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy.

(g) Levy on appearance date of summons

(1) In general

No levy may be made on the property of any person on any day on which such person (or of-

ficer or employee of such person) is required to appear in response to a summons issued by the Secretary for the purpose of collecting any underpayment of tax.

(2) No application in case of jeopardy

This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy.

(h) Continuing levy on certain payments

(1) In general

If the Secretary approves a levy under this subsection, the effect of such levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer.

(2) Specified payment

For the purposes of paragraph (1), the term ''specified payment'' means—

(A) any Federal payment other than a payment for which eligibility is based on the income or assets (or both) of a payee,

(B) any payment described in paragraph (4), (7), (9), or (11) of section 6334(a), and

(C) any annuity or pension payment under the Railroad Retirement Act or benefit under the Railroad Unemployment Insurance Act.

(i) No levy during pendency of proceedings for refund of divisible tax

(1) In general

No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid divisible tax during the pendency of any proceeding brought by such person in a proper Federal trial court for the recovery of any portion of such divisible tax which was paid by such person if—

(A) the decision in such proceeding would be res judicata with respect to such unpaid tax; or

(B) such person would be collaterally estopped from contesting such unpaid tax by reason of such proceeding.

(2) Divisible tax

For purposes of paragraph (1), the term ''divisible tax'' means—

(A) any tax imposed by subtitle C; and

(B) the penalty imposed by section 6672 with respect to any such tax.

(3) Exceptions

(A) Certain unpaid taxes

This subsection shall not apply with respect to any unpaid tax if—

(i) the taxpayer files a written notice with the Secretary which waives the restriction imposed by this subsection on levy with respect to such tax; or

(ii) the Secretary finds that the collection of such tax is in jeopardy.

(B) Certain levies

This subsection shall not apply to—

(i) any levy to carry out an offset under section 6402; and

(ii) any levy which was first made before the date that the applicable proceeding under this subsection commenced.

(4) Limitation on collection activity; authority to enjoin collection

(A) Limitation on collection

No proceeding in court for the collection of any unpaid tax to which paragraph (1) applies shall be begun by the Secretary during the pendency of a proceeding under such paragraph. This subparagraph shall not apply to—

(i) any counterclaim in a proceeding under such paragraph; or

(ii) any proceeding relating to a proceeding under such paragraph.

(B) Authority to enjoin

Notwithstanding section 7421(a), a levy or collection proceeding prohibited by this subsection may be enjoined (during the period such prohibition is in force) by the court in which the proceeding under paragraph (1) is brought.

(5) Suspension of statute of limitations on collection

The period of limitations under section 6502 shall be suspended for the period during which the Secretary is prohibited under this subsection from making a levy.

(6) Pendency of proceeding

For purposes of this subsection, a proceeding is pending beginning on the date such proceeding commences and ending on the date that a final order or judgment from which an appeal may be taken is entered in such proceeding.

(j) No levy before investigation of status of property

(1) In general

For purposes of applying the provisions of this subchapter, no levy may be made on any property or right to property which is to be sold under section 6335 until a thorough investigation of the status of such property has been completed.

(2) Elements in investigation

For purposes of paragraph (1), an investigation of the status of any property shall include—

(A) a verification of the taxpayer's liability;

(B) the completion of an analysis under subsection (f);

(C) the determination that the equity in such property is sufficient to yield net proceeds from the sale of such property to apply to such liability; and

(D) a thorough consideration of alternative collection methods.

(k) No levy while certain offers pending or installment agreement pending or in effect

(1) Offer-in-compromise pending

No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

(A) during the period that an offer-in-compromise by such person under section 7122 of such unpaid tax is pending with the Secretary; and

(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending).

For purposes of subparagraph (A), an offer is pending beginning on the date the Secretary accepts such offer for processing.

(2) Installment agreements

No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

(A) during the period that an offer by such person for an installment agreement under section 6159 for payment of such unpaid tax is pending with the Secretary;

(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending);

(C) during the period that such an installment agreement for payment of such unpaid tax is in effect; and

(D) if such agreement is terminated by the Secretary, during the 30 days thereafter (and, if an appeal of such termination is filed within such 30 days, during the period that such appeal is pending).

(3) Certain rules to apply

Rules similar to the rules of paragraphs (3) and (4) of subsection (i) shall apply for purposes of this subsection.

(*l*) Cross references

(1) For provisions relating to jeopardy, see subchapter A of chapter 70.

(2) For proceedings applicable to sale of seized property see section 6335.

(3) For release and notice of release of levy, see section 6343.

(Aug. 16, 1954, ch. 736, 68A Stat. 783; Pub. L. 89–719, title I, § 104(a), Nov. 2, 1966, 80 Stat. 1135; Pub. L. 92–178, title II, § 211(a), Dec. 10, 1971, 85 Stat. 520; Pub. L. 94–455, title XII, § 1209(d)(1), (2), (4), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1710, 1711, 1834; Pub. L. 97–248, title III, § 349(a), Sept. 3, 1982, 96 Stat. 639; Pub. L. 98–369, div. A, title VII, § 714(*o*), July 18, 1984, 98 Stat. 964; Pub. L. 100–647, title VI, § 6236(a), (b), (d), Nov. 10, 1988, 102 Stat. 3737, 3739; Pub. L. 105–34, title X, § 1024(a), Aug. 5, 1997, 111 Stat. 923; Pub. L. 105–206, title III, §§ 3433(a), 3444(a), 3462(b), title VI, § 6010(f), July 22, 1998, 112 Stat. 759, 762, 765, 814; Pub. L. 106–554, § 1(a)(7) [title III, § 313(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–642.)

REFERENCES IN TEXT

The Railroad Retirement Act, referred to in subsec. (h)(2)(C), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, § 101, Oct. 16, 1974, 88 Stat. 1305, known as the Railroad Retirement Act of 1974, which is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (h)(2)(C), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§ 351 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

AMENDMENTS

2000—Subsec. (k)(3). Pub. L. 106–554 substituted ''(3) and (4)'' for ''(3), (4), and (5)''.

1998—Subsec. (h)(1). Pub. L. 105–206, § 6010(f), substituted ''If the Secretary approves a levy under this subsection, the effect of such levy'' for ''The effect of a levy''.

Subsec. (i). Pub. L. 105–206, § 3433(a), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 105–206, § 3444(a), added subsec. (j). Former subsec. (j) redesignated (k).

Pub. L. 105–206, § 3433(a), redesignated subsec. (i) as (j).

Subsec. (k). Pub. L. 105–206, § 3462(b), added subsec. (k). Former subsec. (k) redesignated (*l*).

Pub. L. 105–206, § 3444(a), redesignated subsec. (j) as (k).

Subsec. (*l*). Pub. L. 105–206, § 3462(b), redesignated subsec. (k) as (*l*).

1997—Subsecs. (h), (i). Pub. L. 105–34 added subsec. (h) and redesignated former subsec. (h) as (i).

1988—Subsec. (d)(2). Pub. L. 100–647, § 6236(a)(1), (2), substituted ''30-day'' for ''10-day'' in heading and ''30 days'' for ''10 days'' in text.

Subsec. (d)(4). Pub. L. 100–647, § 6236(a)(3), added par. (4).

Subsec. (e). Pub. L. 100–647, § 6236(b)(1), amended subsec. (e) generally. Prior to amendment, subsec. (e) consisted of two pars. relating to effect of continuing levy on salary and wages and release and notice of release of levy.

Subsecs. (f), (g). Pub. L. 100–647, § 6236(d), added subsecs. (f) and (g). Former subsec. (f) redesignated (h).

Subsec. (h). Pub. L. 100–647, § 6236(b)(2), (d), redesignated subsec. (f) as (h) and added par. (3).

1984—Subsec. (b). Pub. L. 98–369 substituted ''subsection (e)'' for ''subsection (d)(3)''.

1982—Subsec. (d). Pub. L. 97–248 inserted authority to levy upon property other than salary or wages, substituted ''person'' for ''individual'' wherever appearing, designated second sentence of former par. (1) as par. (2) and in par. (2)(C) as so designated substituted ''certified or registered mail'' for ''mail'', and redesignated former par. (2) as (3) and former par. (3) as subsec. (e).

Subsec. (e). Pub. L. 97–248 redesignated former subsec. (d)(3) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 97–248 redesignated former subsec. (e) as (f).

1976—Subsec. (a). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (b). Pub. L. 94–455, §§ 1209(d)(2), 1906(b)(13)(A), substituted in second sentence ''Except as otherwise provided in subsection (d)(3), a levy'' for ''A levy'' and struck out ''or his delegate'' after ''Secretary''.

Subsec. (c). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (d)(1). Pub. L. 94–455, §§ 1209(d)(4), 1906(b)(13)(A), struck out provision that no additional notice shall be required in the case of successive levies with respect to such tax and ''or his delegate'' after ''Secretary''.

Subsec. (d)(2). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (d)(3). Pub. L. 94–455, § 1209(d)(1), added par. (3).

1971—Subsecs. (d), (e). Pub. L. 92–178 added subsec. (d) and redesignated former subsec. (d) as (e).

1966—Subsec. (b). Pub. L. 89–719 inserted sentence providing that a levy shall extend only to property possessed and obligations existing at the time thereof.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3433(b), July 22, 1998, 112 Stat. 760, provided that: ''The amendment made by this

section [amending this section] shall apply to unpaid tax attributable to taxable periods beginning after December 31, 1998.''

Pub. L. 105–206, title III, § 3444(b), July 22, 1998, 112 Stat. 762, provided that: ''The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].''

Pub. L. 105–206, title III, § 3462(e), July 22, 1998, 112 Stat. 766, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and sections 6159 and 7122 of this title] shall apply to proposed offers-in-compromise and installment agreements submitted after the date of the enactment of this Act [July 22, 1998].

''(2) SUSPENSION OF COLLECTION BY LEVY.—The amendment made by subsection (b) [amending this section] shall apply to offers-in-compromise pending on or made after December 31, 1999.''

Amendment by section 6010(f) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1024(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to levies issued after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6236(h) of Pub. L. 100–647 provided that:

''(1) IN GENERAL.—The amendments made by this section (other than subsection (g)) [amending this section and sections 6332, 6334, and 6343 of this title] shall apply to levies issued on or after July 1, 1989.

''(2) SUBSECTION (g).—The amendment made by subsection (g) [amending section 6335 of this title] shall apply to requests made on or after January 1, 1989.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 349(b) of Pub. L. 97–248 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to levies made after December 31, 1982.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1209(d)(1), (2), (4) of Pub. L. 94–455 effective only with respect to levies made after Feb. 28, 1977, see section 1209(e) of Pub. L. 94–455 as amended by section 2(c) of Pub. L. 94–528, Oct. 17, 1976, 90 Stat. 2483, set out as a note under section 6334 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 211(b) of Pub. L. 92–178 provided that: ''The amendments made by this section [amending this section] shall apply with respect to levies made after March 31, 1972.''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 72, 6330, 6332, 6334, 6335, 6651, 6656, 6851, 6861, 6862, 7206, 7421, 7429 of this title.

§ 6332. Surrender of property subject to levy

(a) Requirement

Except as otherwise provided in this section, any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary, surrender such property or rights (or discharge such obligation) to the Secretary, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) Special rule for life insurance and endowment contracts

(1) In general

A levy on an organization with respect to a life insurance or endowment contract issued by such organization shall, without necessity for the surrender of the contract document, constitute a demand by the Secretary for payment of the amount described in paragraph (2) and the exercise of the right of the person against whom the tax is assessed to the advance of such amount. Such organization shall pay over such amount 90 days after service of notice of levy. Such notice shall include a certification by the Secretary that a copy of such notice has been mailed to the person against whom the tax is assessed at his last known address.

(2) Satisfaction of levy

Such levy shall be deemed to be satisfied if such organization pays over to the Secretary the amount which the person against whom the tax is assessed could have had advanced to him by such organization on the date prescribed in paragraph (1) for the satisfaction of such levy, increased by the amount of any advance (including contractual interest thereon) made to such person on or after the date such organization had actual notice or knowledge (within the meaning of section 6323(i)(1)) of the existence of the lien with respect to which such levy is made, other than an advance (including contractual interest thereon) made automatically to maintain such contract in force under an agreement entered into before such organization had such notice or knowledge.

(3) Enforcement proceedings

The satisfaction of a levy under paragraph (2) shall be without prejudice to any civil action for the enforcement of any lien imposed by this title with respect to such contract.

(c) Special rule for banks

Any bank (as defined in section 408(n)) shall surrender (subject to an attachment or execution under judicial process) any deposits (including interest thereon) in such bank only after 21 days after service of levy.

(d) Enforcement of levy

(1) Extent of personal liability

Any person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the Secretary, shall be liable in his own person and estate to the

United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the underpayment rate established under section 6621 from the date of such levy (or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer). Any amount (other than costs) recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

(2) Penalty for violation

In addition to the personal liability imposed by paragraph (1), if any person required to surrender property or rights to property fails or refuses to surrender such property or rights to property without reasonable cause, such person shall be liable for a penalty equal to 50 percent of the amount recoverable under paragraph (1). No part of such penalty shall be credited against the tax liability for the collection of which such levy was made.

(e) Effect of honoring levy

Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the Secretary, surrenders such property or rights to property (or discharges such obligation) to the Secretary (or who pays a liability under subsection (d)(1)) shall be discharged from any obligation or liability to the delinquent taxpayer and any other person with respect to such property or rights to property arising from such surrender or payment.

(f) Person defined

The term ''person,'' as used in subsection (a), includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to surrender the property or rights to property, or to discharge the obligation.

(Aug. 16, 1954, ch. 736, 68A Stat. 784; Pub. L. 89–719, title I, § 104(b), Nov. 2, 1966, 80 Stat. 1135; Pub. L. 93–625, § 7(a)(2)(D), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94–455, title XII, § 1209(d)(3), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1710, 1834; Pub. L. 99–514, title XV, § 1511(c)(9), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 100–647, title I, § 1015(t)(1), title VI, § 6236(e), Nov. 10, 1988, 102 Stat. 3573, 3739; Pub. L. 101–508, title XI, § 11704(a)(27), Nov. 5, 1990, 104 Stat. 1388–519.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–508 substituted ''this section'' for ''subsections (b) and (c)''.

1988—Subsec. (a). Pub. L. 100–647, § 6236(e)(2)(A), substituted ''subsections (b) and (c)'' for ''subsection (b)''.

Subsec. (c). Pub. L. 100–647, § 6236(e)(1), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100–647, § 6236(e)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 100–647, § 1015(t)(1), inserted ''and any other person'' after ''delinquent taxpayer'' and struck out sentence at end providing that in the case of a levy which is satisfied pursuant to subsection (b), such organization shall also be discharged from any obligation or liability to any beneficiary arising from such surrender or payment.

Subsec. (e). Pub. L. 100–647, § 6236(e)(1), (2)(B), redesignated subsec. (d) as (e) and substituted ''subsection (d)(1)'' for ''subsection (c)(1)''. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 100–647, § 6236(e)(1), redesignated subsec. (e) as (f).

1986—Subsec. (c)(1). Pub. L. 99–514 substituted ''the underpayment rate established under section 6621'' for ''an annual rate established under section 6621''.

1976—Subsecs. (a), (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (c)(1). Pub. L. 94–455, §§ 1209(d)(3), 1906(b)(13)(A), inserted ''(or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer)'' after ''date of such levy'', and struck out ''or his delegate'' after ''Secretary''.

Subsec. (d). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1975—Subsec. (c)(1). Pub. L. 93–625 substituted ''an annual rate established under section 6621'' for ''the rate of 6 percent per annum''.

1966—Subsec. (a). Pub. L. 89–719, § 104(b)(1), substituted ''Except as otherwise provided in subsection (b), any person'' for ''Any person''.

Subsec. (b). Pub. L. 89–719, § 104(b)(2), added subsec. (b). Former subsec. (b) redesignated, with amendments, as subsec. (c)(1).

Subsec. (c). Pub. L. 89–719, § 104(b)(2)–(4), redesignated as par. (1) provisions formerly set out as subsec. (b), inserted provisions that any amount other than costs recovered under par. (1) shall be credited against the tax liability for the collection of which the levy was made, and added par. (2). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 89–719, § 104(b)(4), added subsec. (d).

Subsec. (e). Pub. L. 89–719, § 104(b)(3), redesignated former subsec. (c) as (e).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(t)(2) of Pub. L. 100–647 provided that: ''The amendment made by this subsection [amending this section] shall apply to levies issued after the date of the enactment of this Act [Nov. 10, 1988].''

Amendment by section 6236(e) of Pub. L. 100–647 applicable to levies issued on or after July 1, 1989, see section 6236(h)(1) of Pub. L. 100–647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1209(d)(3) of Pub. L. 94–455 effective only with respect to levies made after Feb. 28, 1977, see section 1209(e) of Pub. L. 94–455, as amended by section 2(c) of Pub. L. 94–528, Oct. 17, 1976, 90 Stat. 2483, set out as a note under section 6334 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93–625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6323, 6342 of this title; title 29 section 1368; title 30 section 934.

§ 6333. Production of books

If a levy has been made or is about to be made on any property, or right to property, any person having custody or control of any books or records, containing evidence or statements relating to the property or right to property subject to levy, shall, upon demand of the Secretary, exhibit such books or records to the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 784; 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.

§ 6334. Property exempt from levy

(a) Enumeration

There shall be exempt from levy—

(1) Wearing apparel and school books

Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of his family;

(2) Fuel, provisions, furniture, and personal effects

So much of the fuel, provisions, furniture, and personal effects in the taxpayer's household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed $6,250 in value;

(3) Books and tools of a trade, business, or profession

So many of the books and tools necessary for the trade, business, or profession of the taxpayer as do not exceed in the aggregate $3,125 in value.

(4) Unemployment benefits

Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State, or of the District of Columbia or of the Commonwealth of Puerto Rico.

(5) Undelivered mail

Mail, addressed to any person, which has not been delivered to the addressee.

(6) Certain annuity and pension payments

Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 1562), and annuities based on retired or retainer pay under chapter 73 of title 10 of the United States Code.

(7) Workmen's compensation

Any amount payable to an individual as workmen's compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.

(8) Judgments for support of minor children

If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to comply with such judgment.

(9) Minimum exemption for wages, salary, and other income

Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of such amounts payable to or received by him during such period does not exceed the applicable exempt amount determined under subsection (d).

(10) Certain service-connected disability payments

Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code) disability benefit under—

(A) subchapter II, III, IV, V,,[1] or VI of chapter 11 of such title 38, or

(B) chapter 13, 21, 23, 31, 32, 34, 35, 37, or 39 of such title 38.

(11) Certain public assistance payments

Any amount payable to an individual as a recipient of public assistance under—

(A) title IV or title XVI (relating to supplemental security income for the aged, blind, and disabled) of the Social Security Act, or

(B) State or local government public assistance or public welfare programs for which eligibility is determined by a needs or income test.

(12) Assistance under Job Training Partnership Act

Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) from funds appropriated pursuant to such Act.

(13) Residences exempt in small deficiency cases and principal residences and certain business assets exempt in absence of certain approval or jeopardy

(A) Residences in small deficiency cases

If the amount of the levy does not exceed $5,000—

(i) any real property used as a residence by the taxpayer; or

(ii) any real property of the taxpayer (other than real property which is rented) used by any other individual as a residence.

(B) Principal residences and certain business assets

Except to the extent provided in subsection (e)—

[1] So in original.

(i) the principal residence of the taxpayer (within the meaning of section 121); and

(ii) tangible personal property or real property (other than real property which is rented) used in the trade or business of an individual taxpayer.

(b) Appraisal

The officer seizing property of the type described in subsection (a) shall appraise and set aside to the owner the amount of such property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, the Secretary shall summon three disinterested individuals who shall make the valuation.

(c) No other property exempt

Notwithstanding any other law of the United States (including section 207 of the Social Security Act), no property or rights to property shall be exempt from levy other than the property specifically made exempt by subsection (a).

(d) Exempt amount of wages, salary, or other income

(1) Individuals on weekly basis

In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be the exempt amount.

(2) Exempt amount

For purposes of paragraph (1), the term ''exempt amount'' means an amount equal to—

(A) the sum of—

(i) the standard deduction, and

(ii) the aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs, divided by

(B) 52.

Unless the taxpayer submits to the Secretary a written and properly verified statement specifying the facts necessary to determine the proper amount under subparagraph (A), subparagraph (A) shall be applied as if the taxpayer were a married individual filing a separate return with only 1 personal exemption.

(3) Individuals on basis other than weekly

In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him during any applicable pay period or other fiscal period (as determined under regulations prescribed by the Secretary) which is exempt from levy under subsection (a)(9) shall be an amount (determined under such regulations) which as nearly as possible will result in the same total exemption from levy for such individual over a period of time as he would have under paragraph (1) if (during such period of time) he were paid or received such wages, salary, and other income on a regular weekly basis.

(e) Levy allowed on principal residences and certain business assets in certain circumstances

(1) Principal residences

(A) Approval required

A principal residence shall not be exempt from levy if a judge or magistrate of a district court of the United States approves (in writing) the levy of such residence.

(B) Jurisdiction

The district courts of the United States shall have exclusive jurisdiction to approve a levy under subparagraph (A).

(2) Certain business assets

Property (other than a principal residence) described in subsection (a)(13)(B) shall not be exempt from levy if—

(A) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property; or

(B) the Secretary finds that the collection of tax is in jeopardy.

An official may not approve a levy under subparagraph (A) unless the official determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.

(f) Levy allowed on certain specified payments

Any payment described in subparagraph (B) or (C) of section 6331(h)(2) shall not be exempt from levy if the Secretary approves the levy thereon under section 6331(h).

(g) Inflation adjustment

(1) In general

In the case of any calendar year beginning after 1999, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting ''calendar year 1998'' for ''calendar year 1992'' in subparagraph (B) thereof.

(2) Rounding

If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.

(Aug. 16, 1954, ch. 736, 68A Stat. 784; Pub. L. 85–840, title IV, § 406, Aug. 28, 1958, 72 Stat. 1047; Pub. L. 89–44, title VIII, § 812(a), June 21, 1965, 79 Stat. 170; Pub. L. 89–719, title I, § 104(c), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 91–172, title IX, § 945(a), Dec. 30, 1969, 83 Stat. 729; Pub. L. 94–455, title XII, § 1209(a)–(c), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1709, 1710, 1834; Pub. L. 97–248, title III, § 347(a), Sept. 3, 1982, 96 Stat. 638; Pub. L. 98–369, div. B, title VI, § 2661(*o*)(5), July 18, 1984, 98 Stat. 1159; Pub. L. 99–514, title XV, § 1565(a), Oct. 22, 1986, 100 Stat. 2763; Pub. L. 100–647, title I, § 1015(*o*), title VI, § 6236(c), Nov. 10, 1988, 102 Stat. 3572, 3738; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–168, title V, § 502(a)–(c), July 30, 1996, 110

Stat. 1461; Pub. L. 104–193, title I, § 110(*l*)(3), formerly § 110(*l*)(6), Aug. 22, 1996, 110 Stat. 2173, renumbered and amended Pub. L. 105–33, title V, § 5514(a)(2), (3), Aug. 5, 1997, 111 Stat. 620; Pub. L. 105–34, title III, § 312(d)(1), title X, § 1025(a), Aug. 5, 1997, 111 Stat. 839, 924; Pub. L. 105–206, title III, §§ 3431(a)–(c), 3445(a), (b), July 22, 1998, 112 Stat. 758, 762, 763.)

ADJUSTMENT OF APPLICABLE DOLLAR VALUE AMOUNTS FOR PROPERTY EXEMPT FROM LEVY FOR CALENDAR YEAR 2001

For adjustment of applicable dollar value amounts under subsec. (a)(2), (3) of this section for property exempt from levy for calendar year 2001, see section 3.24 of Revenue Procedure 2001–13, set out as a note under section 1 of this title.

REFERENCES IN TEXT

The Railroad Retirement Act, referred to in subsec. (a)(6), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, § 101, Oct. 16, 1974, 88 Stat. 1305, known as the Railroad Retirement Act of 1974, which is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (a)(6), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§ 351 et seq.) of Title 45. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

The Social Security Act, referred to in subsecs. (a)(11)(A) and (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles IV and XVI of the Social Security Act are classified generally to subchapters IV (§ 601 et seq.) and XVI (§ 1381 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. Section 207 of the Social Security Act is classified to section 407 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Job Training Partnership Act, referred to in subsec. (a)(12), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor, and was repealed by Pub. L. 105–220, title I, § 199(b)(2), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–206, § 3431(a), substituted ''$6,250'' for ''$2,500''.

Subsec. (a)(3). Pub. L. 105–206, § 3431(b), substituted ''$3,125'' for ''$1,250''.

Subsec. (a)(13). Pub. L. 105–206, § 3445(a), amended heading and text of par. (13) generally. Prior to amendment, text read as follows: ''Except to the extent provided in subsection (e), the principal residence of the taxpayer (within the meaning of section 121).''

Subsec. (e). Pub. L. 105–206, § 3445(b), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: ''Property described in subsection (a)(13) shall not be exempt from levy if—

''(1) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property, or

''(2) the Secretary finds that the collection of tax is in jeopardy.''

Subsec. (g)(1). Pub. L. 105–206, § 3431(c)(1), substituted ''1999'' for ''1997'' in introductory provisions.

Subsec. (g)(1)(B). Pub. L. 105–206, § 3431(c)(2), substituted ''1998'' for ''1996''.

1997—Subsec. (a)(11)(A). Pub. L. 105–33, § 5514(a)(3), made technical amendment to directory language of Pub. L. 104–193, § 110(*l*)(3). See 1996 Amendment note below.

Subsec. (a)(13). Pub. L. 105–34, § 312(d)(1), substituted ''section 121'' for ''section 1034''.

Subsecs. (f), (g). Pub. L. 105–34 added subsec. (f) and redesignated former subsec. (f) as (g).

1996—Subsec. (a)(2). Pub. L. 104–168, § 502(a), substituted ''So'' for ''If the taxpayer is the head of a family, so'', ''the taxpayer's household'' for ''his household'', and ''$2,500'' for ''$1,650 ($1,550 in the case of levies issued during 1989)''.

Subsec. (a)(3). Pub. L. 104–168, § 502(b), substituted ''$1,250'' for ''$1,100 ($1,050 in the case of levies issued during 1989)''.

Subsec. (a)(11)(A). Pub. L. 104–193, § 110(*l*)(3), formerly § 110(*l*)(6), as renumbered and amended by Pub. L. 105–33, struck out ''(relating to aid to families with dependent children)'' after ''title IV''.

Subsec. (f). Pub. L. 104–168, § 502(c), added subsec. (f).

1991—Subsec. (a)(6). Pub. L. 102–83 substituted ''1562'' for ''562''.

1988—Subsec. (a)(2). Pub. L. 100–647, § 6236(c)(1), substituted ''$1,650 ($1,550 in the case of levies issued during 1989)'' for ''$1,500''.

Subsec. (a)(3). Pub. L. 100–647, § 6236(c)(2), substituted ''$1,100 ($1,050 in the case of levies issued during 1989)'' for ''$1,000''.

Subsec. (a)(10)(A). Pub. L. 100–647, § 1015(*o*)(1), substituted ''III, IV, V,'' for ''IV'' and added ''or'' at end.

Subsec. (a)(10)(B), (C). Pub. L. 100–647, § 1015(*o*)(2), (3), redesignated subpar. (C) as (B) and substituted ''13, 21, 23'' for ''21'', and struck out former subpar. (B), which read as follows: ''subchapter I, II, or III of chapter 19 of such title 38, or''.

Subsec. (a)(11) to (13). Pub. L. 100–647, § 6236(c)(4)(A), added pars. (11) to (13).

Subsec. (d)(1). Pub. L. 100–647, § 6236(c)(3)(A), amended par. (1) generally, striking out after introductory provisions the following definition of exempt amount:

''(A) $75, plus

''(B) $25 for each individual who is specified in a written statement which is submitted to the person on whom notice of levy is served and which is verified in such manner as the Secretary shall prescribe by regulations and—

''(i) over half of whose support for the payroll period was received from the taxpayer,

''(ii) who is the spouse of the taxpayer, or who bears a relationship to the taxpayer specified in paragraphs (1) through (9) of section 152(a) (relating to definition of dependents), and

''(iii) who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy under subsection (a)(8) for the payroll period.

For purposes of subparagraph (B)(ii) of the preceding sentence, 'payroll period' shall be substituted for 'taxable year' each place it appears in paragraph (9) of section 152(a).''

Subsec. (d)(2), (3). Pub. L. 100–647, § 6236(c)(3)(B), added par. (2) and redesignated former par. (2) as (3).

Subsec. (e). Pub. L. 100–647, § 6236(c)(4)(B), added subsec. (e).

1986—Subsec. (a)(10). Pub. L. 99–514 added par. (10).

1984—Subsec. (c). Pub. L. 98–369 inserted ''(including section 207 of the Social Security Act)''.

1982—Subsec. (a)(2). Pub. L. 97–248, § 347(a)(1), substituted ''$1,500'' for ''$500''.

Subsec. (a)(3). Pub. L. 97–248, § 347(a)(2), substituted ''$1,000'' for ''$250''.

Subsec. (d)(1)(A). Pub. L. 97–248, § 347(a)(3)(A), substituted ''$75'' for ''$50''.

Subsec. (d)(1)(B). Pub. L. 97–248, § 347(a)(3)(B), substituted ''$25'' for ''$15''.

1976—Subsec. (a)(8). Pub. L. 94–455, § 1209(c), substituted ''Judgments for support of minor children'' for ''Salary, wages, or other income'' in heading.

Subsec. (a)(9). Pub. L. 94–455, § 1209(a), added par. (9).

Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (d). Pub. L. 94–455, § 1209(b), added subsec. (d).

1969—Subsec. (a)(8). Pub. L. 91–172 added par. (8).

1966—Subsec. (a)(4). Pub. L. 89–719, § 104(c)(1), struck out ''or Territory'' after ''of any State''.

Subsec. (a)(6), (7). Pub. L. 89–719, § 104(c)(2), added pars. (6) and (7).

1965—Subsec. (a)(5). Pub. L. 89–44 added par. (5).

1958—Subsec. (a)(4). Pub. L. 85–840 added par. (4).

CHANGE OF NAME

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, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3431(d), July 22, 1998, 112 Stat. 758, provided that: ''The amendments made by this section [amending this section] shall take effect with respect to levies issued after the date of the enactment of this Act [July 22, 1998].''

Pub. L. 105–206, title III, § 3445(d), July 22, 1998, 112 Stat. 763, provided that: ''The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].''

EFFECTIVE DATE OF 1997 AMENDMENTS

Amendment by section 312(d)(1) of Pub. L. 105–34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105–34, set out as a note under section 121 of this title.

Section 1025(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to levies issued after the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by Pub. L. 105–33 effective as if included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, at the time such section 110 became law, see section 5518(c) of Pub. L. 105–33, set out as a note under section 51 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 110(*l*)(3) of 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.

Section 502(d) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section] shall take effect with respect to levies issued after December 31, 1996.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(*o*) of Pub. L. 100–647 provided that the amendment made by that section is effective with respect to levies made after Dec. 31, 1988.

Amendment by section 6236(c) of Pub. L. 100–647 applicable to levies issued on or after July 1, 1989, see section 6236(h)(1) of Pub. L. 100–647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1565(b) of Pub. L. 99–514 provided that: ''The amendment made by this section [amending this section] shall apply to amounts payable after December 31, 1986.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective as though included in the enactment of the Social Security Amendments of 1983, Pub. L. 98–21, see section 2664(a) of Pub. L. 98–369, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 347(b) of Pub. L. 97–248 provided that: ''The amendments made by subsection (a) [amending this section] shall apply to levies made after December 31, 1982.''

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1209(e) of Pub. L. 94–455, as amended by Pub. L. 94–528, § 2(c), Oct. 17, 1976, 90 Stat. 2483, provided that: ''The amendments made by this section [amending this section and sections 6331 and 6332 of this title] shall apply only with respect to levies made after February 28, 1977.''

EFFECTIVE DATE OF 1969 AMENDMENT

Section 945(b) of Pub. L. 91–172 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to levies made 30 days or more after the date of the enactment of this Act [Dec. 30, 1969].''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 812(b) of Pub. L. 89–44 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [June 21, 1965].''

STATE FISH AND WILDLIFE PERMITS

Pub. L. 105–206, title III, § 3445(c), July 22, 1998, 112 Stat. 763, provided that:

''(1) IN GENERAL.—With respect to permits issued by a State and required under State law for the harvest of fish or wildlife in the trade or business of an individual taxpayer, the term 'other assets' as used in section 6334(e)(2) of the Internal Revenue Code of 1986 shall include future income which may be derived by such taxpayer from the commercial sale of fish or wildlife under such permit.

''(2) CONSTRUCTION.—Paragraph (1) shall not be construed to invalidate or in any way prejudice any assertion that the privilege embodied in permits described in paragraph (1) is not property or a right to property under the Internal Revenue Code of 1986.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6305, 6323, 6331 of this title; title 18 section 3613.

§ 6335. Sale of seized property

(a) Notice of seizure

As soon as practicable after seizure of property, notice in writing shall be given by the Secretary to the owner of the property (or, in the case of personal property, the possessor thereof), or shall be left at his usual place of abode or

business if he has such within the internal revenue district where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such district, the notice may be mailed to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(b) Notice of sale

The Secretary shall as soon as practicable after the seizure of the property give notice to the owner, in the manner prescribed in subsection (a), and shall cause a notification to be published in some newspaper published or generally circulated within the county wherein such seizure is made, or if there be no newspaper published or generally circulated in such county, shall post such notice at the post office nearest the place where the seizure is made, and in not less than two other public places. Such notice shall specify the property to be sold, and the time, place, manner, and conditions of the sale thereof. Whenever levy is made without regard to the 10-day period provided in section 6331(a), public notice of sale of the property seized shall not be made within such 10-day period unless section 6336 (relating to sale of perishable goods) is applicable.

(c) Sale of indivisible property

If any property liable to levy is not divisible, so as to enable the Secretary by sale of a part thereof to raise the whole amount of the tax and expenses, the whole of such property shall be sold.

(d) Time and place of sale

The time of sale shall not be less than 10 days nor more than 40 days from the time of giving public notice under subsection (b). The place of sale shall be within the county in which the property is seized, except by special order of the Secretary.

(e) Manner and conditions of sale

(1) In general

(A) Determinations relating to minimum price

Before the sale of property seized by levy, the Secretary shall determine—

(i) a minimum price below which such property shall not be sold (taking into account the expense of making the levy and conducting the sale), and

(ii) whether, on the basis of criteria prescribed by the Secretary, the purchase of such property by the United States at such minimum price would be in the best interest of the United States.

(B) Sale to highest bidder at or above minimum price

If, at the sale, one or more persons offer to purchase such property for not less than the amount of the minimum price, the property shall be declared sold to the highest bidder.

(C) Property deemed sold to United States at minimum price in certain cases

If no person offers the amount of the minimum price for such property at the sale and the Secretary has determined that the purchase of such property by the United States would be in the best interest of the United States, the property shall be declared to be sold to the United States at such minimum price.

(D) Release to owner in other cases

If, at the sale, the property is not declared sold under subparagraph (B) or (C), the property shall be released to the owner thereof and the expense of the levy and sale shall be added to the amount of tax for the collection of which the levy was made. Any property released under this subparagraph shall remain subject to any lien imposed by subchapter C.

(2) Additional rules applicable to sale

The Secretary shall by regulations prescribe the manner and other conditions of the sale of property seized by levy. If one or more alternative methods or conditions are permitted by regulations, the Secretary shall select the alternatives applicable to the sale. Such regulations shall provide:

(A) That the sale shall not be conducted in any manner other than—

(i) by public auction, or

(ii) by public sale under sealed bids.

(B) In the case of the seizure of several items of property, whether such items shall be offered separately, in groups, or in the aggregate; and whether such property shall be offered both separately (or in groups) and in the aggregate, and sold under whichever method produces the highest aggregate amount.

(C) Whether the announcement of the minimum price determined by the Secretary may be delayed until the receipt of the highest bid.

(D) Whether payment in full shall be required at the time of acceptance of a bid, or whether a part of such payment may be deferred for such period (not to exceed 1 month) as may be determined by the Secretary to be appropriate.

(E) The extent to which methods (including advertising) in addition to those prescribed in subsection (b) may be used in giving notice of the sale.

(F) Under what circumstances the Secretary may adjourn the sale from time to time (but such adjournments shall not be for a period to exceed in all 1 month).

(3) Payment of amount bid

If payment in full is required at the time of acceptance of a bid and is not then and there paid, the Secretary shall forthwith proceed to again sell the property in the manner provided in this subsection. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid within the prescribed period, suit may be instituted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of 6 percent per annum from the date of the sale; or, in the discretion of the Secretary, the sale may be declared by the Secretary to be null and void for failure to

make full payment of the purchase price and the property may again be advertised and sold as provided in subsections (b) and (c) and this subsection. In the event of such readvertisement and sale any new purchaser shall receive such property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited.

(4) Cross reference

For provision providing for civil damages for violation of paragraph (1)(A)(i), see section 7433.

(f) Right to request sale of seized property within 60 days

The owner of any property seized by levy may request that the Secretary sell such property within 60 days after such request (or within such longer period as may be specified by the owner). The Secretary shall comply with such request unless the Secretary determines (and notifies the owner within such period) that such compliance would not be in the best interests of the United States.

(g) Stay of sale of seized property pending Tax Court decision

For restrictions on sale of seized property pending Tax Court decision, see section 6863(b)(3).

(Aug. 16, 1954, ch. 736, 68A Stat. 785; Pub. L. 89–719, title I, § 104(d), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99–514, title XV, § 1570(a), Oct. 22, 1986, 100 Stat. 2764; Pub. L. 100–647, title VI, § 6236(g), Nov. 10, 1988, 102 Stat. 3740; Pub. L. 105–206, title III, § 3441(a), (b), July 22, 1998, 112 Stat. 761.)

AMENDMENTS

1998—Subsec. (e)(1)(A)(i). Pub. L. 105–206, § 3441(a), substituted ''a minimum price below which such property shall not be sold'' for ''a minimum price for which such property shall be sold''.

Subsec. (e)(4). Pub. L. 105–206, § 3441(b), added par. (4).

1988—Subsecs. (f), (g). Pub. L. 100–647 added subsec. (f) and redesignated former subsec. (f) as (g).

1986—Subsec. (e)(1). Pub. L. 99–514 amended par. (1) generally. Prior to amendment, par. (1) ''Minimum price'' read as follows: ''Before the sale the Secretary shall determine a minimum price for which the property shall be sold, and if no person offers for such property at the sale the amount of the minimum price, the property shall be declared to be purchased at such price for the United States; otherwise the property shall be declared to be sold to the highest bidder. In determining the minimum price, the Secretary shall take into account the expense of making the levy and sale.''

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1966—Subsec. (b). Pub. L. 89–719 inserted an alternative to the publication of notice of sale to allow publication in a newspaper generally circulated within the county in which the property is seized even though the newspaper is not published in such county.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3441(c), July 22, 1998, 112 Stat. 761, provided that: ''The amendments made by this section [amending this section] shall apply to sales made after the date of the enactment of this Act [July 22, 1998].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 applicable to requests made on or after Jan. 1, 1989, see section 6236(h)(2) of Pub. L. 100–647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1570(b) of Pub. L. 99–514 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to—

''(1) property seized after the date of the enactment of this Act [Oct. 22, 1986], and

''(2) property seized on or before such date which is held by the United States on such date.''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

UNIFORM ASSET DISPOSAL MECHANISM

Pub. L. 105–206, title III, § 3443, July 22, 1998, 112 Stat. 762, provided that: ''Not later than the date which is 2 years after the date of the enactment of this Act [July 22, 1998], the Secretary of the Treasury or the Secretary's delegate shall implement a uniform asset disposal mechanism for sales under section 6335 of the Internal Revenue Code of 1986. The mechanism should be designed to remove any participation in such sales by revenue officers of the Internal Revenue Service and should consider the use of outsourcing.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6331, 6337, 6338, 6339, 6340, 6343, 6502, 7426 of this title.

§ 6336. Sale of perishable goods

If the Secretary determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense, he shall appraise the value of such property and—

(1) Return to owner

If the owner of the property can be readily found, the Secretary shall give him notice of such determination of the appraised value of the property. The property shall be returned to the owner if, within such time as may be specified in the notice, the owner—

(A) Pays to the Secretary an amount equal to the appraised value, or

(B) Gives bond in such form, with such sureties, and in such amount as the Secretary shall prescribe, to pay the appraised amount at such time as the Secretary determines to be appropriate in the circumstances.

(2) Immediate sale

If the owner does not pay such amount or furnish such bond in accordance with this section, the Secretary shall as soon as practicable make public sale of the property in accordance with such regulations as may be prescribed by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 786; 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 sections 6335, 6863, 7103 of this title.

§ 6337. Redemption of property

(a) Before sale

Any person whose property has been levied upon shall have the right to pay the amount due, together with the expenses of the proceeding, if any, to the Secretary at any time prior to the sale thereof, and upon such payment the Secretary shall restore such property to him, and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(b) Redemption of real estate after sale

(1) Period

The owners of any real property sold as provided in section 6335, their heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the property sold, or any particular tract of such property, at any time within 180 days after the sale thereof.

(2) Price

Such property or tract of property shall be permitted to be redeemed upon payment to the purchaser, or in case he cannot be found in the county in which the property to be redeemed is situated, then to the Secretary, for the use of the purchaser, his heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of 20 percent per annum.

(c) Record

When any lands sold are redeemed as provided in this section, the Secretary shall cause entry of the fact to be made upon the record mentioned in section 6340, and such entry shall be evidence of such redemption.

(Aug. 16, 1954, ch. 736, 68A Stat. 787; Pub. L. 89–719, title I, § 104(e), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title III, § 349A(a), Sept. 3, 1982, 96 Stat. 639.)

AMENDMENTS

1982—Subsec. (b)(1). Pub. L. 97–248 substituted ''180 days'' for ''120 days''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1966—Subsec. (b)(1). Pub. L. 89–719 substituted ''120 days'' for ''1 year''.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 349A(b) of Pub. L. 97–248 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to property sold after the date of the enactment of this Act [Sept. 3, 1982].''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6338 of this title.

§ 6338. Certificate of sale; deed of real property

(a) Certificate of sale

In the case of property sold as provided in section 6335, the Secretary shall give to the purchaser a certificate of sale upon payment in full of the purchase price. In the case of real property, such certificate shall set forth the real property purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor.

(b) Deed to real property

In the case of any real property sold as provided in section 6335 and not redeemed in the manner and within the time provided in section 6337, the Secretary shall execute (in accordance with the laws of the State in which such real property is situated pertaining to sales of real property under execution) to the purchaser of such real property at such sale, upon his surrender of the certificate of sale, a deed of the real property so purchased by him, reciting the facts set forth in the certificate.

(c) Real property purchased by United States

If real property is declared purchased by the United States at a sale pursuant to section 6335, the Secretary shall at the proper time execute a deed therefor; and without delay cause such deed to be duly recorded in the proper registry of deeds.

(Aug. 16, 1954, ch. 736, 68A Stat. 787; Pub. L. 85–866, title I, § 78, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 89–719, title I, § 104(f), Nov. 2, 1966, 80 Stat. 1137; 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.

1966—Subsec. (c). Pub. L. 89–719 struck out provisions requiring the endorsement of approval as to the form of the deed by the United States Attorney for the district in which the property is situated.

1958—Subsec. (c). Pub. L. 85–866 struck out ''district'' before ''attorney''.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6339 of this title.

§ 6339. Legal effect of certificate of sale of personal property and deed of real property

(a) Certificate of sale of property other than real property

In all cases of sale pursuant to section 6335 of property (other than real property), the certificate of such sale—

(1) As evidence

Shall be prima facie evidence of the right of the officer to make such sale, and conclusive

evidence of the regularity of his proceedings in making the sale; and

(2) As conveyances

Shall transfer to the purchaser all right, title, and interest of the party delinquent in and to the property sold; and

(3) As authority for transfer of corporate stock

If such property consists of stocks, shall be notice, when received, to any corporation, company, or association of such transfer, and shall be authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not; and

(4) As receipts

If the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of such securities or other evidences of debt; and

(5) As authority for transfer of title to motor vehicle

If such property consists of a motor vehicle, shall be notice, when received, to any public official charged with the registration of title to motor vehicles, of such transfer and shall be authority to such official to record the transfer on his books and records in the same manner as if the certificate of title to such motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not.

(b) Deed of real property

In the case of the sale of real property pursuant to section 6335—

(1) Deed as evidence

The deed of sale given pursuant to section 6338 shall be prima facie evidence of the facts therein stated; and

(2) Deed as conveyance of title

If the proceedings of the Secretary as set forth have been substantially in accordance with the provisions of law, such deed shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real property thus sold at the time the lien of the United States attached thereto.

(c) Effect of junior encumbrances

A certificate of sale of personal property given or a deed to real property executed pursuant to section 6338 shall discharge such property from all liens, encumbrances, and titles over which the lien of the United States with respect to which the levy was made had priority.

(d) Cross references

(1) For distribution of surplus proceeds, see section 6342(b).

(2) For judicial procedure with respect to surplus proceeds, see section 7426(a)(2).

(Aug. 16, 1954, ch. 736, 68A Stat. 788; Pub. L. 85–866, title I, § 79, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 89–719, title I, § 104(g), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (b)(2). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1966—Subsecs. (c), (d). Pub. L. 89–719 added subsecs. (c) and (d).

1958—Subsec. (b)(2). Pub. L. 85–866 substituted ''as'' for ''of'' after ''Deed'' in heading.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

§ 6340. Records of sale

(a) Requirement

The Secretary shall, for each internal revenue district, keep a record of all sales of property under section 6335 and of redemptions of such property. The record shall set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making such sale, the amount of expenses, the names of the purchasers, and the date of the deed or certificate of sale of personal property.

(b) Copy as evidence

A copy of such record, or any part thereof, certified by the Secretary shall be evidence in any court of the truth of the facts therein stated.

(c) Accounting to taxpayer

The taxpayer with respect to whose liability the sale was conducted or who redeemed the property shall be furnished—

(1) the record under subsection (a) (other than the names of the purchasers);

(2) the amount from such sale applied to the taxpayer's liability; and

(3) the remaining balance of such liability.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105–206, title III, § 3442(a), July 22, 1998, 112 Stat. 761.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–206, § 3442(a)(1), struck out ''real'' after ''sales of'' and inserted ''or certificate of sale of personal property'' after ''deed''.

Subsec. (c). Pub. L. 105–206, § 3442(a)(2), added subsec. (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, § 3442(b), July 22, 1998, 112 Stat. 762, provided that: ''The amendments made by this section [amending this section] shall apply to seizures occurring after the date of the enactment of this Act [July 22, 1998].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6337 of this title.

§ 6341. Expense of levy and sale

The Secretary shall determine the expenses to be allowed in all cases of levy and sale.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; 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''.

§ 6342. Application of proceeds of levy

(a) Collection of liability

Any money realized by proceedings under this subchapter (whether by seizure, by surrender under section 6332 (except pursuant to subsection (c)(2)[1] thereof), or by sale of seized property) or by sale of property redeemed by the United States (if the interest of the United States in such property was a lien arising under the provisions of this title) shall be applied as follows:

(1) Expense of levy and sale

First, against the expenses of the proceedings;

(2) Specific tax liability on seized property

If the property seized and sold is subject to a tax imposed by any internal revenue law which has not been paid, the amount remaining after applying paragraph (1) shall then be applied against such tax liability (and, if such tax was not previously assessed, it shall then be assessed);

(3) Liability of delinquent taxpayer

The amount, if any, remaining after applying paragraphs (1) and (2) shall then be applied against the liability in respect of which the levy was made or the sale was conducted.

(b) Surplus proceeds

Any surplus proceeds remaining after the application of subsection (a) shall, upon application and satisfactory proof in support thereof, be credited or refunded by the Secretary to the person or persons legally entitled thereto.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 89–719, title I, § 104(h), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

REFERENCES IN TEXT

Section 6332(c), referred to in subsec. (a), was redesignated section 6332(d) by Pub. L. 100–647, title VI, § 6236(e)(1), Nov. 10, 1988, 102 Stat. 3739.

The internal revenue law, referred to in subsec. (a)(2), is classified generally to this title.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1966—Subsec. (a). Pub. L. 89–719 inserted in introductory provisions, references to an exception in the case of surrender under section 6332(c)(2) and to sale of property redeemed by the United States if the interest of the United States in such property was a lien arising under the provisions of this title, struck out ''under this subchapter'' after ''proceedings'' in par. (1), and inserted ''or the sale was conducted'' after ''levy was made'' in par. (3).

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6207 of this title.

§ 6343. Authority to release levy and return property

(a) Release of levy and notice of release

(1) In general

Under regulations prescribed by the Secretary, the Secretary shall release the levy upon all, or part of, the property or rights to property levied upon and shall promptly notify the person upon whom such levy was made (if any) that such levy has been released if—

(A) the liability for which such levy was made is satisfied or becomes unenforceable by reason of lapse of time,

(B) release of such levy will facilitate the collection of such liability,

(C) the taxpayer has entered into an agreement under section 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise,

(D) the Secretary has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or

(E) the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

For purposes of subparagraph (C), the Secretary is not required to release such levy if such release would jeopardize the secured creditor status of the Secretary.

(2) Expedited determination on certain business property

In the case of any tangible personal property essential in carrying on the trade or business of the taxpayer, the Secretary shall provide for an expedited determination under paragraph (1) if levy on such tangible personal property would prevent the taxpayer from carrying on such trade or business.

(3) Subsequent levy

The release of levy on any property under paragraph (1) shall not prevent any subsequent levy on such property.

(b) Return of property

If the Secretary determines that property has been wrongfully levied upon, it shall be lawful for the Secretary to return—

(1) the specific property levied upon,

(2) an amount of money equal to the amount of money levied upon, or

[1] See References in Text note below.

(3) an amount of money equal to the amount of money received by the United States from a sale of such property.

Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned at any time before the expiration of 9 months from the date of such levy. For purposes of paragraph (3), if property is declared purchased by the United States at a sale pursuant to section 6335(e) (relating to manner and conditions of sale), the United States shall be treated as having received an amount of money equal to the minimum price determined pursuant to such section or (if larger) the amount received by the United States from the resale of such property.

(c) Interest

Interest shall be allowed and paid at the overpayment rate established under section 6621—

(1) in a case described in subsection (b)(2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or

(2) in a case described in subsection (b)(3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days.

(d) Return of property in certain cases

If—

(1) any property has been levied upon, and

(2) the Secretary determines that—

(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

(C) the return of such property will facilitate the collection of the tax liability, or

(D) with the consent of the taxpayer or the National Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c).

(e) Release of levy upon agreement that amount is not collectible

In the case of a levy on the salary or wages payable to or received by the taxpayer, upon agreement with the taxpayer that the tax is not collectible, the Secretary shall release such levy as soon as practicable.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 89–719, title I, § 104(i), Nov. 2, 1966, 80 Stat. 1138; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–167, § 4(a), Dec. 29, 1979, 93 Stat. 1275; Pub. L. 99–514, title XV, § 1511(c)(10), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 100–647, title VI, § 6236(f), Nov. 10, 1988, 102 Stat. 3740; Pub. L. 104–168, title V, § 501(b), July 30, 1996, 110 Stat. 1460; Pub. L. 105–206, title I, § 1102(d)(1)(B), title III, § 3432(a), July 22, 1998, 112 Stat. 704, 759.)

AMENDMENTS

1998—Subsec. (d)(2)(D). Pub. L. 105–206, § 1102(d)(1)(B), substituted ''National Taxpayer Advocate'' for ''Taxpayer Advocate'' in two places.

Subsec. (e). Pub. L. 105–206, § 3432(a), added subsec. (e).

1996—Subsec. (d). Pub. L. 104–168 added subsec. (d).

1988—Subsec. (a). Pub. L. 100–647 inserted ''and notice of release'' after ''levy'' in heading and amended text generally. Prior to amendment, text read as follows: ''It shall be lawful for the Secretary, under regulations prescribed by the Secretary, to release the levy upon all or part of the property or rights to property levied upon where the Secretary determines that such action will facilitate the collection of the liability, but such release shall not operate to prevent any subsequent levy.''

1986—Subsec. (c). Pub. L. 99–514 substituted ''the overpayment rate established under section 6621'' for ''an annual rate established under section 6621''.

1979—Subsec. (c). Pub. L. 96–167 added subsec. (c).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1966—Pub. L. 89–719 inserted ''and return property'' in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1102 of Pub. L. 105–206 effective July 22, 1998, see section 1102(f) of Pub. L. 105–206, set out as a note under section 7803 of this title.

Pub. L. 105–206, title III, § 3432(b), July 22, 1998, 112 Stat. 759, provided that: ''The amendment made by this section [amending this section] shall apply to levies imposed after December 31, 1999.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 applicable to levies issued on or after July 1, 1989, see section 6236(h)(1) of Pub. L. 100–647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 4(c)(1) of Pub. L. 96–167 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to levies made after the date of the enactment of this Act [Dec. 29, 1979].''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6331, 6502, 6503, 6532 of this title.

§ 6344. Cross references

(a) Length of period

For period within which levy may be begun in case of—

(1) Income, estate, and gift taxes, and taxes imposed by chapter 41, 42, 43, or 44, see sections 6502(a) and 6503(a)(1).

(2) Employment and miscellaneous excise taxes, see section 6502(a).

(b) Delinquent collection officers

For distraint proceedings against delinquent internal revenue officers, see section 7804(c).

(c) Other references

For provisions relating to—

(1) Stamps, marks and brands, see section 6807.

(2) Administration of real estate acquired by the United States, see section 7506.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 91–172, title I, § 101(j)(45), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93–406, title II, § 1016(a)(13), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94–455, title XIII, § 1307(d)(2)(F)(v), title XVI, § 1605(b)(8), Oct. 4, 1976, 90 Stat. 1728, 1755; Pub. L. 96–223, title I, § 101(f)(1)(I), Apr. 2, 1980, 94 Stat. 252; Pub. L. 100–418, title I, § 1941(b)(2)(B)(ix), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 105–206, title I, § 1104(b)(1), July 22, 1998, 112 Stat. 710.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–206 substituted ''section 7804(c)'' for ''section 7803(d)''.

1988—Subsec. (a)(1). Pub. L. 100–418 substituted ''or 44'' for ''44, or 45''.

1980—Subsec. (a)(1). Pub. L. 96–223 inserted reference to chapter 45.

1976—Subsec. (a)(1). Pub. L. 94–455 inserted reference to chapters 41 and 44.

1974—Subsec. (a)(1). Pub. L. 93–406 inserted reference to chapter 43.

1969—Subsec. (a)(1). Pub. L. 91–172 inserted reference to chapter 42.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(F)(v) of Pub. L. 94–455 effective on and after Oct. 4, 1976, see section 1307(e) of Pub. L. 94–455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

[Subchapter E—Repealed]

[§§ 6361 to 6365. Repealed. Pub. L. 101–508, title XI, § 11801(a)(45), Nov. 5, 1990, 104 Stat. 1388–522]

Section 6361, added Pub. L. 92–512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 936; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), title XXI, § 2116(c), Oct. 4, 1976, 90 Stat. 1834, 1911, set forth general rules regarding collection of State individual income taxes.

Section 6362, added Pub. L. 92–512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 938; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), title XXI, § 2116(b), Oct. 4, 1976, 90 Stat. 1834, 1910; Pub. L. 95–473, § 2(a)(2)(H), Oct. 17, 1978, 92 Stat. 1465; Pub. L. 95–600, title IV, § 421(e)(8), Nov. 6, 1978, 92 Stat. 2877; Pub. L. 97–248, title II, § 201(d)(7), formerly § 201(c)(7), Sept. 3, 1982, 96 Stat. 420, redesignated Pub. L. 97–448, title III, § 306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97–354, § 5(a)(41), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 97–424, title V, § 547(b)(5), Jan. 6, 1983, 96 Stat. 2200; Pub. L. 98–369, div. A, title IV, §§ 412(b)(6), 474(r)(35), title VII, § 721(x)(5), July 18, 1984, 98 Stat. 792, 845, 972; Pub. L. 99–514, title XIII, § 1301(j)(8), Oct. 22, 1986, 100 Stat. 2658, related to qualified State individual income taxes.

Section 6363, added Pub. L. 92–512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 942; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–620, title IV, § 402(28)(C), Nov. 8, 1984, 98 Stat. 3359, related to State agreements and other procedures.

Section 6364, added Pub. L. 92–512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, authorized Secretary to prescribe regulations for this subchapter.

Section 6365, added Pub. L. 92–512, title II, § 202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94–455, title XIX, § 1906(a)(21), Oct. 4, 1976, 90 Stat. 1826; Pub. L. 97–248, title III, §§ 307(a)(8), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98–67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369, set forth definitions and special rules for this subchapter.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

Subchapter		Sec.[1]
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Subchapter A—Procedure in General

Sec.
6401. Amounts treated as overpayments.
6402. Authority to make credits or refunds.
6403. Overpayment of installment.
6404. Abatements.
6405. Reports of refunds and credits.
6406. Prohibition of administrative review of decisions.
6407. Date of allowance of refund or credit.
6408. State escheat laws not to apply.

AMENDMENTS

1987—Pub. L. 100–203, title X, § 10621(b), Dec. 22, 1987, 101 Stat. 1330–452, added item 6408.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1464, 7422, 7851 of this title.

§ 6401. Amounts treated as overpayments

(a) Assessment and collection after limitation period.

The term ''overpayment'' includes that part of the amount of the payment of any internal reve-

[1] Section numbers editorially supplied.

nue tax which is assessed or collected after the expiration of the period of limitation properly applicable thereto.

(b) Excessive credits

(1) In general

If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, D, and G of such part IV), the amount of such excess shall be considered an overpayment.

(2) Special rule for credit under section 33

For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year. The preceding sentence shall not apply to any credit so allowed by reason of section 1446.

(c) Rule where no tax liability

An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.

(Aug. 16, 1954, ch. 736, 68A Stat. 791; Pub. L. 89–44, title VIII, § 809(d)(6), June 21, 1965, 79 Stat. 168; Pub. L. 91–172, title III, § 331(c), Dec. 30, 1969, 83 Stat. 598; Pub. L. 91–258, title II, § 207(d)(1), May 21, 1970, 84 Stat. 248; Pub. L. 94–12, title II, § 204(b)(1), Mar. 29, 1975, 89 Stat. 31; Pub. L. 94–455, title VII, § 701(f)(2), (3), Oct. 4, 1976, 90 Stat. 1580; Pub. L. 95–600, title VII, § 701(u)(15)(D), Nov. 6, 1978, 92 Stat. 2919; Pub. L. 95–618, title III, § 301(c)(2), Nov. 9, 1978, 92 Stat. 3199; Pub. L. 96–222, title I, § 103(a)(2)(B)(iv), Apr. 1, 1980, 94 Stat. 209; Pub. L. 96–223, title II, § 223(b)(2), Apr. 2, 1980, 94 Stat. 266; Pub. L. 97–248, title III, §§ 307(a)(9), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98–67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 98–369, div. A, title IV, § 474(r)(36), title VII, § 735(c)(16), July 18, 1984, 98 Stat. 846, 985; Pub. L. 99–514, title XII, § 1246(b), Oct. 22, 1986, 100 Stat. 2582; Pub. L. 100–647, title I, § 1012(s)(1)(B), Nov. 10, 1988, 102 Stat. 3527; Pub. L. 105–206, title VI, § 6022(a), July 22, 1998, 112 Stat. 824.)

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–206 substituted ''D, and G'' for ''and D''.

1988—Subsec. (b)(2). Pub. L. 100–647 amended last sentence generally, substituting ''credit so allowed by reason of section 1446'' for ''amount deducted and withheld under section 1446''.

1986—Subsec. (b)(2). Pub. L. 99–514 inserted last sentence.

1984—Subsec. (b). Pub. L. 98–369, § 474(r)(36), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''If the amount allowable as credits under sections 31 (relating to tax withheld on wages) and 39 (relating to certain uses of gasoline and special fuels), and 43 (relating to earned income credit), exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than the credits allowable under sections 31, 39, and 43), the amount of such excess shall be considered an overpayment. For purposes of the preceding sentence, any credit allowed under paragraph (1) of section 32 (relating to withholding of tax on nonresident aliens and on foreign corporations) to a nonresident alien individual for a taxable year with respect to which an election under section 6013(g) or (h) is in effect shall be treated as an amount allowable as a credit under section 31.''

Pub. L. 98–369, § 735(c)(16), substituted ''and special fuels'' for '', special fuels, and lubricating oil''.

1983—Subsec. (b). Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

1982—Subsec. (b). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (b) is amended by inserting '', interest, dividends, and patronage dividends'' after ''tax withheld on wages''. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–247 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1980—Subsec. (d). Pub. L. 96–223 struck out subsec. (d) which made a cross reference to section 46(a)(9)(C) for a rule allowing a refund for excess investment credit attributable to solar or wind energy property.

Pub. L. 96–222 substituted ''46(a)(9)(C)'' for ''46(a)(10)(C)''.

1978—Subsec. (b). Pub. L. 95–600 inserted provisions relating to credit to a nonresident alien individual.

Subsec. (d). Pub. L. 95–618 added subsec. (d).

1976—Subsec. (b). Pub. L. 94–455 substituted ''wages) and'' and ''lubricating oil), and'' for ''wages),'' and ''lubricating oil),'', respectively; and pars. (2) and (3) made identical change: striking out ''and 667(b) (relating to taxes paid by certain trusts)'' after ''(relating to earned income credit)''.

1975—Subsec. (b). Pub. L. 94–12 inserted ''43 (relating to earned income credit),'' before ''and 667(b)'' and substituted '', 39, and 43'' for ''and 39''.

1970—Subsec. (b). Pub. L. 91–258 inserted reference to credits under section 39 relating to certain uses of special fuels.

1969—Subsec. (b). Pub. L. 91–172 struck out ''under sections 31 and 39'' after ''Excessive credits'' in heading and inserted in text reference to section 667(b) (relating to taxes paid by certain trusts).

1965—Subsec. (b). Pub. L. 89–44 substituted ''Excessive credits under sections 31 and 39'' for ''Excessive withholding'' in heading and expanded text to include credits under section 39.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title VI, § 6022(b), July 22, 1998, 112 Stat. 824, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 701(b) of the Tax Reform Act of 1986 [Pub. L. 99–514].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 applicable to taxable years beginning after Dec. 31, 1987, see section 1012(s)(1)(D) of Pub. L. 100–647, set out as a note under section 1446 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to distributions after Dec. 31, 1987, or, if earlier, the effective date of the initial regulations issued under section 1446 of this title, which date shall not be earlier than Jan. 1, 1987, see section 1246(d) of Pub. L. 99–514, set out as an Effective Date note under section 1446 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(36) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983,

and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

Amendment by section 735(c)(16) of Pub. L. 98–369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97–424, to which such amendment relates, see section 736 of Pub. L. 98–369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–223 applicable to qualified investment for taxable years beginning after Dec. 31, 1979, see section 223(b)(3) of Pub. L. 96–223, set out as a note under section 46 of this title.

Amendment by Pub. L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95–600, to which such amendment relates, see section 201 of Pub. L. 96–222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600, to the extent amendment relates to chapter 1 or 5 of this title, applicable to taxable years ending on or after Dec. 31, 1975, and, to the extent amendment relates to wage withholding under chapter 24 of this title, applicable to remuneration paid on or after the first day of the first month which begins more than 90 days after Nov. 6, 1978, see section 701(u)(15)(E) of Pub. L. 95–600, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 applicable to distributions made in taxable years beginning after Dec. 31, 1975, see section 701(h) of Pub. L. 94–455, set out as a note under section 667 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–12 applicable to taxable years beginning after Dec. 31, 1974, see section 209(b) of Pub. L. 94–12, as amended, set out as a note under section 32 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 before Jan. 1, 1970, see section 331(d) of Pub. L. 91–172, set out as a note under section 665 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable to taxable years beginning on or after July 1, 1965, see section 809(f) of Pub. L. 89–44, set out as a note under section 6420 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35, 6514 of this title.

§ 6402. Authority to make credits or refunds

(a) General rule

In the case of any overpayment, the Secretary, within the applicable period of limitations, may credit the amount of such overpayment, including any interest allowed thereon, against any liability in respect of an internal revenue tax on the part of the person who made the overpayment and shall, subject to subsections (c), (d), and (e) refund any balance to such person.

(b) Credits against estimated tax

The Secretary is authorized to prescribe regulations providing for the crediting against the estimated income tax for any taxable year of the amount determined by the taxpayer or the Secretary to be an overpayment of the income tax for a preceding taxable year.

(c) Offset of past-due support against overpayments

The amount of any overpayment to be refunded to the person making the overpayment shall be reduced by the amount of any past-due support (as defined in section 464(c) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of the Social Security Act. The Secretary shall remit the amount by which the overpayment is so reduced to the State collecting such support and notify the person making the overpayment that so much of the overpayment as was necessary to satisfy his obligation for past-due support has been paid to the State. A reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26)[1] or 471(a)(17) of the Social Security Act, and shall be applied to satisfy any other past-due support after any other reductions allowed by law (but before a credit against future liability for an internal revenue tax) have been made. This subsection shall be applied to an overpayment prior to its being credited to a person's future liability for an internal revenue tax.

(d) Collection of debts owed to Federal agencies

(1) In general

Upon receiving notice from any Federal agency that a named person owes a past-due legally enforceable debt (other than past-due support subject to the provisions of subsection (c)) to such agency, the Secretary shall—

(A) reduce the amount of any overpayment payable to such person by the amount of such debt;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such agency; and

(C) notify the person making such overpayment that such overpayment has been reduced by an amount necessary to satisfy such debt.

(2) Priorities for offset

Any overpayment by a person shall be reduced pursuant to this subsection after such overpayment is reduced pursuant to subsection (c) with respect to past-due support collected pursuant to an assignment under section 402(a)(26)[1] of the Social Security Act and before such overpayment is reduced pursuant to subsection (e) and before such overpayment is credited to the future liability for tax of such person pursuant to subsection (b). If the Secretary receives notice from a Federal agency or agencies of more than one debt subject to paragraph (1) that is owed by a person to such agency or agencies, any overpayment

[1] See References in Text note below.

by such person shall be applied against such debts in the order in which such debts accrued.

(3) Treatment of OASDI overpayments

(A) Requirements

Paragraph (1) shall apply with respect to an OASDI overpayment only if the requirements of paragraphs (1) and (2) of section 3720A(f) of title 31, United States Code, are met with respect to such overpayment.

(B) Notice; protection of other persons filing joint return

(i) Notice

In the case of a debt consisting of an OASDI overpayment, if the Secretary determines upon receipt of the notice referred to in paragraph (1) that the refund from which the reduction described in paragraph (1)(A) would be made is based upon a joint return, the Secretary shall—

(I) notify each taxpayer filing such joint return that the reduction is being made from a refund based upon such return, and

(II) include in such notification a description of the procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

(ii) Adjustments based on protections given to other taxpayers on joint return

If the other person filing a joint return with the person owing the OASDI overpayment takes appropriate action to secure his or her proper share of the refund subject to reduction under this subsection, the Secretary shall pay such share to such other person. The Secretary shall deduct the amount of such payment from amounts which are derived from subsequent reductions in refunds under this subsection and are payable to a trust fund referred to in subparagraph (C).

(C) Deposit of amount of reduction into appropriate trust fund

In lieu of payment, pursuant to paragraph (1)(B), of the amount of any reduction under this subsection to the Commissioner of Social Security, the Secretary shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary as appropriate by the Commissioner of Social Security.

(D) OASDI overpayment

For purposes of this paragraph, the term ''OASDI overpayment'' means any overpayment of benefits made to an individual under title II of the Social Security Act.

(e) Collection of past-due, legally enforceable State income tax obligations

(1) In general

Upon receiving notice from any State that a named person owes a past-due, legally enforceable State income tax obligation to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

(A) reduce the amount of any overpayment payable to such person by the amount of such State income tax obligation;

(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State income tax obligation.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

(2) Offset permitted only against residents of State seeking offset

Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.

(3) Priorities for offset

Any overpayment by a person shall be reduced pursuant to this subsection—

(A) after such overpayment is reduced pursuant to—

(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

(ii) subsection (c) with respect to past-due support; and

(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from one or more agencies of the State of more than one debt subject to paragraph (1) that is owed by such person to such an agency, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

(4) Notice; consideration of evidence

No State may take action under this subsection until such State—

(A) notifies by certified mail with return receipt the person owing the past-due State income tax liability that the State proposes to take action pursuant to this section;

(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable;

(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable; and

(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C)

is valid and that the State has made reasonable efforts to obtain payment of such State income tax obligation.

(5) Past-due, legally enforceable State income tax obligation

For purposes of this subsection, the term ''past-due, legally enforceable State income tax obligation'' means a debt—

(A)(i) which resulted from—

(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of State income tax to be due; or

(II) a determination after an administrative hearing which has determined an amount of State income tax to be due; and

(ii) which is no longer subject to judicial review; or

(B) which resulted from a State income tax which has been assessed but not collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term ''State income tax'' includes any local income tax administered by the chief tax administration agency of the State.

(6) Regulations

The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State income tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of State income taxes and the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

(7) Erroneous payment to State

Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).

(f) Review of reductions

No court of the United States shall have jurisdiction to hear any action, whether legal or equitable, brought to restrain or review a reduction authorized by subsection (c), (d), or (e). No such reduction shall be subject to review by the Secretary in an administrative proceeding. No action brought against the United States to recover the amount of any such reduction shall be considered to be a suit for refund of tax. This subsection does not preclude any legal, equitable, or administrative action against the Federal agency or State to which the amount of such reduction was paid or any such action against the Commissioner of Social Security which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act.

(g) Federal agency

For purposes of this section, the term ''Federal agency'' means a department, agency, or instrumentality of the United States, and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).

(h) Treatment of payments to States

The Secretary may provide that, for purposes of determining interest, the payment of any amount withheld under subsection (c) or (e) to a State shall be treated as a payment to the person or persons making the overpayment.

(i) Cross reference

For procedures relating to agency notification of the Secretary, see section 3721 of title 31, United States Code.

(j) Refunds to certain fiduciaries of insolvent members of affiliated groups

Notwithstanding any other provision of law, in the case of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return for any taxable year and which is subject to a statutory or court-appointed fiduciary, the Secretary may by regulation provide that any refund for such taxable year may be paid on behalf of such insolvent corporation to such fiduciary to the extent that the Secretary determines that the refund is attributable to losses or credits of such insolvent corporation.

(k) Explanation of reason for refund disallowance

In the case of a disallowance of a claim for refund, the Secretary shall provide the taxpayer with an explanation for such disallowance.

(Aug. 6, 1954, ch. 736, 68A Stat. 791; Pub. L. 94–455, title XIX, § 1906(b)(13) (A), (K), Oct. 4, 1976, 90 Stat. 1834, 1835; Pub. L. 97–35, title XXIII, § 2331(c), Aug. 13, 1981, 95 Stat. 861; Pub. L. 98–369, div. B, title VI, § 2653(b)(1), (2), July 18, 1984, 98 Stat. 1154, 1155; Pub. L. 98–378, § 21(e), Aug. 16, 1984, 98 Stat. 1325; Pub. L. 100–647, title VI, § 6276, Nov. 10, 1988, 102 Stat. 3753; Pub. L. 101–508, title V, § 5129(c), Nov. 5, 1990, 104 Stat. 1388–288; Pub. L. 103–296, title I, § 108(h)(7), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 104–134, title III, § 31001(u)(2), Apr. 26, 1996, 110 Stat. 1321–375; Pub. L. 104–193, title I, § 110(*l*)(7), Aug. 22, 1996, 110 Stat. 2173; Pub. L. 105–33, title V, § 5514(a)(1), Aug. 5, 1997, 111 Stat. 620; Pub. L. 105–206, title III, §§ 3505(a), 3711(a), (c), July 22, 1998, 112 Stat. 771, 779, 781.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (c), (d)(2), (3)(D), and (f), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Sections 204, 464, and 471(a)(17) of the Act are classified to sections 404, 664, and 671(a)(17) of Title 42. Section 402 of the Act, which was classified to section 602 of Title 42, was re-

pealed and a new section 402 enacted by Pub. L. 104–193, title I, § 103(a)(1), Aug. 22, 1996, 110 Stat. 2112. As so enacted section 402 does not contain a subsec. (a)(26). For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–206, § 3711(c)(1), substituted ''(c), (d), and (e)'' for ''(c) and (d)''.

Subsec. (d)(2). Pub. L. 105–206, § 3711(c)(2), substituted ''and before such overpayment is reduced pursuant to subsection (e) and before such overpayment'' for ''and before such overpayment''.

Subsec. (e). Pub. L. 105–206, § 3711(a), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105–206, § 3711(a), (c)(3), redesignated subsec. (e) as (f) and substituted ''(c), (d), or (e)'' for ''(c) or (d)'' and ''Federal agency or State'' for ''Federal agency''. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 105–206, § 3711(a), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 105–206, § 3711(a), (c)(4), redesignated subsec. (g) as (h) and substituted ''subsection (c) or (e)'' for ''subsection (c)''. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 105–206, § 3711(a), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 105–206, § 3711(a), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Pub. L. 105–206, § 3505(a), added subsec. (j).

Subsec. (k). Pub. L. 105–206, § 3711(a), redesignated subsec. (j) as (k).

1997—Subsecs. (a), (e) to (j). Pub. L. 105–33 repealed Pub. L. 104–193, § 110(*l*)(7). See 1996 Amendment notes below.

1996—Subsec. (a). Pub. L. 104–193, § 110(*l*)(7)(A), which directed substitution of ''(c), (d), and (e)'' for ''(c) and (d)'', was repealed by Pub. L. 105–33.

Subsec. (e). Pub. L. 104–193, § 110(*l*)(7)(C), which directed amendment by adding subsec. (e), reading as follows: ''COLLECTION OF OVERPAYMENTS UNDER TITLE IV–A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 405(e) of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).'', was repealed by Pub. L. 105–33.

Subsec. (f). Pub. L. 104–193, § 110(*l*)(7)(B), which directed amendment by redesignating subsec. (e) as (f), was repealed by Pub. L. 105–33.

Pub. L. 104–134 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).''

Subsecs. (g) to (j). Pub. L. 104–193, § 110(*l*)(7)(B), which directed amendment by redesignating subsecs. (f) to (i) as (g) to (j), respectively, was repealed by Pub. L. 105–33.

1994—Subsecs. (d)(3)(C), (e). Pub. L. 103–296 substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services'' wherever appearing.

1990—Subsec. (d)(1). Pub. L. 101–508, § 5129(c)(1)(A), struck out ''any OASDI overpayment and'' after ''(other than''.

Subsec. (d)(3). Pub. L. 101–508, § 5129(c)(1)(B), added par. (3) and struck out former par. (3) which read as follows: ''For purposes of this subsection the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act.''

Subsec. (e). Pub. L. 101–508, § 5129(c)(2), inserted before period at end ''or any such action against the Secretary of Health and Human Services which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act''.

1988—Subsec. (i). Pub. L. 100–647 added subsec. (i).

1984—Subsec. (a). Pub. L. 98–369, § 2653(b)(2), substituted ''subsections (c) and (d)'' for ''subsection (c)''.

Subsec. (c). Pub. L. 98–378, § 21(e)(1), substituted ''collecting such support'' for ''to which such support has been assigned'' and inserted provision that a reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26) or 471(a)(17) of the Social Security Act, and shall be applied to satisfy any other past-due support after any other reductions allowed by law (but before a credit against future liability for an internal revenue tax) have been made.

Subsecs. (d) to (f). Pub. L. 98–369, § 2653(b)(1), added subsecs. (d) to (f).

Subsec. (g). Pub. L. 98–378, § 21(e)(2), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 98–369, § 2653(b)(1), added subsec. (g).

Subsec. (h). Pub. L. 98–378, § 21(e)(2), redesignated former subsec. (g) as (h).

1981—Subsec. (a). Pub. L. 97–35, § 2331(c)(1), inserted reference to subsec. (c) of this section.

Subsec. (c). Pub. L. 97–35, § 2331(c)(2), added subsec. (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, § 3505(b), July 22, 1998, 112 Stat. 771, provided that: ''The amendment made by this section [amending this section] shall apply to disallowances after the 180th day after the date of the enactment of this Act [July 22, 1998].''

Amendment by section 3711 of Pub. L. 105–206 applicable to refunds payable under this section after Dec. 31, 1999, see section 3711(d) of Pub. L. 105–206, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective as if included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, at the time such section 110 became law, see section 5518(c) of Pub. L. 105–33, set out as a note under section 51 of this title.

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 OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5129(d) of Pub. L. 101–508 provided that: ''The amendments made by this section [amending this section, section 3720A of Title 31, Money and Finance, and section 404 of Title 42, The Public Health and Welfare]—

''(1) shall take effect January 1, 1991, and

''(2) shall not apply to refunds to which the amendments made by section 2653 of the Deficit Reduction Act of 1984 (98 Stat. 1153) [enacting section 3720A of Title 31 and amending this section and sections 6103 and 7213 of this title] do not apply.''

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–378 applicable with respect to refunds payable under this section after Dec. 31, 1985, see section 21(g) of Pub. L. 98–378, set out as a note under section 6103 of this title.

Section 2653(c) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–203, title IX, § 9402(a), Dec. 22, 1987, 101 Stat. 1330–376; Pub. L. 100–485, title VII, § 701(a), Oct. 13, 1988, 102 Stat. 2425; Pub. L. 102–164, title IV, § 401(a), Nov. 15, 1991, 105 Stat. 1061, provided that: ''The amendments made by this section [enacting section 3720A of Title 31, Money and Finance, and amending this section and sections 6103 and 7213 of this title] shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] after December 31, 1985.''

[Pub. L. 102–164, title IV, § 401(b), Nov. 15, 1991, 105 Stat. 1061, provided that: ''The amendment made by this section [amending section 2653(c) of Pub. L. 98–369, set out above] shall take effect on October 1, 1991.'']

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective, except as otherwise specifically provided, on Oct. 1, 1981, see section 2336 of Pub. L. 97–35, set out as a note under section 651 of Title 42, The Public Health and Welfare.

ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS

Pub. L. 104–191, title III, § 371, Aug. 21, 1996, 110 Stat. 2072, provided that:

''(a) IN GENERAL.—The Secretary of the Treasury shall, to the extent practicable, include with the mailing of any payment of a refund of individual income tax made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

''(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

''(1) encourages organ and tissue donation;

''(2) includes a detachable organ and tissue donor card; and

''(3) urges recipients to—

''(A) sign the organ and tissue donor card;

''(B) discuss organ and tissue donation with family members and tell family members about the recipient's desire to be an organ and tissue donor if the occasion arises; and

''(C) encourage family members to request or authorize organ and tissue donation if the occasion arises.''

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98–369

Pub. L. 100–203, title IX, § 9402(b), Dec. 22, 1987, 101 Stat. 1330–376, provided that:

''(1) Nothing in the amendments made by section 2653 of the Deficit Reduction Act of 1984 [enacting section 3720A of Title 31, Money and Finance, and amending this section and sections 6103 and 7213 of this title] shall be construed as exempting debts of corporations or any other category of persons from the application of such amendments.

''(2) It is the intent of the Congress that, to the extent practicable, the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall extend to all Federal agencies (as defined in the amendments made by such section).

''(3) The Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection.''

STUDY BY GENERAL ACCOUNTING OFFICE OF OPERATION AND EFFECTIVENESS OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98–369

Pub. L. 100–203, title IX, § 9402(c), Dec. 22, 1987, 101 Stat. 1330–376, provided that: ''The Comptroller General of the United States, in consultation with the Secretary of the Treasury or his delegate, shall conduct a study of the operation and effectiveness of the amendments made by section 2653 of the Deficit Reduction Act of 1984 [enacting section 3720A of Title 31, Money and Finance, and amending this section and sections 6103 and 7213 of this title]. The study shall compile and evaluate information on the effect of those amendments on voluntary compliance with the income tax laws. Not later than April 1, 1989, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of the study conducted under this subsection, together with such recommendations as he may deem advisable.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6331, 6403, 6512, 6513, 6861, 9502 of this title; title 42 section 664.

§ 6403. Overpayment of installment

In the case of a tax payable in installments, if the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in section 6402.

(Aug. 16, 1954, ch. 736, 68A Stat. 791.)

§ 6404. Abatements

(a) General rule

The Secretary is authorized to abate the unpaid portion of the assessment of any tax or any liability in respect thereof, which—

(1) is excessive in amount, or

(2) is assessed after the expiration of the period of limitation properly applicable thereto, or

(3) is erroneously or illegally assessed.

(b) No claim for abatement of income, estate, and gift taxes

No claim for abatement shall be filed by a taxpayer in respect of any assessment of any tax imposed under subtitle A or B.

(c) Small tax balances

The Secretary is authorized to abate the unpaid portion of the assessment of any tax, or any liability in respect thereof, if the Secretary determines under uniform rules prescribed by the Secretary that the administration and collection costs involved would not warrant collection of the amount due.

(d) Assessments attributable to certain mathematical errors by Internal Revenue Service

In the case of an assessment of any tax imposed by chapter 1 attributable in whole or in part to a mathematical error described in section 6213(g)(2)(A), if the return was prepared by an officer or employee of the Internal Revenue Service acting in his official capacity to provide assistance to taxpayers in the preparation of income tax returns, the Secretary is authorized to abate the assessment of all or any part of any interest on such deficiency for any period ending on or before the 30th day following the date of

notice and demand by the Secretary for payment of the deficiency.

(e) Abatement of interest attributable to unreasonable errors and delays by Internal Revenue Service

(1) In general

In the case of any assessment of interest on—

(A) any deficiency attributable in whole or in part to any unreasonable error or delay by an officer or employee of the Internal Revenue Service (acting in his official capacity) in performing a ministerial or managerial act, or

(B) any payment of any tax described in section 6212(a) to the extent that any unreasonable error or delay in such payment is attributable to such an officer or employee being erroneous or dilatory in performing a ministerial or managerial act,

the Secretary may abate the assessment of all or any part of such interest for any period. For purposes of the preceding sentence, an error or delay shall be taken into account only if no significant aspect of such error or delay can be attributed to the taxpayer involved, and after the Internal Revenue Service has contacted the taxpayer in writing with respect to such deficiency or payment.

(2) Interest abated with respect to erroneous refund check

The Secretary shall abate the assessment of all interest on any erroneous refund under section 6602 until the date demand for repayment is made, unless—

(A) the taxpayer (or a related party) has in any way caused such erroneous refund, or

(B) such erroneous refund exceeds $50,000.

(f) Abatement of any penalty or addition to tax attributable to erroneous written advice by the Internal Revenue Service

(1) In general

The Secretary shall abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity.

(2) Limitations

Paragraph (1) shall apply only if—

(A) the written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer, and

(B) the portion of the penalty or addition to tax did not result from a failure by the taxpayer to provide adequate or accurate information.

(3) Initial regulations

Within 180 days after the date of the enactment of this subsection, the Secretary shall prescribe such initial regulations as may be necessary to carry out this subsection.

(g) Suspension of interest and certain penalties where Secretary fails to contact taxpayer

(1) Suspension

(A) In general

In the case of an individual who files a return of tax imposed by subtitle A for a taxable year on or before the due date for the return (including extensions), if the Secretary does not provide a notice to the taxpayer specifically stating the taxpayer's liability and the basis for the liability before the close of the 1-year period (18-month period in the case of taxable years beginning before January 1, 2004) beginning on the later of—

(i) the date on which the return is filed; or

(ii) the due date of the return without regard to extensions,

the Secretary shall suspend the imposition of any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return which is computed by reference to the period of time the failure continues to exist and which is properly allocable to the suspension period.

(B) Separate application

This paragraph shall be applied separately with respect to each item or adjustment.

(2) Exceptions

Paragraph (1) shall not apply to—

(A) any penalty imposed by section 6651;

(B) any interest, penalty, addition to tax, or additional amount in a case involving fraud;

(C) any interest, penalty, addition to tax, or additional amount with respect to any tax liability shown on the return; or

(D) any criminal penalty.

(3) Suspension period

For purposes of this subsection, the term ''suspension period'' means the period—

(A) beginning on the day after the close of the 1-year period (18-month period in the case of taxable years beginning before January 1, 2004) under paragraph (1); and

(B) ending on the date which is 21 days after the date on which notice described in paragraph (1)(A) is provided by the Secretary.

(h) Abatement of interest on underpayments by taxpayers in Presidentially declared disaster areas

(1) In general

If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

(2) Presidentially declared disaster area

For purposes of paragraph (1), the term ''Presidentially declared disaster area'' means,

with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(i) Review of denial of request for abatement of interest

(1) In general

The Tax Court shall have jurisdiction over any action brought by a taxpayer who meets the requirements referred to in section 7430(c)(4)(A)(ii) to determine whether the Secretary's failure to abate interest under this section was an abuse of discretion, and may order an abatement, if such action is brought within 180 days after the date of the mailing of the Secretary's final determination not to abate such interest.

(2) Special rules

(A) Date of mailing

Rules similar to the rules of section 6213 shall apply for purposes of determining the date of the mailing referred to in paragraph (1).

(B) Relief

Rules similar to the rules of section 6512(b) shall apply for purposes of this subsection.

(C) Review

An order of the Tax Court under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(Aug. 16, 1954, ch. 736, 68A Stat. 792; Pub. L. 94–455, title XII, §1212(a), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1712, 1834; Pub. L. 96–589, §6(b)(2), Dec. 24, 1980, 94 Stat. 3407; Pub. L. 99–514, title XV, §1563(a), Oct. 22, 1986, 100 Stat. 2762; Pub. L. 100–647, title I, §1015(n), title VI, §6229(a), Nov. 10, 1988, 102 Stat. 3572, 3733; Pub. L. 104–168, title III, §§301(a), (b), 302(a), title VII, §701(c)(3), July 30, 1996, 110 Stat. 1457, 1464; Pub. L. 105–206, title III, §§3305(a), 3309(a), July 22, 1998, 112 Stat. 743, 745; Pub. L. 105–277, div. J, title IV, §4003(e)(2), Oct. 21, 1998, 112 Stat. 2681–909.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (f)(3), is the date of enactment of Pub. L. 100–647, which was approved Nov. 10, 1988.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (h)(2), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (g). Pub. L. 105–206, §3305(a), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 105–206, §3309(a), added subsec. (h). Former subsec. (h) redesignated (i).

Pub. L. 105–206, §3305(a), redesignated subsec. (g) as (h).

Subsec. (h)(2). Pub. L. 105–277 inserted ''Robert T. Stafford'' before ''Disaster''.

Subsec. (i). Pub. L. 105–206, §3309(a), redesignated subsec. (h) as (i).

1996—Subsec. (e). Pub. L. 104–168, §301(b), substituted ''Abatement of interest attributable to unreasonable errors'' for ''Assessments of interest attributable to errors'' in heading.

Subsec. (e)(1)(A), (B). Pub. L. 104–168, §301(a), inserted ''unreasonable'' before ''error'' and substituted ''in performing a ministerial or managerial act'' for ''in performing a ministerial act''.

Subsec. (g). Pub. L. 104–168, §302(a), added subsec. (g).

Subsec. (g)(1). Pub. L. 104–168, §701(c)(3), substituted ''section 7430(c)(4)(A)(ii)'' for ''section 7430(c)(4)(A)(iii)''.

1988—Subsec. (e)(1)(B). Pub. L. 100–647, §1015(n), inserted ''error or'' before ''delay'' and ''erroneous or'' before ''dilatory''.

Subsec. (f). Pub. L. 100–647, §6229(a), added subsec. (f).

1986—Subsec. (e). Pub. L. 99–514 added subsec. (e).

1980—Subsec. (d). Pub. L. 96–589 substituted ''section 6213(g)(2)(A)'' for ''section 6213(f)(2)(A)''.

1976—Subsecs. (a), (c). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (d). Pub. L. 94–455, §1212(a), added subsec. (d).

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–277 effective as if included in the provision of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 4003(*l*) of Pub. L. 105–277, set out as a note under section 86 of this title.

Pub. L. 105–206, title III, §3305(b), July 22, 1998, 112 Stat. 743, provided that: ''The amendments made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [July 22, 1998].''

Pub. L. 105–206, title III, §3309(b), (c), July 22, 1998, 112 Stat. 745, provided that:

''(b) EFFECTIVE DATE.—The amendment made by this section [amending this section] shall apply to disasters declared after December 31, 1997, with respect to taxable years beginning after December 31, 1997.

''(c) EMERGENCY DESIGNATION.—

''(1) For the purposes of section 252(e) of the Balanced Budget and Emergency Deficit Control Act [2 U.S.C. 902(e)], Congress designates the provisions of this section as an emergency requirement.

''(2) The amendments made by subsections (a) and (b) of this section [amending this section] shall only take effect upon the transmittal by the President to the Congress of a message designating the provisions of subsections (a) and (b) as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act.''

[For message of the President dated July 22, 1998, designating the provisions of section 3309(a), (b) of Pub. L. 105–206 as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 on July 22, 1998, see Cong. Rec., vol. 144, p. H6160, Daily Issue.]

EFFECTIVE DATE OF 1996 AMENDMENT

Section 301(c) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section] shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act [July 30, 1996].''

Section 302(b) of Pub. L. 104–168 provided that: ''The amendment made by this section [amending this section] shall apply to requests for abatement after the date of the enactment of this Act [July 30, 1996].''

Section 701(d) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section and sections 6656 and 7430 of this title] shall apply in the case of proceedings commenced after the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1015(n) 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.

Section 6229(b) of Pub. L. 100–647 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to advice requested on or after January 1, 1989.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1563(b) of Pub. L. 99–514 provided that:

''(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after December 31, 1978.

''(2) STATUTE OF LIMITATIONS.—If refund or credit of any amount resulting from the application of the amendment made by subsection (a) is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act [Oct. 22, 1986] by the operation of any law or rule of law (including res judicata), refund or credit of such amount (to the extent attributable to the application of the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefore [sic] is filed before the close of such 1-year period.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective on Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1212(b) of Pub. L. 94–455 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to returns filed for taxable years ending after the date of enactment of this Act [Oct. 4, 1976].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6213, 6230 of this title.

§ 6405. Reports of refunds and credits

(a) By Treasury to Joint Committee

No refund or credit of any income, war profits, excess profits, estate, or gift tax, or any tax imposed with respect to public charities, private foundations, operators' trust funds, pension plans, or real estate investment trusts under chapter 41, 42, 43, or 44, in excess of $2,000,000 shall be made until after the expiration of 30 days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decision of the Secretary, is submitted to the Joint Committee on Taxation.

(b) Tentative adjustments

Any credit or refund allowed or made under section 6411 shall be made without regard to the provisions of subsection (a) of this section. In any such case, if the credit or refund, reduced by any deficiency in such tax thereafter assessed and by deficiencies in any other tax resulting from adjustments reflected in the determination of the credit or refund, is in excess of $2,000,000, there shall be submitted to such committee a report containing the matter specified in subsection (a) at such time after the making of the credit or refund as the Secretary shall determine the correct amount of the tax.

(c) Refunds attributable to certain disaster losses

If any refund or credit of income taxes is attributable to the taxpayer's election under section 165(i) to deduct a disaster loss for the taxable year immediately preceding the taxable year in which the disaster occurred, the Secretary is authorized in his discretion to make the refund or credit, to the extent attributable to such election, without regard to the provisions of subsection (a) of this section. If such refund or credit is made without regard to subsection (a), there shall thereafter be submitted to such Joint Committee a report containing the matter specified in subsection (a) as soon as the Secretary shall determine the correct amount of the tax for the taxable year for which the refund or credit is made.

(Aug. 16, 1954, ch. 736, 68A Stat. 792; Pub. L. 92–418, § 2(b), Aug. 29, 1972, 86 Stat. 657; Pub. L. 92–512, title II, § 203(a), Oct. 20, 1972, 86 Stat. 944; Pub. L. 94–455, title XII, § 1210(a), (b), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1711, 1834; Pub. L. 95–227, § 4(d)(3), Feb. 10, 1978, 92 Stat. 23; Pub. L. 98–369, div. A, title VII, § 711(c)(3), July 18, 1984, 98 Stat. 946; Pub. L. 99–514, title XVIII, § 1879(e), Oct. 22, 1986, 100 Stat. 2906; Pub. L. 101–508, title XI, §§ 11801(c)(21)(A), 11834(a), Nov. 5, 1990, 104 Stat. 1388–528, 1388–560; Pub. L. 106–554, § 1(a)(7) [title III, § 305(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–634.)

AMENDMENTS

2000—Subsecs. (a), (b). Pub. L. 106–554 substituted ''$2,000,000'' for ''$1,000,000''.

1990—Subsecs. (a), (b). Pub. L. 101–508, § 11834(a) substituted ''$1,000,000'' for ''$200,000''.

Subsec. (d). Pub. L. 101–508, § 11801(c)(21)(A), struck out subsec. (d) which read as follows: ''For purposes of this section, a refund or credit made under subchapter E of chapter 64 (relating to Federal collection of qualified State individual income taxes) for a taxable year shall be treated as a portion of a refund or credit of the income tax for that taxable year.''

1986—Subsecs. (b) to (e). Pub. L. 99–514 redesignated subsecs. (c) to (e) as (b) to (d), respectively, and struck out former subsec. (b) which read as follows: ''A report to Congress shall be made annually by such committee of such refunds and credits, including the names of all persons and corporations to whom amounts are credited or payments are made, together with the amounts credited or paid to each.''

1984—Subsec. (d). Pub. L. 98–369 substituted ''section 165(i)'' for ''section 165(h)''.

1978—Subsec. (a). Pub. L. 95–227 inserted provisions relating to applicability to public charities, operators' trust funds, or real estate investment trusts, and references to chapters 41 and 44.

1976—Subsec. (a). Pub. L. 94–455, § 1210(a), inserted reference to any tax imposed with respect to private foundations and pensions under chapters 42 and 43, substituted $200,000 for $100,000 and struck out ''or his delegate'' after ''Secretary''.

Subsec. (c). Pub. L. 94–455, §§ 1210(b), 1906(b)(13)(A), substituted ''$200,000'' for ''$100,000'' and struck out ''or his delegate'' after ''Secretary''.

Subsec. (d). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1972—Subsec. (d). Pub. L. 92–418 added subsec. (d).

Subsec. (e). Pub. L. 92–512 added subsec. (e).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, § 1(a)(7) [title III, § 305(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–634, provided that: ''The

amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 21, 2000], except that such amendment shall not apply with respect to any refund or credit with respect to a report that has been made before such date of the enactment under section 6405 of the Internal Revenue Code of 1986.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11834(b) of Pub. L. 101–508 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990], except that such amendment shall not apply with respect to any refund or credit with respect to a report has been made before such date of enactment under section 6405 of the Internal Revenue Code of 1986.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95–227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1210(d)(1) of Pub. L. 94–455, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall take effect on the date of enactment of this Act [Oct. 4, 1976], except that such amendments shall not apply with respect to any refund or credit with respect to which a report has been made before the date of enactment of this Act [Oct. 4, 1976] under subsection (a) or (c) of section 6405 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].''

EFFECTIVE DATE OF 1972 AMENDMENT

Section 2(c) of Pub. L. 92–418 provided in part that: ''The amendment made by subsection (b) [amending this section] shall apply with respect to refunds or credits made after July 1, 1972.''

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(c)(21)(A) of Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

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 sections 7851, 8022 of this title.

§ 6406. Prohibition of administrative review of decisions

In the absence of fraud or mistake in mathematical calculation, the findings of fact in and the decision of the Secretary upon the merits of any claim presented under or authorized by the internal revenue laws and the allowance or nonallowance by the Secretary of interest on any credit or refund under the internal revenue laws shall not, except as provided in subchapters C and D of chapter 76 (relating to the Tax Court), be subject to review by any other administrative or accounting officer, employee, or agent of the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 792; 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 6611 of this title; title 31 section 713.

§ 6407. Date of allowance of refund or credit

The date on which the Secretary first authorizes the scheduling of an overassessment in respect of any internal revenue tax shall be considered as the date of allowance of refund or credit in respect of such tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 793; 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.

§ 6408. State escheat laws not to apply

No overpayment of any tax imposed by this title shall be refunded (and no interest with respect to any such overpayment shall be paid) if the amount of such refund (or interest) would escheat to a State or would otherwise become the property of a State under any law relating to the disposition of unclaimed or abandoned property. No refund (or payment of interest) shall be made to the estate of any decedent unless it is affirmatively shown that such amount will not escheat to a State or otherwise become the property of a State under such a law.

(Added Pub. L. 100–203, title X, § 10621(a), Dec. 22, 1987, 101 Stat. 1330–452.)

EFFECTIVE DATE

Section 10621(c) of Pub. L. 100–203 provided that: ''The amendments made by this section [enacting this section] shall take effect on the date of the enactment of this Act [Dec. 22, 1987].''

Subchapter B—Rules of Special Application

Sec.
6411. Tentative carryback and refund adjustments.
6412. Floor stocks refunds.
6413. Special rules applicable to certain employment taxes.
6414. Income tax withheld.
6415. Credits or refunds to persons who collected certain taxes.

Sec.
6416. Certain taxes on sales and services.
[6417, 6418. Repealed.]
6419. Excise tax on wagering.
6420. Gasoline used on farms.
6421. Gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes.
6422. Cross references.
6423. Conditions to allowance in the case of alcohol and tobacco taxes.
[6424. Repealed.]
6425. Adjustment of overpayment of estimated income tax by corporation.
[6426. Repealed.]
6427. Fuels not used for taxable purposes.
[6428 to 6430. Repealed.]

AMENDMENTS

1990—Pub. L. 101–508, title XI, §11801(b)(15), (c)(22)(B)(ii), Nov. 5, 1990, 104 Stat. 1388–522, 1388–528, struck out item 6418 ''Sugar'' and item 6428 ''1981 rate reduction tax credit''.

1988—Pub. L. 100–418, title I, §1941(b)(3)(E), Aug. 23, 1988, 102 Stat. 1324, struck out items 6429 ''Credit and refund of chapter 45 taxes paid by royalty owners'' and 6430 ''Credit or refund of windfall profit taxes to certain trust beneficiaries''.

1986—Pub. L. 99–514, title XVII, §1703(c)(2)(E), Oct. 22, 1986, 100 Stat. 2777, substituted '', used by local transit systems, or sold for certain exempt purposes'' for ''or by local transit systems'' in item 6421.

1983—Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

Pub. L. 97–448, title I, §106(a)(4)(D), Jan. 12, 1983, 96 Stat. 2390, added item 6430.

Pub. L. 97–424, title V, §515(b)(14), Jan. 6, 1983, 96 Stat. 2182, struck out item 6424 ''Lubricating oil used for certain nontaxable purposes''.

1982—Pub. L. 97–248, title II, §280(c)(2)(H), Sept. 3, 1982, 96 Stat. 565, struck out item 6426 ''Refund of aircraft use tax where plane transports for hire in foreign air commerce''.

Pub. L. 97–248, title III, §§307(a)(13), 308(a), Sept. 3, 1982, 96 Stat. 590, 591, provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, item 6413 is amended by substituting ''taxes under subtitle C'' for ''employment taxes''. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1981—Pub. L. 97–34, title I, §101(b)(2)(A), Aug. 13, 1981, 95 Stat. 183, substituted ''1981 rate reduction tax credit'' for ''Refund of 1974 individual income taxes'' in item 6428.

1980—Pub. L. 96–499, title XI, §1131(a)(2), Dec. 5, 1980, 94 Stat. 2693, added item 6429.

1978—Pub. L. 95–618, title II, §233(b)(2)(B), Nov. 9, 1978, 92 Stat. 3191, substituted ''used for certain nontaxable purposes'' for ''not used in highway motor vehicles'' in item 6424.

Pub. L. 95–600, title V, §504(b)(1)(B), Nov. 6, 1978, 92 Stat. 2881, inserted ''and refund'' after ''carryback'' in item 6411.

1976—Pub. L. 94–455, title XIX, §1906(b)(7), Oct. 4, 1976, 90 Stat. 1834, struck out item 6417 ''Coconut and palm oil''.

1975—Pub. L. 94–12, title I, §101(c), Mar. 29, 1975, 89 Stat. 28, added item 6428.

1970—Pub. L. 91–258, title II, §§206(d)(4), 207(d)(12), May 21, 1970, 84 Stat. 246, 249, added items 6426 and 6427.

1968—Pub. L. 90–364, title I, §103(e)(9), June 28, 1968, 82 Stat. 264, added item 6425.

1958—Pub. L. 85–323, §2, Feb. 11, 1958, 72 Stat. 10, added item 6423.

1956—Act June 29, 1956, ch. 462, title II, §208(e)(4), 70 Stat. 397, added item 6421 and renumbered former item 6421 as 6422.

Act Apr. 2, 1956, ch. 160, §4(c), 70 Stat. 91, added item 6420 and renumbered former item 6420 as 6421.

§ 6411. Tentative carryback and refund adjustments

(a) Application for adjustment

A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by a business credit carryback provided in section 39, or by a capital loss carryback provided in subsection (a)(1) or (c) of section 1212, from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer and shall be filed, on or after the date of filing for the return for the taxable year of the net operating loss, net capital loss, or unused business credit from which the carryback results and within a period of 12 months after such taxable year or, with respect to any portion of a business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, in the manner and form required by regulations prescribed by the Secretary. The applications shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of the net operating loss, net capital loss, or unused business credit;

(2) The amount of the tax previously determined for the prior taxable year affected by such carryback, the tax previously determined being ascertained in accordance with the method prescribed in section 1314(a);

(3) The amount of decrease in such tax, attributable to such carryback, such decrease being determined by applying the carryback in the manner provided by law to the items on the basis of which such tax was determined;

(4) The unpaid amount of such tax, not including any amount required to be shown under paragraph (5);

(5) The amount, with respect to the tax for the taxable year immediately preceding the taxable year from which the carryback is made, as to which an extension of time for payment under section 6164 is in effect; and

(6) Such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

Except for purposes of applying section 6611(f)(3)(B),[1] an application under this subsection shall not constitute a claim for credit or refund.

(b) Allowance of adjustments

Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, or unused business credit

[1] See References in Text note below.

from which such carryback results, whichever is the later, the Secretary shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under section 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, net capital loss, or unused business credit the time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) Consolidated returns

If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss, net capital loss, or unused business credit arises, or for the preceding taxable year affected by such loss or credit, the provisions of this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary may by regulations prescribe.

(d) Tentative refund of tax under claim of right adjustment

(1) Application

A taxpayer may file an application for a tentative refund of any amount treated as an overpayment of tax for the taxable year under section 1341(b)(1). Such application shall be in such manner and form as the Secretary may prescribe by regulation and shall—

(A) be verified in the same manner as an application under subsection (a),

(B) be filed during the period beginning on the date of filing the return for such taxable year and ending on the date 12 months from the last day of such taxable year, and

(C) set forth in such detail and with such supporting data such regulations prescribe—

(i) the amount of the tax for such taxable year computed without regard to the deduction described in section 1341(a)(2),

(ii) the amount of the tax for all prior taxable years for which the decrease in tax provided in section 1341(a)(5)(B) was computed,

(iii) the amount determined under section 1341(a)(5)(B),

(iv) the amount of the overpayment determined under section 1341(b)(1); and

(v) such other information as the Secretary may require.

(2) Allowance of adjustments

Within a period of 90 days from the date on which an application is filed under paragraph (1) or from the date of the overpayment (determined under section 1341(b)(1)), whichever is later, the Secretary shall—

(A) review the application,

(B) determine the amount of the overpayment, and

(C) apply, credit, or refund such overpayment,

in a manner similar to the manner provided in subsection (b).

(3) Consolidated returns

The provisions of subsection (c) shall apply to an adjustment under this subsection to the same extent and manner as the Secretary may by regulations provide.

(Aug. 16, 1954, ch. 736, 68A Stat. 794; Pub. L. 89–721, §2(a)–(e), Nov. 2, 1966, 80 Stat. 1150; Pub. L. 90–225, §2(b), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91–172, title V, §512(d), Dec. 30, 1969, 83 Stat. 639; Pub. L. 92–178, title VI, §601(e)(1), Dec. 10, 1971, 85 Stat. 560; Pub. L. 94–455, title XIX, §1906(b)(13)(A), title XXI, §2107(g)(1), Oct. 4, 1976, 90 Stat. 1834, 1904; Pub. L. 95–30, title II, §202(d)(5)(A), May 23, 1977, 91 Stat. 150; Pub. L. 95–600, title V, §504(a), (b)(1)(A), Nov. 6, 1978, 92 Stat. 2880, 2881; Pub. L. 96–222, title I, §§103(a)(6)(G)(xiii), 105(a)(2), Apr. 1, 1980, 94 Stat. 211, 218; Pub. L. 97–34, title II, §221(b)(2)(B), title III, §331(d)(2)(B), Aug. 13, 1981, 95 Stat. 247, 295; Pub. L. 98–369, div. A, title IV, §474(r)(37), title VII, §714(n)(2)(B), July 18, 1984, 98 Stat. 846, 964; Pub. L. 99–514, title II, §231(d)(3)(H), title XVIII, §1847(b)(10), Oct. 22, 1986, 100 Stat. 2180, 2857; Pub. L. 100–647, title I, §1002(h)(2), Nov. 10, 1988, 102 Stat. 3370; Pub. L. 106–554, §1(a)(7) [title III, §318(d)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–645.)

REFERENCES IN TEXT

Section 6611(f)(3)(B), referred to in subsec. (a), was redesignated section 6611(f)(4)(B) of this title by Pub. L. 105–34, title X, §1055(b)(1), Aug. 5, 1997, 111 Stat. 944.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–554 substituted ''subsection (a)(1) or (c) of section 1212'' for ''section 1212(a)(1)'' in introductory provisions.

1988—Subsec. (c). Pub. L. 100–647 struck out ''unused research credit,'' after ''net capital loss,''.

1986—Subsec. (a). Pub. L. 99–514, §231(d)(3)(H), in introductory provisions, struck out ''by a research credit carryback provided in section 30(g)(2)'' after ''carryback provided in section 39,'', ''unused research credit,'' after ''net capital loss,'', ''a research credit carryback or'' after ''with respect to any portion of'', and ''(or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year)'' after ''such subsequent taxable year'', and in par. (1), struck out ''unused research credit,'' after ''net capital loss,''.

Pub. L. 99–514, §1847(b)(10), substituted ''unused research credit, or unused business credit'' for ''or unused business credit''.

Subsec. (b). Pub. L. 99–514, §231(d)(3)(H)(iv), struck out ''unused research credit,'' after ''net capital loss,'', in two places.

1984—Subsec. (a). Pub. L. 98–369, §474(r)(37)(A), amended provisions preceding par. (1) generally. Prior to amendment, such provisions read as follows: ''A tax-

payer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by an investment credit carryback provided in section 46(b), by a work incentive program carryback provided in section 50A(b), by a new employee credit carryback provided in section 53(b), by a research credit carryback provided in section 44F(g)(2) by an employee stock ownership credit carryback provided by section 44G(b)(2), or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit, from which the carryback results and within a period of 12 months from the end of such taxable year (or, with respect to any portion of an investment credit carryback, a work incentive program carryback, a new employee credit carryback, a research credit carryback, or employee stock ownership credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback (or, in the case of a work incentive program carryback, to an investment credit carryback, or, in the case of a new employee credit carryback, to an investment credit carryback or a work incentive program carryback, or, in the case of a research credit carryback, to an investment credit carryback, a work incentive program carryback, or a new employee credit carryback, or, in the case of an employee stock ownership credit carryback, to an investment credit carryback, a new employee credit carryback or a research and experimental credit carryback) from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—''.

Pub. L. 98–369, § 714(n)(2)(B), in provisions following par. (6), substituted ''Except for purposes of applying section 6611(f)(3)(B), an application'' for ''An application''.

Subsec. (a)(1). Pub. L. 98–369, § 474(r)(37)(A), substituted ''unused research credit, or unused business credit'' for ''unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit''.

Subsecs. (b), (c). Pub. L. 98–369, § 474(r)(37)(B), substituted ''unused research credit, or unused business credit'' for ''unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit'' wherever appearing.

1981—Subsec. (a). Pub. L. 97–34, § 331(d)(2)(B), inserted in introductory provisions ''by an employee stock ownership credit carryback provided by section 44G(b)(2)'' after ''section 44F(g)(2),'' and substituted ''unused research credit, or unused employee stock ownership credit'' for ''or unused research credit'', ''a research credit carryback, or employee stock ownership credit carryback'' for ''or a research credit carryback'', and ''new employee credit carryback, or, in the case of an employee stock ownership credit carryback, to an investment credit carryback, a new employee credit carryback or a research and experimental credit carryback)'' for ''new employee credit carryback)'' and in par. (1) substituted ''unused research credit, or unused employee stock ownership credit'' for ''or unused research credit''.

Pub. L. 97–34, § 221(b)(2)(B), inserted in introductory provision ''by a research credit carryback provided in section 44F(g)(2),'' after ''section 53(b),'' and substituted ''unused new employee credit, or unused research credit'' for ''or unused new employee credit'', ''a new employee credit carryback, or a research credit carryback'' for ''or a new employee credit carryback'', and ''work incentive program carryback, or, in the case of a research credit carryback, to an investment credit carryback, a work incentive program carryback, or new employee credit carryback)'' for ''work incentive program carryback)'' and in par. (1) substituted ''unused new employee credit, or unused research credit'' for ''or unused new employee credit''.

Subsec. (b). Pub. L. 97–34, § 331(d)(2)(B)(i), substituted ''unused research credit, or unused employee stock ownership credit'' for ''or unused research credit''.

Pub. L. 97–34, § 221(b)(2)(B)(i), substituted ''unused new employee credit, or unused research credit'' for ''or unused new employee credit''.

Subsec. (c). Pub. L. 97–34, § 331(d)(2)(B)(i), substituted ''unused research credit, or unused employee stock ownership credit'' for ''or unused research credit''.

Pub. L. 97–34, § 221(b)(2)(B)(i), substituted ''unused new employee credit, or unused research credit'' for ''or unused new employee credit''.

1980—Subsec. (a). Pub. L. 96–222, § 103(a)(6)(G)(xiii), substituted ''section 53(b)'' for ''section 53(c)''.

Subsec. (d)(2). Pub. L. 96–222, § 105(a)(2), substituted ''the date of the overpayment (determined under section 1341(b)(1))'' for ''the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for taxable year in which the overpayment occurs''.

1978—Pub. L. 95–600, § 504(b)(1)(A), inserted ''and refund'' after ''carryback'' in section catchline.

Subsec. (d). Pub. L. 95–600, § 504(a), added subsec. (d).

1977—Subsec. (a). Pub. L. 95–30, § 202(d)(5)(A)(i) to (iv), inserted references to unused new employee credits and to new employee credit carrybacks in provisions preceding par. (1) and in par. (1).

Subsecs. (b), (c). Pub. L. 95–30, § 202(d)(5)(A)(i), inserted references to unused new employee credits.

1976—Subsec. (a). Pub. L. 94–455, §§ 1906(b)(13)(A), 2107(g)(1), struck out ''or his delegate'' after ''Secretary'' and inserted ''(or, in the case of a work incentive program carryback, to an investment credit carryback)'' after ''capital loss carryback'' in second sentence.

Subsecs. (b), (c). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1971—Pub. L. 92–178, § 601(e)(1)(A), substituted ''unused investment credit, or unused work incentive program credit'' for ''or unused investment credit'' wherever appearing in subsecs. (a), (a)(1), (b), and (c).

Subsec. (a). Pub. L. 92–178, § 601(e)(1)(B) and (C), inserted ''by a work incentive program carryback provided in section 50A(b),'' after ''section 46(b),'' in first sentence, and ''or a work incentive program carryback'' after ''investment credit carryback'' in second sentence, respectively.

1969—Subsec. (a). Pub. L. 91–172, § 512(d)(1), (2), provided quick refund procedure, presently available in case of net operating loss carrybacks, to be made available in the case of the 3-year capital loss carryback, and substituted ''net operating loss, net capital loss, or unused investment credit'' for ''net operating loss or unused investment credit'' in par. (1).

Subsec. (b). Pub. L. 91–172, § 512(d)(2), substituted ''net operating loss, net capital loss, or unused investment credit'' for ''net operating loss or unused investment credit'' wherever such term appears.

Subsec. (c). Pub. L. 91–172, § 512(d)(2), substituted ''net operating loss, net capital loss, or unused investment credit'' for ''net operating loss or unused investment credit''.

1967—Subsec. (a). Pub. L. 90–225 inserted ''(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year)'' after ''within a period of 12 months from the end of such taxable year''.

1966—Subsec. (a). Pub. L. 89–721, § 2(a)–(c), provided in introductory text for a tentative carryback adjustment based on an investment credit carryback as provided for in section 46(b) of this title and and inserted ''or unused investment credit'' after ''the taxable year of the net operating loss'', inserted in par. (1) ''or unused investment'' after ''net operating loss'', and struck out in par. (5) ''of such loss'' and inserted in lieu thereof ''from which the carryback is made''.

Subsec. (b). Pub. L. 89–721, § 2(d), inserted ''or unused investment credit'' after ''net operating loss'' in two places.

Subsec. (c). Pub. L. 89–721, § 2(d), (e), inserted ''or unused investment credit'' after ''net operating loss'' and ''or credit'' after ''such loss''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, § 1(a)(7) [title III, § 318(d)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–645, provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as if included in the amendments made by section 504 of the Economic Recovery Tax Act of 1981 [Pub. L. 97–34, amending section 1212 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 OF 1986 AMENDMENT

Amendment by section 231(d)(3)(H) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1985, see section 231(g) of Pub. L. 99–514, set out as a note under section 41 of this title.

Amendment by section 1847(b)(10) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(37) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

Amendment by section 714(n)(2)(B) 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.

Notwithstanding section 715 of Pub. L. 98–369, amendment by section 714(n)(2)(B) of Pub. L. 98–369 applicable only to applications filed after July 18, 1984, see section 1875(d)(3) of Pub. L. 99–514, set out as a note under section 6611 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 221(b)(2)(B) of Pub. L. 97–34 applicable to amounts paid or incurred after June 30, 1981, see section 221(d) of Pub. L. 97–34, as amended, set out as an Effective Date note under section 41 of this title.

Amendment by section 331(d)(2)(B) of Pub. L. 97–34 applicable to taxable years beginning after Dec. 31, 1981, see section 339 of Pub. L. 97–34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95–600, to which such amendment relates, see section 201 of Pub. L. 96–222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 504(c) of Pub. L. 95–600 provided that: ''The amendments made by this section [amending this section and sections 6213 and 6501 of this title] shall apply to tentative refund claims filed on and after the date of the enactment of this Act [Nov. 6, 1978].''

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95–30, set out as an Effective Date note under section 51 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92–178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91–172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90–225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2(g) of Pub. L. 89–721, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [amending this section and section 6501 of this title] shall apply with respect to taxable years ending after December 31, 1961, but only in the case of applications filed after the date of the enactment of this Act [Nov. 2, 1966]. The period of 12 months referred to in the second sentence of section 6411(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this section) for filing an application for a tentative carryback adjustment of tax attributable to the carryback of any unused investment credit shall not expire before the close of December 31, 1966.''

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 sections 6040, 6164, 6213, 6405, 6501, 6511, 6515, 6611 of this title.

§ 6412. Floor stocks refunds

(a) In general

(1) Tires and taxable fuel

Where before October 1, 2005, any article subject to the tax imposed by section 4071 or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the difference be-

tween the tax paid by such manufacturer, producer, or importer on his sale of the article and the amount of tax made applicable to such article on and after October 1, 2005, if claim for such credit or refund is filed with the Secretary on or before March 31, 2006, based upon a request submitted to the manufacturer, producer, or importer before January 1, 2006, by the dealer who held the article in respect of which the credit or refund is claimed, and, on or before March 31, 2006, reimbursement has been made to such dealer by such manufacturer, producer, or importer for the tax reduction on such article or written consent has been obtained from such dealer to allowance of such credit or refund. No credit or refund shall be allowable under this paragraph with respect to taxable fuel in retail stocks held at the place where intended to be sold at retail, nor with respect to taxable fuel held for sale by a producer or importer of taxable fuel.

(2) Definitions

For purposes of this section—

(A) The term ''dealer'' includes a wholesaler, jobber, distributor, or retailer.

(B) An article shall be considered as ''held by a dealer'' if title thereto has passed to such dealer (whether or not delivery to him has been made), and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(b) Limitation on eligibility for credit or refund

No manufacturer, producer, or importer shall be entitled to credit or refund under subsection (a) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed under this section.

(c) Other laws applicable

All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4071 and 4081 shall, insofar as applicable and not inconsistent with subsections (a) and (b) of this section, apply in respect of the credits and refunds provided for in subsection (a) to the same extent as if such credits or refunds constituted overpayments of such taxes.

(Aug. 16, 1954, ch. 736, 68A Stat. 795; Mar. 30, 1955, ch. 18, § 3(b)(4), 69 Stat. 15; Mar. 29, 1956, ch. 115, § 3(b)(4), 70 Stat. 67; May 29, 1956, ch. 342, § 19, 70 Stat. 221; June 29, 1956, ch. 462, title II, § 208(a), 70 Stat. 392; Pub. L. 85–12, § 3(b)(4), Mar. 29, 1957, 71 Stat. 10; Pub. L. 85–475, § 3(b)(4), June 30, 1958, 72 Stat. 260; Pub. L. 85–859, title I, § 162(a), Sept. 2, 1958, 72 Stat. 1306; Pub. L. 86–75, § 3(b)(3), June 30, 1959, 73 Stat. 158; Pub. L. 86–342, title II, § 201(c)(4), Sept. 21, 1959, 73 Stat. 614; Pub. L. 86–564, title II, § 202(b)(3), June 30, 1960, 74 Stat. 291; Pub. L. 86–592, § 2, July 6, 1960, 74 Stat. 330; Pub. L. 87–15, § 2(b), Mar. 31, 1961, 75 Stat. 40; Pub. L. 87–61, title II, § 206 (c), (d), June 29, 1961, 75 Stat. 127; Pub. L. 87–72, § 3(b)(3), June 30, 1961, 75 Stat. 193; Pub. L. 87–456, title III, § 302(d), May 24, 1962, 76 Stat. 77; Pub. L. 87–508, § 3(b)(3), June 28, 1962, 76 Stat. 114; Pub. L. 87–535, § 18(b), July 13, 1962, 76 Stat. 166; Pub. L. 88–52, § 3(b)(1)(C), June 29, 1963, 77 Stat. 72; Pub. L. 88–348, § 2(b)(1)(C), June 30, 1964, 78 Stat. 237; Pub. L. 89–44, title II, § 209(a), (d), June 21, 1965, 79 Stat. 141, 144; Pub. L. 89–368, title II, § 201(b), Mar. 15, 1966, 80 Stat. 66; Pub. L. 90–285, § 1(a)(2), Apr. 12, 1968, 82 Stat. 92; Pub. L. 90–364, title I, § 105(a)(2), June 28, 1968, 82 Stat. 265; Pub. L. 91–172, title VII, § 702(a)(2), Dec. 30, 1969, 83 Stat. 660; Pub. L. 91–605, title III, § 303(b), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 91–614, title II, § 201(a)(2), Dec. 31, 1970, 84 Stat. 1843; Pub. L. 92–178, title IV, § 401(g)(5), Dec. 10, 1971, 85 Stat. 533; Pub. L. 94–280, title III, § 303(b), May 5, 1976, 90 Stat. 457; Pub. L. 94–455, title XIX, § 1906(a)(22), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1826, 1834; Pub. L. 95–599, title V, § 502(c), Nov. 6, 1978, 92 Stat. 2757; Pub. L. 95–618, title II, § 231(f)(1), Nov. 9, 1978, 92 Stat. 3189; Pub. L. 97–424, title V, § 516(a)(5), Jan. 6, 1983, 96 Stat. 2183; Pub. L. 98–369, div. A, title VII, § 735(c)(12), July 18, 1984, 98 Stat. 983; Pub. L. 100–17, title V, § 502(d)(1), Apr. 2, 1987, 101 Stat. 257; Pub. L. 101–508, title XI, § 11211(f)(1), Nov. 5, 1990, 104 Stat. 1388–427; Pub. L. 102–240, title VIII, § 8002(c)(1), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103–66, title XIII, § 13242(d)(16), Aug. 10, 1993, 107 Stat. 524; Pub. L. 105–178, title IX, § 9002(a)(2)(A), June 9, 1998, 112 Stat. 499.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–178 substituted ''2005'' for ''1999'' and ''2006'' for ''2000'' wherever appearing.

1993—Subsec. (a)(1). Pub. L. 103–66 substituted ''taxable fuel'' for ''gasoline'' wherever appearing in heading and text.

1991—Subsec. (a)(1). Pub. L. 102–240 substituted ''1999'' for ''1995'' and ''2000'' for ''1996'' wherever appearing.

1990—Subsec. (a)(1). Pub. L. 101–508 substituted ''1995'' for ''1993'' and ''1996'' for ''1994'' wherever appearing.

1987—Subsec. (a)(1). Pub. L. 100–17 substituted ''1993'' for ''1988'' and ''1994'' for ''1989'' wherever appearing.

1984—Subsec. (a)(1). Pub. L. 98–369, § 735(c)(12)(A), (B), substituted ''Tires and gasoline'' for ''Trucks, tires, tubes, tread rubber, and gasoline'' in heading, and in text substituted ''Where before October 1, 1988, any article subject to the tax imposed by section 4071 or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale,'' for ''Where before October 1, 1988, any article subject to the tax imposed by section 4061(a)(1), 4071((a)(1), (3) or (4), or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale (or, in the case of tread rubber, is intended for sale or is held for use),'', and struck out provision that no credit or refund shall be allowable under this paragraph with respect to inner tubes for bicycle tires (as defined in section 4221(e)(4)(B)).

Subsec. (a)(2)(A). Pub. L. 98–369, § 735(c)(12)(C), substituted ''The term 'dealer' includes a wholesaler, jobber, distributor, or retailer'' for ''The term 'dealer' includes a wholesaler, jobber, distributor, or retailer, or, in the case of tread rubber subject to tax under section 4071(a)(4), includes any person (other than the manufacturer, producer, or importer thereof) who holds such tread rubber for sale or use''.

Subsec. (c). Pub. L. 98–369, § 735(c)(12)(D), substituted ''4071'' for ''4061, 4071,''.

1983—Subsec. (a)(1). Pub. L. 97–424, § 516(a)(5), substituted ''1989'' for ''1985'' and ''1988'' for ''1984'' wherever appearing.

1978—Subsec. (a)(1). Pub. L. 95–618 struck out ''and buses'' after ''Trucks'' in heading.

Pub. L. 95–599 substituted ''1984'' for ''1979'' and ''1985'' for ''1980'' wherever appearing.

1976—Subsec. (a)(1). Pub. L. 94–455, § 1906(a)(22), (b)(13)(A), redesignated par. (2) as (1) and struck out ''or his delegate'' after ''Secretary''. Prior par. (1) had been

repealed by Pub. L. 92–178, title IV, §401(g)(5), Dec. 10, 1971, 85 Stat. 533.

Subsec. (a)(2). Pub. L. 94–455, §1906(a)(22), redesignated par. (4) as (2). Former par. (2) redesignated (1).

Pub. L. 94–280 substituted ''1979'' for ''1977'' in two places and ''1980'' for ''1978'' in three places, respectively.

Subsec. (a)(4). Pub. L. 94–455, §1906(a)(22), redesignated par. (4) as (2).

1971—Subsec. (a)(1). Pub. L. 92–178 struck out par. (1) which related to general rule for floor stocks refunds on passenger automobiles, etc.

1970—Subsec. (a)(1). Pub. L. 91–614 substituted ''January 1 of 1973, 1974, 1978, 1979, 1980, 1981, or 1982'' for ''January 1, 1971, January 1, 1972, January 1, 1973, or January 1, 1974''.

Subsec. (a)(2). Pub. L. 91–605 substituted in two places ''1977'' for ''1972'' and ''March 31, 1978'' for ''February 10, 1973'', and substituted ''January 1, 1978'' for ''January 1, 1973''.

1969—Subsec. (a)(1). Pub. L. 91–172 struck out reference to Jan. 1, 1970, and inserted reference to Jan. 1, 1974.

1968—Subsec. (a)(1). Pub. L. 90–364 substituted ''January 1, 1970, January 1, 1971, January 1, 1972, or January 1, 1973,'' for ''May 1, 1968, or January 1, 1969,''.

Pub. L. 90–285 substituted ''May 1, 1968'' for ''April 1, 1968''.

1966—Subsec. (a)(1). Pub. L. 89–368 substituted ''January 1, 1966, April 1, 1968, or January 1, 1969,'' for ''January 1, 1966, 1967, 1968, or 1969,''.

1965—Subsec. (a)(1). Pub. L. 89–44, §209(a), made floor stock refunds available with respect to passenger cars in dealers' inventories on the various reduction dates for the passenger car tax and required claims for credit or refund to be filed on or before the 10th day of the 8th calendar month beginning after the date of the tax reduction.

Subsec. (e). Pub. L. 89–44, §209(d), repealed subsec. (e) which related to cross reference.

1964—Subsec. (a)(1). Pub. L. 88–348 substituted ''July 1, 1965'' for ''July 1, 1964'' in two places, ''October 1, 1965'' for ''October 1, 1964'', and ''November 10, 1965'' for ''November 10, 1964'' in two places.

1963—Subsec. (a)(1). Pub. L. 88–52 substituted ''July 1, 1964'' for ''July 1, 1963'', in two places, ''October 1, 1964'' for ''October 1, 1963'', and ''November 10, 1964'' for ''November 10, 1963'' in two places.

1962—Subsec. (a)(1). Pub. L. 87–508 substituted ''July 1, 1963'' for ''July 1, 1962'' in two places, ''October 1, 1963'' for ''October 1, 1962'', and ''November 10, 1963'' for ''November 10, 1962'' in two places.

Subsec. (d). Pub. L. 87–456 repealed subsec. (d) which related to floor stock refunds with respect to any sugar or articles composed in chief value of sugar.

Pub. L. 87–535 substituted ''June 30, 1967'' for ''December 31, 1962'' after ''paid and which, on'', and ''September 30, 1967'' for ''March 31, 1963'' after ''delegate on or before''.

1961—Subsec. (a)(1). Pub. L. 87–72 substituted ''July 1, 1962'' for ''July 1, 1961'' in two places, ''October 1, 1962'' for ''October 1, 1961'', and ''November 10, 1962'' for ''November 10, 1961'' in two places.

Subsec. (a)(2). Pub. L. 87–61, §206(c), inserted tubes in heading, authorized credit or refund for articles subject to the tax imposed by section 4071(a)(3), prohibited credit or refund with respect to inner tubes for bicycle tires, and substituted ''October 1, 1972'' for ''July 1, 1972'' in two places, ''February 10, 1973'' for ''November 10, 1972'' in two places, and ''January 1, 1973'' for ''October 1, 1972''.

Subsec. (a)(3). Pub. L. 87–61, §206(d), repealed par. (3) which related to 1961 floor stocks refund on gasoline.

Subsec. (d). Pub. L. 87–15 substituted ''December 31, 1962'' for ''September 30, 1961'' after ''paid and which, on'', and ''March 31, 1963'' for ''September 30, 1961'' after ''delegate on or before''.

1960—Subsec. (a)(1). Pub. L. 86–564 substituted ''July 1, 1961'' for ''July 1, 1960'' in two places, ''October 1, 1961'' for ''October 1, 1960'', and ''November 10, 1961'' for ''November 10, 1960'' in two places.

Subsec. (d). Pub. L. 86–592 substituted ''September 30, 1961'' for ''June 30, 1961'' after ''and which, on''.

1959—Subsec. (a)(1). Pub. L. 86–75 substituted ''July 1, 1960'' for ''July 1, 1959'' in two places, ''October 1, 1960'' for ''October 1, 1959'' and ''November 10, 1960'' for ''November 10, 1959'' in two places.

Subsec. (a)(3), (4). Pub. L. 86–342 added par. (3) and redesignated former par. (3) as (4).

1958—Subsec. (a)(1). Pub. L. 85–475 substituted ''July 1, 1959'' for ''July 1, 1958'' in two places, ''October 1, 1959'' for ''October 1, 1958'', and ''November 10, 1959'' for ''November 10, 1958'' in two places.

Subsec. (d). Pub. L. 85–859 required filing of claims for refund on or before Sept. 30, 1961.

1957—Subsec. (a)(1). Pub. L. 85–12, substituted ''July 1, 1958'' for ''April 1, 1957'' in two places, ''October 1, 1958'' for ''July 1, 1957'', and ''November 10, 1958'' for ''August 10, 1957'' in two places.

1956—Subsec. (a). Act June 29, 1956, in par. (1), substituted ''April 1, 1957'' for ''April 1, 1956'' in two places, ''section 4061(a)(2)'' for ''section 4061 (a) or (b)'', and inserted provisions requiring claims for refund to be made on or before August 10, 1957, inserted provisions relating to trucks and buses, tires, tread rubber, and gasoline as par. (2), defined ''dealer'' in the case of tread rubber subject to tax under section 4071(a)(4) of this title in par. (3), and struck out pars. (4) and (5). Former par. (4), which related to reimbursement of dealers, was covered generally by pars. (1) and (2). Former par. (5) was covered by subsec. (b).

Act Mar. 29, 1956, substituted ''April 1, 1957'' for ''April 1, 1956'' in two places, and ''July 1, 1957'' for ''July 1, 1956''.

Subsec. (b). Act June 29, 1956, redesignated par. (5) of subsec. (a) as subsec. (b) and substituted ''manufacturer, producer, or importer'' for ''person'', and struck out provisions that required claims for credit or refund to be filed before July 1, 1956. Former subsec. (b) was covered by par. (2) of subsec. (a).

Act Mar. 29, 1956, substituted ''April 1, 1957'' for ''April 1, 1956'' in three places, and ''July 1, 1957'' for ''July 1, 1956''.

Subsec. (c). Act June 29, 1956, included taxes imposed by section 4071 of this title.

Subsec. (d). Act May 29, 1956, substituted ''1961'' for ''1957''.

1955—Subsecs. (a), (b). Act Mar. 30, 1955, substituted ''April 1, 1956'' for ''April 1, 1955'' and ''July 1, 1956'' for ''July 1, 1955'' wherever appearing.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103–66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97–424, to which such amendment relates, see section 736 of Pub. L. 98–369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–618 applicable with respect to articles sold after Nov. 9, 1978, see section 231(g) of Pub. L. 95–618, set out as a note under section 4222 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–178 applicable with respect to articles sold on or after the day after Dec. 10, 1971, see section 401(h)(1) of Pub. L. 92–178, set out as a note under section 4071 of this title.

EFFECTIVE DATE OF 1968 AMENDMENTS

Section 105(c) of Pub. L. 90–364 provided that: ''The amendments made by this section [amending this section and sections 4061 and 4251 of this title] shall take effect as of April 30, 1968.''

Section 1(b) of Pub. L. 90–285 provided that: ''The amendments made by subsection (a) [amending this section and sections 4061 and 4251 of this title] shall take effect as of March 31, 1968.''

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 effective June 22, 1965, see section 701(a) of Pub. L. 89–44, set out as a note under section 4161 of this title.

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87–535 effective Jan. 1, 1962, see section 19(a) of Pub. L. 87–535.

Amendment by Pub. L. 87–456 effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87–456.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–61 effective June 29, 1961, see section 208 of Pub. L. 87–61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85–859.

EFFECTIVE DATE OF 1956 AMENDMENTS

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.

Amendment by act May 29, 1956, effective as of Jan. 1, 1956, see section 22 of act May 29, 1956.

FLOOR STOCK REFUNDS

Section 209(b) of Pub. L. 89–44 provided that where any article subject to taxes under section 4111, 4121, 4141, 4151, 4161, 4191 or 4451 of this title before June 21, 1965, or subject to taxes under section 4061(b), 4091(1), or 4131 of this title before Jan. 1, 1966, had been sold by the manufacturer, importer or producer and on such date held by the dealer and not used, there was to be credited or refunded to the manufacturer, importer or producer an amount equal to the difference between the tax paid by him on his sale of the article and the amount of tax made applicable to the article on such date where certain conditions were satisfactorily met.

EXTENSION OF TIME FOR FILING CLAIMS FOR FLOOR STOCKS REFUNDS

Pub. L. 91–642, §1, Dec. 31, 1970, 84 Stat. 1880, provided that if a claim for credit or refund was filed by a manufacturer, importer or producer on or before the 90th day after Dec. 31, 1970, such filing was deemed to have satisfied the requirements of section 209(b)(1)(A) of Pub. L. 89–44 for filing on or before Feb. 10, 1966, or Aug. 10, 1966.

REFUNDS RESPECTING CONSUMER PURCHASES

Section 209(c) of Pub. L. 89–44 provided that if after May 14, 1965, but before June 21, 1965, a new automotive item subject to the tax imposed by section 4061(a)(2) of this title, or a new self-contained air-conditioning unit subject to the tax imposed by section 4111 of this title, had been sold to an ultimate purchaser, there was to be credited or refunded to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by the manufacturer, producer, or importer on his sale of the article and the tax made applicable to the article on such date if certain conditions were met.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6511, 6612, 9503 of this title; title 16 section 460*l*–11; title 42 section 430.

§ 6413. Special rules applicable to certain employment taxes

(a) Adjustment of tax

(1) General rule

If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of remuneration, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary may by regulations prescribe.

(2) United States as employer

For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(3) Guam or American Samoa as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the Government of Guam, the Government of American Samoa, a political subdivision of either, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, the Governor of Guam, the Governor of American Samoa, and each agent designated by either who makes a return pursuant to section 3125 shall be deemed a separate employer.

(4) District of Columbia as employer

For purposes of this subsection, in the case of remuneration received during any calendar year from the District of Columbia or any instrumentality which is wholly owned thereby, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section 3125 shall be deemed a separate employer.

(5) States and political subdivisions as employer

For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer.

(b) Overpayments of certain employment taxes

If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid or deducted with respect to any payment of remuneration and the overpayment cannot be adjusted under subsection (a) of this section, the amount of the overpayment shall be refunded in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary may by regulations prescribe.

(c) Special refunds

(1) In general

If by reason of an employee receiving wages from more than one employer during a calendar year the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101(a) or section 3201(a) (to the extent of so much of the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a)), or by both such sections, and deducted from the employee's wages (whether or not paid to the Secretary), which exceeds the tax with respect to the amount of such wages received in such year which is equal to such contribution and benefit base. The term ''wages'' as used in this paragraph shall, for purposes of this paragraph, include ''compensation'' as defined in section 3231(e).

(2) Applicability in case of Federal and State employees, employees of certain foreign affiliates, and governmental employees in Guam, American Samoa, and the District of Columbia

(A) Federal employees

In the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer; and the term ''wages'' includes for purposes of this subsection the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee.

(B) State employees

For purposes of this subsection, in the case of remuneration received during any calendar year, the term ''wages'' includes such remuneration for services covered by an agreement made pursuant to section 218 of the Social Security Act as would be wages if such services constituted employment; the term ''employer'' includes a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing; the term ''tax'' or ''tax imposed by section 3101(a)'' includes, in the case of services covered by an agreement made pursuant to section 218 of the Social Security Act, an amount equivalent to the tax which would be imposed by section 3101(a), if such services constituted employment as defined in section 3121; and the provisions of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of an agreement made pursuant to section 218 of the Social Security Act has been paid to the Secretary.

(C) Employees of certain foreign affiliates

For purposes of paragraph (1) of this subsection, the term ''wages'' includes such remuneration for services covered by an agreement made pursuant to section 3121(*l*) as would be wages if such services constituted employment; the term ''employer'' includes any American employer which has entered into an agreement pursuant to section 3121(*l*); the term ''tax'' or ''tax imposed by section 3101(a),'' includes, in the case of services covered by an agreement entered into pursuant to section 3121(*l*), an amount equivalent to the tax which would be imposed by section 3101(a), if such services constituted employment as defined in section 3121; and the provisions of paragraph (1) of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of the agreement entered into pursuant to section 3121(*l*) has been paid to the Secretary.

(D) Governmental employees in Guam

In the case of remuneration received from the Government of Guam or any political subdivision thereof or from any instrumentality of any one or more of the foregoing which is wholly owned thereby, during any calendar year, the Governor of Guam and each agent designated by him who makes a return pursuant to section 3125(b) shall, for purposes of this subsection, be deemed a separate employer.

(E) Governmental employees in American Samoa

In the case of remuneration received from the Government of American Samoa or any political subdivision thereof or from any instrumentality of any one or more of the foregoing which is wholly owned thereby, during any calendar year, the Governor of American Samoa and each agent designated by him who makes a return pursuant to section 3125(c) shall, for purposes of this subsection, be deemed a separate employer.

(F) Governmental employees in the District of Columbia

In the case of remuneration received from the District of Columbia or any instrumentality wholly owned thereby, during any calendar year, the Mayor of the District of Columbia and each agent designated by him who makes a return pursuant to section 3125(d) shall, for purposes of this subsection, be deemed a separate employer.

(G) Employees of States and political subdivisions

In the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes

a return pursuant to section 3125(a) shall, for purposes of this subsection, be deemed a separate employer.

(d) Refund or credit of Federal unemployment tax

Any credit allowable under section 3302, to the extent not previously allowed, shall be considered an overpayment, but no interest shall be allowed or paid with respect to such overpayment.

(Aug. 16, 1954, ch. 736, 68A Stat. 797; Sept. 1, 1954, ch. 1206, title II, § 202(a)(1), (b)(1)–(3), 68 Stat. 1089, 1090; Pub. L. 85–840, title IV, § 402(d), Aug. 28, 1958, 72 Stat. 1043; Pub. L. 86–778, title I, § 103(r)(2)–(4), Sept. 13, 1960, 74 Stat. 940; Pub. L. 89–97, title III, §§ 317(e), (f), 320(b)(5), (6), July 30, 1965, 79 Stat. 389, 390, 393, 394; Pub. L. 90–248, title I, § 108(b)(5), (6), title V, § 502(a), Jan. 2, 1968, 81 Stat. 835, 934; Pub. L. 92–5, title II, § 203(b)(5), (6), Mar. 17, 1971, 85 Stat. 11; Pub. L. 92–336, title II, § 203(b)(5), (6), July 1, 1972, 86 Stat. 419, 420; Pub. L. 92–603, title I, § 144(c), Oct. 30, 1972, 86 Stat. 1370; Pub. L. 93–66, title II, § 203(b)(5), (6), July 9, 1973, 87 Stat. 153; Pub. L. 93–233, § 5(b)(5), (6), Dec. 31, 1973, 87 Stat. 954; Pub. L. 93–445, title V, § 502, Oct. 16, 1974, 88 Stat. 1360; Pub. L. 94–455, title XIX, § 1906(a)(23)(A), (B)(i), (ii), (C), (D), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1826, 1827, 1834; Pub. L. 97–248, title III, §§ 302(c), 307(a)(10)–(12), 308(a), Sept. 3, 1982, 96 Stat. 586, 589–591; Pub. L. 98–21, title III, § 321(e)(4), Apr. 20, 1983, 97 Stat. 120; Pub. L. 98–67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 99–272, title XIII, § 13205(a)(2)(E), Apr. 7, 1986, 100 Stat. 315; Pub. L. 101–508, title XI, § 11331(d)(1), Nov. 5, 1990, 104 Stat. 1388–468; Pub. L. 103–66, title XIII, § 13207(d)(1)–(3), Aug. 10, 1993, 107 Stat. 468.)

REFERENCES IN TEXT

Section 230 of the Social Security Act, referred to in subsec. (c)(1), (2)(A), is classified to section 430 of Title 42, The Public Health and Welfare.

Section 218 of the Social Security Act, referred to in subsec. (c)(2)(B), is classified to section 418 of Title 42.

AMENDMENTS

1993—Subsec. (c)(1). Pub. L. 103–66, § 13207(d)(1), substituted ''section 3101(a) or section 3201(a) (to the extent of so much of the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a))'' for ''section 3101 or section 3201''.

Subsec. (c)(2)(B), (C). Pub. L. 103–66, § 13207(d)(2), substituted ''section 3101(a)'' for ''section 3101'' wherever appearing.

Subsec. (c)(3). Pub. L. 103–66, § 13207(d)(3), struck out heading and text of par. (3). Text read as follows: ''In applying this subsection with respect to—

''(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

''(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears.''

1990—Subsec. (c)(3). Pub. L. 101–508 substituted heading for one which read: ''Applicability with respect to compensation of employees subject to the Railroad Retirement Tax Act'' and amended text generally. Prior to amendment, text read as follows: ''In the case of any individual who, during any calendar year, receives wages from one or more employers and also receives compensation which is subject to the tax imposed by section 3201 or 3211, such compensation shall, solely for purposes of applying paragraph (1) with respect to the tax imposed by section 3101(b), be treated as wages received from an employer with respect to which the tax imposed by section 3101(b) was deducted.''

1986—Subsec. (a)(5). Pub. L. 99–272, § 13205(a)(2)(E)(i), added par. (5).

Subsec. (c)(2)(D) to (F). Pub. L. 99–272, § 13205(a)(2)(E)(ii)(I), substituted ''3125(b)'', ''3125(c)'', and ''3125(d)'' for ''3125(a)'', ''3125(b)'', and ''3125(c)'', respectively, in subpars. (D), (E), and (F), respectively.

Subsec. (c)(2)(G). Pub. L. 99–272, § 13205(a)(2)(E)(ii)(II), added subpar. (G).

1983—Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

Subsec. (c)(2). Pub. L. 98–21, § 321(e)(4)(B), substituted ''foreign affiliates'' for ''foreign corporations'' in heading.

Subsec. (c)(2)(C). Pub. L. 98–21, § 321(e)(4)(A), substituted ''foreign affiliates'' for ''foreign corporations'' in heading and, in text, substituted ''American employer'' for ''domestic corporation''.

1982—Catchline and subsecs. (a)(1), (b), (c)(1). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, the section catchline is amended by substituting ''taxes under subtitle C'' for ''employment taxes''; subsec. (a)(1) is amended by substituting ''3402 or 3451 is paid with respect to any payment of remuneration, interest, dividends, or other amounts,'' for ''or 3402 is paid with respect to any payment of remuneration,''; subsec. (b) is amended by striking out ''of certain employment taxes'' from heading, and by substituting ''3402 or 3451 is paid or deducted with respect to any payment of remuneration, interest, dividends, or other amount''; and subsec. (c)(1) is amended by substituting ''section 31(c)'' for ''section 31(b)''. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1976—Subsec. (a)(1). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (a)(4). Pub. L. 94–455, § 1906(a)(23)(A), substituted ''Mayor of the District of Columbia and each agent designated by him'' for ''Commissioners of the District of Columbia and each agent designated by them''.

Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (c)(1). Pub. L. 94–455, § 1906(a)(23)(B)(i), struck out ''or his delegate'' after ''Secretary'' and substituted general provision for entitlement to credit or refund of employment taxes deducted from an employee receiving wages from more than one employer during a calendar year and in excess of employment taxes with respect to amount of wages received in the calendar year equal to the contribution and benefit base determined under section 230 of the Social Security Act and effective with respect to such calendar year for prior specific provisions for such credit or refund of employment taxes deducted in excess of prescribed amount for base limits and applicable periods set forth below:

Amount	*After Calendar Year*	*Prior to Calendar Year*
$3,600	1950	1955
$4,200	1954	1959
$4,800	1958	1966
$6,600	1965	1968
$7,800	1967	1972
$9,000	1971	1973
$10,800	1972	1974
$13,200	1973	1975

and amount equal to the contribution and benefit base determined under section 230 of the Social Security Act and effective with respect to calendar year after calendar year 1974, and thereafter.

Subsec. (c)(2)(A). Pub. L. 94–455, §1906(a)(23)(B)(ii), substituted ''the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year'' for ''the amount, not to exceed $3,600 for the calendar year 1951, 1952, 1953, or 1954, $4,200 for the calendar year 1955, 1956, 1957, or 1958, $4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, $6,600 for the calendar year 1966 or 1967, $7,800 for the calendar year 1968, 1969, 1970, or 1971, $9,000 for the calendar year 1972, $10,800 for the calendar year 1973, $13,200 for the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year after 1974'' before ''with respect to which such contribution and benefit base is effective''.

Subsec. (c)(2)(C). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (c)(2)(F). Pub. L. 94–455, §1906(a)(23)(C), substituted ''Mayor of the District of Columbia and each agent designated by him'' for ''Commissioners of the District of Columbia and each agent designated by them''.

Subsec. (c)(3). Pub. L. 94–455, §1906(a)(23)(D), struck out ''after 1967'' after ''calendar year''.

1974—Subsec. (c)(1). Pub. L. 93–445 inserted ''or section 3201, or by both such sections'' after ''section 3101'' and inserted provision that for purposes of subsec. (c)(1) the term ''wages'' include compensation as defined in section 3231(e).

1973—Subsec. (c)(1). Pub. L. 93–233, §5(b)(5), substituted ''$13,200'' for ''$12,600'' whenever appearing.

Pub. L. 93–66, §203(b)(5), substituted ''$12,600'' for ''$12,000'' wherever appearing.

Subsec. (c)(2)(A). Pub. L. 93–233, §5(b)(6), substituted ''$13,200'' for ''$12,600''.

Pub. L. 93–66, §203(b)(6), substituted ''$12,600'' for ''$12,000''.

1972—Subsec. (c)(1). Pub. L. 92–336, §203(b)(5), inserted ''and prior to the calendar year 1973'' after ''after the calendar year 1971'', inserted provisions of cls. (F) to (H), and provisions relating to wages received after 1971 and before 1973, after 1972 and before 1974, after 1973 and before 1975, and the calendar year after 1974.

Subsec. (c)(2)(A). Pub. L. 92–336, §203(b)(6), as amended by Pub. L. 92–603, §144(c), eff. July 1, 1972, inserted provisions relating to amounts to be included within the term ''wages'' for the calendar years 1972, 1973, 1974, or any calendar year after 1974.

1971—Subsec. (c)(1). Pub. L. 92–5, §203(b)(5), inserted ''and prior to the calendar year 1972'' after ''after the calendar year 1967'', ''or (E) during any calendar year after the calendar year 1971, the wages received by him during such year exceed $9,000,'' after ''exceed $7,800,'' and inserted before the period at end of subpar. (1) ''and before 1972, or which exceeds the tax with respect to the first $9,000 of such wages received in such calendar year after 1971''.

Subsec. (c)(2)(A). Pub. L. 92–5, §203(b)(6), substituted ''$7,800 for the calendar year 1968, 1969, 1970, or 1971, or $9,000 for any calendar year after 1971'' for ''or $7,800 for any calendar year after 1967''.

1968—Subsec. (c)(1). Pub. L. 90–248, §108(b)(5), inserted ''and prior to the calendar year 1968'' after ''the calendar year 1965'', ''or (D) during any calendar year after the calendar year 1967, the wages received by him during such year exceed $7,800,'' after ''exceed $6,600,'', and ''and before 1968, or which exceeds the tax with respect to the first $7,800 of such wages received in such calendar year after 1967''.

Subsec. (c)(2)(A). Pub. L. 90–248, §108(b)(6), substituted ''$6,600 for the calendar year 1966 or 1967, or $7,800 for any calendar year after 1967'' for ''or $6,600 for any calendar year after 1965''.

Subsec. (c)(3). Pub. L. 90–248, §502(a), added par. (3).

1965—Subsec. (a)(4). Pub. L. 89–97, §317(e), added par. (4).

Subsec. (c)(1). Pub. L. 89–97, §320(b)(5), inserted ''and prior to the calendar year 1966'' after ''the calendar year 1958'', ''or (C) during any calendar year after the calendar year 1965, the wages received by him during such year exceed $6,600'' after ''exceed $4,800,'', and ''and before 1966, or which exceeds the tax with respect to the first $6,600 of such wages received in such calendar year after 1965'' before the period at end of par.

Subsec. (c)(2)(A). Pub. L. 89–97, §320(b)(6), substituted ''$4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, or $6,600 for any calendar year after 1965'' for ''or $4,800 for any calendar year after 1958''.

Subsec. (c)(2)(F). Pub. L. 89–97, §317(f)(1), added subpar. (F) and inserted reference to the District of Columbia in heading.

1960—Subsec. (a)(3). Pub. L. 86–778, §103(r)(2), added par. (3).

Subsec. (c)(2). Pub. L. 86–778, §103(r) (3), (4), inserted governmental employees in Guam and American Samoa in heading, and added subpars. (D) and (E).

1958—Subsec. (c)(1). Pub. L. 85–840, §402(d)(1), conformed the special-refund provisions to the increase made by Pub. L. 85–840, in the limitation on wages from $4,200 to $4,800 for calendar years after 1958.

Subsec. (c)(2)(A). Pub. L. 85–840, §402(d)(2), substituted ''$4,200 for the calendar year 1955, 1956, 1957, or 1958, or $4,800 for any calendar year after 1958'' for ''$4,200 for any calendar year after 1954''.

1954—Subsec. (c)(1). Act Sept. 1, 1954, §202(a)(1), conformed the special-refund provisions to the increase made by said act Sept. 1, 1954, in the limitation on wages from $3,600 to $4,200 for calendar years after 1954.

Subsec. (c)(2). Act Sept. 1, 1954, §202(b)(1), inserted ''and employees of certain foreign corporations'' in heading.

Subsec. (c)(2)(A). Act Sept. 1, 1954, §202(b)(2), substituted ''$3,600 for the calendar year 1951, 1952, 1953, or 1954, or $4,200 for any calendar year after 1954'' for '$3,600''.

Subsec. (c)(2)(C). Act Sept. 1, 1954, §202(b)(3), added subpar. (C).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 applicable to 1994 and later calendar years, see section 13207(e) of Pub. L. 103–66, set out as a note under section 1402 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable to 1991 and later calendar years, see section 11331(e) of Pub. L. 101–508, set out as a note under section 1402 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–272 applicable to services performed after Mar. 31, 1986, see section 13205(d)(1) of Pub. L. 99–272, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–21 applicable to agreements entered into after Apr. 20, 1983, except that at election of any American employer such amendment shall also apply to any agreement entered into on or before Apr. 20, 1983, see section 321(f) of Pub. L. 98–21, set out as a note under section 406 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1906(a)(23)(A), (C), (D), (b)(13)(A) of Pub. L. 94–455 effective on first day of first month which begins more than ninety 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 1906(a)(23)(B)(iii) of Pub. L. 94–455 provided that: ''The amendments made by clauses (i) and (ii) [amending this section] shall apply with respect to remuneration paid after December 31, 1976.''

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–445 effective Jan. 1, 1975, and applicable only with respect to compensation paid for services rendered on or after that date, see section

604 of Pub. L. 93–445, set out as a note under section 3221 of this title.

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93–233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93–233, set out as a note under section 409 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 93–66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93–66, set out as a note under section 409 of Title 42.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–336, as amended by Pub. L. 92–603, § 144(c), applicable only with respect to remuneration paid after Dec. 1972, see section 203(c) of Pub. L. 92–336, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–5 applicable only with respect to remuneration paid after Dec. 1971, see section 203(c) of Pub. L. 92–5, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 108(b)(5), (6) of Pub. L. 90–248 applicable only with respect to remuneration paid after December 1967, see section 108(c) of Pub. L. 90–248, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 317(e), (f) of Pub. L. 89–97 applicable with respect to services performed after the quarter ending September 30, 1965, and after the quarter in which the Secretary of the Treasury receives a certification from the Commissioners [now Mayor] of the District of Columbia expressing their desire to have the insurance system established by sections 401 et seq. and 1395c et seq. of Title 42, The Public Health and Welfare, extended to the officers and employees coming under the provisions of such amendments, see section 317(g) of Pub. L. 89–97, set out as a note under section 410 of Title 42.

Amendment by section 320(b)(5), (6) of Pub. L. 89–97 applicable with respect to remuneration paid after December 1965, see section 320(c) of Pub. L. 89–97, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–778 applicable only with respect to (1) service in the employ of the Government of Guam or any political subdivision thereof, or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of Guam that legislation has been enacted by the Government of Guam expressing its desire to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, The Public Health and Welfare, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, and (2) service in the employ of the Government of American Samoa or any political subdivision thereof or any instrumentality of any one or more of the foregoing wholly owned thereby, which is performed after 1960 and after the calendar quarter in which the Secretary of the Treasury receives a certification by the Governor of American Samoa that the Government of American Samoa desires to have the insurance system established by title II of the Social Security Act, section 401 et seq. of Title 42, extended to the officers and employees of such Government and such political subdivisions and instrumentalities, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of Title 42.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Sept. 1, 1954, applicable only with respect to remuneration paid after 1954, see section 202(d) of act Sept. 1, 1954, set out as a note under section 1401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21, 24, 31, 3121, 6612 of this title; title 10 section 1451; title 42 sections 401, 1395i.

§ 6414. Income tax withheld

In the case of an overpayment of tax imposed by chapter 24, or by chapter 3, refund or credit shall be made to the employer or to the withholding agent, as the case may be, only to the extent that the amount of such overpayment was not deducted and withheld by the employer or withholding agent.

(Aug. 16, 1954, ch. 736, 68A Stat. 798.)

§ 6415. Credits or refunds to persons who collected certain taxes

(a) Allowance of credits or refunds

Credit or refund of any overpayment of tax imposed by section 4251, 4261, or 4271 may be allowed to the person who collected the tax and paid it to the Secretary if such person establishes, under such regulations as the Secretary may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtains the consent of such person to the allowance of such credit or refund.

(b) Credit on returns

Any person entitled to a refund of tax imposed by section 4251, 4261, or 4271 paid, or collected and paid, to the Secretary by him may, instead of filing a claim for refund, take credit therefor against taxes imposed by such section due upon any subsequent return.

(c) Refund of overcollections

In case any person required under section 4251, 4261, or 4271 to collect any tax shall make an overcollection of such tax, such person shall, upon proper application, refund such overcollection to the person entitled thereto.

(d) Refund of taxable payment

Any person making a refund of any payment on which tax imposed by section 4251, 4261, or 4271 has been collected may repay therewith the amount of tax collected on such payment.

(Aug. 16, 1954, ch. 736, 68A Stat. 798; Pub. L. 85–475, § 4(b)(4), June 30, 1958, 72 Stat. 260; Pub. L. 85–859, title I, § 163(d)(1), Sept. 2, 1958, 72 Stat. 1311; Pub. L. 89–44, title VI, § 601(b), June 21, 1965, 79 Stat. 153; Pub. L. 91–258, title II, § 205(b)(2), May 21, 1970, 84 Stat. 241; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1970—Pub. L. 91–258 inserted reference to section 4271 in four places.

1965—Subsec. (a). Pub. L. 89–44, § 601(b)(1), (2), substituted ''section 4251 or 4261'' for ''sections 4231(1),

4231(2), 4231(3), 4241, 4245, 4261, or 4286'' and struck out last sentence which referred to payment outside the United States of taxes imposed under pars. (1), (2) and (3) of section 4231.

Subsecs. (b) to (d). Pub. L. 89–44, § 601(b)(1), substituted ''section 4251 or 4261'' for ''section 4231(1), 4231(2), 4231(3), 4241, 4245, 4261, or 4286'' wherever appearing.

1958—Subsec. (a). Pub. L. 85–859 provided that in the case of any payment outside the United States in respect of which tax is imposed under par. (1), (2), or (3) of section 4231 of this title, the person who paid for the admission or for the use of the box or seat shall be considered the person from whom the tax was collected.

Subsecs. (a) to (d). Pub. L. 85–475 struck out references to section 4271.

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 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89–44, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Section 1(c) of Pub. L. 85–859 provided in part that: ''Except as otherwise provided, the amendments and repeals made by title I of this Act [enacting sections 4057, 4143, 4221 to 4225, and 4294 of this title, amending chapter 34, this section, and sections 4001, 4003, 4031, 4041, 4053, 4111, 4121, 4141, 4142, 4192, 4216 to 4218, 4231 to 4233, 4263, 4291, 4501, 4601, 6011, 6412, 6416, 6420, 6421, 6501, and 6805 of this title, and repealing section 4112 of this title and former sections 4143, 4152, 4220 to 4225, and 4316 of this title] shall take effect on the first day of the first calendar quarter which begins more than 60 days after the date on which this Act is enacted [Sept. 2, 1958].''

Section 4(c) of Pub. L. 85–475, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) Except as provided in paragraph (2), the repeals and amendments made by subsections (a) and (b) [repealing sections 4271 to 4273 and 4281 to 4283 of this title and amending this section and sections 4292, 6416, 7012, and 7272 of this title] shall apply only with respect to amounts paid on or after August 1, 1958.

''(2) In the case of transportation with respect to which the second sentence of section 4281 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] applies, the repeals and amendments made by subsections (a) and (b) [repealing sections 4271 to 4273 and 4281 to 4283 of this title and amending this section and sections 4292, 6416, 7012, and 7272 of this title] shall apply only if the transportation begins on or after August 1, 1958.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9502 of this title.

§ 6416. Certain taxes on sales and services

(a) Condition to allowance

(1) General rule

No credit or refund of any overpayment of tax imposed by chapter 31 (relating to retail excise taxes), or chapter 32 (manufacturers taxes), shall be allowed or made unless the person who paid the tax establishes, under regulations prescribed by the Secretary, that he—

(A) has not included the tax in the price of the article with respect to which it was imposed and has not collected the amount of the tax from the person who purchased such article;

(B) has repaid the amount of the tax to the ultimate purchaser of the article;

(C) in the case of an overpayment under subsection (b)(2) of this section—

(i) has repaid or agreed to repay the amount of the tax to the ultimate vendor of the article, or

(ii) has obtained the written consent of such ultimate vendor to the allowance of the credit or the making of the refund; or

(D) has filed with the Secretary the written consent of the person referred to in subparagraph (B) to the allowance of the credit or the making of the refund.

(2) Exceptions

This subsection shall not apply to—

(A) the tax imposed by section 4041 (relating to tax on special fuels) on the use of any liquid, and

(B) an overpayment of tax under paragraph (1), (3)(A), (4), (5), or (6) of subsection (b) of this section.

(3) Special rule

For purposes of this subsection, in any case in which the Secretary determines that an article is not taxable, the term ''ultimate purchaser'' (when used in paragraph (1)(B) of this subsection) includes a wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of such determination, holds such article for sale; but only if claim for credit or refund by reason of this paragraph is filed on or before the date for filing the return with respect to the taxes imposed under chapter 32 for the first period which begins more than 60 days after the date on such determination.

(4) Wholesale distributors to administer credits and refunds of gasoline tax

(A) In general

For purposes of this subsection, a wholesale distributor who purchases any gasoline on which tax imposed by section 4081 has been paid and who sells the gasoline to its ultimate purchaser shall be treated as the person (and the only person) who paid such tax.

(B) Wholesale distributor

For purposes of subparagraph (A), the term ''wholesale distributor'' has the meaning given such term by section 4093(b)(2) (determined by substituting ''any gasoline taxable under section 4081'' for ''aviation fuel'' therein). Such term includes any person who makes retail sales of gasoline at 10 or more retail motor fuel outlets.

(b) Special cases in which tax payments considered overpayments

Under regulations prescribed by the Secretary, credit or refund (without interest) shall be allowed or made in respect of the overpayments determined under the following paragraphs:

(1) Price readjustments

(A) In general

Except as provided in subparagraph (B) or (C), if the price of any article in respect of which a tax, based on such price, is imposed by chapter 31 or 32, is readjusted by reason of the return or repossession of the article or

a covering or container, or by a bona fide discount, rebate, or allowance, including a readjustment for local advertising (but only to the extent provided in section 4216(e)(2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to the purchaser shall be deemed to be an overpayment.

(B) Further manufacture

Subparagraph (A) shall not apply in the case of an article in respect of which tax was computed under section 4223(b)(2); but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

(C) Adjustment of tire price

No credit or refund of any tax imposed by subsection (a) or (b) of section 4071 shall be allowed or made by reason of an adjustment of a tire pursuant to a warranty or guarantee.

(2) Specified uses and resales

The tax paid under chapter 32 (or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051) in respect of any article shall be deemed to be an overpayment if such article was, by any person—

(A) exported;

(B) used or sold for use as supplies for vessels or aircraft;

(C) sold to a State or local government for the exclusive use of a State or local government;

(D) sold to a nonprofit educational organization for its exclusive use;

(E) in the case of any tire taxable under section 4071(a), sold to any person for use as described in section 4221(e)(3); or

(F) in the case of gasoline, used or sold for use in the production of special fuels referred to in section 4041.

Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064. In the case of the tax imposed by section 4131, subparagraphs (B), (C), and (D) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe. This paragraph shall not apply in the case of any tax imposed under section 4041(a)(1) or 4081 on diesel fuel or kerosene and any tax paid under section 4091 or 4121.

(3) Tax-paid articles used for further manufacture, etc.

If the tax imposed by chapter 32 has been paid with respect to the sale of any article (other than coal taxable under section 4121) by the manufacturer, producer, or importer thereof and such article is sold to a subsequent manufacturer or producer before being used, such tax shall be deemed to be an overpayment by such subsequent manufacturer or producer if—

(A) in the case of any article other than any fuel taxable under section 4081 or 4091, such article is used by the subsequent manufacturer or producer as material in the manufacture or production of, or as a component part of—

(i) another article taxable under chapter 32, or

(ii) an automobile bus chassis or an automobile bus body,

manufactured or produced by him; or

(B) in the case of any fuel taxable under section 4081 or 4091, such fuel is used by the subsequent manufacturer or producer, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.

(4) Tires

If—

(A) the tax imposed by section 4071 has been paid with respect to the sale of any tire by the manufacturer, producer, or importer thereof, and

(B) such tire is sold by any person on or in connection with, or with the sale of, any other article, such tax shall be deemed to be an overpayment by such person if such other article is—

(i) an automobile bus chassis or an automobile bus body, or

(ii) by such person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft.

(5) Return of certain installment accounts

If—

(A) tax was paid under section 4216(d)(1) in respect of any installment account,

(B) such account is, under the agreement under which the account was sold, returned to the person who sold such account, and

(C) the consideration is readjusted as provided in such agreement,

the part of the tax paid under section 4216(d)(1) allocable to the part of the consideration repaid or credited to the purchaser of such account shall be deemed to be an overpayment.

(6) Truck chassis, bodies, and semitrailers used for further manufacture

If—

(A) the tax imposed by section 4051 has been paid with respect to the sale of any article, and

(B) before any other use, such article is by any person used as a component part of another article taxable under section 4051 manufactured or produced by him,

such tax shall be deemed to be an overpayment by such person. For purposes of the preceding sentence, an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

This subsection shall apply in respect of an article only if the exportation or use referred to in

the applicable provision of this subsection occurs before any other use, or, in the case of a sale or resale, the use referred to in the applicable provision of this subsection is to occur before any other use.

(c) Refund to exporter or shipper

Under regulations prescribed by the Secretary the amount of any tax imposed by chapter 31, or chapter 32 erroneously or illegally collected in respect of any article exported to a foreign country or shipped to a possession of the United States may be refunded to the exporter or shipper thereof, if the person who paid such tax waives his claim to such amount.

(d) Credit on returns

Any person entitled to a refund of tax imposed by chapter 31 or 32, paid to the Secretary may, instead of filing a claim for refund, take credit therefor against taxes imposed by such chapter due on any subsequent return. The preceding sentence shall not apply to the tax imposed by section 4081 in the case of refunds described in section 4081(e) or to the tax imposed by section 4091 in the case of refunds described in section 4091(d).

(e) Accounting procedures for like articles

Under regulations prescribed by the Secretary, if any person uses or resells like articles, then for purposes of this section the manufacturer, producer, or importer of any such article may be identified, and the amount of tax paid under chapter 32 in respect of such article may be determined—

(1) on a first-in-first-out basis,

(2) on a last-in-first-out basis, or

(3) in accordance with any other consistent method approved by the Secretary.

(f) Meaning of terms

For purposes of this section, any term used in this section has the same meaning as when used in chapter 31, 32, or 33, as the case may be.

(Aug. 16, 1954, ch. 736, 68A Stat. 798; Aug. 11, 1955, ch. 793, §2, 69 Stat. 676; Aug. 11, 1955, ch. 805, §§1(h), (i), 2(b), 69 Stat. 690; Apr. 2, 1956, ch. 160, §2(b)(1), 70 Stat. 90; June 29, 1956, ch. 462, title II, §208(b), 70 Stat. 393; Pub. L. 85–475, §4(b)(5), (6), June 30, 1958, 72 Stat. 260; Pub. L. 85–859, title I, §163(a), (c), Sept. 2, 1958, 72 Stat. 1306, 1311; Pub. L. 86–342, title II, §201(d)(1), Sept. 21, 1959, 73 Stat. 614; Pub. L. 86–418, §3, Apr. 8, 1960, 74 Stat. 38; Pub. L. 86–781, §2, Sept. 14, 1960, 74 Stat. 1018; Pub. L. 87–61, title II, §205(c), (d), June 29, 1961, 75 Stat. 126; Pub. L. 87–508, §5(c)(3), June 28, 1962, 76 Stat. 119; Pub. L. 89–44, title II, §207(c), title VI, §601(c), title VIII, §801(d)(2), June 21, 1965, 79 Stat. 140, 153, 158; Pub. L. 91–258, title II, §§205(b)(3), (4), 207(d)(4)–(7), May 21, 1970, 84 Stat. 242, 248, 249; Pub. L. 91–614, title III, §302(a), (b), Dec. 31, 1970, 84 Stat. 1845; Pub. L. 92–178, title IV, §401(a)(3)(C), (g)(6), Dec. 10, 1971, 85 Stat. 531, 534; Pub. L. 94–455, title XIX, §§1904(b)(1), (2), 1906(a)(24)(A), (B)(i), (b)(13)(A), title XXI, §2108(a), Oct. 4, 1976, 90 Stat. 1815, 1827, 1834, 1904; Pub. L. 95–227, §2(b)(4), Feb. 10, 1978, 92 Stat. 12; Pub. L. 95–618, title II, §§201(c)(3), 232(b), 233(c)(3), Nov. 9, 1978, 92 Stat. 3184, 3189, 3192; Pub. L. 96–222, title I, §108(c)(2)(A), (B), (3), (4), Apr. 1, 1980, 94 Stat. 227; Pub. L. 96–596, §4(c)(1), Dec. 24, 1980, 94 Stat. 3475; Pub. L. 96–598, §1(a), (b), Dec. 24, 1980, 94 Stat. 3485, 3486; Pub. L. 97–424, title V, §§511(g)(2)(A), 512(b)(2)(C), (D), 515(b)(4), Jan. 6, 1983, 96 Stat. 2173, 2177, 2181; Pub. L. 98–369, div. A, title VII, §§734(b), (j), 735(c)(13), July 18, 1984, 98 Stat. 978, 980, 984; Pub. L. 99–499, title V, §521(d)(5), Oct. 17, 1986, 100 Stat. 1780; Pub. L. 100–203, title IX, §9201(b)(2), title X, §10502(d)(6)–(8), Dec. 22, 1987, 101 Stat. 1330–330, 1330–444; Pub. L. 100–647, title II, §2001(d)(1)(B), title VI, §6102(a), Nov. 10, 1988, 102 Stat. 3594, 3710; Pub. L. 101–508, title XI, §11212(d)(2), Nov. 5, 1990, 104 Stat. 1388–432; Pub. L. 103–66, title XIII, §13242(d)(17)–(19), Aug. 10, 1993, 107 Stat. 524; Pub. L. 104–188, title I, §1702(b)(3), Aug. 20, 1996, 110 Stat. 1868; Pub. L. 105–34, title IX, §905(a), title X, §1032(e)(6), title XIV, §1436(b), Aug. 5, 1997, 111 Stat. 874, 935, 1053; Pub. L. 105–206, title VI, §6023(23), July 22, 1998, 112 Stat. 826.)

AMENDMENTS

1998—Subsec. (b)(5). Pub. L. 105–206 substituted ''section 4216(d)(1)'' for ''section 4216(e)(1)'' in subpar. (A) and concluding provisions.

1997—Subsec. (a)(4)(B). Pub. L. 105–34, §905(a), inserted at end ''Such term includes any person who makes retail sales of gasoline at 10 or more retail motor fuel outlets.''

Subsec. (b)(2). Pub. L. 105–34, §1032(e)(6), inserted ''or kerosene'' after ''diesel fuel'' in concluding provisions.

Subsec. (d). Pub. L. 105–34, §1436(b), inserted before period at end ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

1996—Subsec. (b)(1)(A). Pub. L. 104–188 substituted ''chapter 31 or 32'' for ''chapter 32 or by section 4051''.

1993—Subsec. (a)(4)(A). Pub. L. 103–66, §13242(d)(17)(A), substituted ''gasoline'' for ''product'' in two places.

Subsec. (a)(4)(B). Pub. L. 103–66, §13242(d)(17)(B), substituted ''section 4093(b)(2)'' for ''section 4092(b)(2)'' and '' 'any gasoline taxable under section 4081' for 'aviation fuel' therein)'' for '' 'any product taxable under section 4081' for 'a taxable fuel' therein)''.

Subsec. (b)(2). Pub. L. 103–66, §13242(d)(18), inserted ''any tax imposed under section 4041(a)(1) or 4081 on diesel fuel and'' after ''This paragraph shall not apply in the case of'' in concluding provisions.

Subsec. (b)(3)(A). Pub. L. 103–66, §13242(d)(19)(A), substituted ''any fuel taxable under section 4081 or 4091'' for ''gasoline taxable under section 4081 and other than any fuel taxable under section 4091''.

Subsec. (b)(3)(B). Pub. L. 103–66, §13242(d)(19)(B), substituted ''any fuel taxable under section 4081 or 4091, such fuel'' for ''gasoline taxable under section 4081 or any fuel taxable under section 4091, such gasoline or fuel''.

1990—Subsec. (d). Pub. L. 101–508 inserted at end ''The preceding sentence shall not apply to the tax imposed by section 4081 in the case of refunds described in section 4081(e).''

1988—Subsec. (a)(4). Pub. L. 100–647, §6102(a), added par. (4).

Subsec. (b)(2). Pub. L. 100–647, §2001(d)(1)(B), substituted ''(or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051)'' for ''(or under paragraph (1)(A) or (2)(A) of section 4041(a) or under paragraph (1)(A) or (2)(A) of section 4041(d) or under section 4051)''.

1987—Subsec. (b)(2). Pub. L. 100–203, §10502(d)(6), struck out ''(other than coal taxable under section 4121)'' after ''of any article'' in introductory provisions and inserted at end ''This paragraph shall not apply in the case of any tax paid under section 4091 or 4121.''

Pub. L. 100–203, §9201(b)(2), inserted at end ''In the case of the tax imposed by section 4131, subparagraphs (B), (C), and (D) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine

meets such requirements as the Secretary may by regulations prescribe.''

Subsec. (b)(3)(A). Pub. L. 100–203, § 10502(d)(7), inserted ''and other than any fuel taxable under section 4091'' after ''section 4081''.

Subsec. (b)(3)(B). Pub. L. 100–203, § 10502(d)(8), substituted ''or any fuel taxable under section 4091, such gasoline or fuel'' for '', such gasoline''.

1986—Subsec. (b)(2). Pub. L. 99–499 inserted ''or under paragraph (1)(A) or (2)(A) of section 4041(d)'' after ''section 4041(a)''.

1984—Subsec. (a)(1)(C). Pub. L. 98–369, § 734(b)(2)(B)(iii), struck out '', (b)(3)(C), or (D), or (b)(4)'' before ''of this section''.

Subsec. (a)(2)(B). Pub. L. 98–369, §§ 734(b)(1)(B), (2)(B)(iv), 735(c)(13)(D), substituted ''(4), (5), or (6) of subsection (b)'' for ''or (B), or (5) of subsection (b)''.

Subsec. (a)(3). Pub. L. 98–369, § 734(b)(2)(B)(v), in amending par. (3) generally, struck out the subpar. (A) designation before ''in any case'', substituted a period for ''; and'' after ''determination'', and struck out subpar. (B) which provided that in applying paragraph (1) to any overpayment under paragraph (2)(F), (3)(C), or (4) of subsection (b), the term ''ultimate vendor'' means the ultimate vendor of the other article.

Subsec. (b)(1)(A). Pub. L. 98–369, § 734(j), inserted ''or by section 4051'' after ''by chapter 32''.

Subsec. (b)(1)(C). Pub. L. 98–369, § 735(c)(13)(A), substituted ''subsection (a) or (b) of section 4071'' for ''section 4071(a)(1) or (2) or section 4071(b)''.

Subsec. (b)(2). Pub. L. 98–369, § 735(c)(13)(B), inserted a period after ''section 4064'' at end of flush sentence following subpar. (F).

Subsec. (b)(2)(A). Pub. L. 98–369, § 735(c)(13)(F), struck out ''(except in any case to which subsection (g) applies)'' after ''exported''.

Subsec. (b)(2)(E). Pub. L. 98–369, § 735(c)(13)(B), added subpar. (E).

Pub. L. 98–369, § 734(b)(2)(B)(i), struck out former subpar. (E) which related to tires or inner tubes resold for use or tread rubber on recapped or retreaded tires resold for use.

Subsec. (b)(2)(F). Pub. L. 98–369, § 735(c)(13)(B), added subsec. (F) and struck out former subsec. (F) which related to any article taxable under section 4061(b) (other than spark plugs and storage batteries), used or sold for use as repair or replacement parts or accessories for farm equipment (other than equipment taxable under section 4061(a).

Subsec. (b)(2)(G) to (M). Pub. L. 98–369, § 735(c)(13)(B), struck out subpars. (G) through (M) which related to tread rubber, gasoline, articles used with automobile buses, boxes or containers, light-duty trucks, tires and inner tubes, recapped tires, and tires sold for use in connection with qualified buses.

Subsec. (b)(3). Pub. L. 98–369, § 735(c)(13)(C), struck out provision at end that for purposes of subparagraphs (A) and (B), an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

Subsec. (b)(3)(A). Pub. L. 98–369, § 735(c)(13)(C), substituted ''gasoline taxable under section 4081,'' for ''an article to which subparagraphs (B), (C), (D), or (E) applies,''.

Subsec. (b)(3)(B). Pub. L. 98–369, § 735(c)(13)(C), substituted ''gasoline taxable under section 4081,'' for ''a part or accessory taxable under section 4061(b)'', substituted ''gasoline'' for ''article'', inserted ''for nonfuel purposes,'', and substituted a period for a semicolon after ''produced by him''.

Subsec. (b)(3)(C). Pub. L. 98–369, § 734(b)(2)(B)(ii), struck out subpar. (C) which related to tires or inner tubes taxable under section 4071(a) of this title.

Subsec. (b)(3)(D) to (F). Pub. L. 98–369, § 735(c)(13)(C), struck out subpar. (D) which related to tread rubber in respect of which tax was paid under section 4071(a)(4) used in recapping or retreading of a tire, subpar. (E) which related to bicycle tires or inner tubes used for such a tire, and subpar. (F) which dealt with gasoline taxable under section 4081. See subpar. (B) for similar provisions.

Subsec. (b)(4)(A). Pub. L. 98–369, § 734(b)(2)(A), amended par. (4) generally. Prior to amendment par. (4) provided that if (A) a tire or inner tube taxable under section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading, is sold by the manufacturer, producer, or importer thereof on or in connection with, or with the sale of, any other article manufactured or produced by him; and (B) such other article is (i) an automobile bus chassis or an automobile bus body, or (ii) by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, any tax imposed by chapter 32 in respect of such tire or inner tube which has been paid by the manufacturer, producer, or importer thereof shall be deemed to be an overpayment by him.

Subsec. (b)(6). Pub. L. 98–369, § 734(b)(1)(A), added par. (6).

Subsec. (c). Pub. L. 98–369, § 735(c)(13)(E), redesignated subsec. (e) as (c). Former subsec. (c), which related to credit for tax paid on tires or inner tubes, was struck out.

Subsecs. (d) to (f). Pub. L. 98–369, § 735(c)(13)(E), redesignated subsecs. (f), (h), and (i), as subsecs. (d), (e), and (f), respectively. Former subsec. (d) had been previously repealed and former subsec. (e) was redesignated (c).

Subsec. (g). Pub. L. 98–369, § 735(c)(13)(E), struck out subsec. (g) which related to trucks, buses, tractors, etc.

Subsecs. (h), (i). Pub. L. 98–369, § 735(c)(13)(E), redesignated subsecs. (h) and (i) as (e) and (f), respectively.

1983—Subsec. (a)(1). Pub. L. 97–424, § 512(b)(2)(D), substituted ''chapter 31 (relating to retail excise taxes)'' for ''chapter 31 (special fuels)''.

Subsec. (b)(2). Pub. L. 97–424, § 511(g)(2)(A), substituted ''paragraph (1)(A) or (2)(A) of section 4041(a)'' for ''section 4041(a)(1) or (b)(1)'' in provision before subpar. (A).

Pub. L. 97–424, § 512(b)(2)(C), inserted ''or under section 4051'' after ''section 4041(a)''.

Pub. L. 97–424, § 515(b)(4), struck out subpar. (N) and provision following subpar. (N) relating to amount of credit or refund under subpar. (N).

1980—Subsec. (a)(1)(C). Pub. L. 96–598, § 1(b)(2)(B), substituted ''(b)(3)(C) or (D)'' for ''(b)(3)(C)''.

Subsec. (b)(1). Pub. L. 96–596 designated existing provision in part as subpar. (A), and in subpar. (A) as so designated, inserted heading ''In general'' and substituted ''Except as provided in subparagraph (B) or (C), if the price'' for ''If the price'', designated existing provision in part as subpar. (B), and in subpar. (B) as so designated, inserted heading ''Further manufacture'' and substituted ''Subparagraph (A) shall not'' for ''The preceding sentence shall not'', and added subpar. (C).

Subsec. (b)(2). Pub. L. 96–222, § 108(c)(3), added subpar. (N) and provision following subpar. (N) relating to amount of credit or refund under subpar. (N).

Subsec. (b)(2)(E). Pub. L. 96–598, § 1(b)(2)(A), inserted ''(or in the case of the tread rubber on a recapped or retreaded tire, resold for use as provided in subparagraph (D) of paragraph (3)),'' after ''paragraph (3)''.

Subsec. (b)(2)(G). Pub. L. 96–598, § 1(a), inserted provision making a credit or refund of the tread rubber tax available where the tread rubber is destroyed, scrapped, wasted, or rendered useless in the recapping or retreading process, where the tread rubber is used in the recapping or retreading of a tire if the sales price of the tire is later adjusted because of a warranty or guarantee, in which case the overpayment is to be in proportion to the adjustment in the sales price of such tire, and where the tread rubber is used in the recapping or retreading of a tire, if such tire is by any person exported, used or sold for use as supplies for vessels or aircraft, sold to a State or local government for the exclusive use of a State or local government, or sold to

a nonprofit educational organization for its exclusive use.

Subsec. (b)(3)(A). Pub. L. 96–598, §1(b)(2)(C), inserted ''(D),'' after ''(C),''.

Pub. L. 96–222, §108(c)(4), inserted reference to an automobile bus chassis or an automobile bus body.

Subsec. (b)(3)(C). Pub. L. 96–222, §108(c)(2)(A), inserted reference to an automobile bus chassis or an automobile bus body.

Subsec. (b)(3)(D). Pub. L. 96–598, §1(b)(1), added subpar. (D).

Subsec. (b)(4)(A). Pub. L. 96–598, §1(b)(2)(D), substituted ''section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading,'' for ''section 4071''.

Subsec. (b)(4)(B). Pub. L. 96–222, §108(c)(2)(B), inserted reference to automobile bus chassis or an automobile bus body.

1978—Subsec. (b)(2). Pub. L. 95–618 substituted in subpar. (I) ''in the case of any article taxable under section 4061(b), sold for use by the purchaser on or in connection with an automobile bus'' for ''in the case of a bus chasis or body taxable under section 4061(a), sold to any person for use as described in section 4063(a)(6) or 4221(e)(5)'' and added subpars. (L) and (M) and provision following subpar. (M).

Pub. L. 95–227 inserted ''(other than coal taxable under section 4121)'' after ''of any article''.

Subsec. (b)(3). Pub. L. 95–227 inserted ''(other than coal taxable under section 4121)'' after ''of any article''.

1976—Subsec. (a)(1). Pub. L. 94–455, §§1904(b)(1)(A), 1906(b)(13)(A), substituted ''(special fuels)'' for ''(retailers taxes)'', and struck out ''or his delegate'' after ''Secretary''.

Subsec. (a)(3). Pub. L. 94–455, §1906(a)(24)(A), (b)(13)(A), redesignated subpars. (C) and (D) as (A) and (B), and as so redesignated, struck out ''or his delegate'' after ''Secretary'', in subpar. (A). Prior subpars. (A) and (B) had been repealed by Pub. L. 89–44, title VI, §601(c)(6), June 21, 1965, 79 Stat. 153.

Subsec. (b). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (b)(1). Pub. L. 94–455, §1904(b)(2), substituted ''section 4216(e)(2) and (3)'' for ''section 4216(f)(2) and (3)''.

Subsec. (b)(2)(E). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (F) as (E). A prior subpar. (E) had been repealed by Pub. L. 91–614, title III, §302(b), Dec. 31, 1970, 84 Stat. 1845.

Subsec. (b)(2)(F). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (K) as (F). Former subpar. (F) redesignated (E).

Subsec. (b)(2)(G). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (L) as (G), and struck out former subpar. (G) respecting consideration as overpayments, tax payments in case of liquids sold for use as fuel in a diesel-powered highway vehicle or as fuel for propulsion of motor vehicles, motorboats, or airplanes and used in other specified ways or resold.

Subsec. (b)(2)(H). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (M) as (H), and struck out former subpar. (H) respecting consideration as overpayments, tax payments in case of liquids used in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation services along regular routes under prescribed conditions.

Subsec. (b)(2)(I). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (R) as (I), and struck out former subpar. (I) respecting consideration as overpayments, tax payments in case of liquids used or resold for use as fuel in diesel-powered highway vehicles, which were not registered in any State or foreign country or were United States owned but not used on the highway.

Subsec. (b)(2)(J). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (S) as (J), and struck out former subpar. (J) respecting consideration as overpayments, tax payments in case of liquids used or resold, otherwise than as a fuel for propulsion of highway vehicles, which were registered in any State or foreign country or were United States owned and used on the highway.

Subsec. (b)(2)(K). Pub. L. 94–455, §1906(a)(24)(B)(i), redesignated subpar. (T), added by Pub. L. 94–455, §2108(a), as (K). Former subpar. (K) redesignated (F).

Subsec. (b)(2)(L), (M). Pub. L. 94–455, §1906(a)(2)(B)(i), redesignated subpars. (L) and (M) as (G) and (H), respectively.

Subsec. (b)(2)(R), (S). Pub. L. 94–455, §1906(a)(2)(B)(i), redesignated subpars. (R) and (S) as (I) and (J), respectively.

Subsec. (b)(2)(T). Pub. L. 94–455, §1906(a)(2)(B)(i), redesignated subpar. (T), added by Pub. L. 94–455, §2108(a), as (K).

Subsec. (c). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (e). Pub. L. 94–455, §1904(b)(1)(B), struck out ''subchapter E of'' before ''chapter 31''.

Subsecs. (g), (h). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1971—Subsec. (b)(2)(R). Pub. L. 92–178, §401(a)(3)(C)(i), inserted reference to section 4063(a)(6).

Subsec. (b)(2)(S). Pub. L. 92–178, §401(a)(3)(C)(ii), added subpar. (S).

Subsec. (g). Pub. L. 92–178, §401(g)(6), substituted ''Trucks, buses, tractors, etc.'' for ''Automobiles, etc.'' in heading.

1970—Subsec. (a)(2)(A). Pub. L. 91–258, §205(b)(3), substituted ''section 4041 (relating to tax on special fuels)'' for ''section 4041(a)(2) or (b)(2) (use of diesel and special motor fuels)''.

Subsec. (b)(2)(E). Pub. L. 91–614, §302(b), struck out subpar. (E) providing that the tax paid under chapter 32 (or under section 4041(a)(1) or (b)(1)) in respect of any article is deemed an overpayment if such article was resold by any person to a manufacturer or producer for use by him as provided in subsec. (b)(3)(A), (B), (E) or (F).

Subsec. (b)(2)(G). Pub. L. 91–258, §207(d)(4), inserted ''before July 1, 1970'' after ''if''.

Subsec. (b)(2)(H). Pub. L. 91–258, §207(d)(5), inserted ''beginning before July 1, 1970,'' after ''during any calendar quarter''.

Subsec. (b)(2)(I), (J). Pub. L. 91–258, §207(d)(6), (7), inserted ''before July 1, 1970,'' after ''used or resold for use''.

Subsec. (b)(2)(M). Pub. L. 91–258, §205(b)(4), substituted ''use in the production of special fuels referred to in section 4041'' for ''use in production of special motor fuels referred to in section 4041(b)''.

Subsec. (b)(3). Pub. L. 91–614, §302(a)(1)(A), substituted ''and such article is sold to a subsequent manufacturer or producer before being used, such tax shall be deemed to be an overpayment by such subsequent manufacturer or producer if'' for ''to a second manufacturer or producer, such tax shall be deemed to be an overpayment by such second manufacturer or producer if''.

Subsec. (b)(3)(A) to (C), (E), (F). Pub. L. 91–614, §302(a)(1)(B), substituted ''the subsequent manufacturer'' for ''the second manufacturer''.

Subsec. (c). Pub. L. 91–614, §302(a)(2), struck out provision providing that the credit for tax paid on tires or inner tubes is allowable only in respect of the first sale on or in connection with, or with the sale of, another article on the sale of which tax is imposed under chapter 32 of this title.

1965—Subsec. (a)(1). Pub. L. 89–44, §601(c)(1), struck out ''section 4231(4), (5), or (6) (cabarets, etc.),'' from material preceding subpar. (A).

Subsec. (a)(1)(A). Pub. L. 89–44, §601(c)(2), struck out ''admission, or service'' after ''article'' each place it appears.

Subsec. (a)(1)(B). Pub. L. 89–44, §601(c)(3), struck out (i), (ii), and (iii) which dealt specifically with taxes imposed by sections 4041(a)(1) or (b)(1), 4231(4), (5), or (6) (cabarets, etc.), and chapters 31 and 32, and amended the subpar. to simply require that the person has repaid the amount of the tax to the ultimate purchaser of the article.

Subsec. (a)(1)(C). Pub. L. 89–44, § 601(c)(4), struck out ''or (D)'' after ''(b)(3)(C)''.

Subsec. (a)(1)(D). Pub. L. 89–44, § 601(c)(5), struck out ''(1), (ii), or (iii), as the case may be,'' after ''subparagraph (B)''.

Subsec. (a)(3)(A), (B). Pub. L. 89–44, § 601(c)(6), struck out subpars. (A) and (B).

Subsec. (a)(3)(C). Pub. L. 89–44, § 601(c)(6), struck out ''(ii)'' after ''paragraph (1)(B)''.

Subsec. (a)(3)(D). Pub. L. 89–44, § 601(c)(6), struck out ''or (D)'' after ''paragraph (2)(F), (3)(C)''.

Subsec. (b)(1). Pub. L. 89–44, § 601(c)(7), struck out ''31 or'' after ''imposed by chapter'' and ''(in the case of a tax imposed by chapter 32)'' after ''or allowance, including''.

Subsec. (b)(2)(F). Pub. L. 89–44, § 601(c)(8), struck out reference to receiving sets resold for use and struck out reference to subparagraph (D) of paragraph (3).

Subsec. (b)(2)(N) to (Q). Pub. L. 89–44, § 601(c)(9), struck out subpars. (N) to (Q).

Subsec. (b)(2)(R). Pub. L. 89–44, § 801(d)(2), added subpar. (R).

Subsec. (b)(3)(A). Pub. L. 89–44, § 601(c)(10), struck out ''(D),'' after ''subparagraph (B), (C),''.

Subsec. (b)(3)(B). Pub. L. 89–44, § 601(c)(10), struck out references to radio and television components taxable under section 4141 and camera lenses taxable under section 4171.

Subsec. (b)(3)(C). Pub. L. 89–44, § 601(c)(10), struck out reference to automobile radios or television receiving sets taxable under section 4141.

Subsec. (b)(3)(D). Pub. L. 89–44, § 601(c)(10), struck out subpar. (D) which related to radio receiving sets or automobile receiving sets.

Subsec. (b)(4). Pub. L. 89–44, § 601(c)(11), struck out all references to automobile radio or television receiving sets taxable under section 4141.

Subsec. (b)(5). Pub. L. 89–44, §§ 207(c), 601(c)(12), substituted ''allocable'' for ''proportionate'' and struck out ''4053(b)(1) or'' before ''4216(e)(1)'' wherever appearing.

Subsec. (c). Pub. L. 89–44, § 601(c)(13), struck out references to automobile radio or television receiving sets.

Subsec. (d). Pub. L. 89–44, § 601(c)(14), struck out subsec. (d) which related to mechanical pencils taxable as jewelry.

Subsec. (g). Pub. L. 89–44, § 601(c)(15), substituted ''section 4061(a)'' for ''sections 4061(a), 4111, 4121, 4141,''.

1962—Subsec. (b)(2)(H). Pub. L. 87–508 substituted ''commuter fare revenue'' for ''tax-exempt passenger fare revenue'' and struck out ''(not including the tax imposed by section 4261, relating to the tax on transportation of persons)'' after ''total passenger fare revenue''.

1961—Subsec. (b)(2)(E). Pub. L. 87–61, § 205(d), inserted reference to subpar. (F) of par. (3).

Subsec. (b)(3)(F). Pub. L. 87–61, § 205(c), added subpar. (F).

1960—Subsec. (b)(1). Pub. L. 86–781 inserted ''including (in the case of a tax imposed by chapter 32) a readjustment for local advertising (but only to the extent provided in section 4216(f)(2) and (3),)'' after ''or allowance,''.

Subsec. (b)(2)(E). Pub. L. 86–418, § 3(a), substituted ''subparagraph (A), (B), or (E)'' for ''subparagraph (A) or (B)''.

Subsec. (b)(3)(A). Pub. L. 86–418, § 3(b)(1), substituted ''subparagraph (B), (C), (D), or (E)'' for ''subparagraph (B), (C), or (D)''.

Subsec. (b)(3)(E). Pub. L. 86–418, § 3(b)(2), added subpar. (E).

1959—Subsec. (b)(2)(H). Pub. L. 86–342, § 201(d)(1)(A), (B), substituted ''at the rate of 3 cents or 4 cents a gallon'' for ''at the rate of 3 cents a gallon'', and ''1 cent (where tax was paid at the 3-cent rate) or 2 cents (where tax was paid at the 4-cent rate) for each gallon'' for ''1 cent for each gallon''.

Subsec. (b)(2)(I), (J). Pub. L. 86–342, § 201(d)(1)(A), (C), substituted ''at the rate of 3 cents or 4 cents a gallon'' for ''at the rate of 3 cents a gallon'', and ''at the rate of 1 cent a gallon where tax was paid at the 3-cent rate or at the rate of 2 cents a gallon where tax was paid at the 4-cent rate'' for ''at the rate of 1 cent a gallon''.

1958—Subsec. (a) amended generally by Pub. L. 85–859, § 163(a), to make section applicable to taxes imposed by pars. (4) and (5) of section 4231, to permit credit or refund of the cabaret tax where the person has repaid the amount of the tax or has filed a written consent to the allowance of the credit or the making of the refund, and to establish special rules for taxes collected under section 4231(6) from a concessionaire, taxes under chapter 31 paid by a supplier, and defining ''ultimate purchaser'' and ''ultimate vendor''.

Subsec. (a). Pub. L. 85–475, § 4(b)(5), struck out reference to section 4281.

Subsec. (b)(1). Pub. L. 85–859, § 163(a), made price readjustment provisions inapplicable in the case of an article in respect of which tax was computed under section 4223(b)(2), but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

Subsec. (b)(2) amended generally by Pub. L. 85–859, § 163(a), to consider as overpayments taxes paid in respect of any articles which were, by any person, exported, resold to a manufacturer or producer for use by him as provided in subpar. (A) or (B) of par. (3), resold for use, in the case of a tire, inner tube, or receiving set, as provided in subpar. (C) or (D) of par. (3) and the other article referred to in such paragraph is by any person exported or sold as provided in such paragraph, and to eliminate provisions which excluded leaf springs, coils, timers, and tire chains in the case of articles taxable under section 4061(b).

Subsec. (b)(3) amended generally by Pub. L. 85–859, § 163(a), to consider as overpayments taxes paid in the case of tires or inner tubes taxable under section 4071 and automobile radio or television receiving sets taxable under section 4141 where the articles are resold in certain particular cases, and taxes paid in the case of radio receiving sets or automobile radio receiving sets which are used by the manufacturer or producer as component parts of any other article manufactured or produced by him, and are exported or sold in certain particular cases, and to provide that for purposes of subpars. (A) and (B) an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

Subsec. (b)(4), (5). Pub. L. 85–859, § 163(a), added pars. (4) and (5).

Subsec. (c). Pub. L. 85–859, § 163(a), authorized a credit with respect to tires, inner tubes, or automobile radio or television receiving sets which are sold on or in connection with, or with the sale of, another article taxable under chapter 32, and permitted the credit only in respect of the first sale on or in connection with, or with the sale of, another article on the sale of which tax is imposed under chapter 32.

Subsec. (f). Pub. L. 85–475, § 4(b)(6), struck out reference to section 4281.

Subsecs. (g) to (i). Pub. L. 85–859, § 163(c), added subsecs. (g) to (i).

1956—Subsec. (b)(2)(C). Act Apr. 2, 1956, included liquid used on a farm for farming purposes.

Subsec. (b)(2)(J) to (M). Act June 29, 1956, added subpars. (J) to (M).

1955—Subsec. (b)(2)(G). Act Aug. 11, 1955, ch. 805, § 2(b), repealed subpar. (G) relating to credit for communication, detection, and navigation receivers when sold to the United States Government.

Subsec. (b)(2)(I). Act Aug. 11, 1955, ch. 793, added subpar. (I).

Subsec. (b)(3)(A). Act Aug. 11, 1955, ch. 805, § 1(h), inserted ''and other than an automobile part or accessory taxable under section 4061(b), a refrigerator component taxable under section 4111, a radio or television compo-

nent taxable under section 4141, or a camera lens taxable under section 4171'' after ''section 4141''.

Subsec. (b)(3)(B). Act Aug. 11, 1955, ch. 805, §1(i), substituted provisions allowing a credit for automobile parts or accessories, refrigerator, radio, or television components, or camera lenses taxable under sections 4061(b), 4111, 4141, or 4171, respectively, of this title, for provisions allowing a credit for radio and television components purchased and used by a producer in the manufacture of communication, detection, or navigation receivers in commercial, military, or marine installations if such receivers were sold to the United States.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 905(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to sales after the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by section 1032(e)(6) of Pub. L. 105–34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105–34, as amended, set out as a note under section 4041 of this title.

Amendment by section 1436(b) of Pub. L. 105–34 applicable to fuel acquired by producer after Sept. 30, 1997, see section 1436(c) of Pub. L. 105–34, set out as a note under section 4091 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103–66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective July 1, 1991, see section 11212(f)(1) of Pub. L. 101–508, set out as a note under section 4081 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2001(d)(1)(B) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Superfund Revenue Act of 1986, Pub. L. 99–499, title V, to which it relates, see section 2001(e) of Pub. L. 100–647, set out as a note under section 56 of this title.

Section 6102(b) of Pub. L. 100–647 provided that: ''The amendment made by this section [amending this section] shall apply to fuel sold by wholesale distributors (as defined in section 6416(a)(4)(B) of the 1986 Code, as added by this section) after September 30, 1988.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 9201(b)(2) of Pub. L. 100–203 effective Jan. 1, 1988, see section 9201(d) of Pub. L. 100–203, set out as an Effective Date note under section 4131 of this title.

Amendment by section 10502(d)(6)–(8) of Pub. L. 100–203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100–203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99–499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97–424, to which such amendment relates, see section 736 of Pub. L. 98–369, set out as a note under section 4051 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 511(g)(2)(A) of Pub. L. 97–424 effective Apr. 1, 1983, see section 511(h)(1) of Pub. L. 97–424, set out as a note under section 4041 of this title.

Amendment by section 512(b)(2)(C), (D) of Pub. L. 97–424 effective Apr. 1, 1983, see section 512(b)(3) of Pub. L. 97–424, set out as a note under section 4051 of this title.

Amendment by section 515(b)(4) of 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 AMENDMENTS

Amendment by Pub. L. 96–598 effective on first day of first calendar month which begins more than 10 days after Dec. 24, 1980, see section 1(e) of Pub. L. 96–598, set out as a note under section 4071 of this title.

Section 4(c)(2) of Pub. L. 96–596 provided that: ''The amendments made by this subsection [amending this section] shall apply to the adjustments of any tire after December 31, 1982.''

Amendment by Pub. L. 96–222 effective as if included in the provisions of the Energy Tax Act of 1978, Pub. L. 95–618, to which such amendment relates, see section 108(c)(7) of Pub. L. 96–222, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by section 201(c)(3) of Pub. L. 95–618 applicable with respect to 1980 and later model year automobiles, see section 201(g) of Pub. L. 95–618, set out as an Effective Date note under section 4064 of this title.

Amendment by section 232(b) of Pub. L. 95–618 applicable to sales on or after day of first calendar month beginning more than 10 days after Nov. 9, 1978, see section 232(c) of Pub. L. 95–618, set out as a note under section 4221 of this title.

Amendment by section 233(c)(3) of Pub. L. 95–618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95–618, set out as a note under section 34 of this title.

Amendment by Pub. L. 95–227 applicable with respect to sales after Mar. 31, 1978, see section 2(d) of Pub. L. 95–227, set out as an Effective Date note under section 4121 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1904(b)(1), (2) of Pub. L. 94–455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94–455, set out as a note under section 4041 of this title.

Amendment by section 1906(a)(24)(A), (b)(13)(A) of 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 1906(a)(24)(B)(ii) of Pub. L. 94–455 provided that: ''The repeals made by clause (i) [amending this section] shall apply with respect to the use or resale for use of liquids after December 31, 1976.''

Section 2108(b) of Pub. L. 94–455 provided that: ''The amendment made by this section [amending this section] shall apply to parts and accessories sold after the date of the enactment of this Act [Oct. 4, 1976].''

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–178 applicable with respect to articles sold on or after day after Dec. 10, 1971, see section 401(h)(1) of Pub. L. 92–178, set out as a note under section 4071 of this title.

EFFECTIVE DATE OF 1970 AMENDMENTS

Section 302(c) of Pub. L. 91–614 provided that: ''The amendments made by subsections (a) and (b) of this

section [amending this section] shall apply only with respect to claims for credit or refund filed after the date of the enactment of this Act [Dec. 31, 1970], but only if the filing of the claim is not barred on the day after the date of the enactment of this Act by any law or rule of law.''

Amendment by Pub. L. 91–258 effective on 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 section 207(c) of Pub. L. 89–44 effective June 22, 1965, see section 701(a) of Pub. L. 89–44, set out as an Effective Date of 1965 Amendment note under section 4161 of this title.

Amendment by section 601(c) of Pub. L. 89–44 to take effect in a manner consistent with effective date of change of tax provisions to which related, see section 701(e) of Pub. L. 89–44, set out as a note under section 6103 of this title.

Amendment by section 801(d)(2) applicable with respect to articles sold on or after June 22, 1965, see section 801(e) of Pub. L. 89–44, set out as a note under section 4216 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 5(d) of Pub. L. 87–508 provided in part that: ''The amendments made by subsection (c)(3) [amending this section] shall apply only in respect to the use or sale of special fuels made on or after November 16, 1962.''

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–61 applicable only in the case of gasoline sold on or after Oct. 1, 1961, see section 208 of Pub. L. 87–61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Amendment by Pub. L. 86–781 applicable with respect to articles sold on or after first day of first calendar quarter beginning more than twenty days after Sept. 14, 1960, see section 3 of Pub. L. 86–781, set out as a note under section 4216 of this title.

Amendment by Pub. L. 86–418 applicable only with respect to bicycle tires and tubes sold by the manufacturer, producer, or importer thereof on or after first day of first month which begins more than 10 days after Apr. 8, 1960, see section 4 of Pub. L. 86–418, set out as a note under section 4221 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Section 163(b) of Pub. L. 85–859, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Section 6416(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by this Act, shall apply only with respect to articles exported, sold, or resold, as the case may be, on or after the effective date specified in section 1(c) of this Act [set out as a note under section 6415 of this title].''

For effective date of amendment by Pub. L. 85–475, see section 4(c) of Pub. L. 85–475, set out as a note under section 6415 of this title.

EFFECTIVE DATE OF 1956 AMENDMENTS

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.

Act Apr. 2, 1956, § 2(b)(2), provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to liquid sold after December 31, 1955.''

EFFECTIVE DATE OF 1955 AMENDMENTS

Section 3 of act Aug. 11, 1955, ch. 805, as amended by Oct. 22, 1986, Pub. L. 99–514, § 2, 100 Stat. 2095, provided that: ''The amendments made by the first section and section 2 of this Act [amending this section and sections 4091 and 4092 of this title] shall take effect on the first day of the first month which begins more than ten days after the date of the enactment of this Act [Aug. 11, 1955]. Notwithstanding the preceding sentence—

''(1) the repeal of section 6416(b)(2)(G) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall apply only with respect to articles sold by the manufacturer, producer, or importer on or after the first day of the first month which begins more than 10 days after the date of the enactment of this Act [Aug. 11, 1955], and

''(2) section 6416(b)(3)(B) of the Internal Revenue Code of 1986, as amended by subsection (i) of the first section of this Act [Aug. 11, 1955], shall apply with respect to articles used on or after such first day by the manufacturer or producer as material in the manufacture of, production of, or as a component part of, another article.''

Section 3 of act Aug. 11, 1955, ch. 793, provided that: ''The amendments made by this Act [amending this section and sections 4091 and 4092 of this title] shall take effect on the first day of the first calendar quarter which begins more than ten days after the date of the enactment of this Act [Aug. 11, 1955]''.

OVERPAYMENT OF TAX ON CERTAIN RADIO RECEIVING SETS AND RADIO AND TELEVISION COMPONENTS

Section 163(e) of Pub. L. 85–859, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''If—

''(1) a radio receiving set, an automobile radio receiving set, or a radio or television component was (before any other use) used as a component part of any other article, and

''(2) such other article was (before any other use) by any person exported, or sold to a State or local government for the exclusive use of a State or local government,

then any tax imposed by chapter 32 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (or the corresponding provisions of prior revenue law) in respect of such set or component which has been paid shall be deemed to have been an overpayment, by the manufacturer, producer, or importer of such other article, at the time paid. No credit or refund shall be allowed or made under this subsection unless the manufacturer, producer, or importer of such other article establishes to the satisfaction of the Secretary of the Treasury or his delegate that he did not include the amount of the tax in the price of such other article (and has not collected the amount of the tax from the purchaser of such other article), that the amount of the tax has been repaid to the ultimate purchaser of such other article, or that he has obtained the written consent of such ultimate purchaser to the allowance of the credit or the making of the refund. No interest shall be allowed or paid in respect of any such overpayment.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4064, 4216, 6427, 6612, 7851, 9510 of this title.

[§ 6417. Repealed. Pub. L. 94–455, title XIX, § 1906(a)(25), Oct. 4, 1976, 90 Stat. 1827]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 801, related to a tax credit or refund to any person who has sold to a State, or a political subdivision thereof, any article containing any oil, combination, or mixture, upon the processing of which a tax has been paid under former section 4511, and to a refund to the exporter of the tax paid under former subchapter B of chapter 37.

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.

[§ 6418. Repealed. Pub. L. 101–508, title XI, § 11801(c)(22)(B)(i), Nov. 5, 1990, 104 Stat. 1388–528]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 801; May 29, 1956, ch. 342, § 21(b), 70 Stat. 221; May 24, 1962, Pub. L. 87–456, title III, § 302(c), 76 Stat. 77; Nov. 8, 1965, Pub. L. 89–331, § 9(b), 79 Stat. 1278; Oct. 4, 1976, Pub. L. 94–455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834, authorized refund of taxes paid on sugar used as livestock feed, for distillation or production of alcohol, or in certain cases where sugar was exported.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

§ 6419. Excise tax on wagering

(a) Credit or refund generally

No overpayment of tax imposed by chapter 35 shall be credited or refunded (otherwise than under subsection (b)), in pursuance of a court decision or otherwise, unless the person who paid the tax establishes, in accordance with regulations prescribed by the Secretary, (1) that he has not collected (whether as a separate charge or otherwise) the amount of the tax from the person who placed the wager on which the tax was imposed, or (2) that he has repaid the amount of the tax to the person who placed such wager, or unless he files with the Secretary written consent of the person who placed such wager to the allowance of the credit or the making of the refund. In the case of any laid-off wager, no overpayment of tax imposed by chapter 35 shall be so credited or refunded to the person with whom such laid-off wager was placed unless he establishes, in accordance with regulations prescribed by the Secretary, that the provisions of the preceding sentence have been complied with both with respect to the person who placed the laid-off wager with him and with respect to the person who placed the original wager.

(b) Credit or refund on wagers laid-off by taxpayer

Where any taxpayer lays off part or all of a wager with another person who is liable for tax imposed by chapter 35 on the amount so laid off, a credit against such tax shall be allowed, or a refund shall be made to, the taxpayer laying off such amount. Such credit or refund shall be in an amount which bears the same ratio to the amount of tax which such taxpayer paid on the original wager as the amount so laid off bears to the amount of the original wager. Credit or refund under this subsection shall be allowed or made only in accordance with regulations prescribed by the Secretary, and no interest shall be allowed with respect to any amount so credited or refunded.

(Aug. 16, 1954, ch. 736, 68A Stat. 801; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6612 of this title.

§ 6420. Gasoline used on farms

(a) Gasoline

Except as provided in subsection (g), if gasoline is used on a farm for farming purposes, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

(1) the number of gallons so used, by

(2) the rate of tax on gasoline under section 4081 which applied on the date he purchased such gasoline.

(b) Time for filing claims; period covered

Not more than one claim may be filed under this section by any person with respect to gasoline used during his taxable year, and no claim shall be allowed under this section with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

(c) Meaning of terms

For purposes of this section—

(1) Use on a farm for farming purposes

Gasoline shall be treated as used on a farm for farming purposes only if used (A) in carrying on a trade or business, (B) on a farm situated in the United States, and (C) for farming purposes.

(2) Farm

The term ''farm'' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(3) Farming purposes

Gasoline shall be treated as used for farming purposes only if used—

(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

(C) by the owner, tenant, or operator of a farm, in connection with—

(i) the planting, cultivating, caring for, or cutting of trees, or

(ii) the preparation (other than milling) of trees for market,

incidental to farming operations; or

(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

(4) Certain farming use other than by owner, etc.

In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

(B) if—

(i) the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, and

(ii) the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline,

then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.

(5) Gasoline

The term ''gasoline'' has the meaning given to such term by section 4083(a).

(d) Exempt sales; other payments or refunds available

No amount shall be payable under this section with respect to any gasoline which the Secretary determines was exempt from the tax imposed by section 4081. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.

(e) Applicable laws

(1) In general

All provisions of law, including penalties, applicable in respect of the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(3) Fractional parts of a dollar

Section 7504 (granting the Secretary discretion with respect to fractional parts of a dollar) shall not apply.

(f) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may by made under this section.

(g) Income tax credit in lieu of payment

(1) Persons not subject to income tax

Payment shall be made under subsection (a), only to—

(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Allowance of credit against income tax

For allowance of credit against the tax imposed by subtitle A, see section 34.

[(h) Repealed. Pub. L. 103–66, title XIII, § 13241(f)(5), Aug. 10, 1993, 107 Stat. 512]

(i) Cross references

(1) For exemption from tax in case of special fuels used on a farm for farming purposes, see section 4041(f).

(2) For civil penalty for excessive claim under this section, see section 6675.

(3) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(4) For treatment of an Indian tribal government as a State and[1] a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

(Added Apr. 2, 1956, ch. 160, §1, 70 Stat. 87; amended Pub. L. 85–859, title I, §163(d)(2), Sept. 2, 1958, 72 Stat. 1311; Pub. L. 89–44, title VIII, §809(a), June 21, 1965, 79 Stat. 165; Pub. L. 91–258, title II, §§205(c)(7), 207(b), May 21, 1970, 84 Stat. 242, 248; Pub. L. 94–455, title XIX, §§1906(a)(26), (b)(6)(A), (13)(A), Oct. 4, 1976, 90 Stat. 1827, 1833, 1834; Pub. L. 95–458, §3(a), (c), Oct. 14, 1978, 92 Stat. 1257; Pub. L. 97–424, title V, §§511(f), 516(b)(4), Jan. 6, 1983, 96 Stat. 2172, 2183; Pub. L. 97–473, title II, §202(b)(12), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98–369, div. A, title IV, §474(r)(38), July 18, 1984, 98 Stat. 846; Pub. L. 99–499, title V, §521(c)(1), Oct. 17, 1986, 100 Stat. 1778; Pub. L. 100–17, title V, §502(b)(6), Apr. 2, 1987, 101 Stat. 257; Pub. L. 101–239, title VII, §7841(d)(20), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 101–508, title XI, §11211(d)(5), Nov. 5, 1990, 104 Stat. 1388–427; Pub. L. 102–240, title VIII, §8002(b)(5), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103–66, title XIII, §§13241(f)(5), 13242(d)(20), Aug. 10, 1993, 107 Stat. 512, 524.)

PRIOR PROVISIONS

A prior section 6420 was renumbered section 6422 of this title.

AMENDMENTS

1993—Subsec. (c)(5). Pub. L. 103–66, §13242(d)(20), substituted ''section 4083(a)'' for ''section 4082(b)''.

Subsec. (h). Pub. L. 103–66, §13241(f)(5), struck out heading and text of subsec. (h). Text read as follows:

[1] So in original. Probably should be ''(and''.

''Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section shall apply only with respect to gasoline purchased before October 1, 1999.''

1991—Subsec. (h). Pub. L. 102–240 substituted ''1999'' for ''1995''.

1990—Subsec. (h). Pub. L. 101–508 substituted ''1995'' for ''1993''.

1989—Subsec. (e)(2). Pub. L. 101–239 substituted ''section 7602(a)'' for ''section 7602''.

1987—Subsec. (h). Pub. L. 100–17 substituted ''1993'' for ''1988''.

1986—Subsec. (h). Pub. L. 99–499 substituted ''Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section'' for ''This section''.

1984—Subsec. (g)(2). Pub. L. 98–369 substituted ''section 34'' for ''section 39''.

1983—Subsec. (c)(4)(B). Pub. L. 97–424, § 511(f), substituted provision that, if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, and the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes, for provision that, if the person so using the gasoline were an aerial applicator who was the ultimate purchaser of the gasoline and the person described in subparagraph (A) waived (at such time and in such form and manner as the Secretary was to prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph would not apply and the aerial applicator would be treated as having used such gasoline on a farm for farming purposes.

Subsec. (h). Pub. L. 97–424, § 516(b)(4), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (h)(4). Pub. L. 97–473 purported to add par. (4). See Amendment note below for subsec. (i)(4).

Subsec. (i). Pub. L. 97–424, § 516(b)(4), redesignated former subsec. (h) as (i).

Subsec. (i)(4). Pub. L. 97–473 added par. (4). Notwithstanding the directory language that par. (4) be added to subsec. (h), it was added to subsec. (i) to reflect the probable intent of Congress and the intervening redesignation of subsec. (h) as (i) by Pub. L. 97–424.

1978—Subsec. (c)(3)(A). Pub. L. 95–458, § 3(c), struck out provision that if the use of gasoline is by any person other than the owner, tenant, or operator of a farm, then in applying subsec. (a) of this subparagraph, the owner, tenant, or operator of the farm on which gasoline or a liquid taxable under section 4041 is used would be treated as the user or ultimate purchaser of the gasoline or liquid.

Subsec. (c)(4), (5). Pub. L. 95–458, § 3(a), added par. (4) and redesignated former par. (4) as (5).

1976—Subsec. (a). Pub. L. 94–455, § 1906(a)(26) (C)(ii), (b)(13)(A), substituted ''subsection (g)'' for ''subsection (h)'' and struck out ''or his delegate'' after ''Secretary''.

Subsec. (b). Pub. L. 94–455, § 1906(a)(26)(A), among other changes, struck out provisions relating to gasoline used before July 1, 1965, and struck out requirement that a person's first taxable year beginning after June 30, 1965, include the period after June 30, 1965, and before the beginning of that first taxable year.

Subsec. (c)(3)(A). Pub. L. 94–455, § 1906(b)(6)(A), among other changes, struck out ''and for purposes of section 6416(b)(2)(G)(ii) (but not for purposes of section 4041),'' after ''in applying subsection (a) to this subparagraph,'' and provision that if the use of gasoline is by any person other than the owner, tenant, or operator of the farm, then, for purposes of applying section 6416(b)(2)(G)(ii), any tax paid under section 4041 in respect of a liquid used on a farm for farming purposes be treated as having been paid by the owner, tenant, or operator of the farm on which such liquid is used.

Subsec. (d). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (e)(1). Pub. L. 94–455, § 1906(a)(26)(B), substituted ''apply in respect'' for ''apply in in respect''.

Subsecs. (e)(2), (f). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (g). Pub. L. 94–455, § 1906(a)(26)(C)(i), (D), redesignated subsec. (h) as (g), struck out in par. (1) ''with respect to gasoline used after June 30, 1965,'' after ''subsection (a)'', and in par. (2) ''for gasoline used after June 30, 1965'' after ''subtitle A''. Former subsec. (g), which provided that this section applies only with respect to gasoline purchased after Dec. 31, 1955, was struck out.

Subsecs. (h), (i). Pub. L. 94–455, § 1906(a)(26)(C)(i), redesignated subsecs. (h) and (i) as (g) and (h), respectively.

1970—Subsec. (b)(2)(B). Pub. L. 91–258, § 207(b), substituted ''a claim for credit or refund of overpayment of income tax'' for ''an income tax return'' after ''time prescribed by law for filing''.

Subsec. (i)(1). Pub. L. 91–258, § 205(c)(7)(A), (B), substituted ''special fuels'' for ''diesel fuel and special motor fuels'' and ''section 4041(f)'' for ''section 4041(d)'', respectively.

1965—Subsec. (a). Pub. L. 89–44, § 809(a)(1)(A), substituted ''Except as provided in subsection (h), if'' for ''If''.

Subsec. (b). Pub. L. 89–44, § 809(a)(2), designated existing provisions as par. (1) and made it applicable to gasoline used before July 1, 1965, and added par. (2).

Subsec. (d). Pub. L. 89–44, § 809(a)(3), substituted ''payable'' for ''paid'' in first sentence.

Subsecs. (h), (i). Pub. L. 89–44, § 809(a)(1)(B), added subsec. (h) and redesignated former subsec. (h) as (i).

1958—Subsec. (c)(3)(A). Pub. L. 85–859 substituted ''section 6416(b)(2)(G)(ii)'' for ''section 6416(b)(2)(C)(ii)'' in two places in cl. (A).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13241(f)(5) of Pub. L. 103–66 effective Oct. 1, 1993, see section 13241(g) of Pub. L. 103–66, set out as a note under section 4041 of this title.

Amendment by section 13242(d)(20) of Pub. L. 103–66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103–66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99–499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97–473, see section 204 of Pub. L. 97–473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511(f) of Pub. L. 97–424 effective Apr. 1, 1983, see section 511(h)(1) of Pub. L. 97–424, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 3(d) of Pub. L. 95–458 provided that: ''The amendments made by this section [amending this section and section 6427 of this title] shall take effect on the first day of the first calendar quarter which begins more than 90 days after the date of the enactment of this Act [Oct. 14, 1978].''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1906(a)(26), (b)(13)(A) of 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 1906(b)(6)(B) of Pub. L. 94–455 provided that: ''The amendments made by subparagraph (A) [amending this section] shall apply with respect to the use of liquids after December 31, 1970.''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–258 effective July 1, 1970, and applicable with respect to taxable years ending after June 30, 1970, respectively, see section 211(a), (b) of Pub. L. 91–258, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 809(f) of Pub. L. 89–44 provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 6421 of this title] shall apply with respect to gasoline used on or after July 1, 1965. The amendments made by subsections (c) and (d) [renumbering section 39 as 40, enacting section 39 and amending sections 72, 874, 1314, 1481, 6201, 6211, 6213, and 6401 of this title] shall apply to taxable years beginning on or after July 1, 1965.''

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85–859, set out as a note under section 6415 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 34, 147, 451, 1274, 4041, 4084, 6206, 6416, 6421, 6427, 6504, 6511, 6612, 6675, 7210, 7603, 7604, 7605, 7609, 7610, 9502, 9503, 9508 of this title.

§ 6421. Gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes

(a) Nonhighway uses

Except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081. Except as provided in paragraph (2) of subsection (f) of this section, in the case of gasoline used as a fuel in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under section 4081.

(b) Intercity, local, or school buses

(1) Allowance

Except as provided in paragraph (2) and subsection (i), if gasoline is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

(2) Limitation in case of nonscheduled intercity or local buses

Paragraph (1)(A) shall not apply in respect of gasoline used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

(c) Exempt purposes

If gasoline is sold to any person for any purpose described in paragraph (2), (3), (4) or (5) of section 4221(a), the Secretary shall pay (without interest) to such person an amount equal to the product of the number of gallons of gasoline so sold multiplied by the rate at which tax was imposed on such gasoline by section 4081. The preceding sentence shall apply notwithstanding paragraphs (2) and (3) of subsection (f). Subsection (a) shall not apply to gasoline to which this subsection applies.

(d) Time for filing claims; period covered

(1) In general

Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), not more than one claim may be filed under subsection (b), and not more than one claim may be filed under subsection (c), by any person with respect to gasoline used during his taxable year; and no claim shall be allowed under this paragraph with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

(2) Exception

For payments per quarter based on aggregate amounts payable under this section and section 6427, see section 6427(i)(2).

(3) Application to sales under subsection (c)

For purposes of this subsection, gasoline shall be treated as used for a purpose referred to in subsection (c) when it is sold for such a purpose.

(e) Definitions

For purposes of this section—

(1) Gasoline

The term ''gasoline'' has the meaning given to such term by section 4083(a).

(2) Off-highway business use

(A) In general

The term ''off-highway business use'' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

(i) which (at the time of such use), is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

(ii) which, in the case of a highway vehicle owned by the United States, is used on the highway.

(B) Uses in boats

(i) In general

Except as otherwise provided in this subparagraph, the term ''off-highway business use'' does not include any use in a motorboat.

(ii) Fisheries and whaling

The term ''off-highway business use'' shall include any use in a vessel employed in the fisheries or in the whaling business.

(f) Exempt sales; other payments or refunds available

(1) Gasoline used on farms

This section shall not apply in respect of gasoline which was (within the meaning of paragraphs (1), (2), and (3) of section 6420(c)) used on a farm for farming purposes.

(2) Gasoline used in aviation

This section shall not apply in respect of gasoline which is used as a fuel in an aircraft—

(A) in noncommercial aviation (as defined in section 4041(c)(2)), or

(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and, in the case of fuel purchased after September 30, 1995, at so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon.

(3) Gasoline used in trains

In the case of gasoline used as a fuel in a train, this section shall not apply with respect to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, and

(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

(ii) 5.55 cents per gallon after September 30, 1995, and before November 1, 1998, and

(iii) 4.3 cents per gallon after October 31, 1998.

(g) Applicable laws

(1) In general

All provisions of law, including penalties, applicable in respect to the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(h) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(i) Income tax credit in lieu of payment

(1) Persons not subject to income tax

Payment shall be made under subsections (a) and (b) only to—

(A) the United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Exception

Paragraph (1) shall not apply to a payment of a claim filed under subsection (d)(2).

(3) Allowance of credit against income tax

For allowance of credit against the tax imposed by subtitle A, see section 34.

(j) Cross references

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State and[1] a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

(Added June 29, 1956, ch. 462, title II, § 208(c), 70 Stat. 394; amended July 25, 1956, ch. 725, § 2, 70 Stat. 644; Pub. L. 85–859, title I, §§ 163(d)(3), 164(a), Sept. 2, 1958, 72 Stat. 1312; Pub. L. 86–342, title II, § 201(d)(2), Sept. 21, 1959, 73 Stat. 615; Pub. L. 87–61, title II, § 201(e), June 29, 1961, 75 Stat. 124; Pub. L. 87–508, § 5(c)(2), June 28, 1962,76 Stat. 118; Pub. L. 89–44, title VIII, § 809(b), June 21, 1965, 79 Stat. 166; Pub. L. 91–258, title II, §§ 205(b)(1), (c)(8), 207(b), May 21, 1970, 84 Stat. 241, 242, 248; Pub. L. 91–605, title III, § 303(a)(11), Dec. 31, 1970, 84 Stat. 1744; Pub. L. 94–280, title III, § 303(a)(11), May 5, 1976, 90 Stat. 456; Pub. L. 94–455, title XIX, § 1906(a)(27)(A)(i), (B)–(D), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1827, 1828, 1834; Pub. L. 95–599, title V, § 502(a)(10), Nov. 6, 1978, 92 Stat. 2756; Pub. L. 95–618, title II, §§ 222(a)(1), 233(a)(1), (3)(A), Nov. 9, 1978, 92 Stat. 3186, 3190; Pub. L. 96–222, title I, § 108(c)(1), Apr. 1, 1980, 94 Stat. 226; Pub. L. 97–424, title V, §§ 511(c)(1), (3), 515(b)(7), 516(a)(6), Jan. 6, 1983, 96 Stat. 2170, 2171, 2182, 2183; Pub. L. 97–473, title II, § 202(b)(12), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98–369, div. A, title IV, § 474(r)(38), July 18, 1984, 98 Stat. 846; Pub. L. 99–499, title V, § 521(c)(2), Oct. 17, 1986, 100 Stat. 1778; Pub. L. 99–514, title XVII, § 1703(c)(1), (2)(A), (B), (D), Oct. 22, 1986, 100 Stat. 2776, 2777; Pub. L. 100–17, title V, § 502(b)(7), Apr. 2, 1987, 101 Stat. 257; Pub. L. 100–203, title X, § 10502(d)(9), (10), Dec. 22, 1987, 101 Stat. 1330–444; Pub. L. 100–647, title I, § 1017(c)(6)–(8), (15), title II, § 2001(d)(3)(E), (F), Nov. 10, 1988, 102 Stat. 3576, 3577, 3595; Pub. L. 101–239, title VII, § 7841(d)(20), Dec. 19, 1989, 103 Stat. 2429; Pub. L. 101–508, title XI, § 11211(d)(6), Nov. 5, 1990, 104 Stat. 1388–427; Pub. L. 102–240,

[1] So in original. Probably should be ''(and''.

title VIII, § 8002(b)(6), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103–66, title XIII, §§ 13163(b), 13241(f)(6), (7), 13242(d)(20), (22)–(24), Aug. 10, 1993, 107 Stat. 454, 512, 524; Pub. L. 104–188, title I, § 1609(g)(4)(C), Aug. 20, 1996, 110 Stat. 1843; Pub. L. 105–34, title IX, § 902(a), Aug. 5, 1997, 111 Stat. 873; Pub. L. 105–178, title IX, §§ 9006(b)(1), 9009(b)(3), June 9, 1998, 112 Stat. 506, 507; Pub. L. 105–206, title VI, §§ 6010(g)(3), 6023(24)(A), (C), July 22, 1998, 112 Stat. 814, 826.)

PRIOR PROVISIONS

A prior section 6421 was renumbered section 6422 of this title.

AMENDMENTS

1998—Subsecs. (a), (b)(1). Pub. L. 105–206, § 6023(24)(C), substituted ''subsection (i)'' for ''subsection (j)''.

Subsec. (c). Pub. L. 105–206, § 6010(g)(3), substituted ''(2) and (3)'' for ''(2)(A) and (3)'' and inserted at end ''Subsection (a) shall not apply to gasoline to which this subsection applies.''

Subsec. (d)(2). Pub. L. 105–178, § 9009(b)(3), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: ''If $1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.''

Subsec. (f)(3)(B)(ii). Pub. L. 105–178, § 9006(b)(1)(A), substituted ''November 1, 1998'' for ''October 1, 1999''.

Subsec. (f)(3)(B)(iii). Pub. L. 105–178, § 9006(b)(1)(B), substituted ''October 31, 1998'' for ''September 30, 1999''.

Subsecs. (i) to (k). Pub. L. 105–206, § 6023(24)(A), redesignated subsecs. (j) and (k) as (i) and (j), respectively.

1997—Subsec. (e)(2)(B)(iii), (iv). Pub. L. 105–34 struck out cls. (iii) and (iv) which read as follows:

''(iii) EXCEPTION FOR DIESEL FUEL.—The term 'off-highway business use' shall include the use of diesel fuel in a boat in the active conduct of—

''(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, and

''(II) except as provided in clause (iv), any other trade or business.

''(iv) NONCOMMERCIAL BOATS.—In the case of a boat used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation, clause (iii)(II) shall not apply to—

''(I) the taxes under sections 4041(a)(1) and 4081 for the period after December 31, 1993, and before January 1, 2000, and

''(II) so much of the tax under sections 4041(a)(1) and 4081 as does not exceed 4.3 cents per gallon for the period after December 31, 1999.''

1996—Subsec. (f)(2)(A). Pub. L. 104–188 substituted ''4041(c)(2)'' for ''4041(c)(4)''.

1993—Subsec. (c). Pub. L. 103–66, § 13242(d)(22), inserted at end ''The preceding sentence shall apply notwithstanding paragraphs (2)(A) and (3) of subsection (f).''

Subsec. (e)(1). Pub. L. 103–66, § 13242(d)(20), substituted ''section 4083(a)'' for ''section 4082(b)''.

Subsec. (e)(2)(B). Pub. L. 103–66, § 13163(b), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: ''The term 'off-highway business use' does not include any use in a motorboat. The preceding sentence shall not apply to use in a vessel employed in the fisheries or in the whaling business.''

Subsec. (f)(2)(B). Pub. L. 103–66, § 13242(d)(23), inserted before period at end ''and, in the case of fuel purchased after September 30, 1995, at so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon''.

Subsec. (f)(3). Pub. L. 103–66, § 13242(d)(24), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: ''This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate and at the deficit reduction rate on gasoline used as a fuel in a train.''

Pub. L. 103–66, § 13241(f)(6), inserted ''and deficit reduction tax'' after ''tax'' in heading and ''and at the deficit reduction rate'' after ''financing rate'' in text.

Subsec. (i). Pub. L. 103–66, § 13241(f)(7), struck out heading and text of subsec. (i). Text read as follows: ''Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section shall apply only with respect to gasoline purchased before October 1, 1999.''

1991—Subsec. (i). Pub. L. 102–240 substituted ''1999'' for ''1995''.

1990—Subsec. (i). Pub. L. 101–508 substituted ''1995'' for ''1993''.

1989—Subsec. (g)(2). Pub. L. 101–239 substituted ''section 7602(a)'' for ''section 7602''.

1988—Subsec. (a). Pub. L. 100–647, § 2001(d)(3)(F), substituted ''paragraph (2) of subsection (f)'' for ''paragraph (3) of subsection (e)''.

Pub. L. 100–647, § 1017(c)(7), substituted ''subsection (j)'' for ''subsection (i)''.

Subsec. (b)(1). Pub. L. 100–647, § 1017(c)(7), substituted ''subsection (j)'' for ''subsection (i)''.

Subsec. (d)(3). Pub. L. 100–647, § 1017(c)(15), added par. (3).

Subsec. (f)(2). Pub. L. 100–647, § 2001(d)(3)(E), added par. (2) and struck out former par. (2) which read as follows: ''This section shall not apply in respect of gasoline which is used as a fuel in an aircraft in noncommercial aviation (as defined in section 4041(c)(4)).''

Subsec. (f)(3). Pub. L. 100–647, § 2001(d)(3)(E), added par. (3).

Subsec. (f)(4). Pub. L. 100–647, § 2001(d)(3)(E), struck out par. (4) which read as follows: ''This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate on gasoline used in any off-highway business use other than use in a vessel employed in the fisheries or in the whaling business.''

Subsec. (i). Pub. L. 100–647, § 1017(c)(6), redesignated subsec. (i), relating to income tax credit in lieu of payment, as (j).

Subsec. (j). Pub. L. 100–647, § 1017(c)(6), (8), redesignated subsec. (i), relating to income tax credit in lieu of payment, as (j), and substituted ''subsection (d)(2)'' for ''subsection (c)(2)'' in par. (2). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 100–647, § 1017(c)(6), redesignated former subsec. (j) as (k).

1987—Subsec. (e)(2)(C). Pub. L. 100–203, § 10502(d)(9), struck out subpar. (C) which specified section 4221(a)(3) and (d)(3), section 6416(b)(2)(B), and section 4041(g)(1) as provisions exempting from tax, gasoline and special motor fuels used for commercial fishing vessels.

Subsec. (i). Pub. L. 100–17 substituted ''1993'' for ''1988'' in the subsec. (h) which was redesignated (i) by section 1703(c) of Pub. L. 99–514.

Subsec. (j). Pub. L. 100–203, § 10502(d)(10), redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: ''For rate of tax in case of special fuels used in noncommercial aviation or for nonhighway purposes, see section 4041.''

1986—Pub. L. 99–514, § 1703(c)(2)(D), substituted '', used by local transit systems, or sold for certain exempt purposes'' for ''or by local transmit systems'' in section catchline.

Subsec. (c). Pub. L. 99–514, § 1703(c)(1)(B), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 99–514, § 1703(c)(1)(A), (2)(A), redesignated subsec. (c) as (d) and, in par. (1), substituted ''not more than claim may be filed under subsection (b), and not more than one claim may be filed under subsection (c)'' for ''and not more than one claim may be filed under subsection (b)''. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99–514, §1703(c)(1)(A), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(4). Pub. L. 99–499, §521(c)(2)(B), added par. (4).

Subsec. (f). Pub. L. 99–514, §1703(c)(1)(A), (2)(B), redesignated subsec. (e) as (f), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) ''Exempt sales'' which read as follows: ''No amount shall be payable under this section with respect to any gasoline which the Secretary determines was exempt from the tax imposed by section 4081. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.'' Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 99–514, §1703(c)(1)(A), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 99–514, §1703(c)(1)(A), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Pub. L. 99–499, §521(c)(2)(A), substituted ''Except with respect to taxes imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, this section'' for ''This section''.

Subsec. (i). Pub. L. 99–514, §1703(c)(1)(A), redesignated subsec. (h), relating to effective date, as (i).

1984—Subsec. (i)(3). Pub. L. 98–369 substituted ''section 34'' for ''section 39''.

1983—Subsec. (a). Pub. L. 97–424, §511(c)(1), substituted provision that, except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081, for provision that, except as provided in subsection (i), if gasoline were used in a qualified business use, the Secretary would pay (without interest) to the ultimate purchaser of such gasoline an amount equal to 1 cent for each gallon of gasoline so used on which tax had been paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax had been paid at the rate of 4 cents a gallon.

Subsec. (d)(2). Pub. L. 97–424, §511(c)(3), substituted ''Off-Highway'' for ''Qualified'' in heading, and ''off-highway business use'' for ''qualified business use'' wherever appearing in text.

Subsec. (d)(2)(C). Pub. L. 97–424, §515(b)(7), substituted ''and special motor fuels'' for '', special motor fuels, and lubricating oil'' after ''gasoline''.

Subsec. (h). Pub. L. 97–424, §516(a)(6), substituted ''1988'' for ''1984''.

Subsec. (j)(4). Pub. L. 97–473 added par. (4).

1980—Subsec. (d)(2)(B). Pub. L. 96–222 inserted provisions requiring that the preceding sentence not apply to use in a vessel employed in the fisheries or in the whaling business.

1978—Subsec. (a). Pub. L. 95–618, §222(a)(1)(A), substituted ''Except as provided in subsection (i), if gasoline is used in a qualified business use'' for ''Except as provided in subsection (i), if gasoline is used otherwise than as a fuel in a highway vehicle (1) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (2) which, in the case of a vehicle owned by the United States, is used on the highway''.

Subsec. (b). Pub. L. 95–618, §233(a)(1), among other changes, provided for the refund or credit of the taxes paid on gasoline but only to the extent such gasoline is used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations.

Subsec. (d)(2). Pub. L. 95–618, §233(a)(3)(A), redesignated par. (3) as (2), and struck out former par. (2) which defined ''commuter fare revenue''.

Subsec. (d)(3). Pub. L. 95–618, §§222(a)(1)(B), 233(a)(3)(A), added par. (3) and redesignated former par. (3) as (2).

Subsec. (h). Pub. L. 95–599 substituted ''1984'' for ''1979''.

1976—Subsec. (a). Pub. L. 94–455, §1906(a)(27)(A)(i), (b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing, and substituted ''in the case of gasoline used as a fuel'' for ''in the case of gasoline used after June 30, 1970, as a fuel''.

Subsec. (b)(1). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (c). Pub. L. 94–455, §1906(a)(27)(B), among other changes, struck out provisions relating to gasoline used before July 1, 1965, and struck out requirement that a person's first taxable year beginning after June 30, 1965, include the period after June 30, 1965, and before the beginning of that first taxable year.

Subsec. (e)(1). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (e)(3). Pub. L. 94–455, §1906(a)(27)(A)(i), struck out ''after June 30, 1970,'' after ''used''.

Subsecs. (f), (g). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (h). Pub. L. 94–455, §1906(a)(27)(C), struck out ''after June 30, 1956, and'' after ''purchased''.

Pub. L. 94–280 substituted ''1979'' for ''1977''.

Subsec. (i)(1). Pub. L. 94–455, §1906(a)(27)(D)(i), struck out ''with respect to gasoline used after June 30, 1965,'' after ''subsections (a) and (b)''.

Subsec. (i)(2). Pub. L. 94–455, §1906(a)(27)(D)(ii), substituted ''subsection (c)(2)'' for ''subsection (c)(3)(B)''.

Subsec. (i)(3). Pub. L. 94–455, §1906(a)(27)(D)(iii), struck out ''for gasoline used after June 30, 1965'' after ''subtitle A''.

1970—Subsec. (a). Pub. L. 91–258, §205(b)(1)(A), inserted requirement that, except as provided in par. (3) of subsec. (e) of this section, where gasoline is used after June 30, 1970, as a fuel in an aircraft, the Secretary or his delegate pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under section 4081.

Subsec. (c)(3)(A)(ii). Pub. L. 91–258, §207(b), substituted ''a claim for credit or refund of overpayment of income tax'' for ''an income tax return'' after ''time prescribed by law for filing''.

Subsec. (e)(3). Pub. L. 91–258, §205(b)(1)(B), added par. (3).

Subsec. (h). Pub. L. 91–605 substituted ''1977'' for ''1972''.

Subsec. (j)(1). Pub. L. 91–258, §205(c)(8), substituted ''For rate of tax in case of special fuels used in noncommercial aviation or for nonhighway purposes, see section 4041'' for ''For reduced rate of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see subsections (a) and (b) of section 4041''.

Subsec. (j)(2). Pub. L. 91–258, §205(c)(8), redesignated par. (4) as (2). Former par. (2), which provided ''For partial refund of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see section 6416(b)(2)(I) and (J)'', was struck out.

Subsec. (j)(3). Pub. L. 91–258, §205(c)(8), redesignated par. (5) as (3). Former par. (3), which provided ''For partial refund of tax in case of diesel fuel and special motor fuels used by local transit systems, see section 6416(b)(2)(H)'', was struck out.

Subsec. (j)(4), (5). Pub. L. 91–258, §205(c)(8), redesignated pars. (4) and (5) as (2) and (3), respectively.

1965—Subsec. (a). Pub. L. 89–44, §809(b)(1)(A), substituted ''Except as provided in subsection (i), if'' for ''If''.

Subsec. (b). Pub. L. 89–44, §809(b)(1)(A), substituted ''Except as provided in subsection (i), if'' for ''If''.

Subsec. (c)(1). Pub. L. 89–44, §809(b)(2)(A), struck out ''General rule'' in heading and inserted in lieu thereof ''Gasoline used before July 1, 1965'', and substituted ''paragraphs (2) and (3)'' for ''Paragraph (2)'' after ''Except as provided in''.

Subsec. (c)(2). Pub. L. 89–44, §809(b)(2)(B), substituted ''Except as provided in paragraph (3), if'' for ''If''.

Subsec. (c)(3). Pub. L. 89–44, § 809(b)(2)(C), added par. (3).

Subsec. (e)(1). Pub. L. 89–44, § 809(b)(3), substituted ''payable'' for ''paid'' in first sentence.

Subsecs. (i), (j). Pub. L. 89–44, § 809(b)(1)(B), added subsec. (i) and redesignated former subsec. (i) as (j).

1962—Subsec. (b)(1)(B), (2). Pub. L. 87–508, § 5(c)(2)(A), substituted ''commuter fare revenue'' for ''tax-exempt passenger fare revenue'' in two places and struck out ''(not including the tax imposed by section 4261, relating to the tax on transportation of persons)'' after ''total passenger fare revenue'' in two places.

Subsec. (d)(2). Pub. L. 87–508, § 5(c)(2)(B), substituted definition of ''commuter fare revenue'' for definition of ''tax-exempt passenger fare revenue''.

1961—Subsec. (h). Pub. L. 87–61, substituted ''October 1, 1972'' for ''July 1, 1972''.

1959—Subsec. (a). Pub. L. 86–342 substituted ''1 cent for each gallon of gasoline so used on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon'' for ''1 cent for each gallon of gasoline so used''.

Subsec. (b)(1)(A). Pub. L. 86–342 substituted ''1 cent at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon'' for ''1 cent for each gallon of gasoline so used''.

1958—Subsec. (c). Pub. L. 85–859, § 164(a), permitted, in cases where $1,000 or more is payable to any person with respect to gasoline used during a calendar quarter, the filing of a claim on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed.

Subsec. (i)(2), (3). Pub. L. 85–859, § 163(d)(3), substituted ''section 6416(b)(2)(I) and (J)'' for ''section 6416(b)(2) (J) and (K)'' in cl. (2), and ''section 6416(b)(2)(H)'' for ''section 6416(b)(2)(L)'' in cl. (3).

1956—Subsec. (d)(2). Act July 25, 1956, substituted ''4263(a)'' for ''4262(b)''.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 6023(24)(A), (C) of Pub. L. 105–206 effective July 22, 1998, see section 6023(32) of Pub. L. 105–206, set out as a note under section 34 of this title.

Amendment by section 6010(g)(3) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

Pub. L. 105–178, title IX, § 9009(c), June 9, 1998, 112 Stat. 507, provided that: ''The amendments made by this section [amending this section and section 6427 of this title] shall take effect on October 1, 1998.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective Jan. 1, 1998, see section 902(c) of Pub. L. 105–34, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 effective on 7th calendar day after Aug. 20, 1996, see section 1609(i) of Pub. L. 104–188, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13163(b) of Pub. L. 103–66 effective Jan. 1, 1994, see section 13163(d) of Pub. L. 103–66, set out as a note under section 4041 of this title.

Amendment by section 13241(f)(6), (7) of Pub. L. 103–66 effective Oct. 1, 1993, see section 13241(g) of Pub. L. 103–66, set out as a note under section 4041 of this title.

Amendment by section 13242(d)(20), (22)–(24) of Pub. L. 103–66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103–66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1017(c)(6)–(8), (15) 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.

Amendment by section 2001(d)(3)(E), (F) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Superfund Revenue Act of 1986, Pub. L. 99–499, title V, to which it relates, see section 2001(e) of Pub. L. 100–647, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100–203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

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.

Amendment by Pub. L. 99–499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99–499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97–473, see section 204 of Pub. L. 97–473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511(c)(1), (3) of Pub. L. 97–424 effective Apr. 1, 1983, see section 511(h) of Pub. L. 97–424, set out as a note under section 4041 of this title.

Amendment by section 515(b)(7) of 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. 96–222 effective as if included in the provisions of the Energy Tax Act of 1978, Pub. L. 95–618, to which such amendment relates, see section 108(c)(7) of Pub. L. 96–222, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 222(a)(1) of Pub. L. 95–618 applicable with respect to uses after Dec. 31, 1978, see section 222(b) of Pub. L. 95–618, set out as a note under section 4041 of this title.

Amendment by section 233(a)(1), (3)(A) of Pub. L. 95–618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95–618, set out as a note under section 34 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1906(a)(27)(A)(ii) of Pub. L. 94–455 provided that: ''The amendments made by clause (i) [amending this section] shall only apply with respect to gasoline used as a fuel after June 30, 1970.''

Amendment by section 1906(a)(27)(B)–(D), (b)(13)(A) of 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.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 205(b)(1), (c)(8) of Pub. L. 91–258 effective July 1, 1970, and amendment by section

207(b) of Pub. L. 91–258 applicable with respect to taxable years ending after June 30, 1970, see section 211(a), (b) 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 applicable with respect to gasoline used on or after July 1, 1965, see section 809(f) of Pub. L. 89–44, set out as a note under section 6420 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 5(d) of Pub. L. 87–508 provided in part that: ''The amendments made by subsection (c)(2) [amending this section] shall apply only in respect of claims filed with respect to gasoline used on or after November 16, 1962.''

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–61 effective July 1, 1961, see section 208 of Pub. L. 87–61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 163(d)(3) of Pub. L. 85–859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85–859, set out as a note under section 6415 of this title.

Section 164(b) of Pub. L. 85–859 provided that: ''The amendment made by subsection (a) [amending this section] shall apply only with respect to claims the last day for the filing of which occurs after the effective date specified in section 1(c) of this Act.''

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 25, 1956, applicable to amounts paid on or after first day of first month which begins more than sixty days after July 25, 1956, for transportation commencing on or after such first day, see section 6 of act July 25, 1956, set out as a note under section 4261 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 34, 4041, 4084, 4483, 6206, 6427, 6504, 6511, 6612, 6675, 7210, 7603, 7604, 7605, 7609, 7610, 9502, 9503, 9508 of this title; title 16 section 460*l*–11.

§ 6422. Cross references

(1) For limitations on credits and refunds, see subchapter B of chapter 66.

(2) For overpayment in case of adjustments to accrued foreign taxes, see section 905(c).

(3) For credit or refund in case of deficiency dividends paid by a personal holding company, see section 547.

(4) For refund, credit, or abatement of amounts disallowed by courts upon review of Tax Court decision, see section 7486.

(5) For refund or redemption of stamps, see chapter 69.

(6) For abatement, credit, or refund in case of jeopardy assessments, see chapter 70.

(7) For treatment of certain overpayments as having been refunded, in connection with sale of surplus war-built vessels, see section 9(b)(8) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742).

(8) For restrictions on transfers and assignments of claims against the United States, see section 3727 of title 31, United States Code.

(9) For set-off of claims against amounts due the United States, see section 3728 of title 31, United States Code.

(10) For special provisions relating to alcohol and tobacco taxes, see subtitle E.

(11) for[1] credit or refund in case of deficiency dividends paid by a regulated investment company or real estate investment trust, see section 860.

(12) For special rules in the case of a credit or refund attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230.

(Aug. 16, 1954, ch. 736, 68A Stat. 802, § 6420; renumbered § 6421, Apr. 2, 1956, ch. 160, § 1, 70 Stat. 87; renumbered § 6422, June 29, 1956, ch. 462, title II, § 208(c), 70 Stat. 394; amended Pub. L. 85–859, title II, § 204(4), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 88–36, title II, § 201(c), June 4, 1963, 77 Stat. 54; Pub. L. 94–455, title XVI, § 1601(f)(1), title XIX, §§ 1901(b)(36)(B), 1906(a)(28), Oct. 4, 1976, 90 Stat. 1746, 1802, 1828; Pub. L. 95–600, title III, § 362(d)(4), Nov. 6, 1978, 92 Stat. 2852; Pub. L. 97–248, title IV, § 402(c)(4), Sept. 3, 1982, 96 Stat. 667; Pub. L. 97–258, § 3(f)(8), (9), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 101–508, title XI, § 11801(c)(17)(A), Nov. 5, 1990, 104 Stat. 1388–527; Pub. L. 105–34, title XI, § 1131(c)(3), Aug. 5, 1997, 111 Stat. 980.)

REFERENCES IN TEXT

Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742), referred to in par. (7), was repealed by Pub. L. 94–412, title V, § 501(g), Sept. 14, 1976, 90 Stat. 1258.

AMENDMENTS

1997—Pars. (5) to (13). Pub. L. 105–34 struck out par. (5) and redesignated pars. (6) to (13) as (5) to (12), respectively. Prior to amendment, par. (5) read as follows: ''For abatement or refund of tax on transfers to avoid income tax, see section 1494(b).''

1990—Pub. L. 101–508 struck out par. (6) and redesignated the succeeding pars. accordingly, which was executed with respect to the succeeding pars. (consisting of pars. (7) to (12), (14), and (15)) by redesignating such pars. as (6) to (13), respectively. Prior to amendment, par. (6) provided a cross reference to section 1481 of this title for overpayment in certain renegotiations of war contracts.

1982—Par. (10). Pub. L. 97–258, § 3(f)(8), substituted ''section 3727 of title 31, United States Code'' for ''R.S. 3477 (31 U.S.C. 203)''.

Par. (11). Pub. L. 97–258, § 3(f)(9), substituted ''section 3728 of title 31, United States Code'' for ''the act of March 3, 1875, as amended by section 13 of the act of March 3, 1933 (31 U.S.C. 227)''.

Par. (15). Pub. L. 97–248 added par. (15).

1978—Par. (14). Pub. L. 95–600 inserted ''regulated investment company or'' before ''real estate investment trust'' and substituted ''section 860'' for ''section 859''.

1976—Par. (2). Pub. L. 94–455, § 1901(b)(36)(B), redesignated par. (3) as (2). Former par. (2), which set forth a cross reference to section 1321 of this title for overpayment arising out of adjustments incident to involuntary liquidation of inventory, was struck out.

Pars. (3) to (8). Pub. L. 94–455, § 1901(b)(36)(B), redesignated pars. (4) to (9) as (3) to (8), respectively.

Par. (9). Pub. L. 94–455, §§ 1901(b)(36)(B), 1906(a)(28)(A), redesignated par. (10) as (9) and substituted ''(50 U.S.C. App. 1742)'' for ''(60 Stat. 48; 50 U.S.C. App. 1742)''. Former par. (9) redesignated (8).

Par. (10). Pub. L. 94–455, § 1901(b)(36)(B), redesignated par. (11) as (10). Former par. (10) redesignated (9).

Par. (11). Pub. L. 94–455, §§ 1901(b)(36)(B), 1906(a)(28)(B), redesignated par. (12) as (11) and substituted ''(31 U.S.C. 227)'' for ''(47 Stat. 1516; 31 U.S.C. 227)''. Former par. (11) redesignated (10).

Pars. (12), (13). Pub. L. 94–455, § 1901(b)(36)(B), redesignated pars. (12) and (13) as (11) and (12), respectively.

Par. (14). Pub. L. 94–455, § 1601(f)(1), added par. (14).

1963—Pars. (7) to (14). Pub. L. 88–36 redesignated pars. (8) to (14) as (7) to (13), respectively. Former par. (7), which was cross reference provision for abatement or refund in case of tax on silver bullion to section 4894, was struck out.

1958—Pub. L. 85–859 substituted ''subtitle E'' for ''sections 5011, 5044, 5057, 5063, 5705, and 5707'' in par. (14).

[1] So in original. Probably should be capitalized.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 applicable with respect to determinations (as defined in section 860(e) of this title) after Nov. 6, 1978, see section 362(e) of Pub. L. 95–600, set out as an Effective Date note under section 860 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by section 1601(f)(1) of Pub. L. 94–455, see section 1608(a) of Pub. L. 94–455, set out as a note under section 857 of this title.

Amendment by section 1901(b)(36)(B) of Pub. L. 94–455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

Amendment by section 1906(a)(28) of 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.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–36 applicable only with respect to transfers after June 4, 1963, see section 202 of Pub. L. 88–36.

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

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

§ 6423. Conditions to allowance in the case of alcohol and tobacco taxes

(a) Conditions

No credit or refund shall be allowed or made, in pursuance of a court decision or otherwise, of any amount paid or collected as an alcohol or tobacco tax unless the claimant establishes (under regulations prescribed by the Secretary)—

(1) that he bore the ultimate burden of the amount claimed; or

(2) that he has unconditionally repaid the amount claimed to the person who bore the ultimate burden of such amount; or

(3) that (A) the owner of the commodity furnished him the amount claimed for payment of the tax, (B) he has filed with the Secretary the written consent of such owner to the allowance to the claimant of the credit or refund, and (C) such owner satisfies the requirements of paragraph (1) or (2).

(b) Filing of claims

No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and unless such claim is filed within the time prescribed by law and in accordance with regulations prescribed by the Secretary. All evidence relied upon in support of such claim shall be clearly set forth and submitted with the claim.

(c) Application of section

This section shall apply only if the credit or refund is claimed on the grounds that an amount of alcohol or tobacco tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive. This section shall not apply to—

(1) any claim for drawback, and

(2) any claim made in accordance with any law expressly providing for credit or refund where a commodity is withdrawn from the market, returned to bond, or lost or destroyed.

(d) Meaning of terms

For purposes of this section—

(1) Alcohol or tobacco tax

The term ''alcohol or tobacco tax'' means—

(A) any tax imposed by chapter 51 (other than part II of subchapter A, relating to occupational taxes) or by chapter 52 or by any corresponding provision of prior internal revenue laws, and

(B) in the case of any commodity of a kind subject to a tax described in subparagraph (A), any tax equal to any such tax, any additional tax, or any floor stocks tax.

(2) Tax

The term ''tax'' includes a tax and an exaction denominated a ''tax'', and any penalty, addition to tax, additional amount, or interest applicable to any such tax.

(3) Ultimate burden

The claimant shall be treated as having borne the ultimate burden of an amount of an alcohol or tobacco tax for purposes of subsection (a)(1), and the owner referred to in subsection (a)(3) shall be treated as having borne such burden for purposes of such subsection, only if—

(A) he has not, directly or indirectly, been relieved of such burden or shifted such burden to any other person,

(B) no understanding or agreement exists for any such relief or shifting, and

(C) if he has neither sold nor contracted to sell the commodities involved in such claim, he agrees that there will be no such relief or shifting, and furnishes such bond as the Secretary may require to insure faithful compliance with his agreement.

(Added Pub. L. 85–323, § 1, Feb. 11, 1958, 72 Stat. 9; amended Pub. L. 94–455, title XIX, § 1906(a)(29), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1828, 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (b). Pub. L. 94–455, § 1906(a)(29)(A), among other changes, struck out provisions allowing any claimant who has on or before Apr. 30, 1958, filed a

claim for any amount to which subsec. (a) applies, may file a superseding claim after Apr. 30, 1958, conforming to the requirements of this section and covering the amount claimed in such prior claim.

Subsec. (c). Pub. L. 94–455, § 1906(a)(29)(B), (C), redesignated subsec. (d) as (c) and struck out par. (3) relating to any amount claimed with respect to a commodity which has been lost, where a suit or proceeding was instituted before June 15, 1957. Former subsec. (c), relating to disallowance of any suit or proceeding which was barred on Apr. 30, 1958, was struck out.

Subsecs. (d), (e). Pub. L. 94–455, § 1906(a)(29)(B), (b)(13)(A), redesignated subsec. (e) as (d) and struck out ''or his delegate'' after ''Secretary''. Former subsec. (d) redesignated (c).

EFFECTIVE DATE OF 1976 AMENDMENT

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.

EFFECTIVE DATE

Section 3 of Pub. L. 85–323 provided that this section shall not apply to any credit or refund allowed or made before May 1, 1958.

[§ 6424. Repealed. Pub. L. 97–424, title V, § 515(b)(5), Jan. 6, 1983, 96 Stat. 2181]

Section, added Pub. L. 89–44, title II, § 202(b), June 21, 1965, 79 Stat. 137; amended Pub. L. 91–258, title II, § 207(b), May 21, 1970, 84 Stat. 248; Pub. L. 94–455, title XIX, § 1906(a)(30), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1828, 1834; Pub. L. 95–618, title II, §§ 222(a)(3), 233(b)(1), (2)(A), Nov. 9, 1978, 92 Stat. 3187, 3191; Pub. L. 97–473, title II, § 202(b)(13), Jan. 14, 1983, 96 Stat. 2610, had provided for payments by the Secretary of an amount equal to 6 cents for each gallon of lubricating oil used in a qualified business use or in a qualified bus to certain ultimate purchasers of the lubricating oil.

EFFECTIVE DATE OF REPEAL

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

§ 6425. Adjustment of overpayment of estimated income tax by corporation

(a) Application of adjustment

(1) Time for filing

A corporation may, after the close of the taxable year and on or before the 15th day of the third month thereafter, and before the day on which it files a return for such taxable year, file an application for an adjustment of an overpayment by it of estimated income tax for such taxable year. An application under this subsection shall not constitute a claim for credit or refund.

(2) Form of application, etc.

An application under this subsection shall be verified in the manner prescribed by section 6065 in the case of a return of the taxpayer, and shall be filed in the manner and form required by regulations prescribed by the Secretary. The application shall set forth—

(A) the estimated income tax paid by the corporation during the taxable year,

(B) the amount which, at the time of filing the application, the corporation estimates as its income tax liability for the taxable year,

(C) the amount of the adjustment, and

(D) such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

(b) Allowance of adjustment

(1) Limited examination of application

Within a period of 45 days from the date on which an application for an adjustment is filed under subsection (a), the Secretary shall make, to the extent he deems practicable in such period, a limited examination of the application to discover omissions and errors therein, and shall determine the amount of the adjustment upon the basis of the application and the examination; except that the Secretary may disallow, without further action, any application which he finds contains material omissions or errors which he deems cannot be corrected within such 45 days.

(2) Adjustment credited or refunded

The Secretary, within the 45-day period referred to in paragraph (1), may credit the amount of the adjustment against any liability in respect of an internal revenue tax on the part of the corporation and shall refund the remainder to the corporation.

(3) Limitation

No application under this section shall be allowed unless the amount of the adjustment equals or exceeds (A) 10 percent of the amount estimated by the corporation on its application as its income tax liability for the taxable year, and (B) $500.

(4) Effect of adjustment

For purposes of this title (other than section 6655), any adjustment under this section shall be treated as a reduction, in the estimated income tax paid, made on the day the credit is allowed or the refund is paid.

(c) Definitions

For purposes of this section and section 6655(h) (relating to excessive adjustment)—

(1) The term ''income tax liability'' means the excess of—

(A) The sum of—

(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable,

(ii) the tax imposed by section 55, plus

(iii) the tax imposed by section 59A, over

(B) the credits against tax provided by part IV of subchapter A of chapter 1.

(2) The amount of an adjustment under this section is equal to the excess of—

(A) the estimated income tax paid by the corporation during the taxable year, over

(B) the amount which, at the time of filing the application, the corporation estimates as its income tax liability for the taxable year.

(d) Consolidated returns

If the corporation seeking an adjustment under this section paid its estimated income tax on a consolidated basis or expects to make a consolidated return for the taxable year, this section shall apply only to such extent and sub-

ject to such conditions, limitations, and exceptions as the Secretary may by regulations prescribe.

(Added Pub. L. 90–364, title I, § 103(d)(1), June 28, 1968, 82 Stat. 262; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99–499, title V, § 516(b)(4)(C), Oct. 17, 1986, 100 Stat. 1771; Pub. L. 99–514, title VII, § 701(d)(2), Oct. 22, 1986, 100 Stat. 2342; Pub. L. 100–203, title X, § 10301(b)(4), Dec. 22, 1987, 101 Stat. 1330–429.)

AMENDMENTS

1987—Subsec. (c). Pub. L. 100–203 substituted ''section 6655(h)'' for ''section 6655(g)''.

1986—Subsec. (c)(1)(A). Pub. L. 99–514 amended subpar. (A) generally, restating existing provisions as cl. (i) and adding cl. (ii).

Pub. L. 99–499 amended subsec. (c)(1)(A), as amended by the Tax Reform Act of 1986 (Pub. L. 99–514), by striking out ''plus'' at end of cl. (i), substituting ''plus'' for ''over'' at end of cl. (ii), and adding cl. (iii).

1976—Subsecs. (a), (b), (d). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100–203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99–514, set out as an Effective Date note under section 55 of this title.

Amendment by Pub. L. 99–499 applicable to taxable years beginning after Dec. 31, 1986, see section 516(c) of Pub. L. 99–499, set out as a note under section 26 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90–364, set out as notes under sections 6154 and 51 of this title, see section 103(f) of Pub. L. 90–364, set out as an Effective Date of 1968 Amendment note under section 6154 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99–514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by Pub. L. 99–514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(2) of Pub. L. 100–647, set out as a note under section 861 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6655 of this title.

[§ 6426. Repealed. Pub. L. 97–248, title II, § 280(c)(2)(G), Sept. 3, 1982, 96 Stat. 564]

Section, added Pub. L. 91–258, title II, § 206(c), May 21, 1970, 84 Stat. 245; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, provided for a refund of aircraft use tax where plane transports for hire in foreign air commerce.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to transportation beginning after Aug. 31, 1982, see section 280(d) of Pub. L. 97–248, set out as an Effective Date of 1982 Amendment note under section 4261 of this title.

§ 6427. Fuels not used for taxable purposes

(a) Nontaxable uses

Except as provided in subsection (k), if tax has been imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) on the sale of any fuel and the purchaser uses such fuel other than for the use for which sold, or resells such fuel, the Secretary shall pay (without interest) to him an amount equal to—

(1) the amount of tax imposed on the sale of the fuel to him, reduced by

(2) if he uses the fuel, the amount of tax which would have been imposed under section 4041 on such use if no tax under section 4041 had been imposed on the sale of the fuel.

(b) Intercity, local, or school buses

(1) Allowance

Except as otherwise provided in this subsection and subsection (k), if any fuel other than gasoline (as defined in section 4083(a)) on the sale of which tax was imposed by section 4041(a) or 4081 is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(2) Reduction in refund in certain cases

(A) In general

Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under paragraph (1) shall be 7.4 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4081, as the case may be.

(B) Exception for school bus transportation

Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in the transportation described in paragraph (1)(B).

(C) Exception for certain intracity transportation

Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

(i) which is available to the general public, and

(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

(D) Qualified local bus

For purposes of this paragraph, the term ''qualified local bus'' means any local bus—

(i) which has a seating capacity of at least 20 adults (not including the driver), and

(ii) which is under contract (or is receiving more than a nominal subsidy) from any State or local government (as defined in section 4221(d)) to furnish such transportation.

(3) Limitation in case of nonscheduled intercity or local buses

Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

(c) Use for farming purposes

Except as provided in subsection (k), if any fuel on the sale of which tax was imposed under paragraph (2) or (3) of section 4041(a) or section 4041(c) is used on a farm for farming purposes (within the meaning of section 6420(c)), the Secretary shall pay (without interest) to the purchaser an amount equal to the amount of the tax imposed on the sale of the fuel. For purposes of this subsection, if fuel is used on a farm by any person other than the owner, tenant, or operator of such farm, the rules of paragraph (4) of section 6420(c) shall be applied (except that ''liquid taxable under section 4041'' shall be substituted for ''gasoline'' each place it appears in such paragraph (4)).

(d) Use by certain aircraft museums or in certain other aircraft uses

Except as provided in subsection (k), if—

(1) any gasoline on which tax was imposed by section 4081, or

(2) any fuel on the sale of which tax was imposed under section 4041,

is used by an aircraft museum (as defined in section 4041(h)(2)) in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in section 4041(h)(2)(C), or is used in a helicopter or a fixed-wing aircraft for a purpose described in section 4041(*l*), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel.

[(e) Repealed. Pub. L. 101–508, title XI, § 11801(a)(46), Nov. 5, 1990, 104 Stat. 1388–522]

(f) Gasoline, diesel fuel, kerosene, and aviation fuel used to produce certain alcohol fuels

(1) In general

Except as provided in subsection (k), if any gasoline, diesel fuel, kerosene, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c) or 4091(c)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

(2) Definitions

For purposes of paragraph (1)—

(A) Regular tax rate

The term ''regular tax rate'' means—

(i) in the case of gasoline, diesel fuel, or kerosene, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

(B) Incentive tax rate

The term ''incentive tax rate'' means—

(i) in the case of gasoline, diesel fuel, or kerosene, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(2) thereof, and

(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(2) thereof.

(3) Coordination with other repayment provisions

No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, kerosene, or aviation fuel with respect to which an amount is payable under subsection (d) or (*l*) of this section or under section 6420 or 6421.

(4) Termination

This subsection shall not apply with respect to any mixture sold or used after September 30, 2007.

[(g) Repealed. Pub. L. 104–188, title I, § 1606(a), Aug. 20, 1996, 110 Stat. 1839]

(h) Gasoline blend stocks or additives not used for producing gasoline

Except as provided in subsection (k), if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive.

(i) Time for filing claims; period covered

(1) General rule

Except as otherwise provided in this subsection, not more than one claim may be filed under subsection (a), (b), (c), (d), (h), (*l*), or (*o*) by any person with respect to fuel used during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this paragraph, a person's taxable year shall be his taxable year for purposes of subtitle A.

(2) Exceptions

(A) In general

If, at the close of any quarter of the taxable year of any person, at least $750 is payable in the aggregate under subsections (a), (b), (d), (h), (*l*), and (*o*) of this section and section 6421 to such person with respect to fuel used during—

(i) such quarter, or

(ii) any prior quarter (for which no other claim has been filed) during such taxable year,

a claim may be filed under this section with respect to such fuel.

(B) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

(3) Special rule for alcohol mixture credit

(A) In general

A claim may be filed under subsection (f) by any person with respect to gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3)) for any period—

(i) for which $200 or more is payable under such subsection (f), and

(ii) which is not less than 1 week.

(B) Payment of claim

Notwithstanding subsection (f)(1), if the Secretary has not paid pursuant to a claim filed under this section within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

(C) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

(4) Special rule for vendor refunds

(A) In general

A claim may be filed under subsection (*l*)(5) by any person with respect to fuel sold by such person for any period—

(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (*l*)(5), and

(ii) which is not less than 1 week.

Notwithstanding subsection (*l*)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

(B) Time for filing claim

No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

(j) Applicable laws

(1) In general

All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4041, 4081, and 4091 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) Examination of books and witnesses

For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(k) Income tax credit in lieu of payment

(1) Persons not subject to income tax

Payment shall be made under this section only to—

(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) Exception

Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), or (4) of subsection (i).

(3) Allowance of credit against income tax

For allowances of credit against the income tax imposed by subtitle A for fuel used or resold by the purchaser, see section 34.

(*l*) Nontaxable uses of diesel fuel, kerosene, and aviation fuel

(1) In general

Except as otherwise provided in this subsection and in subsection (k), if—

(A) any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081, or

(B) any aviation fuel on which tax has been imposed by section 4091,

is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041, 4081, or 4091, as the case may be.

(2) Nontaxable use

For purposes of this subsection, the term ''nontaxable use'' means—

(A) in the case of diesel fuel or kerosene, any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax, and

(B) in the case of aviation fuel, any use which is exempt from the tax imposed by section 4041(c)(1) other than by reason of a prior imposition of tax.

(3) Refund of certain taxes on fuel used in diesel-powered trains

For purposes of this subsection, the term ''nontaxable use'' includes fuel used in a diesel-powered train. The preceding sentence shall not apply with respect to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate under sections 4041 and 4081, and

(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

(ii) 5.55 cents per gallon after September 30, 1995, and before November 1, 1998, and

(iii) 4.3 cents per gallon after October 31, 1998.

The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

(4) No refund of certain taxes on fuel used in commercial aviation

In the case of fuel used in commercial aviation (as defined in section 4092(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to—

(A) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

(B) in the case of fuel purchased after September 30, 1995, so much of the rate of tax specified in section 4091(b)(1) as does not exceed 4.3 cents per gallon.

(5) Registered vendors to administer claims for refund of diesel fuel or kerosene sold to farmers and State and local governments

(A) In general

Paragraph (1) shall not apply to diesel fuel or kerosene used—

(i) on a farm for farming purposes (within the meaning of section 6420(c)), or

(ii) by a State or local government.

(B) Sales of kerosene not for use in motor fuel

Paragraph (1)(A) shall not apply to kerosene sold by a vendor—

(i) for any use if such sale is from a pump which (as determined under regulations prescribed by the Secretary) is not suitable for use in fueling any diesel-powered highway vehicle or train, or

(ii) to the extent provided by the Secretary, for blending with heating oil to be used during periods of extreme or unseasonable cold.

(C) Payment to ultimate, registered vendor

The amount which would (but for subparagraph (A) or (B)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

(i) is registered under section 4101, and

(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

(m) Regulations

The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(n) Payments for taxes imposed by section 4041(d)

For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a).

(*o*) Gasohol used in noncommercial aviation

Except as provided in subsection (k), if—

(1) any tax is imposed by section 4081 at a rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

(2) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(2),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasohol an amount equal to 1.4 cents (2 cents in the case of a mixture none of the alcohol in which consists of ethanol) multiplied by the number of gallons of gasohol so used.

(p) Cross references

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

(3) For treatment of an Indian tribal government as a State (and a subdivision of an Indian tribal government as a political subdivision of a State), see section 7871.

(Added Pub. L. 91–258, title II, § 207(a), May 21, 1970, 84 Stat. 246; amended Pub. L. 94–455, title XIX, § 1906(a)(31)(A), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1829, 1834; Pub. L. 94–530, § 1(b), (c)(2)–(5), Oct. 17, 1976, 90 Stat. 2487, 2488; Pub. L. 95–458, § 3(b), Oct. 14, 1978, 92 Stat. 1257; Pub. L. 95–599, title V, § 505(a), (b), (c)(2)–(4), Nov. 6, 1978, 92 Stat. 2758–2760; Pub. L. 95–600, title VII, § 703(*l*)(3), Nov. 6, 1978, 92 Stat. 2942; Pub. L. 95–618, title II, § 233(a)(2), Nov. 9, 1978, 92 Stat. 3190; Pub. L. 96–223, title II, § 232(d)(1), (2), (4)(B)–(D), Apr. 2, 1980, 94 Stat. 277, 278; Pub. L. 96–541, § 4, Dec. 17, 1980, 94 Stat. 3205; Pub. L. 97–248, title II, § 279(b)(2), Sept. 3, 1982, 96 Stat. 563; Pub. L. 97–424, title V, §§ 511(d)(4), (e)(1)–(3), (g)(2)(B)–(D), 516(b)(5), Jan. 6, 1983, 96 Stat. 2171, 2172, 2173, 2183; Pub. L. 97–473, title II, § 202(b)(13), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98–369, div. A, title IV, § 474(r)(38), title VII, §§ 732(a)(3), 734(c)(2), title IX, §§ 911(b), (d)(2)(B)–(F), 912(d), 914, 915(a), July 18, 1984, 98 Stat. 846, 977, 979, 1005–1008; Pub. L. 99–499, title V, § 521(c)(3)(A), (B)(i), (C), Oct. 17, 1986, 100 Stat. 1779; Pub. L. 99–514, title IV, § 422(b), title XVII, § 1703(d), (e)(1), (2)(A)–(E), title XVIII, §§ 1877(b), 1899A(55), (56), Oct. 22, 1986, 100 Stat. 2230, 2777, 2778, 2902, 2961, as amended by Pub. L. 99–499, title V, § 521(c)(3)(B)(ii), Oct. 17, 1986, 100 Stat. 1779; Pub. L. 100–17, title V, § 502(b)(8), (9), Apr. 2, 1987, 101 Stat. 257; Pub. L. 100–203, title X, § 10502(c), Dec. 22, 1987, 101 Stat. 1330–442; Pub. L. 100–223, title IV, § 405(b)(1), (2), Dec. 30, 1987, 101 Stat. 1534, 1535; Pub. L. 100–647, title I, § 1017(c)(3), (10), title II, §§ 2001(d)(7)(B)–(D), 2004(s)(2), (3), title III, § 3002(a)–(c), Nov. 10, 1988, 102 Stat. 3576, 3596, 3609, 3615, 3616; Pub. L. 101–239, title VII, §§ 7501(b)(3), 7812(a), 7822(b)(1)–(4), 7841(d)(20), Dec. 19, 1989, 103 Stat. 2361, 2412, 2424, 2425, 2429; Pub. L. 101–508, title XI, §§ 11211(b)(4)(B), (5), (6)(E)(ii), (d)(7), (8), 11213(b)(3), 11801(a)(46), (c)(23), Nov. 5, 1990, 104 Stat. 1388–425 to 1388–427, 1388–433, 1388–522, 1388–528; Pub. L. 102–240, title VIII, § 8002(b)(7), (8), Dec. 18, 1991, 105 Stat. 2203; Pub. L. 103–66, title XIII, §§ 13241(f)(8)–(10), 13242(c), (d)(21), (25)–(31), Aug. 10, 1993, 107 Stat. 512, 521, 524, 525; Pub. L. 104–188, title I, §§ 1606(a), (b)(2), 1702(b)(2)(B), 1703(k), Aug. 20, 1996, 110 Stat. 1839, 1868, 1877; Pub. L. 105–34, title X, § 1032(c)(3), (e)(7)–(10), Aug. 5, 1997, 111 Stat. 934, 935; Pub. L. 105–178, title IX, §§ 9003(a)(2), 9006(b)(2), 9009(a)–(b)(2), June 9, 1998, 112 Stat. 502, 506, 507;

Pub. L. 105–206, title VI, §§6016(b), 6017(a), 6023(16), (25), (26), July 22, 1998, 112 Stat. 822, 825, 826.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–206, §6016(b), in heading, substituted ''other aircraft uses'' for ''helicopters'' and, in concluding provisions, inserted ''or a fixed-wing aircraft'' after ''helicopter''.

Subsec. (f)(3). Pub. L. 105–206, §6023(25), struck out '', (e),'' after ''subsection (d)''.

Subsec. (f)(4). Pub. L. 105–178, §9003(a)(2), substituted ''2007'' for ''1999''.

Subsec. (i)(1). Pub. L. 105–206, §6023(26)(B), substituted ''(*o*)'' for ''(q)''.

Subsec. (i)(2)(A). Pub. L. 105–206, §6023(26)(B), substituted ''(*o*)'' for ''(q)''.

Pub. L. 105–178, §9009(a), reenacted heading without change and amended text of subpar. (A) generally. Prior to amendment, text read as follows: ''If $1,000 or more is payable under subsections (a), (b), (d), (h), and (q) to any person with respect to fuel used during any of the first 3 quarters of his taxable year, a claim may be filed under this section with respect to fuel used, during such quarter.''

Subsec. (i)(2)(B). Pub. L. 105–206, §6017(a), reenacted heading without change and amended text of subpar. (B) generally. Prior to amendment, text read as follows: ''No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.''

Subsec. (i)(4), (5). Pub. L. 105–178, §9009(b)(1), redesignated par. (5) as (4) and struck out par. (4) which read as follows:

''(4) SPECIAL RULE FOR REFUNDS UNDER SUBSECTION (*l*).—

''(A) IN GENERAL.—If at the close of any of the 1st 3 quarters of the taxable year of any person, at least $750 is payable under subsection (*l*) to such person with respect to fuel used during such quarter or any prior quarter during the taxable year (and for which no other claim has been filed), a claim may be filed under subsection (*l*) with respect to such fuel.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the 1st quarter following the last quarter included in the claim.''

Subsec. (k)(2). Pub. L. 105–178, §9009(b)(2), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: ''Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), (4), or (5) of subsection (i).''

Subsec. (*l*)(3)(B)(ii). Pub. L. 105–178, §9006(b)(2)(A), substituted ''November 1, 1998'' for ''October 1, 1999''.

Subsec. (*l*)(3)(B)(iii). Pub. L. 105–178, §9006(b)(2)(B), substituted ''October 31, 1998'' for ''September 30, 1999''.

Subsecs. (m) to (p). Pub. L. 105–206, §6023(26)(A), redesignated subsecs. (n), (p), (q), and (r) as (m), (n), (*o*), and (p), respectively.

Subsec. (q). Pub. L. 105–206, §6023(26)(A), redesignated subsec. (q) as (*o*).

Subsec. (q)(2). Pub. L. 105–206, §6023(16), substituted ''section 4041(c)(2)'' for ''section 4041(c)(4)''.

Subsec. (r). Pub. L. 105–206, §6023(26)(A), redesignated subsec. (r) as (p).

1997—Subsec. (f). Pub. L. 105–34, §1032(e)(7), inserted ''kerosene,'' after ''diesel fuel,'' in subsec. heading and in text of par. (1).

Subsec. (f)(2)(A)(i), (B)(i). Pub. L. 105–34, §1032(e)(8), substituted '', diesel fuel, or kerosene'' for ''or diesel fuel''.

Subsec. (f)(3). Pub. L. 105–34, §1032(e)(7), inserted ''kerosene,'' after ''diesel fuel,''.

Subsec. (i)(3)(A). Pub. L. 105–34, §1032(e)(9), substituted '', diesel fuel, or kerosene'' for ''or diesel fuel'' in introductory provisions.

Subsec. (i)(4). Pub. L. 105–34, §1032(e)(10), amended heading generally. Prior to amendment, heading read as follows: ''Special rule for nontaxable uses of diesel fuel and aviation fuel taxed under section 4081 or 4091''.

Subsec. (i)(5)(A)(i). Pub. L. 105–34, §1032(c)(3)(E), inserted ''($100 or more in the case of kerosene)'' after ''$200 or more''.

Subsec. (*l*). Pub. L. 105–34, §1032(c)(3)(D), inserted '', kerosene,'' after ''diesel fuel'' in heading.

Subsec. (*l*)(1)(A), (2)(A). Pub. L. 105–34, §1032(c)(3)(A), inserted ''or kerosene'' after ''diesel fuel''.

Subsec. (*l*)(5). Pub. L. 105–34, §1032(c)(3)(A), inserted ''or kerosene'' after ''diesel fuel'' in heading.

Subsec. (*l*)(5)(A). Pub. L. 105–34, §1032(c)(3)(A), inserted ''or kerosene'' after ''diesel fuel'' in introductory provisions.

Subsec. (*l*)(5)(B). Pub. L. 105–34, §1032(c)(3)(B), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (*l*)(5)(C). Pub. L. 105–34, §1032(c)(3)(B), (C), redesignated subpar. (B) as (C) and substituted ''subparagraph (A) or (B)'' for ''subparagraph (A)'' in introductory provisions.

1996—Subsec. (f)(4). Pub. L. 104–188, §1703(k), substituted ''1999'' for ''1995''.

Subsec. (g). Pub. L. 104–188, §1606(a), struck out subsec. (g) which related to advance repayment of increased diesel fuel tax to original purchasers of diesel-powered automobiles and light trucks.

Subsec. (i)(1), (2)(A). Pub. L. 104–188, §1606(b)(2), struck out ''(g),'' after ''(d),'' and ''(or a qualified diesel powered highway vehicle purchased)'' after ''with respect to fuel used'' wherever appearing.

Subsec. (*l*)(4). Pub. L. 104–188, §1702(b)(2)(B), amended par. (4), as in effect before the amendments made by the Revenue Reconciliation Act of 1993 [ch. I, §§13001–13444, of title XIII of Pub. L. 103–66], by inserting before the period ''unless such fuel was used by a State or any political subdivision thereof''. See 1993 Amendment note below for subsec. (*l*).

1993—Subsec. (a). Pub. L. 103–66, §13242(d)(21), substituted ''paragraph (2) or (3) of section 4041(a) or section 4041(c)'' for ''section 4041(a) or (c)'' in introductory provisions.

Subsec. (b)(1). Pub. L. 103–66, §13242(d)(25), substituted ''if any fuel other than gasoline (as defined in section 4083(a))'' for ''if any fuel'' in introductory provisions and ''4081'' for ''4091'' in introductory and concluding provisions.

Subsec. (b)(2). Pub. L. 103–66, §13241(f)(8)(B), substituted ''Reduction'' for ''3-cent reduction'' in heading.

Subsec. (b)(2)(A). Pub. L. 103–66, §13242(d)(25)(B), substituted ''4081'' for ''4091''.

Pub. L. 103–66, §13241(f)(8)(A), substituted ''7.4 cents'' for ''3.1 cents''.

Subsec. (c). Pub. L. 103–66, §13242(d)(21), substituted ''paragraph (2) or (3) of section 4041(a) or section 4041(c)'' for ''section 4041(a) or (c)''.

Subsec. (f)(1). Pub. L. 103–66, §13242(d)(26)(A), substituted ''or 4091(c)(1)(A)'' for '', 4091(c)(1)(A), or 4091(d)(1)(A)''.

Subsec. (f)(2). Pub. L. 103–66, §13242(d)(26)(B), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''For purposes of paragraph (1)—

''(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

''(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

''(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

''(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

''(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

''(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

''(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

''(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.''

Subsec. (h). Pub. L. 103–66, §13242(d)(27), substituted ''section 4083(a)(2)'' for ''section 4082(b)''.

Subsec. (i)(1). Pub. L. 103–66, §13242(c)(2)(B), substituted ''otherwise provided in this subsection'' for ''provided in paragraphs (2), (3), and (4)''.

Subsec. (i)(3). Pub. L. 103–66, §13242(d)(28)(A), substituted ''alcohol mixture'' for ''gasohol'' in heading.

Subsec. (i)(3)(A). Pub. L. 103–66, §13242(d)(28)(B), substituted ''gasoline or diesel fuel used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))'' for ''gasoline used to produce gasohol (as defined in section 4081(c)(1))''.

Subsec. (i)(3)(C). Pub. L. 103–66, §13242(c)(2)(D), added subpar. (C).

Subsec. (i)(4). Pub. L. 103–66, §13242(d)(30), inserted ''4081 or'' before ''4091'' in heading.

Subsec. (i)(5). Pub. L. 103–66, §13242(c)(2)(A), added par. (5).

Subsec. (j)(1). Pub. L. 103–66, §13242(d)(29), substituted ''sections 4041, 4081, and 4091'' for ''section 4041''.

Subsec. (k)(2). Pub. L. 103–66, §13242(c)(2)(C), substituted ''(4), or (5)'' for ''or (4)''.

Subsec. (*l*). Pub. L. 103–66, §13242(d)(31), amended subsec. heading and headings and text of pars. (1) to (4) generally. Prior to amendment, pars. (1) to (4) read as follows:

''(1) IN GENERAL.—Except as provided in subsection (k) and in paragraphs (3) and (4) of this subsection, if any fuel on which tax has been imposed by section 4091 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4091.

''(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means, with respect to any fuel, any use of such fuel if such use is exempt under section 4041 from the taxes imposed by subsections (a)(1) and (c)(1) of section 4041 (other than by reason of the imposition of tax on any sale thereof).

''(3) NO REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the diesel fuel deficit reduction rate imposed by such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

''(4) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of fuel used in commercial aviation (as defined in section 4093(c)(2)(B)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section.''

Pub. L. 103–66, §13241(f)(9), added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows:

''(3) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING TAX.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

''(A) fuel used in a diesel-powered train, and

''(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

''(4) NO REFUND OF DEFICIT REDUCTION TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the diesel fuel deficit reduction rate imposed by such section.'' See 1996 Amendment note for subsec. (*l*)(4) above.

Subsec. (*l*)(5). Pub. L. 103–66, §13242(c)(1), added par. (5).

Subsec. (m). Pub. L. 103–66, §13241(f)(10), struck out heading and text of subsec. (m). Text read as follows: ''For purposes of subsection (a), in the case of gasoline—

''(1) on which tax was imposed under section 4041(c)(2),

''(2) on which tax was not imposed under section 4081, and

''(3) which was not used as an off-highway business use (within the meaning of section 6421(e)(2)),

the amount of the payment under subsection (a) shall be an amount equal to the amount of gasoline used as described in subsection (a) or resold multiplied by the rate equal to the excess of the rate of tax imposed by section 4041(c)(2) over the rate of tax imposed by section 4081.''

Subsec. (*o*). Pub. L. 103–66, §13241(f)(10), struck out heading and text of subsec. (*o*). Text read as follows: ''Except with respect to taxes imposed by section 4041(d) and sections 4081 and 4091 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), (h), and (*l*) shall only apply with respect to fuels purchased before October 1, 1999.''

1991—Subsecs. (g)(5), (*o*). Pub. L. 102–240 substituted ''1999'' for ''1995''.

1990—Subsec. (b)(2)(A). Pub. L. 101–508, §11211(b)(5), substituted ''shall be 3.1 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4091, as the case may be'' for ''shall not exceed 12 cents''.

Subsec. (e). Pub. L. 101–508, §11801(a)(46), struck out subsec. (e) which required payment of refunds of gasoline or fuel tax to ultimate purchasers where such gasoline or fuel was used in a qualified taxicab engaged exclusively in furnishing qualified taxicab services.

Subsec. (f). Pub. L. 101–508, §11213(b)(3), amended subsec. (f) generally, restructuring and restating pars. (1) to (3) as (1) to (4) and extending the termination date from Sept. 30, 1993, to Sept. 30, 1995.

Subsec. (g)(5). Pub. L. 101–508, §11211(d)(7), substituted ''1995'' for ''1993''.

Subsec. (i)(1). Pub. L. 101–508, §11801(c)(23)(A), struck out ''(e),'' before ''(g),''.

Subsec. (i)(2)(A). Pub. L. 101–508, §11801(c)(23)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''If—

''(i) $1,000 or more is payable under subsections (a), (b), (d), (e), (g), (h), and (q), or

''(ii) $50 or more is payable under subsection (e),

to any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any of the first three quarters of his taxable year, a claim may be filed under this section by the purchaser with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter.''

Subsec. (i)(2)(B), (C). Pub. L. 101–508, §11801(c)(23)(C), redesignated subpar. (C) as (B) and struck out former subpar. (B) ''Special rule'' which read as follows: ''If the requirements of subparagraph (A)(ii) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in subparagraph (A)(ii).''

Subsec. (*l*)(1). Pub. L. 101–508, §11211(b)(4)(B)(ii), inserted reference to par. (4).

Subsec. (*l*)(4). Pub. L. 101–508, §11211(b)(4)(B)(i), added par. (4).

Subsec. (*o*). Pub. L. 101–508, §11211(d)(8), substituted ''1995'' for ''1993''.

Subsec. (q). Pub. L. 101–508, §11211(b)(6)(E)(ii), substituted heading for one which read: ''Gasoline used in noncommercial aviation during period rate reduction in effect'' and amended text generally. Prior to amendment, text read as follows: ''Except as provided in subsection (k), if—

''(1) any tax is imposed by section 4081 on any gasoline,

''(2) such gasoline is used during 1991 as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)), and

''(3) no tax is imposed by section 4041(c)(2) on taxable events occurring during 1991 by reason of section 4283,

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 6 cents multiplied by the number of gallons of gasoline so used.''

1989—Subsec. (f)(1)(B). Pub. L. 101–239, § 7812(a), made technical correction to directory language of Pub. L. 100–647, § 2001(d)(7)(C), see 1988 Amendment note below.

Subsec. (i)(1). Pub. L. 101–239, § 7822(b)(1), substituted ''subsection (a), (b), (c), (d), (e), (g), (h), (*l*), or (q) by any person'' for ''subsection (a), (b), (c), (d), (e),, (g), (h), or (*l*) by any person''.

Subsec. (i)(2)(A)(i). Pub. L. 101–239, § 7822(b)(2), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''$1,000 or more is payable under subsections (a), (b), (d), (e), (g), (h), and or''.

Subsec. (i)(2)(B). Pub. L. 101–239, § 7822(b)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''If the requirements of clause (ii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause of subparagraph (A) the requirements of which are met by such person for such quarter.''

Subsec. (j)(2). Pub. L. 101–239, § 7841(d)(20), substituted ''section 7602(a)'' for ''section 7602''.

Subsec. (p). Pub. L. 101–239, § 7822(b)(4), redesignated subsec. (q), relating to payments for taxes imposed by section 4041(d), as (p).

Subsec. (q). Pub. L. 101–239, § 7501(b)(3), substituted ''1991'' for ''1990'' in pars. (2) and (3).

Pub. L. 101–239, § 7822(b)(4), redesignated subsec. (q), relating to payments for taxes imposed by section 4041(d), as (p).

1988—Subsec. (f)(1)(A). Pub. L. 100–647, § 2001(d)(7)(B), substituted ''regular tax rate'' for ''regular Highway Trust Fund financing rate'' in two places and ''incentive tax rate'' for ''incentive Highway Trust Fund Financing rate'', notwithstanding directory language that ''incentive tax rate'' was to be substituted for ''Highway Trust Fund financing rate''.

Subsec. (f)(1)(B). Pub. L. 100–647, § 2001(d)(7)(C), as amended by Pub. L. 101–239, § 7812(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) defined ''regular Highway Trust Fund financing rate'' and ''incentive Highway Trust Fund Financing rate''.

Subsec. (i)(1). Pub. L. 100–647, § 3002(c)(1), substituted ''paragraphs (2), (3), and (4)'' for ''paragraph (2)''.

Subsec. (i)(2)(A)(i). Pub. L. 100–647, § 3002(c)(2), struck out ''(*l*),'' after ''and''.

Subsec. (i)(4). Pub. L. 100–647, § 3002(a), added par. (4).

Subsec. (k)(2). Pub. L. 100–647, § 3002(b), substituted ''paragraph (2), (3), or (4)'' for ''paragraph (2) or (3)''.

Pub. L. 100–647, § 1017(c)(10), substituted ''paragraph (2) or (3) of subsection (i).'' for ''subsection'' and all that followed, thereby effecting the purpose of the amendment contained in section 1703(e)(2)(E) of Pub. L. 99–514. See 1986 Amendment note below.

Subsec. (*l*)(2). Pub. L. 100–647, § 2001(d)(7)(D), inserted ''under section 4041'' after ''exempt''.

Subsec. (*l*)(3)(B). Pub. L. 100–647, § 2004(s)(2), inserted ''(except as supplies for vessels or aircraft within the meaning of section 4221(d)(3))'' after ''aircraft''.

Subsec. (m)(3). Pub. L. 100–647, § 1017(c)(3), substituted ''6421(e)(2)'' for '6421(d)(2)''.

Subsecs. (p), (q). Pub. L. 100–647, § 2004(s)(3), redesignated subsec. (p), relating to gasoline used in noncommercial aviation during period rate reduction in effect, as (q). Former subsec. (q), relating to cross references, redesignated (r).

Subsec. (r). Pub. L. 100–647, § 2004(s)(3), redesignated subsec. (q), relating to cross references, as (r).

1987—Subsec. (b)(1). Pub. L. 100–203, § 10502(c)(2), substituted ''section 4041(a) or 4091'' for first reference to ''subsection (a) of section 4041'', ''section 4041(a) or 4091, as the case may be'' for second reference to ''subsection (a) of section 4041''.

Subsec. (e)(1)(B). Pub. L. 100–203, § 10502(c)(3), inserted ''or 4091'' after ''section 4041''.

Subsec. (f). Pub. L. 100–203, § 10502(c)(4), amended subsec. (f) generally, substituting new heading for ''Gasoline used to produce certain alcohol fuels'', and revising and restating as pars. (1) to (3) provisions of former pars. (1) and (2).

Subsec. (g)(5). Pub. L. 100–17, § 502(b)(8), substituted ''1993'' for ''1988''.

Subsec. (i)(1). Pub. L. 100–223, § 405(b)(2)(A), which directed substitution of ''(h), or (p)'' for ''or (h)'', could not be executed because of prior amendment by Pub. L. 100–203. See below.

Pub. L. 100–203, § 10502(c)(5)(A), substituted ''(h), or (*l*)'' for ''or (h)''.

Subsec. (i)(2)(A)(i). Pub. L. 100–223, § 405(b)(2)(B), which directed substitution of ''(h), and (p)'' for ''and (h)'', could not be executed because of prior amendment by Pub. L. 100–203. See below.

Pub. L. 100–203, § 10502(c)(5)(B), substituted ''(h), and (*l*)'' for ''and (h)''.

Subsecs. (*l*) to (n). Pub. L. 100–203, § 10502(c)(1), added subsec. (*l*) and redesignated former subsecs. (*l*) to (n) as (m) to (*o*), respectively.

Subsec. (*o*). Pub. L. 100–203, § 10502(c)(1), (6), redesignated subsec. (n) as (*o*) and amended it generally, substituting new heading for ''Termination of subsections (a), (b), (c), (d), (g), and (h)'' and amending text generally. Prior to amendment, text read as follows: ''Except with respect to taxes imposed by section 4041(d) and section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), and (h) shall only apply with respect to fuels purchased before October 1, 1993.'' Former subsec. (*o*) redesignated (p).

Pub. L. 100–17, § 502(b)(9), substituted ''1993'' for ''1988'' in subsec. (m), which was successively redesignated to subsec. (*o*) by Pub. L. 99–514 and Pub. L. 100–203.

Subsec. (p). Pub. L. 100–223, § 405(b)(1), added subsec. (p). Former subsec. (p) redesignated (q).

Pub. L. 100–203, § 10502(c)(1), redesignated subsec. (*o*) as (p). Former subsec. (p) redesignated (q).

Subsec. (q). Pub. L. 100–223, § 405(b)(1), redesignated subsec. (p), relating to payments for taxes imposed by section 4041(d), as (q).

Pub. L. 100–203, § 10502(c)(1), redesignated subsec. (p), relating to cross references, as (q).

1986—Subsec. (a). Pub. L. 99–514, § 1703(e)(2)(A), substituted ''subsection (k)'' for ''subsection (j)''.

Subsec. (b)(1). Pub. L. 99–514, § 1899A(55), substituted ''otherwise provided in this subsection'' for ''provided in paragraph (2)''.

Pub. L. 99–514, § 1703(e)(2)(A), substituted ''subsection (k)'' for ''subsection (j)''.

Subsec. (b)(2)(A). Pub. L. 99–514, § 1877(b)(2), substituted ''subparagraphs (B) and (C)'' for ''subparagraph (B)''.

Subsec. (b)(2)(B). Pub. L. 99–514, § 1877(b)(1), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(2)(C). Pub. L. 99–514, § 1877(b)(1), (3), redesignated subpar. (B) as (C) and substituted ''Exception for certain intracity transportation'' for ''Exception'' in heading. Former subpar. (C) redesignated (D).

Subsec. (b)(2)(D). Pub. L. 99–514, § 1877(b)(1), redesignated former subpar. (C) as (D).

Subsecs. (c), (d), (e)(1). Pub. L. 99–514, § 1703(e)(2)(A), substituted ''subsection (k)'' for ''subsection (j)''.

Subsec. (e)(3). Pub. L. 99–514, § 422(b), substituted ''September 30, 1988'' for ''September 30, 1985''.

Subsec. (f)(1). Pub. L. 99–514, § 1703(e)(2)(A), substituted ''subsection (k)'' for ''subsection (j)''.

Pub. L. 99–499, § 521(c)(3)(C), which directed the substitution of ''at the Highway Trust Fund financing rate'' for ''at the rate'', was executed by making the substitution for the first such reference as the probable intent of Congress.

Subsec. (g)(1). Pub. L. 99–514, §1899A(56), substituted ''amount'' for ''anount''.

Pub. L. 99–514, §1703(e)(2)(A), substituted ''subsection (k)'' for ''subsection (j)''.

Subsec. (h). Pub. L. 99–514, §1703(e)(1)(B), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 99–514, §1703(e)(1)(A), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 99–514, §1703(d)(1)(B)(i), (e)(2)(B), struck out ''(f)'' after ''subsection (a), (b), (c), (d), (e),'' and substituted ''(g), or (h)'' for ''or (g)''.

Subsec. (i)(2)(A). Pub. L. 99–514, §1703(d)(1)(B)(ii), inserted ''or'' at end of cl. (i), struck out ''or'' at end of cl. (ii), and struck out cl. (iii) which read as follows: ''$200 or more is payable under subsection (f),''.

Subsec. (i)(2)(A)(i). Pub. L. 99–514, §1703(e)(2)(C), substituted ''(g), and (h)'' for ''and (g)''.

Subsec. (i)(2)(B). Pub. L. 99–514, §1703(d)(1)(B)(ii)(III), struck out ''(or clauses)'' after ''referred to in the clause''. Notwithstanding directory language that the amendment be made to subpar. (A) of this par., the amendment was executed to subpar. (B), the only place in the section where ''(or clauses)'' appeared, to reflect the probable intent of Congress.

Pub. L. 99–514, §1703(d)(1)(B)(iii), struck out ''or clause (iii)'' after ''If the requirements of clause (ii)''. Notwithstanding directory language that the amendment be made to subsec. (f)(2)(B) of this section, the amendment was executed to subsec. (i)(2)(B), the only place in the section where ''or clause (iii)'' appeared, to reflect the probable intent of Congress.

Subsec. (i)(3). Pub. L. 99–514, §1703(d)(1), added par. (3).

Subsec. (j). Pub. L. 99–514, §1703(e)(1)(A), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 99–514, §1703(e)(1)(A), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (*l*).

Subsec. (k)(2). Pub. L. 99–514, §1703(e)(2)(E), which directed the substitution of ''(i)(2)'' for ''subsection (h)(2)'' in subsec. (i)(2) (as so redesignated), was executed to subsec. (k)(2), the only place in the section where ''subsection (h)(2)'' appeared, to reflect the probable intent of Congress. See 1988 Amendment note above.

Pub. L. 99–514, §1703(d)(1)(B)(iv), substituted ''subsection (h)(2) or (h)(3)'' for ''subsection (h)(2)''.

Subsec. (*l*). Pub. L. 99–514, §1703(e)(1)(A), redesignated subsec. (k) as (*l*). Former subsec. (*l*) redesignated (m).

Subsec. (m). Pub. L. 99–514, §1703(e)(1)(A), redesignated subsec. (*l*) as (m). Former subsec. (m) redesignated (n).

Pub. L. 99–499, §521(c)(3)(A), substituted ''Except with respect to taxes imposed by section 4041(d) and section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections'' for ''Subsection''.

Subsec. (n). Pub. L. 99–514, §1703(e)(1)(A), (2)(C), (D), redesignated subsec. (m) as (n) and substituted ''(g), and (h)'' for ''and (g)'' in heading and text. Former subsec. (n) redesignated (*o*).

Pub. L. 99–499, §521(c)(3)(B)(i), added subsec. (n). Former subsec. (n) redesignated (*o*).

Subsec. (*o*). Pub. L. 99–514, §1703(e)(1)(A), as amended by Pub. L. 99–499, §521(c)(3)(B)(ii), redesignated subsec. (n), as added by Pub. L. 99–499, §521(c)(3)(B)(i), as (*o*). Former subsec. (*o*) redesignated (p).

Pub. L. 99–499, §521(c)(3)(B)(i), redesignated subsec. (n) as (*o*).

Subsec. (p). Pub. L. 99–514, §1703(e)(1)(A), as amended by Pub. L. 99–499, §521(c)(3)(B)(ii), redesignated subsec. (*o*) as (p).

1984—Subsecs. (a), (b)(1). Pub. L. 98–369, §911(d)(2)(B), substituted ''subsection (j)'' for ''subsection (i)''.

Subsec. (b)(2), (3). Pub. L. 98–369, §915(a), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (c), (d), (e)(1). Pub. L. 98–369, §911(d)(2)(B), substituted ''subsection (j)'' for ''subsection (i)''.

Subsec. (e)(3). Pub. L. 98–369, §914, substituted ''September 30, 1985'' for ''September 30, 1984''.

Subsec. (f)(1). Pub. L. 98–369, §911(d)(2)(B), substituted ''subsection (j)'' for ''subsection (i)''.

Pub. L. 98–369, §912(d), substituted ''5⅔ cents'' for ''4⅔ cents''.

Pub. L. 98–369, §732(a)(3), substituted ''4⅔ cents'' for ''5 cents''.

Subsec. (g). Pub. L. 98–369, §911(b), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 98–369, §911(b), redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(1). Pub. L. 98–369, §911(d)(2)(C), substituted ''(f), or (g)'' for ''or (f)'', and inserted ''(or a qualified diesel powered highway vehicle purchased)'' after ''fuel used'' in two places.

Subsec. (h)(2)(A). Pub. L. 98–369, §911(d)(2)(D), substituted ''(e), and (g)'' for ''and (e)'', and inserted ''(or a qualified diesel powered highway vehicle purchased)'' after ''fuel used'' in two places.

Subsec. (i). Pub. L. 98–369, §911(b), redesignated former subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(3). Pub. L. 98–369, §474(r)(38), substituted ''section 34'' for ''section 39''.

Subsec. (j). Pub. L. 98–369, §911(b), redesignated former subsec. (i), relating to income tax credit in lieu of payment, as (j). Former subsec. (j), relating to special rules with respect to noncommercial aviation, redesignated (k).

Pub. L. 98–369, §734(c)(2), added subsec. (j) relating to special rules with respect to noncommercial aviation. Former subsec. (j), relating to regulations, redesignated (k).

Subsec. (j)(2). Pub. L. 98–369, §911(d)(2)(E), which directed the amendment of subsec. (k)(2) by substituting ''(h)(2)'' for '(g)(2)'' was executed to subsec. (j)(2) to reflect the probable intent of Congress.

Subsec. (k). Pub. L. 98–369, §911(b), redesignated former subsec. (j), relating to special rules with respect to noncommercial aviation, as (k). Former subsec. (k), relating to regulations, redesignated (*l*).

Pub. L. 98–369, §734(c)(2), redesignated former subsec. (j), relating to regulations, as (k). Former subsec. (k), relating to termination of subsections, redesignated (*l*).

Subsec. (*l*). Pub. L. 98–369, §911(b), redesignated former subsec. (k), relating to regulations, as (*l*). Former subsec. (*l*), relating to termination of subsections, redesignated (m).

Pub. L. 98–369, §734(c)(2), redesignated former subsec. (k), relating to termination of subsections, as (*l*). Former subsec. (*l*), relating to cross references, redesignated (m).

Subsec. (m). Pub. L. 98–369, §911(b), (d)(2)(F), redesignated former subsec. (*l*), relating to termination of subsections, as (m) and substituted ''(d), and (g)'' for ''and (d)'' in heading and text. Former subsec. (m), relating to cross references, redesignated (n).

Pub. L. 98–369, §734(c)(2), redesignated former subsec. (*l*), relating to cross references, as (m).

Subsec. (n). Pub. L. 98–369, §911(b), redesignated former subsec. (m), relating to cross references, as (n).

1983—Subsec. (a). Pub. L. 97–424, §511(g)(2)(B), substituted ''section 4041(a) or (c)'' for ''section 4041(a), (b), or (c)''.

Subsec. (b)(1). Pub. L. 97–424, §511(g)(2)(C), substituted ''subsection (a) of section 4041'' for ''subsection (a) or (b) of section 4041'' wherever appearing.

Subsec. (c). Pub. L. 97–424, §511(g)(2)(D), substituted ''section 4041(a) or (c)'' for ''section 4041(a), (b), or (c)''.

Subsec. (e)(1). Pub. L. 97–424, §511(e)(1), substituted ''an amount determined at the rate of 4 cents a gallon'' for ''an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel''.

Subsec. (e)(2)(A)(ii). Pub. L. 97–424, §511(e)(3), struck out ''is not prohibited under the laws, regulations, or procedures of such Federal, State, or local authority, and'' after ''(ii)''.

Subsec. (e)(3). Pub. L. 97–424, §511(e)(2), substituted ''September 30, 1984'' for ''December 31, 1982''.

Subsec. (f)(1). Pub. L. 97–424, §511(d)(4), substituted ''on which a tax'' for ''on which tax'', inserted ''at the rate of 9 cents a gallon'' after ''is imposed by section

4081'', and substituted ''the amount determined at the rate of 5 cents a gallon'' for ''the aggregate amount of the tax imposed on such gasoline''.

Subsec. (f)(2). Pub. L. 97–424, § 511(d)(4), substituted provision that no amount shall be payable under paragraph (1) with respect to any gasoline with respect to which an amount is payable under subsection (d) or (e) of this section or under section 6420 or 6421, for provision that no amount would be payable under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount was payable under paragraph (1).

Subsec. (k). Pub. L. 97–424, § 516(b)(5), added subsec. (k). Former subsec. (k) redesignated (*l*).

Subsec. (k)(3). Pub. L. 97–473 purported to add par. (3). See par. below for subsec. (*l*)(3).

Subsec. (*l*). Pub. L. 97–424, § 516(b)(5), redesignated former subsec. (k) as (*l*).

Subsec. (*l*)(3). Pub. L. 97–473 added par. (3). Notwithstanding the directory language that par. (3) be added to subsec. (k), it was added to subsec. (*l*) to reflect the probable intent of Congress and the intervening redesignation of subsec. (k) as (*l*) by Pub. L. 97–424.

1982—Subsec. (d). Pub. L. 97–248 inserted ''or in certain helicopters'' after ''museums'' in heading and ''or is used in a helicopter for a purpose described in section 4041(*l*),'' after ''section 4041(h)(2)(C),'' in text.

1980—Subsecs. (a), (b)(1), (c), (d), (e)(1). Pub. L. 96–223, § 232(d)(4)(B), substituted ''subsection (i)'' for ''subsection (h)''.

Subsec. (e)(3). Pub. L. 96–541 extended subsec. (e) termination date to Dec. 31, 1982, from Dec. 31, 1980.

Subsecs. (f), (g). Pub. L. 96–223, § 232(d)(1)(A), (2), (4)(C), added subsec. (f), redesignated former subsec. (f) as (g), and in subsec. (g) as so redesignated, inserted reference to subsec. (f) in par. (1), added par. (2)(A)(iii), and, in par. (2)(B), substituted ''If the requirements of clause (ii) or clause (iii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause (or clauses) of subparagraph (A) the requirements of which are met by such person for such quarter'' for ''If a claim may be filed by any person under subparagraph (A)(ii) but not under subparagraph (A)(i) for any quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts payable under subsection (e)''. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 96–223, § 232(d)(1)(A), redesignated former subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 96–223, § 232(d)(1)(A), (4)(D), redesignated former subsec. (h) as (i), and in par. (2) of subsec. (i) as so redesignated, substituted ''subsection (g)(2)'' for ''subsection (f)(2)''. Former subsec. (i) redesignated (j).

Subsecs. (j), (k). Pub. L. 96–223, § 232(d)(1)(A), redesignated former subsecs. (i) and (j) as (j) and (k), respectively.

1978—Subsec. (a). Pub. L. 95–599, § 505(c)(2), substituted ''subsection (h)'' for ''subsection (g)''.

Subsec. (b). Pub. L. 95–618, among other changes, provided for the refund or credit of the taxes paid on fuel pursuant to section 4041(a) or (b) but only to the extent such fuel is used in a bus engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations.

Pub. L. 95–599, § 505(c)(2), substituted ''subsection (h)'' for ''subsection (g)''. See Effective Date of 1978 Amendment note below.

Subsec. (c). Pub. L. 95–599, § 505(c)(2), substituted ''subsection (h)'' for ''subsection (g)''.

Pub. L. 95–458 substituted provision requiring that the rules of section 6420(c)(4) be applied in determining the user and purchaser of fuel if the fuel was used on a farm by any person other than the owner, tenant, or operator for provision which deemed the owner, tenant, or operator of the farm as the user and purchaser if fuel was used on the farm by any other person.

Subsec. (d). Pub. L. 95–600 struck out ''or his delegate'' after ''Secretary''.

Pub. L. 95–599, § 505(c)(2), substituted ''subsection (h)'' for ''subsection (g)''.

Subsec. (e). Pub. L. 95–599, § 505(a)(2), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 95–599, § 505(a)(1), (b), (c)(3), redesignated former subsec. (e) as (f) and, in par. (1), substituted ''(d), or (e)'' for ''or (d)'' and amended par. (2) generally, designating existing provisions as subpars. (A)(i) and (c) and adding subpars. (A)(ii) and (B). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95–599, § 505(a)(1), redesignated former subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95–599, § 505(a)(1), (c)(4), redesignated former subsec. (g) as (h) and substituted ''(f)(2)'' for ''(e)(2)''. Former subsec. (h) redesignated (i).

Subsecs. (i), (j). Pub. L. 95–599, § 505(a)(1), redesignated former subsecs. (h) and (i) as (i) and (j), respectively.

1976—Subsec. (a). Pub. L. 94–530, § 1(c)(2), substituted ''subsection (g)'' for ''subsection (f)''.

Pub. L. 94–455, § 1906(a)(31)(A), (b)(13)(A), struck out '', after June 30, 1970,'' after ''sale of any fuel and'' and ''or his delegate'' after ''Secretary''.

Subsec. (b)(1). Pub. L. 94–530, § 1(c)(2), substituted ''subsection (g)'' for ''subsection (f)''.

Pub. L. 94–455, § 1906(a)(31)(A), (b)(13)(A), struck out '', after June 30, 1970,'' before ''used by the purchaser'' and ''or his delegate'' after ''Secretary''.

Subsec. (c). Pub. L. 94–530, § 1(c)(2), substituted ''subsection (g)'' for ''subsection (f)''.

Pub. L. 94–455, § 1906(a)(31)(A), (b)(13)(A), struck out '', after June 30, 1970,'' before ''used on a farm'' and ''or his delegate'' after ''Secretary''.

Subsec. (d). Pub. L. 94–530, § 1(b), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e)(1). Pub. L. 94–530, § 1(b), (c)(3), redesignated former subsec. (d)(1) as (e)(1) and substituted ''(a), (b), (c), or (d)'' for ''(a), (b), or (c)''. Former subsec. (e) redesignated (f).

Subsec. (e)(2). Pub. L. 94–530, § 1(b), (c)(4), redesignated former subsec. (d)(2) as (e)(2) and substituted ''(a), (b), and (d)'' for ''(a) and (b)''.

Subsec. (f). Pub. L. 94–530, § 1(b), redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g) and amended.

Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (g). Pub. L. 94–530, § 1(b), (c)(5), redesignated former subsec. (f) as (g) and substituted ''subsection (e)(2)'' for ''subsection (d)(2)'' in par. (2).

Subsecs. (h), (i). Pub. L. 94–530, § 1(b), redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

Subsec. (h). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105–206, title VI, § 6017(b), July 22, 1998, 112 Stat. 822, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 9009 of the Transportation Equity Act for the 21st Century [Pub. L. 105–178].''

Amendment by section 6023(16), (25), and (26) of Pub. L. 105–206 effective July 22, 1998, see section 6023(32) of Pub. L. 105–206, set out as a note under section 34 of this title.

Amendment by section 6016(b) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

Amendment by section 9009(a)–(b)(2) of Pub. L. 105–178 effective Oct. 1, 1998, see section 9009(c) of Pub. L. 105–178, set out as a note under section 6421 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105–34, as amended, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1606(a), (b)(2) of Pub. L. 104–188 applicable to vehicles purchased after Aug. 20, 1996, see section 1606(c) of Pub. L. 104–188, set out as a note under section 34 of this title.

Amendment by section 1702(b)(2)(B) of Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

Amendment by section 1703(k) of Pub. L. 104–188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103–66, §§13001–13444, to which such amendment relates, see section 1703(*o*) of Pub. L. 104–188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13241(f)(8)–(10) of Pub. L. 103–66 effective Oct. 1, 1993, see section 13241(g) of Pub. L. 103–66, set out as a note under section 4041 of this title.

Amendment by section 13242(c), (d)(21), (25)–(31) of Pub. L. 103–66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103–66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11211(b)(4)(B), (5), (6)(E)(ii) of Pub. L. 101–508 effective Dec. 1, 1990, see section 11211(b)(7) of Pub. L. 101–508, set out as a note under section 4041 of this title.

Amendment by section 11213(b)(3) of Pub. L. 101–508 effective Dec. 1, 1990, see section 11213(b)(4) of Pub. L. 101–508, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7812(a) of Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

Amendment by section 7822(b)(1)–(4) of 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 section 1017(c)(3), (10) 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.

Section 2001(d)(7)(E) of Pub. L. 100–647 provided that: ''The amendments made by this paragraph [amending this section] shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987 [Pub. L. 100–203].''

Amendment by section 2004(s)(2), (3) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100–203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100–647, set out as a note under section 56 of this title.

Section 3002(d) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending this section] shall apply to fuel used after December 31, 1988.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100–203, set out as a note under section 40 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by section 1703(d), (e)(1), (2)(A)–(E) 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.

Amendment by section 1877(b) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

Amendment by Pub. L. 99–499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99–499, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(38) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

Amendment by section 732(a)(3) of Pub. L. 98–369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97–424, to which such amendment relates, see section 736 of Pub. L. 98–369, set out as a note under section 4051 of this title.

Amendment by section 734(c)(2) of Pub. L. 98–369 effective on first day of first calendar quarter beginning after July 18, 1984, see section 734(c)(3) of Pub. L. 98–369, set out as a note under section 4082 of this title.

Section 911(e) of Pub. L. 98–369 provided that: ''The amendments made by this section [amending this section and sections 34, 4041, 7210, 7603 to 7605, 7609, 7610, and 9503 of this title] shall take effect on August 1, 1984.''

Amendment by section 912(d) of Pub. L. 98–369 effective Jan. 1, 1985, see section 912(g) of Pub. L. 98–369, set out as a note under section 40 of this title.

Section 915(b) of Pub. L. 98–369 provided that: ''The amendments made by this section [amending this section] shall take effect on August 1, 1984.''

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENTS

For effective date of amendment by Pub. L. 97–473, see section 204 of Pub. L. 97–473, set out as an Effective Date note under section 7871 of this title.

Amendment by section 511 of Pub. L. 97–424 effective Apr. 1, 1983, except that amendment by section 511(e)(2) of Pub. L. 97–424 is effective Jan. 1, 1983, and amendment by section 511(e)(3) of Pub. L. 97–424 is applicable with respect to fuel purchased after Dec. 31, 1982, and before Jan. 1, 1984, see section 511(h) of Pub. L. 97–424, set out as an Effective Date of 1983 Amendment note under section 4041 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 effective Sept. 1, 1982, see section 279(c) of Pub. L. 97–248, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 232(h)(2) of Pub. L. 96–223, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(A) IN GENERAL.—The amendments made by subsection (d) [amending this section and sections 39 [now 34], 4081, 7210, 7603, 7604, 7605, 7609, and 7610 of this title] shall take effect on January 1, 1979.

''(B) TRANSITIONAL RULE.—Any mixture sold or used on or after January 1, 1979, and before the date of the enactment of this Act [Apr. 2, 1980] which is described in section 6427(f)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by subsection (d)) shall, for purposes of section 6427 of such Code, be treated as sold or used on the date of the enactment of this Act.''

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95–618, set out as a note under section 34 of this title.

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.

Section 505(d) of Pub. L. 95–599 provided that: ''The amendments made by this section [amending this section and sections 39 [now 34], 7210, 7603, 7604, 7605, 7609 and 7610 of this title] shall take effect on January 1, 1979.''

Amendment by Pub. L. 95–458 effective on first day of first calendar quarter beginning more than 90 days after Oct. 14, 1978, see section 3(d) of Pub. L. 95–458, set out as a note under section 6420 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

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.

Section 1906(a)(31)(B) of Pub. L. 94–455 provided that: ''The amendments made by subparagraph (A) [amending this section] shall apply with respect to fuel used or resold after June 30, 1970.''

EFFECTIVE DATE

Section applicable with respect to taxable years ending after June 30, 1970, see section 211(b) of Pub. L. 91–258, set out as an Effective Date of 1956 Amendments note under section 4041 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(a)(46), (c)(23) of Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

EXTENSION OF PERIOD FOR CLAIMING REFUNDS FOR ALCOHOL FUELS

Section 1601(g)(1) of Pub. L. 105–34 provided that: ''Notwithstanding section 6427(i)(3)(C) of the Internal Revenue Code of 1986, a claim filed under section 6427(f) of such Code for any period after September 30, 1995, and before October 1, 1996, shall be treated as timely filed if filed before the 60th day after the date of the enactment of this Act [Aug. 5, 1997].''

TREATMENT OF AMENDMENT BY SECTION 10502(c)(4) OF PUB. L. 100–203

Section 2001(d)(7)(A) of Pub. L. 100–647 provided that: ''The amendment made by section 10502(c)(4) of the Revenue Act of 1987 [Pub. L. 100–203, amending this section] shall be treated as if included in the amendments made by section 1703 of the Reform Act [Pub. L. 99–514, see Tables for classification] except that references to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.''

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.

STUDY OF TAXICAB FUEL RATES

Section 511(e)(4) of Pub. L. 97–424 directed Secretary of the Treasury or his delegate to conduct a study of reduced rate of fuels taxes provided for taxicabs by section 6427(e) of the Internal Revenue Code, and transmit a report on study to Congress, together with such recommendations as he may deem advisable, not later than Jan. 1, 1984.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 34, 4041, 4081, 4082, 4084, 4091, 4092, 6206, 6421, 6504, 6675, 7210, 7603, 7604, 7605, 7609, 7610, 9502, 9503, 9508 of this title.

[§ 6428. Repealed. Pub. L. 101–508, title XI, § 11801(a)(47), Nov. 5, 1990, 104 Stat. 1388–522]

Section, added Pub. L. 94–12, title I, § 101(a), Mar. 29, 1975, 89 Stat. 27; amended Pub. L. 97–34, title I, § 101(b)(1), Aug. 13, 1981, 95 Stat. 182; Pub. L. 97–448, title I, § 101(a)(2), Jan. 12, 1983, 96 Stat. 2365, related to the 1981 rate reduction tax credit.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

[§§ 6429, 6430. Repealed. Pub. L. 100–418, title I, § 1941(b)(1), Aug. 23, 1988, 102 Stat. 1323]

Section 6429, added Pub. L. 96–499, title XI, § 1131(a)(1), Dec. 5, 1980, 94 Stat. 2691; amended Pub. L. 97–34, title VI, § 601(a)(1)–(5), Aug. 13, 1981, 95 Stat. 335, 336; Pub. L. 97–448, title I, § 106(a)(1), (3), Jan. 12, 1983, 96 Stat. 2387, 2388, related to credit and refund of chapter 45 windfall profit taxes on domestic crude oil paid by royalty owners.

Section 6430, added Pub. L. 97–448, title I, § 106(a)(4)(A), Jan. 12, 1983, 96 Stat. 2388, related to credit or refund of windfall profit taxes to certain trust beneficiaries.

EFFECTIVE DATE OF REPEAL

Repeal applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as an Effective Date of 1988 Amendment note under section 164 of this title.

CHAPTER 66—LIMITATIONS

Subchapter		Sec.[1]
A.	Limitations on assessment and collection	6501
B.	Limitations on credit or refund	6511
C.	Mitigation of effect of period of limitations	6521
D.	Periods of limitation in judicial proceedings	6531

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6037, 6207, 7422 of this title.

Subchapter A—Limitations on Assessment and Collection

Sec.
6501. Limitations on assessment and collection.
6502. Collection after assessment.
6503. Suspension of running of period of limitation.
6504. Cross references.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

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

[1] Section numbers editorially supplied.

§ 6501. Limitations on assessment and collection

(a) General rule

Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) or, if the tax is payable by stamp, at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. For purposes of this chapter, the term ''return'' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).

(b) Time return deemed filed

(1) Early return

For purposes of this section, a return of tax imposed by this title, except tax imposed by chapter 3, 21, or 24, filed before the last day prescribed by law or by regulations promulgated pursuant to law for the filing thereof, shall be considered as filed on such last day.

(2) Return of certain employment taxes and tax imposed by chapter 3

For purposes of this section, if a return of tax imposed by chapter 3, 21, or 24 for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such calendar year.

(3) Return executed by Secretary

Notwithstanding the provisions of paragraph (2) of section 6020(b), the execution of a return by the Secretary pursuant to the authority conferred by such section shall not start the running of the period of limitations on assessment and collection.

(4) Return of excise taxes

For purposes of this section, the filing of a return for a specified period on which an entry has been made with respect to a tax imposed under a provision of subtitle D (including a return on which an entry has been made showing no liability for such tax for such period) shall constitute the filing of a return of all amounts of such tax which, if properly paid, would be required to be reported on such return for such period.

(c) Exceptions

(1) False return

In the case of a false or fraudulent return with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(2) Willful attempt to evade tax

In case of a willful attempt in any manner to defeat or evade tax imposed by this title (other than tax imposed by subtitle A or B), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(3) No return

In the case of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(4) Extension by agreement

(A) In general

Where, before the expiration of the time prescribed in this section for the assessment of any tax imposed by this title, except the estate tax provided in chapter 11, both the Secretary and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(B) Notice to taxpayer of right to refuse or limit extension

The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues or to a particular period of time, on each occasion when the taxpayer is requested to provide such consent.

(5) Tax resulting from changes in certain income tax or estate tax credits

For special rules applicable in cases where the adjustment of certain taxes allowed as a credit against income taxes or estate taxes results in additional tax, see section 905(c) (relating to the foreign tax credit for income tax purposes) and section 2016 (relating to taxes of foreign countries, States, etc., claimed as credit against estate taxes).

(6) Termination of private foundation status

In the case of a tax on termination of private foundation status under section 507, such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(7) Special rule for certain amended returns

Where, within the 60-day period ending on the day on which the time prescribed in this section for the assessment of any tax imposed by subtitle A for any taxable year would otherwise expire, the Secretary receives a written document signed by the taxpayer showing that the taxpayer owes an additional amount of such tax for such taxable year, the period for the assessment of such additional amount shall not expire before the day 60 days after the day on which the Secretary receives such document.

(8) Failure to notify Secretary of certain foreign transfers

In the case of any information which is required to be reported to the Secretary under section 6038, 6038A, 6038B, 6046, 6046A, or 6048, the time for assessment of any tax imposed by this title with respect to any event or period to which such information relates shall not expire before the date which is 3 years after the date on which the Secretary is furnished the information required to be reported under such section.

(9) Gift tax on certain gifts not shown on return

If any gift of property the value of which (or any increase in taxable gifts required under section 2701(d) which) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item.

(d) Request for prompt assessment

Except as otherwise provided in subsection (c), (e), or (f), in the case of any tax (other than the tax imposed by chapter 11 of subtitle B, relating to estate taxes) for which return is required in the case of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within 18 months after written request therefor (filed after the return is made and filed in such manner and such form as may be prescribed by regulations of the Secretary) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of 3 years after the return was filed. This subsection shall not apply in the case of a corporation unless—

(1)(A) such written request notifies the Secretary that the corporation contemplates dissolution at or before the expiration of such 18-month period, (B) the dissolution is in good faith begun before the expiration of such 18-month period, and (C) the dissolution is completed;

(2)(A) such written request notifies the Secretary that a dissolution has in good faith been begun, and (B) the dissolution is completed; or

(3) a dissolution has been completed at the time such written request is made.

(e) Substantial omission of items

Except as otherwise provided in subsection (c)—

(1) Income taxes

In the case of any tax imposed by subtitle A—

(A) General rule

If the taxpayer omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. For purposes of this subparagraph—

(i) In the case of a trade or business, the term ''gross income'' means the total of the amounts received or accrued from the sale of goods or services (if such amounts are required to be shown on the return) prior to diminution by the cost of such sales or services; and

(ii) In determining the amount omitted from gross income, there shall not be taken into account any amount which is omitted from gross income stated in the return if such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature and amount of such item.

(B) Constructive dividends

If the taxpayer omits from gross income an amount properly includible therein under section 551(b) (relating to the inclusion in the gross income of United States shareholders of their distributive shares of the undistributed foreign personal holding company income), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(2) Estate and gift taxes

In the case of a return of estate tax under chapter 11 or a return of gift tax under chapter 12, if the taxpayer omits from the gross estate or from the total amount of the gifts made during the period for which the return was filed items includible in such gross estate or such total gifts, as the case may be, as exceed in amount 25 percent of the gross estate stated in the return or the total amount of gifts stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. In determining the items omitted from the gross estate or the total gifts, there shall not be taken into account any item which is omitted from the gross estate or from the total gifts stated in the return if such item is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature and amount of such item.

(3) Excise taxes

In the case of a return of a tax imposed under a provision of subtitle D, if the return omits an amount of such tax properly includible thereon which exceeds 25 percent of the amount of such tax reported thereon, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return is filed. In determining the amount of tax omitted on a return, there shall not be taken into account any amount of tax imposed by chapter 41, 42, 43, or 44 which is omitted from the return if the transaction giving rise to such tax is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the existence and nature of such item.

(f) Personal holding company tax

If a corporation which is a personal holding company for any taxable year fails to file with

its return under chapter 1 for such year a schedule setting forth—

(1) the items of gross income and adjusted ordinary gross income, described in section 543, received by the corporation during such year, and

(2) the names and addresses of the individuals who owned, within the meaning of section 544 (relating to rules for determining stock ownership), at any time during the last half of such year more than 50 percent in value of the outstanding capital stock of the corporation,

the personal holding company tax for such year may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return for such year was filed.

(g) Certain income tax returns of corporations

(1) Trusts or partnerships

If a taxpayer determines in good faith that it is a trust or partnership and files a return as such under subtitle A, and if such taxpayer is thereafter held to be a corporation for the taxable year for which the return is filed, such return shall be deemed the return of the corporation for purposes of this section.

(2) Exempt organizations

If a taxpayer determines in good faith that it is an exempt organization and files a return as such under section 6033, and if such taxpayer is thereafter held to be a taxable organization for the taxable year for which the return is filed, such return shall be deemed the return of the organization for purposes of this section.

(3) DISC

If a corporation determines in good faith that it is a DISC (as defined in section 992(a)) and files a return as such under section 6011(c)(2) and if such corporation is thereafter held to be a corporation which is not a DISC for the taxable year for which the return is filed, such return shall be deemed the return of a corporation which is not a DISC for purposes of this section.

(h) Net operating loss or capital loss carrybacks

In the case of a deficiency attributable to the application to the taxpayer of a net operating loss carryback or a capital loss carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(3)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net operating loss or net capital loss which results in such carryback may be assessed.

(i) Foreign tax carrybacks

In the case of a deficiency attributable to the application to the taxpayer of a carryback under section 904(c) (relating to carryback and carryover of excess foreign taxes) or under section 907(f) (relating to carryback and carryover of disallowed oil and gas extraction taxes), such deficiency may be assessed at any time before the expiration of one year after the expiration of the period within which a deficiency may be assessed for the taxable year of the excess taxes described in section 904(c) or 907(f) which result in such carryback.

(j) Certain credit carrybacks

(1) In general

In the case of a deficiency attributable to the application to the taxpayer of a credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(3)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused credit which results in such carryback may be assessed, or with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

(2) Credit carryback defined

For purposes of this subsection, the term ''credit carryback'' has the meaning given such term by section 6511(d)(4)(C).

(k) Tentative carryback adjustment assessment period

In a case where an amount has been applied, credited, or refunded under section 6411 (relating to tentative carryback and refund adjustments) by reason of a net operating loss carryback, a capital loss carryback, or a credit carryback (as defined in section 6511(d)(4)(C)) to a prior taxable year, the period described in subsection (a) of this section for assessing a deficiency for such prior taxable year shall be extended to include the period described in subsection (h) or (j), whichever is applicable; except that the amount which may be assessed solely by reason of this subsection shall not exceed the amount so applied, credited, or refunded under section 6411, reduced by any amount which may be assessed solely by reason of subsection (h) or (j), as the case may be.

(*l*) Special rule for chapter 42 and similar taxes

(1) In general

For purposes of any tax imposed by section 4912, by chapter 42 (other than section 4940), or by section 4975, the return referred to in this section shall be the return filed by the private foundation, plan, trust, or other organization (as the case may be) for the year in which the act (or failure to act) giving rise to liability for such tax occurred. For purposes of section 4940, such return is the return filed by the private foundation for the taxable year for which the tax is imposed.

(2) Certain contributions to section 501(c)(3) organizations

In the case of a deficiency of tax of a private foundation making a contribution in the manner provided in section 4942(g)(3) (relating to certain contributions to section 501(c)(3) organizations) attributable to the failure of a section 501(c)(3) organization to make the distribution prescribed by section 4942(g)(3), such deficiency may be assessed at any time before

the expiration of one year after the expiration of the period within which a deficiency may be assessed for the taxable year with respect to which the contribution was made.

(3) Certain set-asides described in section 4942(g)(2)

In the case of a deficiency attributable to the failure of an amount set aside by a private foundation for a specific project to be treated as a qualifying distribution under the provisions of section 4942(g)(2)(B)(ii), such deficiency may be assessed at any time before the expiration of 2 years after the expiration of the period within which a deficiency may be assessed for the taxable year to which the amount set aside relates.

(m) Deficiencies attributable to election of certain credits

The period for assessing a deficiency attributable to any election under section 30(d)(4), 40(f), 43, 45B, 45C(d)(4), or 51(j) (or any revocation thereof) shall not expire before the date 1 year after the date on which the Secretary is notified of such election (or revocation).

(n) Cross references

(1) For period of limitations for assessment and collection in the case of a joint income return filed after separate returns have been filed, see section 6013(b)(3) and (4).

(2) For extension of period in the case of partnership items (as defined in section 6231(a)(3)), see section 6229.

(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234.

(Aug. 16, 1954, ch. 736, 68A Stat. 803; Pub. L. 85–859, title I, § 165(a), Sept. 2, 1958, 72 Stat. 1313; Pub. L. 85–866, title I, §§ 80, 81, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 86–69, § 3(g), June 25, 1959, 73 Stat. 140; Pub. L. 86–780, § 3(c), Sept. 14, 1960, 74 Stat. 1013; Pub. L. 87–794, title III, § 317(c), Oct. 11, 1962, 76 Stat. 890; Pub. L. 87–834, § 2(e)(1), Oct. 16, 1962, 76 Stat. 971; Pub. L. 87–858, § 3(b)(4), Oct. 23, 1962, 76 Stat. 1137; Pub. L. 88–272, title II, § 225(k)(6), Feb. 26, 1964, 78 Stat. 94; Pub. L. 88–571, § 3(b), Sept. 2, 1964, 78 Stat. 857; Pub. L. 89–44, title VIII, § 810(a), (b), June 21, 1965, 79 Stat. 169; Pub. L. 89–721, §§ 2(f), 3(a), Nov. 2, 1966, 80 Stat. 1150, 1151; Pub. L. 89–809, title I, § 105(f)(3), Nov. 13, 1966, 80 Stat. 1568; Pub. L. 90–225, § 2(c), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91–172, title I, § 101(g)(1)–(3), title V, § 512(e)(1), Dec. 30, 1969, 83 Stat. 525, 639; Pub. L. 91–614, title I, § 102(d)(8), Dec. 31, 1970, 84 Stat. 1842; Pub. L. 92–178, title V, § 504(c), title VI, § 601(d)(1), (e)(2), Dec. 10, 1971, 85 Stat. 551, 558, 560; Pub. L. 93–406, title II, § 1016(a)(14), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94–455, title X, §§ 1031(b)(5), 1035(d)(3), title XIII, §§ 1302(b), 1307(d)(2)(F)(vi), title XIX, § 1906(b)(13)(A), title XXI, § 2107(g)(2)(A), Oct. 4, 1976, 90 Stat. 1623, 1633, 1714, 1728, 1834, 1904; Pub. L. 95–30, title II, § 202(d)(4)(A), (5)(B), May 23, 1977, 91 Stat. 149, 151; Pub. L. 95–227, § 4(d)(4), (5), Feb. 10, 1978, 92 Stat. 23; Pub. L. 95–600, title II, § 212(a), title III, § 321(b)(2), title V, § 504(b)(3), title VII, §§ 701(t)(3)(A), 703(n), (p)(2), Nov. 6, 1978, 92 Stat. 2818, 2835, 2881, 2912, 2943, 2944; Pub. L. 95–628, § 8(c)(1), Nov. 10, 1978, 92 Stat. 3631; Pub. L. 96–222, title I, §§ 102(a)(2)(A), 103(a)(6)(G)(x), Apr. 1, 1980, 94 Stat. 208, 210; Pub. L. 96–223, title I, § 101(g)(1), Apr. 2, 1980, 94 Stat. 253; Pub. L. 97–248, title IV, § 402(c)(5), Sept. 3, 1982, 96 Stat. 667; Pub. L. 98–369, div. A, title I, §§ 131(d)(2), 163(b)(1), title II, § 211(b)(24), title III, § 314(a)(3), title IV, §§ 447(a), 474(r)(39), title VII, § 714(p)(2)(F), title VIII, § 801(d)(14), July 18, 1984, 98 Stat. 664, 697, 757, 787, 817, 846, 965, 997; Pub. L. 99–514, title XVIII, §§ 1810(g)(3), 1847(b)(12)–(14), Oct. 22, 1986, 100 Stat. 2828, 2857; Pub. L. 100–203, title X, §§ 10712(c)(2), 10714(c), Dec. 22, 1987, 101 Stat. 1330–467, 1330–471; Pub. L. 100–418, title I, § 1941(b)(2)(H), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100–647, title I, § 1008(j)(1), title IV, § 4008(c)(2), Nov. 10, 1988, 102 Stat. 3445, 3653; Pub. L. 101–239, title VII, § 7814(e)(2)(E), Dec. 19, 1989, 103 Stat. 2414; Pub. L. 101–508, title XI, §§ 11511(c)(2), 11602(b), Nov. 5, 1990, 104 Stat. 1388–485, 1388–500; Pub. L. 104–188, title I, §§ 1702(e)(3), 1703(n)(8), 1704(j)(4)(B), Aug. 20, 1996, 110 Stat. 1870, 1877, 1882; Pub. L. 105–34, title V, § 506(b), title XI, § 1145(a), title XII, §§ 1239(e)(2), 1284(a), title XVI, § 1601(g)(2), Aug. 5, 1997, 111 Stat. 855, 985, 1028, 1038, 1092; Pub. L. 105–206, title III, § 3461(b), title VI, §§ 6007(e)(2)(A), 6023(27), July 22, 1998, 112 Stat. 764, 809, 826.)

AMENDMENTS

1998—Subsec. (c)(4). Pub. L. 105–206, § 3461(b), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (c)(9). Pub. L. 105–206, § 6007(e)(2)(A), struck out at end ''The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a).''

Subsec. (m). Pub. L. 105–206, § 6023(27), substituted ''election under section 30(d)(4), 40(f), 43, 45B, 45C(d)(4), or 51(j) (or any'' for ''election under sections 30(d)(4), 40(f), 43, 45B, or 51(j) (or any''.

1997—Subsec. (a). Pub. L. 105–34, § 1284(a), inserted at end ''For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).''

Subsec. (c)(8). Pub. L. 105–34, § 1145(a), amended heading and text of par. (8) generally. Prior to amendment, text read as follows: ''In the case of any tax imposed on any exchange or distribution by reason of subsection (a), (d), or (e) of section 367, the time for assessment of such tax shall not expire before the date which is 3 years after the date on which the Secretary is notified of such exchange or distribution under section 6038B(a).''

Subsec. (c)(9). Pub. L. 105–34, § 506(b), reenacted par. (9) heading without change and amended text of par. (9) generally. Prior to amendment, text read as follows: ''If any gift of property the value of which is determined under section 2701 or 2702 (or any increase in taxable gifts required under section 2701(d)) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item not shown as a gift on such return if such item is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item.''

Subsec. (m). Pub. L. 105–34, § 1601(g)(2), provided that sections 1703(n)(8) and 1704(j)(4)(B) of Pub. L. 104–188 shall be applied as if the reference in the directory language to the redesignation by section 1602 referred to the redesignation by section 1702. See 1996 Amendment note below.

Subsec. (n)(3). Pub. L. 105–34, § 1239(e)(2), which directed the addition of par. (3) to subsec. (*o*), was exe-

cuted by adding par. (3) to subsec. (n) to reflect the probable intent of Congress and the redesignation of subsec. (*o*) as (n) by Pub. L. 104–188, §1702(e)(3)(A). See 1996 Amendment note below.

1996—Subsec. (m). Pub. L. 104–188, §1704(j)(4)(B), substituted ''sections 30(d)(4), 40(f)'' for ''section 40(f)''. See 1997 Amendment note above.

Pub. L. 104–188, §1703(n)(8), substituted ''45B, or 51(j)'' for ''or 51(j)''. See 1997 Amendment note above.

Pub. L. 104–188, §1702(e)(3), redesignated subsec. (n) as (m) and substituted ''section 40(f), 43, or 51(j)'' for ''section 40(f) or 51(j)''.

Pub. L. 104–188, §1702(e)(3)(A), which directed in part that subsec. (m) relating to deficiency attributable to election under section 44B, be struck out, could not be executed because subsec. (m) was previously repealed. See 1990 and 1988 Amendment notes for subsec. (m) and 1984 Amendment note for subsec. (p), below.

Subsecs. (n), (*o*). Pub. L. 104–188, §1702(e)(3)(A), redesignated subsec. (*o*) as (n). Former subsec. (n) redesignated (m).

1990—Subsec. (c)(9). Pub. L. 101–508, §11602(b), added par. (9).

Subsec. (m). Pub. L. 101–508, §11511(c)(2), which directed the substitution of ''43 or 44B'' for ''44B'' wherever appearing in subsec. (m), could not be executed because subsec. (m) was repealed by Pub. L. 100–418, §1941(b)(2)(H), and did not contain the term ''44B''. However, such term was contained in a prior subsec. (p) which was repealed by Pub. L. 98–369, §474(r)(39). See 1984 Amendment notes below.

1989—Subsec. (n). Pub. L. 101–239 struck out '', 41(h),'' after ''section 40(f)''.

1988—Subsec. (m). Pub. L. 100–418 struck out subsec. (m) relating to special rules for windfall profit tax.

Subsec. (n). Pub. L. 100–647, §4008(c)(2), substituted '', 41(h), or 51(j)'' for ''or 51(j)''.

Subsec. (*o*)(3). Pub. L. 100–647, §1008(j)(1), struck out par. (3) which read as follows: ''For extension of period in the case of certain contributions in aid of construction, see section 118(c).''

1987—Subsec. (*l*)(1). Pub. L. 100–203, §10714(c), substituted ''by section 4912, by chapter 42 (other than section 4940),'' for ''by chapter 42 (other than section 4940)''.

Pub. L. 100–203, §10712(c)(2), substituted ''plan, trust, or other organization'' for ''plan, or trust''.

1986—Subsec. (c)(8). Pub. L. 99–514, §1810(g)(3), substituted ''exchange or distribution'' for ''exchange'' in two places, and ''subsection (a), (d), or (e)'' for ''subsection (a) or (d)''.

Subsecs. (k) to (p). Pub. L. 99–514, §1847(b)(12), inserted ''(as amended by sections 211, 314, and 474 of this Act)'' in directory language of section 163(b)(1) of Pub. L. 98–369, which resulted in no change in text but removed an ambiguity which had resulted from failure of directory language as originally enacted to indicate that amendments of this section by sections 211, 314, and 474 of Pub. L. 98–369 were to be executed before the amendment by section 163(b)(1) of Pub. L. 98–369. See 1984 Amendment notes below.

Subsec. (k). Pub. L. 99–514, §1847(b)(14), substituted ''or a credit carryback (as defined in section 6511(d)(4)(C))'' for ''an investment credit carryback, or a work incentive program carryback, or a new employee credit carryback''.

Subsecs. (n), (*o*). Pub. L. 99–514, §1847(b)(13), added subsec. (n) and redesignated former subsec. (n) as (*o*).

1984—Subsec. (c)(6). Pub. L. 98–369, §211(b)(24)(A), redesignated par. (7) as (6) and struck out former par. (6) which provided that, in the case of any tax imposed under section 802(a) by reason of section 802(b)(3) on account of a termination of the taxpayer as an insurance company or as a life insurance company to which section 815(d)(2)(A) applied, or on account of a distribution by the taxpayer to which section 815(d)(2)(B) applied such tax could be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) for the taxable year for which the taxpayer ceased to be an insurance company, the second taxable year for which the taxpayer was not a life insurance company, or the taxable year in which the distribution was actually made, as the case might be.

Subsec. (c)(7). Pub. L. 98–369, §447(a), added par. (7).

Pub. L. 98–369, §211(b)(24)(A), redesignated former par. (7) as (6).

Subsec. (c)(8). Pub. L. 98–369, §131(d)(2), added par. (8).

Subsec. (g)(3). Pub. L. 98–369, §801(d)(14), substituted ''section 6011(c)(2)'' for ''section 6011(e)(2)''.

Subsec. (k). Pub. L. 98–369, §163(b)(1), as amended by Pub. L. 99–514, §1847(b)(12), redesignated subsec. (m) as (k).

Pub. L. 98–369, §211(b)(24)(B), struck out former subsec. (k) which provided that in the case of a deficiency attributable to the application to the taxpayer of section 815(d)(5) (relating to reductions of policyholders surplus account of life insurance companies for certain unused deductions), such deficiency could be assessed at any time before the expiration of the period within which a deficiency for the last taxable year to which the loss described in section 815(d)(5)(A) was carried under section 812(b)(2) could be assessed.

Subsec. (*l*). Pub. L. 98–369, §163(b)(1), as amended by Pub. L. 99–514, §1847(b)(12), redesignated subsec. (n) as (*l*) and struck out former subsec. (*l*) which read ''For period of limitations for assessment and collection in the case of a joint income return filed after separate returns have been filed, see section 6013(b)(3) and (4).''

Subsec. (*l*)(3). Pub. L. 98–369, §314(a)(3), substituted ''section 4942(g)(2)(B)(ii)'' for ''section 4942(g)(2)(B)(i)(II)'' in subsec. (n)(3), which was redesignated subsec. (*l*)(3) by Pub. L. 98–369, §163(b)(1).

Subsec. (m). Pub. L. 98–369, §163(b)(1), as amended by Pub. L. 99–514, §1847(b)(12), redesignated subsec. (p) as (m). Former subsec. (m) redesignated (k).

Subsec. (n). Pub. L. 98–369, §163(b)(1), as amended by Pub. L. 99–514, §1847(b)(12), added subsec. (n). Former subsec. (n) redesignated (*l*).

Subsec. (n)(3). Pub. L. 98–369, §314(a)(3), substituted ''section 4942(g)(2)(B)(ii)'' for ''section 4942(g)(2)(B)(i)(II)'' in subsec. (n)(3), which was redesignated subsec. (*l*)(3) by Pub. L. 98–369, §163(b)(1).

Subsec. (*o*). Pub. L. 98–369, §163(b)(1), as amended by Pub. L. 99–514, §1847(b)(12), struck out subsec. (*o*) which read ''For extension of period in the case of partnership items (as defined in section 6231(a)(3), see section 6229.''

Subsec. (p). Pub. L. 98–369, §163(b)(1), as amended by Pub. L. 99–514, §1847(b)(12), redesignated subsec. (p) as (m).

Pub. L. 98–369, §474(r)(39), redesignated subsec. (q) as (p). Former subsec. (p), which related to deficiencies attributable to an election under section 44B, was struck out.

Subsec. (q). Pub. L. 98–369, §474(r)(39), redesignated subsec. (q) as (p).

Subsec. (q)(3). Pub. L. 98–369, §714(p)(2)(F), amended par. (3) generally. Prior to amendment par. (3) related to partnership items of federally registered partnerships and provided that under regulations prescribed by the Secretary, rules similar to the rules of subsection (*o*) shall apply to the tax imposed by section 4986.

1982—Subsec. (*o*). Pub. L. 97–248 substituted ''Special rules for partnership items'' for ''Special rules for partnership items of federally registered partnerships'' in heading and, in text, substituted cross reference to section 6229 for extension of period in case of partnership items (as defined in section 6231(a)(3)), for provisions that (1) in the case of any tax imposed by subtitle A with respect to any person, the period for assessing a deficiency attributable to any partnership item of a federally registered partnership would not expire before the later of (A) the date which was 4 years after the date on which the partnership return of the federally registered partnership for the partnership taxable year in which the item arose was filed (or, later, if the date prescribed for filing the return), or (B) if the name or address of such person did not appear on the partnership return, the date which was 1 year after the date on which such information was furnished to the Secretary

in such manner and at such place as he might prescribe by regulations, (2) for purposes of this subsec., the term ''partnership item'' meant (A) any item required to be taken into account for the partnership taxable year under any provision of subchapter K of chapter 1 to the extent that regulations prescribed by the Secretary provided that for purposes of this subtitle such item was more appropriately determined at the partnership level than at the partner level, and (B) any other item to the extent affected by an item described in subpar. (A), (3) the extensions referred to in subsec. (c)(4), insofar as they related to partnership items, could, with respect to any person, be consented to (A) except to the extent the Secretary was otherwise notified by the partnership, by a general partner of the partnership, or (B) by any person authorized to do so by the partnership in writing, and (4) for purposes of this subsec., the term ''federally registered partnership'' meant, with respect to any partnership taxable year, any partnership (A) interests in which had been offered for sale at any time during such taxable year or a prior taxable year in any offering required to be registered with the Securities and Exchange Commission, or (B) which, at any time during such taxable year or a prior taxable year, had been subject to the annual reporting requirements of the Securities and Exchange Commission which related to the protection of investors in the partnership.

1980—Subsec. (*o*). Pub. L. 96–222, § 102(a)(2)(A), redesignated subsec. (q), as added by section 212(a) of Pub. L. 95–600, relating to special rules for partnership items of Federally registered partnerships, as (*o*). Former subsec. (*o*), relating to work incentive program credit carrybacks, was repealed by Pub. L. 95–628.

Subsec. (p). Pub. L. 96–222, § 103(a)(6)(G)(X), redesignated subsec. (q), as added by section 321(b)(2) of Pub. L. 95–600, relating to deficiency attributable to election under section 44B, as (p). Former subsec. (p), relating to new employee credit carrybacks, was repealed by Pub. L. 95–628.

Subsec. (q). Pub. L. 96–223 added subsec. (q). Former subsec. (q), as added by section 212(a) of Pub. L. 95–600, redesignated (*o*). Former subsec. (q), as added by section 321(b)(2) of Pub. L. 95–600, redesignated (p).

1978—Subsec. (e)(3). Pub. L. 95–600, § 701(t)(3)(A), substituted ''43, or 44'' for ''or 43'', which required no change in text in view of the identical amendment by section 4(d)(4) of Pub. L. 95–227.

Pub. L. 95–227, § 4(d)(4), substituted ''43, or 44'' for ''or 43''.

Subsec. (h). Pub. L. 95–600, § 703(n), (p)(2), substituted ''section 6213(b)(3)'' for ''section 6213(b)(2)'' and struck out provisions relating to the assessment of a deficiency attributable to the application of a net operating loss carryback.

Subsec. (j). Pub. L. 95–628, § 8(c)(1)(A), substituted in heading ''Certain credit carrybacks'' for ''Investment credit carrybacks'', designated existing provision as par. (1), and in par. (1) as so designated, inserted heading ''In general'' and in text, substituted ''credit carryback'' for ''investment credit carryback'' in two places and ''unused credit'' for ''unused investment credit'', inserted reference to other credit carryback, and substituted reference to section 6213(b)(3) for 6213(b)(2), and added par. (2).

Pub. L. 95–600, § 703(n), substituted ''section 6213(b)(3)'' for ''section 6213(b)(2)''.

Subsec. (m). Pub. L. 95–628, § 8(c)(1)(B), struck out references to subsecs. (*o*) and (p) in two places.

Pub. L. 95–600, § 504(b)(3), inserted ''and refund'' after ''tentative carryback''.

Subsec. (n). Pub. L. 95–227, § 4(d)(5), in heading inserted ''and similar'' after ''42'', and in par. (1) inserted reference to section 4975 and inserted '', plan, or trust (as the case may be)'' after ''foundation''.

Subsec. (*o*). Pub. L. 95–628, § 8(c)(1)(C), struck out subsec. (*o*) which related to work incentive program credit carrybacks.

Pub. L. 95–600, § 703(n), substituted ''section 6213(b)(3)'' for ''section 6213(b)(2)''.

Subsec. (p). Pub. L. 95–628, § 8(c)(1)(C), struck out subsec. (p) which related to new employee credit carrybacks.

Subsec. (q). Pub. L. 95–600, § 212(a), added subsec. (q) relating to special rules for partnership items of Federally registered partnerships.

Pub. L. 95–600, § 321(b)(2), added subsec. (q) relating to deficiency attributable to election under section 44B.

1977—Subsec. (m). Pub. L. 95–30, § 202(d)(5)(B), inserted references to new employee credit carrybacks and to subsec. (p).

Subsec. (p). Pub. L. 95–30, § 202(d)(4)(A), added subsec. (p).

1976—Subsecs. (b)(3), (c)(4), (d), (e)(1)(A)(ii), (2). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (e)(3). Pub. L. 94–455, § 1307(d)(2)(F)(vi), substituted ''chapter 41, 42, or 43'' for ''chapter 42 or 43''.

Subsec. (i). Pub. L. 94–455, §§ 1031(b)(5), 1035(d)(3), substituted ''section 904(c)'' for Section 904(d)'' wherever appearing and inserted ''or under section 907(f) (relating to carryback and carryover of disallowed oil and gas extraction taxes)'' after ''excess foreign taxes)'' and ''or 907(f)'' before ''which results in such carryback''.

Subsec. (n)(3). Pub. L. 94–455, § 1302(b), added par. (3).

Subsec. (*o*). Pub. L. 94–455, § 2107(g)(2)(A), inserted '', an investment credit carryback,'' after ''net operating loss carryback''.

1974—Subsec. (e)(3). Pub. L. 93–406 inserted reference to chapter 43.

1971—Subsec. (g)(3). Pub. L. 92–178, § 504(c), added par. (3).

Subsec. (m). Pub. L. 92–178, § 601(e)(2), substituted ''an investment credit carryback, or a work incentive program carryback'' for ''or an investment credit carryback'' and inserted reference to subsec. (*o*) in two places, respectively.

Subsec. (*o*). Pub. L. 92–178, § 601(d)(1), added subsec. (*o*).

1970—Subsec. (e)(2). Pub. L. 91–614 substituted ''during the period for which the return was filed'' for ''during the year''.

1969—Subsec. (c)(7). Pub. L. 91–172, § 101(g)(2), added par. (7).

Subsec. (e)(3). Pub. L. 91–172, § 101(g)(3), inserted provision excluding, in specified cases, chapter 42 taxes from these considered in determining the amount of taxes omitted from a return.

Subsec. (h). Pub. L. 91–172, § 512(e)(1)(A)–(D), substituted ''loss or capital loss carrybacks'' for ''loss carrybacks'' in heading, ''loss carryback or a capital loss carryback'' for ''loss carryback,'' ''operating loss or net capital loss which'' for ''operating loss which,'' ''assessed. In the case of a deficiency attributable to the application of a net operating loss carryback, such deficiency may be assessed'' for ''assessed, or'' and ''if later than the date prescribed by the preceding sentence'' for ''whichever is later''.

Subsec. (j). Pub. L. 91–172, § 512(e)(1)(E), substituted ''loss carryback or a capital loss carryback'' for ''loss carryback''.

Subsec. (m). Pub. L. 91–172, § 512(e)(1)(F), substituted ''net operating loss carryback, a capital loss carryback, or an investment credit carryback'' for ''net operating loss carryback or an investment credit carryback''.

Subsec. (n). Pub. L. 91–172, § 101(g)(1), added subsec. (n).

1967—Subsec. (j). Pub. L. 90–225 inserted '', or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed'' after ''the unused investment credit which results in such carryback may be assessed.''

1966—Subsec. (b). Pub. L. 89–809 inserted reference to chapter 3 in pars. (1) and (2) and ''and tax imposed by chapter 3'' in heading of par. (2).

Subsec. (j). Pub. L. 89–721, § 2(f), substituted ''investment credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2))'' for ''investment credit carryback''.

Subsec. (m). Pub. L. 89–721, § 3(a), added subsec. (m).

1965—Subsec. (b)(4). Pub. L. 89–44, §810(a), added par. (4).

Subsec. (e). Pub. L. 89–44, §810(b)(2), substituted ''Substantial omission of items'' for ''Omission from gross income'' in heading.

Subsec. (e)(3). Pub. L. 89–44, §810(b)(1), added par. (3).

1964—Subsec. (f). Pub. L. 88–272 substituted ''gross income and adjusted ordinary gross income, described in section 543'' for ''gross income, described in section 543(a)''.

Subsecs. (k), (*l*). Pub. L. 88–571 added subsec. (k) and redesignated former subsec. (k) as (*l*).

1962—Subsec. (c)(6). Pub. L. 87–858 substituted ''802(a)'' for ''802(a)(1)''.

Subsec. (h). Pub. L. 87–794 authorized assessment of a deficiency within 18 months after the date on which the taxpayer files in accordance with section 172(b)(3) a copy of the certification issued under section 317 of the Trade Expansion Act of 1962, whichever is later.

Subsecs. (j), (k). Pub. L. 87–834 added subsec. (j) and redesignated former subsec. (j) as (k).

1960—Subsecs. (i), (j). Pub. L. 86–780 added subsec. (i) and redesignated former subsec. (i) as (j).

1959—Subsec. (c)(6). Pub. L. 86–69 added par. (6).

1958—Subsec. (a). Pub. L. 85–859 substituted ''at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid'' for ''within 3 years after such tax became due''.

Subsec. (d). Pub. L. 85–866, §80(a), (b), substituted in first sentence ''subsection (c), (e), or (f)'' for ''subsection (c)'', designated existing clauses (1) to (3) of second sentence as clause (1) and added clauses (2) and (3).

Subsec. (g)(2). Pub. L. 85–866, §81(a), substituted ''organization'' for ''corporation'' wherever appearing.

Subsecs. (h), (i). Pub. L. 85–866, §81(b), added subsec. (h) and redesignated former subsec. (h) as (i).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, §3461(c), July 22, 1998, 112 Stat. 764, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and section 6502 of this title] shall apply to requests to extend the period of limitations made after December 31, 1999.

''(2) PRIOR REQUEST.—If, in any request to extend the period of limitations made on or before December 31, 1999, a taxpayer agreed to extend such period beyond the 10-year period referred to in section 6502(a) of the Internal Revenue Code of 1986, such extension shall expire on the latest of—

''(A) the last day of such 10-year period;

''(B) December 31, 2002; or

''(C) in the case of an extension in connection with an installment agreement, the 90th day after the end of the period of such extension.''

Amendment by section 6023(27) of Pub. L. 105–206 effective July 22, 1998, see section 6023(32) of Pub. L. 105–206, set out as a note under section 34 of this title.

Amendment by section 6007(e)(2)(A) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 506(e)(2) of Pub. L. 105–34 provided that: ''The amendment made by subsection (b) [amending this section] shall apply to gifts made in calendar years ending after the date of the enactment of this Act [Aug. 5, 1997].''

Section 1145(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to information the due date for the reporting of which is after the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by section 1239(e)(2) of Pub. L. 105–34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1239(f) of Pub. L. 105–34, set out as a note under section 6225 of this title.

Section 1284(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by section 1601(g)(2) of Pub. L. 105–34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104–188, to which it relates, see section 1601(j) of Pub. L. 105–34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1702(e)(3) of Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

Amendment by section 1703(n)(8) of Pub. L. 104–188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103–66, §§13001–13444, to which such amendment relates, see section 1703(*o*) of Pub. L. 104–188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11602(e)(2) of Pub. L. 101–508 provided that: ''The amendment made by subsection (b) [amending this section] shall apply to gifts after October 8, 1990.''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTSAMENDMENTS

Amendment by section 1008(j)(1) 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.

Amendment by section 4008(c)(2) of Pub. L. 100–647 applicable to taxable years beginning after Dec. 31, 1988, see section 4008(d) of Pub. L. 100–647, set out as a note under section 41 of this title.

Amendment by Pub. L. 100–418 applicable to crude oil removed from premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10712(c)(2) of Pub. L. 100–203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100–203, set out as an Effective Date note under section 4955 of this title.

Amendment by section 10714(c) of Pub. L. 100–203 applicable to taxable years beginning after Dec. 22, 1987, see section 10714(e) of Pub. L. 100–203, set out as an Effective Date note under section 4912 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 131(d)(2) of Pub. L. 98–369 applicable to transfers or exchanges after Dec. 31, 1984, in taxable years ending after such date, with special rules for certain transfers and ruling requests before Mar. 1, 1984, see section 131(g) of Pub. L. 98–369, set out as a note under section 367 of this title.

Amendment by section 163(b)(1) of Pub. L. 98–369 applicable to expenditures with respect to which the second taxable year described in section 118(b)(2)(B) of this title ends after Dec. 31, 1984, see section 163(c) of Pub. L. 98–369, set out as a note under section 118 of this title.

Amendment by section 211(b)(24) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98–369, set out as an Effective Date note under section 801 of this title.

Amendment by section 314(a)(3) of Pub. L. 98–369 effective July 18, 1984, see section 314(a)(4) of Pub. L. 98–369, set out as a note under section 4942 of this title.

Section 447(b) of Pub. L. 98–369 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to documents received by the Secretary of the Treasury (or his delegate) after the date of the enactment of this Act [July 18, 1984].''

Amendment by section 474(r)(39) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

Amendment by section 714(p)(2)(F) 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 801(d)(14) 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, as amended, set out as a note under section 245 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

Amendment by Pub. L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95–600, to which such amendment relates, see section 201 of Pub. L. 96–222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–628 applicable to carrybacks arising in taxable years beginning after Nov. 10, 1978, see section 8(d) of Pub. L. 95–628, set out as a note under section 6511 of this title.

Section 212(c) of Pub. L. 95–600 provided that: ''The amendments made by this section [amending this section and sections 6511 and 6512 of this title] shall apply to partnership items arising in partnership taxable years beginning after December 31, 1978.''

Section 321(d)(5) of Pub. L. 95–600, as added by Pub. L. 96–222, title I, § 103(a)(6)(B), Apr. 1, 1980, 94 Stat. 209, provided that: ''The amendments made by subsection (b) [amending this section and section 44B of this title] shall apply to taxable years beginning after December 31, 1976.''

Amendment by section 504(b)(3) of Pub. L. 95–600 applicable to tentative refund claims filed on and after Nov. 6, 1978, see section 504(c) of Pub. L. 95–600, set out as a note under section 6411 of this title.

Amendment by section 701(t)(3)(A) of Pub. L. 95–600 effective Oct. 4, 1976, see section 701(t)(5) of Pub. L. 95–600, set out as a note under section 859 of this title.

Amendment by section 703(n) of 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 section 703(p)(2) of Pub. L. 95–600 applicable with respect to losses sustained in taxable years ending after Nov. 6, 1978, see section 703(p)(4) of Pub. L. 95–600, set out as a note under section 172 of this title.

Amendment by Pub. L. 95–227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95–227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95–30, set out as an Effective Date note under section 51 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1031(b)(5) of Pub. L. 94–455 applicable to taxable years beginning after Dec. 31, 1975, with specific exceptions, see section 1031(c) of Pub. L. 94–455, set out as a note under section 904 of this title.

Amendment by section 1035(d)(3) of Pub. L. 94–455 applicable to taxes paid or accrued during taxable years ending after Oct. 4, 1976, see section 1035(e) of Pub. L. 94–455, set out as a note under section 907 of this title.

Amendment by section 1302(b) of Pub. L. 94–455 applicable to taxable years beginning after Dec. 31, 1974, see section 1302(c) of Pub. L. 94–455, set out as a note under section 4942 of this title.

Amendment by section 1307(d)(2)(F)(vi) of Pub. L. 94–455 applicable to taxable years beginning after Dec. 31, 1976, see section 1307(e)(5) of Pub. L. 94–455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out an an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by section 504(c) of Pub. L. 92–178 applicable with respect to taxable years ending after Dec. 31, 1971, except that a corporation may not be a DISC for any taxable year beginning before Jan. 1, 1972, see section 507 of Pub. L. 92–178, set out as an Effective Date note under section 991 of this title.

Amendment by section 601(d)(1), (e)(2) of Pub. L. 92–178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92–178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91–614, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(g)(1)–(3) of Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 512(e)(1) of Pub. L. 91–172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91–172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–225 applicable with respect to investment credit carrybacks attributable to net op-

erating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90–225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1966 AMENDMENTS

Section 105(f)(4) of Pub. L. 89–809 provided that: ''The amendments made by this subsection [amending this section and section 6513 of this title] shall take effect on the date of the enactment of this Act [Nov. 13, 1966].''

Amendment by section 2(f) of Pub. L. 89–721 applicable with respect to taxable years ending after Dec. 31, 1961, but only in the case of applications filed after Nov. 2, 1966, see section 2(g) of Pub. L. 89–721, set out as a note under section 6411 of this title.

Section 3(b) of Pub. L. 89–721 provided that: ''The amendment made by subsection (a) [amending this section] shall apply in any case where the application under section 6411 of the Internal Revenue Code of 1954 is filed after the date of the enactment of this Act [Nov. 2, 1966].''

EFFECTIVE DATE OF 1965 AMENDMENT

Section 810(c) of Pub. L. 89–44 provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to returns filed on or after July 1, 1965.''

EFFECTIVE DATE OF 1964 AMENDMENTS

Section 3(f) of Pub. L. 88–571, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [amending this section and sections 815, 6511, 6601, and 6611 of this title] shall apply with respect to amounts added to policyholders surplus accounts (within the meaning of section 815(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) for taxable years beginning after December 31, 1958.''

Amendment by Pub. L. 88–272 applicable to taxable years beginning after Dec. 31, 1963, see section 225(*l*) of Pub. L. 88–272, set out as a note under section 316 of this title.

EFFECTIVE DATE OF 1962 AMENDMENTS

Section 3(f) of Pub. L. 87–858 provided that the amendment made by that section is applicable with respect to taxable years beginning after Dec. 31, 1961.

Amendment by Pub. L. 87–834 applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87–834, set out as an Effective Date note under section 46 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–780 applicable to taxable years beginning after Dec. 31, 1957, see section 4 of Pub. L. 86–780, set out as a note under section 904 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–69 applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 4 of Pub. L. 86–69, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

Amendment by Pub. L. 85–859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85–859.

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 sections 302, 303, 547, 551, 815, 860, 982, 1033, 2001, 2016, 2053, 2204, 2504, 5006, 5703, 6013, 6038A, 6229, 6234, 6255, 6503, 6511, 6672, 7609, 7803 of this title.

§ 6502. Collection after assessment

(a) Length of period

Where the assessment of any tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by levy or by a proceeding in court, but only if the levy is made or the proceeding begun—

(1) within 10 years after the assessment of the tax, or

(2) if—

(A) there is an installment agreement between the taxpayer and the Secretary, prior to the date which is 90 days after the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer at the time the installment agreement was entered into; or

(B) there is a release of levy under section 6343 after such 10-year period, prior to the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before such release.

If a timely proceeding in court for the collection of a tax is commenced, the period during which such tax may be collected by levy shall be extended and shall not expire until the liability for the tax (or a judgment against the taxpayer arising from such liability) is satisfied or becomes unenforceable.

(b) Date when levy is considered made

The date on which a levy on property or rights to property is made shall be the date on which the notice of seizure provided in section 6335(a) is given.

(Aug. 16, 1954, ch. 736, 68A Stat. 806; Pub. L. 89–719, title I, § 113(b), Nov. 2, 1966, 80 Stat. 1146; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100–647, title I, § 1015(u)(1), Nov. 10, 1988, 102 Stat. 3573; Pub. L. 101–239, title VII, § 7811(k)(2), Dec. 19, 1989, 103 Stat. 2412; Pub. L. 101–508, title XI, § 11317(a), Nov. 5, 1990, 104 Stat. 1388–458; Pub. L. 105–206, title III, § 3461(a), July 22, 1998, 112 Stat. 764.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–206, § 3461(a)(2), struck out first sentence of concluding provisions which read as follows: ''The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.''

Subsec. (a)(2). Pub. L. 105–206, § 3461(a)(1), added par. (2) and struck out former par. (2) which read as follows: ''prior to the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before the expiration of such 10-year period (or, if there is a release of levy under section 6343 after such 10-year period, then before such release).''

1990—Subsec. (a)(1). Pub. L. 101–508, § 11317(a)(1), substituted ''10 years'' for ''6 years''.

Subsec. (a)(2). Pub. L. 101–508, § 11317(a)(2), substituted ''10-year period'' for ''6-year period'' wherever appearing.

1989—Subsec. (a). Pub. L. 101–239 substituted ''unenforceable'' for ''enforceable'' in last sentence.

1988—Subsec. (a). Pub. L. 100–647 amended last sentence generally. Prior to amendment, last sentence read as follows: ''The period provided by this subsection during which a tax may be collected by levy shall not be extended or curtailed by reason of a judgment against the taxpayer.''

1976—Subsec. (a)(2). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1966—Subsec. (a). Pub. L. 89–719 inserted sentence at end providing that the period provided by this subsection during which a tax may be collected by levy shall not be extended or curtailed by reason of a judgment against the taxpayer.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendments by Pub. L. 105–206 applicable to requests to extend period of limitations made after Dec. 31, 1999, with special provisions relating to requests made on or before such date, see section 3461(c) of Pub. L. 105–206, set out as a note under section 6501 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable to taxes assessed after Nov. 5, 1990, and to taxes assessed on or before that date if the period specified in this section (determined without regard to the amendments made by Pub. L. 101–508) for collection of such taxes has not expired as of such date, see section 11317(c) of Pub. L. 101–508, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(u)(2) of Pub. L. 100–647 provided that: ''The amendment made by this subsection [amending this section] shall apply to levies issued after the date of the enactment of this Act [Nov. 10, 1988].''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, except in a case in which a lien or title derived from enforcement of a lien held by United States has been enforced by a civil action or suit which has become final by judgment, sale, or agreement before Nov. 2, 1966, or in a case in which the amendment would impair a priority held by any person other than United States holding a lien or interest prior to Nov. 2, 1966, operate to increase liability of such person, or shorten the time for bringing suit with respect to transactions occurring before Nov. 2, 1966, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302, 4961, 6013, 6015, 6103, 6255, 6330, 6331, 6503, 6672, 6694, 6703 of this title.

§ 6503. Suspension of running of period of limitation

(a) Issuance of statutory notice of deficiency

(1) General rule

The running of the period of limitations provided in section 6501 or 6502 (or section 6229, but only with respect to a deficiency described in paragraph (2)(A) or (3) of section 6230(a)).[1] on the making of assessments or the collection by levy or a proceeding in court, in respect of any deficiency as defined in section 6211 (relating to income, estate, gift and certain excise taxes), shall (after the mailing of a notice under section 6212(a)) be suspended for the period during which the Secretary is prohibited from making the assessment or from collecting by levy or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

(2) Corporation joining in consolidated income tax return

If a notice under section 6212(a) in respect of a deficiency in tax imposed by subtitle A for any taxable year is mailed to a corporation, the suspension of the running of the period of limitations provided in paragraph (1) of this subsection shall apply in the case of corporations with which such corporation made a consolidated income tax return for such taxable year.

(b) Assets of taxpayer in control or custody of court

The period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period the assets of the taxpayer are in the control or custody of the court in any proceeding before any court of the United States or of any State or of the District of Columbia, and for 6 months thereafter.

(c) Taxpayer outside United States

The running of the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period during which the taxpayer is outside the United States if such period of absence is for a continuous period of at least 6 months. If the preceding sentence applies and at the time of the taxpayer's return to the United States the period of limitations on collection after assessment prescribed in section 6502 would expire before the expiration of 6 months from the date of his return, such period shall not expire before the expiration of such 6 months.

(d) Extensions of time for payment of estate tax

The running of the period of limitation for collection of any tax imposed by chapter 11 shall be suspended for the period of any extension of time for payment granted under the provisions of section 6161(a)(2) or (b)(2) or under the provisions of section 6163 or 6166.

(e) Extensions of time for payment of tax attributable to recoveries of foreign expropriation losses

The running of the period of limitations for collection of the tax attributable to a recovery of a foreign expropriation loss (within the meaning of section 6167(f)) shall be suspended for the period of any extension of time for payment under subsection (a) or (b) of section 6167.

[1] So in original.

(f) Wrongful seizure of or lien on property of third party

(1) Wrongful seizure

The running of the period under section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secretary to the date the Secretary returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned.

(2) Wrongful lien

In the case of any assessment for which a lien was made on any property, the running of the period under section 6502 shall be suspended for a period equal to the period beginning on the date any person becomes entitled to a certificate under section 6325(b)(4) with respect to such property and ending on the date which is 30 days after the earlier of—

(A) the earliest date on which the Secretary no longer holds any amount as a deposit or bond provided under section 6325(b)(4) by reason of such deposit or bond being used to satisfy the unpaid tax or being refunded or released; or

(B) the date that the judgment secured under section 7426(b)(5) becomes final.

The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the value of the interest of the United States in the property plus interest, penalties, additions to the tax, and additional amounts attributable thereto.

(g) Suspension pending correction

The running of the periods of limitations provided in sections 6501 and 6502 on the making of assessments or the collection by levy or a proceeding in court in respect of any tax imposed by chapter 42 or section 507, 4971, or 4975 shall be suspended for any period described in section 507(g)(2) or during which the Secretary has extended the time for making correction under section 4963(e).

(h) Cases under title 11 of the United States Code

The running of the period of limitations provided in section 6501 or 6502 on the making of assessments or collection shall, in a case under title 11 of the United States Code, be suspended for the period during which the Secretary is prohibited by reason of such case from making the assessment or from collecting and—

(1) for assessment, 60 days thereafter, and

(2) for collection, 6 months thereafter.

(i) Extension of time for payment of undistributed PFIC earnings tax liability

The running of any period of limitations for collection of any amount of undistributed PFIC earnings tax liability (as defined in section 1294(b)) shall be suspended for the period of any extension of time under section 1294 for payment of such amount.

(j) Extension in case of certain summonses

(1) In general

If any designated summons is issued by the Secretary to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the coordinated examination program (or any successor program) of the Internal Revenue Service, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

(A) during any judicial enforcement period—

(i) with respect to such summons, or

(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

(2) Designated summons

For purposes of this subsection—

(A) In general

The term ''designated summons'' means any summons issued for purposes of determining the amount of any tax imposed by this title if—

(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,

(ii) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

(iii) such summons clearly states that it is a designated summons for purposes of this subsection.

(B) Limitation

A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

(3) Judicial enforcement period

For purposes of this subsection, the term ''judicial enforcement period'' means, with respect to any summons, the period—

(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons.

(k) Cross references

For suspension in case of—

(1) Deficiency dividends of a personal holding company, see section 547(f).

(2) Receiverships, see subchapter B of chapter 70.

(3) Claims against transferees and fiduciaries, see chapter 71.

(4) Income tax return preparers, see section 6694(c)(3).

(5) Deficiency dividends in the case of a regulated investment company or a real estate investment trust, see section 860(h).

(Aug. 16, 1954, ch. 736, 68A Stat. 806; Aug. 6, 1956, ch. 1020, § 2, 70 Stat. 1075; Pub. L. 85–866, title II, § 206(d), Sept. 2, 1958, 72 Stat. 1685; Pub. L. 89–384, § 1(e), Apr. 8, 1966, 80 Stat. 104; Pub. L. 89–719, title I, § 106, Nov. 2, 1966, 80 Stat. 1139; Pub. L. 91–172, title I, § 101(g)(4), (j)(46), Dec. 30, 1969, 83 Stat. 525, 531; Pub. L. 93–406, title II, § 1016(a)(15), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94–452, § 3(b), Oct. 2, 1976, 90 Stat. 1514; Pub. L. 94–455, title XII, § 1203(h)(1), title XVI, § 1601(f)(2), title XIX, §§ 1902(b)(2)(A), 1906(b)(13)(A), title XX, § 2004(c)(4), Oct. 4, 1976, 90 Stat. 1694, 1746, 1806, 1834, 1868; Pub. L. 95–227, § 4(d)(6), Feb. 10, 1978, 92 Stat. 23; Pub. L. 95–600, title III, § 362(d)(5), Nov. 6, 1978, 92 Stat. 2852; Pub. L. 96–222, title I, § 108(b)(1)(A), Apr. 1, 1980, 94 Stat. 226; Pub. L. 96–589, § 6(a), (i)(11), Dec. 24, 1980, 94 Stat. 3407, 3411; Pub. L. 96–596, § 2(a)(4)(D), (E), Dec. 24, 1980, 94 Stat. 3472; Pub. L. 97–34, title IV, § 422(e)(7), Aug. 13, 1981, 95 Stat. 316; Pub. L. 98–369, div. A, title III, § 305(b)(4), July 18, 1984, 98 Stat. 784; Pub. L. 99–514, title XII, § 1235(d), title XVIII, § 1875(d)(2)(B)(ii), Oct. 22, 1986, 100 Stat. 2575, 2896; Pub. L. 100–203, title X, § 10712(c)(3), Dec. 22, 1987, 101 Stat. 1330–467; Pub. L. 101–508, title XI, §§ 11311(a), 11801(c)(20)(A), Nov. 5, 1990, 104 Stat. 1388–453, 1388–528; Pub. L. 104–168, title X, § 1002(a)–(c), July 30, 1996, 110 Stat. 1468; Pub. L. 104–188, title I, § 1702(h)(17), Aug. 20, 1996, 110 Stat. 1874; Pub. L. 105–34, title XII, § 1237(c)(2), Aug. 5, 1997, 111 Stat. 1026; Pub. L. 105–206, title III, § 3106(b)(3), July 22, 1998, 112 Stat. 734.)

CODIFICATION

Pub. L. 94–452, § 3(b), redesignated subsec. (i), relating to cross references, as subsec. (j) and added a new subsec. (i), relating to extension of time for collecting certain taxes.

Pub. L. 95–455, § 1902(b)(2)(A), repealed subsec. (e) and (without reference to the amendment made by Pub. L. 94–452) renumbered subsecs. (f) to (i) as (e) to (h), with the result that the section was then comprised of subsecs. (a) to (h) and subsec. (j), relating to cross references.

Pub. L. 94–455, §§ 1203(h)(1), 1601(f)(2), and Pub. L. 95–600, § 362(d)(5), amended the subsection relating to cross references, such subsection being described as either (h) or (i).

Pub. L. 96–596, § 2(a)(4)(E) and (F), redesignated subsec. (j), relating to cross references, as subsec. (i) and provided that the above cited amendments by Pub. L. 94–455 and Pub. L. 95–600 shall be deemed to have been amendments of the redesignated subsec. (i).

Pub. L. 96–589 again redesignated subsec. (i), relating to cross references, as subsec. (j) and added a new subsec. (i), relating to cases under title 11.

AMENDMENTS

1998—Subsec. (f). Pub. L. 105–206 amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: "The running of the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secretary to the date the Secretary returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of the period of limitations on collection after assessment shall be suspended under this subsection only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned."

1997—Subsec. (a)(1). Pub. L. 105–34 substituted "paragraph (2)(A) or (3) of section 6230(a)" for "section 6230(a)(2)(A)".

1996—Subsec. (j). Pub. L. 104–188, § 1702(h)(17)(A), which directed that the subsection relating to extension in case of certain summonses be redesignated as (j), could not be executed, because that subsection (formerly subsec. (k)) was previously redesignated (j) by Pub. L. 101–508, § 11801(c)(20)(A). See 1990 Amendment note below.

Pub. L. 104–168, § 1002(c), which directed that subsec. (k) be redesignated as (j), could not be executed, because that subsection was redesignated (j) by Pub. L. 101–508, § 11801(c)(20)(A). See 1990 Amendment note below.

Subsec. (j)(1). Pub. L. 104–168, § 1002(b), which directed substitution of "to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the coordinated examination program (or any successor program) of the Internal Revenue Service" for "with respect to any return of tax by a corporation" in subsec. (k)(1), was executed by making the substitution in subsec. (j)(1) to reflect the probable intent of Congress and the amendment by Pub. L. 101–508, § 11801(c)(20)(A), which redesignated subsec. (k) as (j). See 1990 Amendment note below.

Subsec. (j)(2)(A). Pub. L. 104–168, § 1002(a), which directed addition of cl. (i) and redesignation of former cls. (i) and (ii) as (ii) and (iii), respectively, in subsec. (k)(2)(A), was executed by making the amendment in subsec. (j)(2)(A) to reflect the probable intent of Congress and the amendment by Pub. L. 101–508, § 11801(c)(20)(A), which redesignated subsec. (k) as (j). See 1990 Amendment note below.

Subsec. (k). Pub. L. 104–188, § 1702(h)(17)(B), redesignated the subsection relating to cross references (subsec. (*l*)) as (k).

Pub. L. 104–188, § 1702(h)(17)(A), which directed that the subsection relating to extension in case of certain summonses be redesignated as (j), could not be executed, because that subsection (formerly subsec. (k)) was previously redesignated (j) by Pub. L. 101–508, § 11801(c)(20)(A). See 1990 Amendment note below.

Pub. L. 104–168, § 1002(c), which directed that subsec. (k) be redesignated as (j), could not be executed, because that subsection was redesignated (j) by Pub. L. 101–508, § 11801(c)(20)(A). See 1990 Amendment note below.

Subsec. (*l*). Pub. L. 104–188, § 1702(h)(17)(B), redesignated the subsection relating to cross references (subsec. (*l*)) as (k).

Pub. L. 104–168, § 1002(c), which directed that subsec. (*l*) be redesignated as (k), could not be executed, because that subsection was redesignated (k) by Pub. L. 104–188, § 1702(h)(17). See above and see Effective Date of 1996 Amendments note below.

1990—Subsecs. (h) to (j). Pub. L. 101–508, § 11801(c)(20)(A), redesignated subsecs. (i) and (j) as (h) and (i), respectively, and struck out former subsec. (h)

''Extension of time for collecting tax attributable to divestitures pursuant to Bank Holding Company Act Amendments of 1970'' which read as follows: ''The running of the period of limitations for collection of the tax attributable to a sale with respect to which the taxpayer makes an election under section 6158(a) shall be suspended for the period during which there are any unpaid installments of such tax.''

Subsec. (k). Pub. L. 101–508, §11801(c)(20)(A), redesignated subsec. (k) as (j).

Pub. L. 101–508, §11311(a), added subsec. (k). Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 101–508, §11311(a), redesignated subsec. (k) as (*l*).

1987—Subsec. (g). Pub. L. 100–203 struck out ''4951, 4952,'' before ''4971''.

1986—Subsec. (a)(1). Pub. L. 99–514, §1875(d)(2)(B)(ii), substituted ''section 6501 or 6502 (or section 6229, but only with respect to a deficiency described in section 6230(a)(2)(A)).'' for ''section 6501 or 6502''.

Subsecs. (j), (k). Pub. L. 99–514, §1235(d), added subsec. (j) and redesignated former subsec. (j) as (k).

1984—Subsec. (g). Pub. L. 98–369 substituted ''section 4963(e)'' for ''section 4962(e)''.

1981—Subsec. (d). Pub. L. 97–34 struck out reference to section 6166A.

1980—Subsec. (g). Pub. L. 96–596, §2(a)(4)(D), substituted ''section 4962(e)'' for ''section 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), 4945(i)(2), 4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6)''.

Pub. L. 96–222 substituted ''4951, 4952, 4971, or 4975'' for ''4971, 4975, 4985, or 4986'' and ''4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6)'' for ''4971(c)(3), 4975(f)(6), 4985(e)(4), or 4986(e)(2)''.

Subsec. (i). Pub. L. 96–589, §6(a), added subsec. (i) and redesignated former subsec. (i), relating to cross references, as (j). See Codification note set out above.

Pub. L. 96–596, §2(a)(4)(E), redesignated subsec. (j), relating to cross references, as (i). See Codification note set out above.

Subsec. (j). Pub. L. 96–589, §6(a), (i)(11), redesignated former subsec. (i), relating to cross references, as (j), and in par. (2) of subsec. (j) as so redesignated, struck out reference to bankruptcy. See Codification note set out above.

Pub. L. 96–596, §2(a)(4)(E), redesignated former subsec. (j), relating to cross references, as (i). See Codification note set out above.

1978—Subsec. (g). Pub. L. 95–227 inserted provisions relating to sections 4985 and 4986 and substituted ''4975(f)(6)'' for ''4975(f)(4)''.

Subsec. (j)(5). Pub. L. 95–600, as amended by Pub. L. 96–596, §2(a)(4)(E) and (F), substituted ''in the case of a regulated investment company or a real estate investment trust, see section 860(h)'' for ''of a real estate investment trust, see section 859(f)''. See Codification note above.

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

Subsec. (d). Pub. L. 94–455, §2004(c)(4), substituted ''section 6163, 6166, or 6166A'' for ''section 6166''.

Subsec. (e). Pub. L. 94–455, §1902(b)(2)(A), redesignated subsec. (f) as (e). Former subsec. (e), which related to certain powers of appointment, was struck out.

Subsec. (f). Pub. L. 94–455, §§1902(b)(2)(A), 1906(b)(13)(A), redesignated subsec. (g) as (f), and struck out ''or his delegate'' after ''Secretary'' wherever appearing. Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 94–455, §§1902(b)(2)(A), 1906(b)(13)(A), redesignated subsec. (h) as (g) and struck out ''or his delegate'' after ''Secretary''. Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 94–455, §1902(b)(2)(A), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g). See Codification note above.

Subsec. (i). Pub. L. 94–455, §1902(b)(2)(A), redesignated subsec. (i) as (h).

Pub. L. 94–452 added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 94–455, §§1203(h)(1), 1601(f)(2), as amended by Pub. L. 96–596, §2(a)(4)(E), (F), added pars. (4) and (5). See Codification note set out above.

Pub. L. 94–452 redesignated former subsec. (i) as (j).

1974—Subsec. (a)(1). Pub. L. 93–406, §1016(a)(15)(A), substituted ''certain excise taxes)'' for ''chapter 42 taxes)''.

Subsec. (h). Pub. L. 93–406, §1016(a)(15)(B), inserted ''or section 4971 or section 4975'' after ''section 507'' and substituted ''4945(i)(2), 4971(c)(3), or 4975(f)(4)'' for ''or 4945(h)(2)''.

1969—Subsec. (a)(1). Pub. L. 91–172, §101(j)(46), inserted reference to chapter 42 taxes.

Subsecs. (h), (i). Pub. L. 91–172, §101(g)(4), added subsec. (h) and redesignated former subsec. (h) as (i).

1966—Subsec. (b). Pub. L. 89–719, §106(a), struck out ''(other than the estate of a decedent or of an incompetent)'' after ''assets of the taxpayer'' and ''or Territory'' after ''of any State''.

Subsec. (c). Pub. L. 89–719, §106(b), substituted ''Taxpayer outside United States'' for ''Location of property outside the United States or removal of property from the United States'' in heading, and ''The running of the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period during which the taxpayer is outside the United States if such period of absence is for a continuous period of at least 6 months. If the preceding sentence applies and at the time of the taxpayer's return to the United States the period of limitations on collection after assessment prescribed in section 6502 would expire before the expiration of 6 months from the date of his return, such period shall not expire before the expiration of such 6 months'' for ''In case collection is hindered or delayed because property of the taxpayer is situated or held outside the United States or is removed from the United States, the period of limitations on collection after assessment prescribed in section 6502 shall be suspended for the period collection is so hindered or delayed. The total suspension of time under this subsection shall not in the aggregate exceed 6 years.''

Subsec. (f). Pub. L. 89–384 added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 89–719, §106(c), added subsec. (g) and redesignated former subsec. (g) as (h).

Pub. L. 89–384 redesignated subsec. (f) as (g).

Subsec. (h). Pub. L. 89–719, §106(c), redesignated former subsec. (g) as (h).

1958—Subsec. (d). Pub. L. 85–866 struck out ''assessment or'' after ''period of limitations for'' and inserted ''or under the provisions of section 6166''.

1956—Subsecs. (e), (f). Act Aug. 6, 1956, added subsec. (e) and redesignated former subsec. (e) as (f).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, see section 1237(d) of Pub. L. 105–34, set out as a note under section 6230 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

Section 1002(d) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section] shall apply to summonses issued after the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11311(b) of Pub. L. 101–508 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act [Nov. 5, 1990]) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the [sic] enactment.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100–203, set out as an Effective Date note under section 4955 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1235(d) of Pub. L. 99–514 applicable to taxable years of foreign corporations beginning after Dec. 31, 1986, see section 1235(h) of Pub. L. 99–514, set out as an Effective Date note under section 1291 of this title.

Amendment by section 1875(d)(2)(B)(ii) of Pub. L. 99–514 effective as if included in the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, see section 1875(d)(2)(C) of Pub. L. 99–514, set out as a note under section 6230 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable events occurring after Dec. 31, 1984, see section 305(c) of Pub. L. 98–369, set out as an Effective Date note under section 4962 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97–34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

For effective date of amendment by Pub. L. 96–596 with respect to any first tier tax and to any second tier tax, see section 2(d) of Pub. L. 96–596, set out as an Effective Date note under section 4961 of this title.

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

Amendment by Pub. L. 96–222 effective as if included in the provisions of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95–227, see section 108(b)(4) of Pub. L. 96–222, set out as a note under section 192 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–600 applicable with respect to determinations (as defined in section 860(e) of this title) after Nov. 6, 1978, see section 362(e) of Pub. L. 95–600, set out as an Effective Date note under section 860 of this title.

Amendment by Pub. L. 95–227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95–227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by section 1203(h)(1) of Pub. L. 94–455 applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94–455, set out as a note under section 7701 of this title.

For effective date of amendment by section 1601(f)(2) of Pub. L. 94–455, see section 1608(a) of Pub. L. 94–455, set out as a note under section 857 of this title.

Amendment by section 1902(b)(2)(A) of Pub. L. 94–455 applicable in the case of estates of decedents dying after Oct. 4, 1976, see section 1902(c)(1) of Pub. L. 94–455, set out as a note under section 2011 of this title.

Amendment by section 2004(c)(4) of Pub. L. 94–455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2004(g) of Pub. L. 94–455, set out as a note under section 6166 of this title.

Amendment by Pub. L. 94–452 effective Oct. 1, 1977, see section 3(e) of Pub. L. 94–452, set out as a note under section 6151 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1966 AMENDMENTS

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, except in a case in which a lien or title derived from enforcement of a lien held by United States has been enforced by a civil action or suit which has become final by judgment, sale, or agreement before Nov. 2, 1966, or in a case in which the amendment would impair a priority held by any person other than United States holding a lien or interest prior to Nov. 2, 1966, operate to increase liability of such person, or shorten the time for bringing suit with respect to transactions occurring before Nov. 2, 1966, see section 114(a)–(e) of Pub. L. 89–719, set out as a note under section 6323 of this title.

Amendment by Pub. L. 89–384 applicable with respect to amounts received after Dec. 31, 1964, in respect of foreign expropriation losses (as defined in section 1351(b) of this title) sustained after Dec. 31, 1958, see section 2 of Pub. L. 89–384, set out as an Effective Date note under section 1351 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85–866, see section 206(f) of Pub. L. 85–866, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 6, 1956, applicable in the case of decedents dying after Aug. 16, 1954, see section 3 of act Aug. 6, 1956, set out as a note set out under section 2055 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(c)(20)(A) of Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

ANNUAL REPORT TO CONGRESS CONCERNING DESIGNATED SUMMONSES

Section 1003 of Pub. L. 104–168 provided that: ''Not later than December 31 of each calendar year after 1995, the Secretary of the Treasury or his delegate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the number of designated summonses (as defined in section 6503(j) of the Internal Revenue Code of 1986) which were issued during the preceding 12 months.''

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.

APPLICATION OF PRIOR AMENDMENTS

Section 2(a)(4)(F) of Pub. L. 96–596, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by sections 1203(h)(1) and 1601(f)(2) of the Tax Reform Act of 1976 [Pub. L. 94–455], and the amendment made by section 362(d)(5) of the Revenue Act of 1978 [Pub. L. 95–600], shall be deemed to be amendments to section 6503(i) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, subsec. (j), as redesignated by section 6(a) of Pub. L. 96–589] (as redesignated by subparagraph (E) [redesignating subsec. (j) as (i)]).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1505, 6166, 6167, 6873, 7436 of this title.

§ 6504. Cross references

For limitation period in case of—

(1) Adjustments to accrued foreign taxes, see section 905(c).

(2) Change of treatment with respect to itemized deductions where taxpayer and his spouse make separate returns, see section 63(e)(3).

(3) Involuntary conversion of property, see section 1033(a)(2)(C) and (D).

(4) Application by fiduciary for discharge from personal liability for estate tax, see section 2204.

(5) Insolvent banks and trust companies, see section 7507.

(6) Service in a combat zone, etc., see section 7508.

(7) Claims against transferees and fiduciaries, see chapter 71.

(8) Assessments to recover excessive amounts paid under section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, 6421, or 6427, see section 6206.

(9) Assessment and collection of interest, see section 6601(g).

(10) Assessment of civil penalties under section 6694 or 6695, see section 6696(d)(1).

(11) Assessments of tax attributable to partnership items, see section 6229.

(Aug. 16, 1954, ch. 736, 68A Stat. 807; Apr. 2, 1956, ch. 160, § 4(d), 70 Stat. 91; June 29, 1956, ch. 462, title II, § 208(e)(5), 70 Stat. 397; Pub. L. 85–866, title I, § 84(b), Sept. 2, 1958, 72 Stat. 1664; Pub. L. 88–272, title I, § 112(d)(2), Feb. 26, 1964, 78 Stat. 24; Pub. L. 91–172, title II, § 213(c)(3), Dec. 30, 1969, 83 Stat. 572; Pub. L. 91–614, title I, § 101(d)(2), Dec. 31, 1970, 84 Stat. 1837; Pub. L. 93–625, § 7(d)(4), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94–455, title XII, § 1203(h)(2), title XIX, 1901(b)(31)(D), (36)(C), (37)(D), (39)(B), 1906(a)(32), Oct. 4, 1976, 90 Stat. 1694, 1800, 1802, 1803, 1829; Pub. L. 95–30, title I, § 101(d)(16), May 23, 1977, 91 Stat. 134; Pub. L. 95–600, title IV, § 405(c)(6), title VII, § 703(j)(10), Nov. 6, 1978, 92 Stat. 2871, 2942; Pub. L. 95–618, title II, § 233(b)(2)(D), Nov. 9, 1978, 92 Stat. 3191; Pub. L. 97–248, title IV, § 402(c)(6), Sept. 3, 1982, 96 Stat. 667; Pub. L. 97–424, title V, § 515(b)(10), Jan. 6, 1983, 96 Stat. 2182; Pub. L. 99–514, title I, § 104(b)(18), Oct. 22, 1986, 100 Stat. 2106; Pub. L. 105–34, title III, § 312(d)(13), Aug. 5, 1997, 111 Stat. 840.)

AMENDMENTS

1997—Pars. (4) to (12). Pub. L. 105–34 redesignated pars. (5) to (12) as (4) to (11), respectively, and struck out former par. (4) which read as follows: ''Gain upon sale or exchange of principal residence, see section 1034(j).''

1986—Par. (2). Pub. L. 99–514 amended par. (2) generally, substituting ''where taxpayer and his spouse make separate returns, see section 63(e)(3)'' for ''and zero bracket amount where taxpayer and his spouse make separate returns, see section 63(g)(5)''.

1983—Par. (9). Pub. L. 97–424 struck out ''6424 (relating to lubricating oil used for certain nontaxable purposes),'' after ''systems),'', and struck out ''6424,'' after ''6421,''.

1982—Par. (12). Pub. L. 97–248 added par. (12).

1978—Par. (4). Pub. L. 95–600, § 405(c)(6), substituted ''principal residence'' for ''residence''.

Par. (6). Pub. L. 95–600, § 703(j)(10), amended directory language of Pub. L. 94–455, § 1901(b)(37)(D). See 1976 Amendment note below.

Par. (9). Pub. L. 95–618 substituted ''used for certain nontaxable purposes'' for ''not used in highway motor vehicles''.

1977—Par. (2). Pub. L. 95–30 substituted ''treatment with respect to itemized deductions and zero bracket amount where taxpayer and his spouse make separate returns, see section 63(g)(5)'' for ''election with respect to the standard deduction where taxpayer and his spouse make separate returns, see section 144(b)''.

1976—Par. (1). Pub. L. 94–455, §§ 1901(b)(36)(C), 1906(a)(32)(B), redesignated par. (2) as (1). Former par. (1), which referred to section 1321 for adjustments incident to involuntary liquidation of inventory, was struck out.

Par. (2). Pub. L. 94–455, § 1906(a)(32)(B), redesignated par. (3) as (2). Former par. (2) redesignated (1).

Par. (3). Pub. L. 94–455, §§ 1901(b)(31)(D), 1906(a)(32)(B), redesignated par. (4) as (3) and substituted ''section 1033(a)(2)(C) and (D)'' for ''section 1033(a)(3)(C) and (D)''. Former par. (3) redesignated (2).

Par. (4). Pub. L. 94–455, § 1906(a)(32)(B), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Par. (5). Pub. L. 94–455, §§ 1901(b)(39)(B), 1906(a)(32)(B), redesignated par. (9) as (5). Former par. (5) redesignated (4).

Par. (6). Pub. L. 94–455, § 1906(a)(32)(B), redesignated par. (10) as (6).

Pub. L. 94–455, § 1901(b)(37)(D), as amended by Pub. L. 95–600, § 703(j)(10), struck out par. (6) which referred to section 1335 for war loss recoveries where the prior benefit rule was elected.

Par. (7). Pub. L. 94–455, §§ 1901(b)(39)(B), 1906(a)(32)(B), redesignated par. (11) as (7). Former par. (7), which referred to section 1346 for recovery of unconstitutional federal taxes, was struck out.

Par. (8). Pub. L. 94–455, § 1906(a)(32)(B), redesignated par. (12) as (8).

Par. (9). Pub. L. 94–455, § 1906(a)(32)(A), (B), redesignated par. (13) as (9) and inserted provisions relating to sections 6421, 6424, and 6427. Former par. (9) redesignated (5).

Par. (10). Pub. L. 94–455, § 1906(a)(32)(B), redesignated par. (15) as (10). Former par. (10) redesignated (6).

Par. (11). Pub. L. 94–455, §§ 1203(h)(2), 1906(a)(32)(B), added par. (11). Former par. (11) redesignated (7).

Par. (12). Pub. L. 94–455, § 1906(a)(32)(B), redesignated par. (12) as (8).

Par. (13). Pub. L. 94–455, § 1906(a)(32)(B), redesignated par. (13) as (9).

Par. (14). Pub. L. 94–455, § 1906(a)(32)(A), struck out par. (14) which referred to section 6206 for assessments to recover excessive amounts paid under section 6421, and assessments of civil penalties under section 6675, and for excessive claims under section 6421.

Par. (15). Pub. L. 94–455, § 1906(a)(32)(B), redesignated par. (15) as (10).

1975—Par. (15). Pub. L. 93–625 substituted reference to section 6601(g) for 6601(h).

1970—Par. (9). Pub. L. 91–614 substituted ''fiduciary'' for ''executor''.

1969—Par. (8). Pub. L. 91–172 struck out par. (8).

1964—Par. (3). Pub. L. 88–272 substituted ''with respect to the'' for ''to take''.

1958—Par. (15). Pub. L. 85–866 added par. (15).
1956—Par. (13). Act. Apr. 2, 1956, added par. (13).
Par. (14). Act June 29, 1956, added par. (14).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105–34, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99–514, set out as a note under section 1 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

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95–618, set out as a note under section 34 of this title.

Amendment by section 405(c)(6) of Pub. L. 95–600 applicable to sales and exchanges of residences after July 26, 1978, in taxable years ending after such date, see section 405(d) of Pub. L. 95–600, set out as a note under section 1038 of this title.

Amendment by section 703(j)(10) of 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.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95–30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1203(h)(2) of Pub. L. 94–455 applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94–455, set out as a note under section 7701 of this title.

Amendment by section 1901(b)(31)(D), (36)(C), (37)(D), (39)(B) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

Amendment by section 1906(a)(32) of 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.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93–625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91–614, set out as a note under section 2032 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment Pub. L. 91–172 applicable to taxable years beginning after Dec. 31, 1969, see section 213(d) of Pub. L. 91–172, set out as an Effective Date note under section 183 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–272 effective, except for purposes of section 21 of this title, with respect to taxable years beginning after Dec. 31, 1963, see section 131 of Pub. L. 88–272, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 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.

Subchapter B—Limitations on Credit or Refund

Sec.
6511. Limitations on credit or refund.
6512. Limitations in case of petition to Tax Court.
6513. Time return deemed filed and tax considered paid.
6514. Credits or refunds after period of limitation.
6515. Cross references.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 905, 6230, 6422 of this title.

§ 6511. Limitations on credit or refund

(a) Period of limitation on filing claim

Claim for credit or refund of an overpayment of any tax imposed by this title in respect of which tax the taxpayer is required to file a return shall be filed by the taxpayer within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid. Claim for credit or refund of an overpayment of any tax imposed by this title which is required to be paid by means of a stamp shall be filed by the taxpayer within 3 years from the time the tax was paid.

(b) Limitation on allowance of credits and refunds

(1) Filing of claim within prescribed period

No credit or refund shall be allowed or made after the expiration of the period of limitation prescribed in subsection (a) for the filing of a claim for credit or refund, unless a claim for credit or refund is filed by the taxpayer within such period.

(2) Limit on amount of credit or refund

(A) Limit where claim filed within 3-year period

If the claim was filed by the taxpayer during the 3-year period prescribed in subsection (a), the amount of the credit or refund shall not exceed the portion of the tax

paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return. If the tax was required to be paid by means of a stamp, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

(B) Limit where claim not filed within 3-year period

If the claim was not filed within such 3-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the 2 years immediately preceding the filing of the claim.

(C) Limit if no claim filed

If no claim was filed, the credit or refund shall not exceed the amount which would be allowable under subparagraph (A) or (B), as the case may be, if claim was filed on the date the credit or refund is allowed.

(c) Special rules applicable in case of extension of time by agreement

If an agreement under the provisions of section 6501(c)(4) extending the period for assessment of a tax imposed by this title is made within the period prescribed in subsection (a) for the filing of a claim for credit or refund—

(1) Time for filing claim

The period for filing claim for credit or refund or for making credit or refund if no claim is filed, provided in subsections (a) and (b)(1), shall not expire prior to 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof under section 6501(c)(4).

(2) Limit on amount

If a claim is filed, or a credit or refund is allowed when no claim was filed, after the execution of the agreement and within 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof, the amount of the credit or refund shall not exceed the portion of the tax paid after the execution of the agreement and before the filing of the claim or the making of the credit or refund, as the case may be, plus the portion of the tax paid within the period which would be applicable under subsection (b)(2) if a claim had been filed on the date the agreement was executed.

(3) Claims not subject to special rule

This subsection shall not apply in the case of a claim filed, or credit or refund allowed if no claim is filed, either—

(A) prior to the execution of the agreement or

(B) more than 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof.

(d) Special rules applicable to income taxes

(1) Seven-year period of limitation with respect to bad debts and worthless securities

If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of—

(A) The deductibility by the taxpayer, under section 166 or section 832(c), of a debt as a debt which became worthless, or, under section 165(g), of a loss from worthlessness of a security, or

(B) The effect that the deductibility of a debt or loss described in subparagraph (A) has on the application to the taxpayer of a carryover,

in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be 7 years from the date prescribed by law for filing the return for the year with respect to which the claim is made. If the claim for credit or refund relates to an overpayment on account of the effect that the deductibility of such a debt or loss has on the application to the taxpayer of a carryback, the period shall be either 7 years from the date prescribed by law for filing the return for the year of the net operating loss which results in such carryback or the period prescribed in paragraph (2) of this subsection, whichever expires the later. In the case of a claim described in this paragraph the amount of the credit or refund may exceed the portion of the tax paid within the period prescribed in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the deductibility of items described in this paragraph.

(2) Special period of limitation with respect to net operating loss or capital loss carrybacks

(A) Period of limitation

If the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback or a capital loss carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the net operating loss or net capital loss which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) Applicable rules

(i) In general

If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback or a capital loss carryback is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to com-

promises), such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph.

(ii) Tentative carryback adjustments

If the allowance of an application, credit, or refund of a decrease in tax determined under section 6411(b) is otherwise prevented by the operation of any law or rule of law other than section 7122, such application, credit, or refund may be allowed or made if application for a tentative carryback adjustment is made within the period provided in section 6411(a).

(iii) Determinations by courts to be conclusive

In the case of any such claim for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to—

(I) the net operating loss deduction and the effect of such deduction, and

(II) the determination of a short-term capital loss and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not an issue in such proceeding.

(3) Special rules relating to foreign tax credit

(A) Special period of limitation with respect to foreign taxes paid or accrued

If the claim for credit or refund relates to an overpayment attributable to any taxes paid or accrued to any foreign country or to any possession of the United States for which credit is allowed against the tax imposed by subtitle A in accordance with the provisions of section 901 or the provisions of any treaty to which the United States is a party, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be 10 years from the date prescribed by law for filing the return for the year in which such taxes were actually paid or accrued.

(B) Exception in the case of foreign taxes paid or accrued

In the case of a claim described in subparagraph (A), the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the allowance of a credit for the taxes described in subparagraph (A).

(4) Special period of limitation with respect to certain credit carrybacks

(A) Period of limitation

If the claim for credit or refund relates to an overpayment attributable to a credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the unused credit which results in such carryback (or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, the period shall be that period which ends 3 years after the time prescribed by law for filing the return, including extensions thereof, for such subsequent taxable year) or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) Applicable rules

If the allowance of a credit or refund of an overpayment of tax attributable to a credit carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to any credit, and the effect of such credit, to the extent that such credit is affected by a credit carryback which was not in issue in such proceeding.

(C) Credit carryback defined

For purposes of this paragraph, the term ''credit carryback'' means any business carryback under section 39.

(5) Special period of limitation with respect to self-employment tax in certain cases

If the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to an agreement, or modification of an agreement, made pursuant to section 218 of the Social Security Act (relating to coverage of State and local employees), and if the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such agreement (or modification) is agreed to by the State and the Commissioner of Social Security.

(6) Special period of limitation with respect to amounts included in income subsequently recaptured under qualified plan termination

If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of the recapture, under section 4045 of

the Employee Retirement Income Security Act of 1974, of amounts included in income for a prior taxable year, the 3-year period of limitation prescribed in subsection (a) shall be extended, for purposes of permitting a credit or refund of the amount of the recapture, until the date which occurs one year after the date on which such recaptured amount is paid by the taxpayer.

(7) Special period of limitation with respect to self-employment tax in certain cases

If—

(A) the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to Tax Court determination in a proceeding under section 7436, and

(B) the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises),

such credit or refund may be allowed or made if claim therefor is filed on or before the last day of the second year after the calendar year in which such determination becomes final.

[(e) Repealed. Pub. L. 101–508, title XI, § 11801(c)(22)(C), Nov. 5, 1990, 104 Stat. 1388–528]

(f) Special rule for chapter 42 and similar taxes

For purposes of any tax imposed by section 4912, chapter 42, or section 4975, the return referred to in subsection (a) shall be the return specified in section 6501(*l*)(1).

(g) Special rule for claims with respect to partnership items

In the case of any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (as defined in section 6231(a)(3)), the provisions of section 6227 and subsections (c) and (d) of section 6230 shall apply in lieu of the provisions of this subchapter.

(h) Running of periods of limitation suspended while taxpayer is unable to manage financial affairs due to disability

(1) In general

In the case of an individual, the running of the periods specified in subsections (a), (b), and (c) shall be suspended during any period of such individual's life that such individual is financially disabled.

(2) Financially disabled

(A) In general

For purposes of paragraph (1), an individual is financially disabled if such individual is unable to manage his financial affairs by reason of a medically determinable physical or mental impairment of the individual which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to have such an impairment unless proof of the existence thereof is furnished in such form and manner as the Secretary may require.

(B) Exception where individual has guardian, etc.

An individual shall not be treated as financially disabled during any period that such individual's spouse or any other person is authorized to act on behalf of such individual in financial matters.

(i) Cross references

(1) For time return deemed filed and tax considered paid, see section 6513.

(2) For limitations with respect to certain credits against estate tax, see sections 2011(c), 2014(b), and 2015.

(3) For limitations in case of floor stocks refunds, see section 6412.

(4) For a period of limitations for credit or refund in the case of joint income returns after separate returns have been filed, see section 6013(b)(3).

(5) For limitations in case of payments under section 6420 (relating to gasoline used on farms), see section 6420(b).

(6) For limitations in case of payments under section 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), see section 6421(d).

(7) For a period of limitations for refund of an overpayment of penalties imposed under section 6694 or 6695, see section 6696(d)(2).

(Aug. 16, 1954, ch. 736, 68A Stat. 808; Apr. 2, 1956, ch. 160, § 4(e), 70 Stat. 91; June 29, 1956, ch. 462, title II, § 208(e)(6), 70 Stat. 397; Pub. L. 85–866, title I, § 82, Sept. 2, 1958, 72 Stat. 1663; Pub. L. 86–280, § 1(a), Sept. 16, 1959, 73 Stat. 563; Pub. L. 87–794, title III, § 317(d), Oct. 11, 1962, 76 Stat. 891; Pub. L. 87–834, § 2(e)(2), Oct. 16, 1962, 76 Stat. 971; Pub. L. 88–272, title II, §§ 232(d), 239, Feb. 26, 1964, 78 Stat. 111, 128; Pub. L. 88–571, § 3(c), Sept. 2, 1964, 78 Stat. 858; Pub. L. 89–331, § 9(c), Nov. 8, 1965, 79 Stat. 1278; Pub. L. 90–225, § 2(d), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91–172, title I, § 101(h), title III, § 311(d)(3), title V, § 512(e)(2), Dec. 30, 1969, 83 Stat. 525, 588, 640; Pub. L. 92–178, title VI, § 601(d)(2), Dec. 10, 1971, 85 Stat. 558; Pub. L. 93–406, title IV, § 4401(b), formerly § 4081(b), Sept. 2, 1974, 88 Stat. 1034, renumbered § 4401(b), Pub. L. 96–364, title I, § 108(a), Sept. 26, 1980, 94 Stat. 1267; Pub. L. 94–455, title XII, § 1203(h)(3), title XIX, § 1906(a)(33), title XXI, § 2107(g)(2)(B), Oct. 4, 1976, 90 Stat. 1694, 1829, 1904; Pub. L. 95–30, title II, § 202(d)(4)(B), May 23, 1977, 91 Stat. 149; Pub. L. 95–600, title II, § 212(b)(1), title VII, § 703(p)(3), Nov. 6, 1978, 92 Stat. 2819, 2944; Pub. L. 95–628, § 8(a), (b), Nov. 10, 1978, 92 Stat. 3630, 3631; Pub. L. 96–222, title I, §§ 102(a)(2)(B), 108(b)(1)(B), Apr. 1, 1980, 94 Stat. 208, 226; Pub. L. 96–223, title I, § 101(g)(2), Apr. 2, 1980, 94 Stat. 254; Pub. L. 96–598, § 1(c), Dec. 24, 1980, 94 Stat. 3486; Pub. L. 97–34, title II, § 221(b)(2)(A), title III, § 331(d)(2)(A), Aug. 13, 1981, 95 Stat. 247, 295; Pub. L. 97–248, title IV, § 402(c)(7), Sept. 3, 1982, 96 Stat. 667; Pub. L. 98–369, div. A, title I, § 163(b)(2), title II, § 211(b)(25), title IV, § 474(r)(40), title VII, §§ 714(p)(2)(G), 735(c)(14), div. B, title VI, § 2663(j)(5)(F), July 18, 1984, 98 Stat. 698, 757, 847, 965, 984, 1171; Pub. L. 99–514, title I, § 141(b)(3), title II, § 231(d)(3)(I), title XVIII, § 1847(b)(15), Oct. 22, 1986, 100 Stat. 2117, 2180, 2857; Pub. L. 100–418, title I, § 1941(b)(2)(I), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100–647, title I, §§ 1017(c)(11), 1018(u)(21), (51), Nov. 10, 1988, 102 Stat. 3577, 3591, 3593; Pub. L. 101–508, title XI, § 11801(c)(17)(B), (22)(C), Nov. 5, 1990, 104 Stat. 1388–527, 1388–528;

Pub. L. 103–296, title I, § 108(h)(8), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 105–34, title X, § 1056(a), title XIV, § 1454(b)(1), Aug. 5, 1997, 111 Stat. 945, 1056; Pub. L. 105–206, title III, § 3202(a), July 22, 1998, 112 Stat. 740.)

REFERENCES IN TEXT

Section 218 of the Social Security Act, referred to in subsec. (d)(5), is classified to section 418 of Title 42, The Public Health and Welfare.

Section 4045 of the Employee Retirement Income Security Act of 1974, referred to in subsec. (d)(6), is classified to section 1345 of Title 29, Labor.

AMENDMENTS

1998—Subsecs. (h), (i). Pub. L. 105–206 added subsec. (h) and redesignated former subsec. (h) as (i).

1997—Subsec. (d)(3)(A). Pub. L. 105–34, § 1056(a), substituted ''for the year in which such taxes were actually paid or accrued'' for ''for the year with respect to which the claim is made''.

Subsec. (d)(7). Pub. L. 105–34, § 1454(b)(1), added par. (7).

1994—Subsec. (d)(5). Pub. L. 103–296 substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services''.

1990—Subsec. (d)(2)(A). Pub. L. 101–508, § 11801(c)(17)(B), struck out before period at end of first sentence ''; except that with respect to an overpayment attributable to the creation of, or an increase in a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before the expiration of the 12th month following the month in which the agreement or order for the elimination of such excessive profits becomes final''.

Subsec. (e). Pub. L. 101–508, § 11801(c)(22)(C), struck out subsec. (e) which related to special rules in case of manufactured sugar either exported, used as livestock feed, or for distillation or production of alcohol.

1988—Subsec. (d)(4)(C). Pub. L. 100–647, § 1018(u)(21), made technical correction to directory language of Pub. L. 99–514, § 231(d)(3)(I), see 1986 Amendment note below.

Subsec. (f). Pub. L. 100–647, § 1018(u)(51), substituted ''similar taxes'' for ''certain chapter 43 taxes'' in heading, and ''section 4912, chapter 42,'' for ''chapter 42'' in text.

Subsec. (h). Pub. L. 100–418, § 1941(b)(2)(I), redesignated subsec. (i) as (h) and struck out former subsec. (h) which related to special rules for windfall profit taxes.

Subsec. (i). Pub. L. 100–418, § 1941(b)(2)(I), redesignated subsec. (i) as (h).

Subsec. (i)(6). Pub. L. 100–647, § 1017(c)(11), substituted ''section 6421(d)'' for ''section 6421(c)''.

1986—Subsec. (d)(2)(B). Pub. L. 99–514, § 141(b)(3), amended subpar. (B) generally, restating cl. (i) as cls. (i), (ii), and (iii) and striking out former cl. (ii) which read as follows: ''A claim for credit or refund for a computation year (as defined in section 1302(c)(1)) shall be determined to relate to an overpayment attributable to a net operating loss carryback or a capital loss carryback, as the case may be, when such carryback relates to any base period year (as defined in section 1302(c)(3)).''

Subsec. (d)(4)(C). Pub. L. 99–514, § 231(d)(3)(I), as amended by Pub. L. 100–647, § 1018(u)(21), struck out ''and any research credit carryback under section 30(g)(2)'' after ''under section 39''.

Subsec. (h)(1). Pub. L. 99–514, § 1847(b)(15)(A), substituted ''section 6501(m)(1)(B)'' for ''section 6501(q)(1)(B)''.

Subsec. (h)(2). Pub. L. 99–514, § 1847(b)(15)(B), substituted ''section 6501(m)(2)(B)'' for ''section 6501(q)(2)(B)''.

1984—Subsec. (d)(4)(C). Pub. L. 98–369, § 474(r)(40), substituted ''business carryback under section 39 and any research credit carryback under section 30(g)(2)'' for ''investment credit carryback, work incentive program credit carryback, new employee credit carryback, research credit carryback, and employee stock ownership credit carryback''.

Subsec. (d)(5). Pub. L. 98–369, § 2663(j)(5)(F), substituted ''Secretary of Health and Human Services'' for ''Secretary of Health, Education, and Welfare''.

Subsec. (d)(6), (7). Pub. L. 98–369, § 211(b)(25), redesignated par. (7) as (6) and struck out former par. (6) relating to a special period of limitation with respect to reduction of policyholders surplus account of life insurance companies.

Subsec. (f). Pub. L. 98–369, § 163(b)(2), substituted ''section 6501(*l*)(1)'' for ''section 6501(n)(1)''.

Subsec. (h)(3). Pub. L. 98–369, § 714(p)(2)(G), amended par. (3) generally. Prior to amendment par. (3) related to partnership items of federally registered partnerships and provided that under regulations prescribed by the Secretary, rules similar to the rules of subsection (g) shall apply to the tax imposed by section 4986.

Subsecs. (i), (j). Pub. L. 98–369, § 735(c)(14), redesignated subsec. (j) as (i) and struck out former subsec. (i) which related to a special rule for certain tread rubber tax credits or refunds.

1982—Subsec. (g). Pub. L. 97–248 substituted ''Special rule for claims with respect to partnership items'' for ''Special rule for partnership items of federally registered partnerships'' in heading and, in text, substituted provisions that, in the case of any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (as defined in section 6231(a)(3)), the provisions of section 6227 and subsecs. (c) and (d) of section 6230 shall apply in lieu of the provisions of this subchapter for provisions that (1) in the case of any tax imposed by subtitle A with respect to any person, the period for filing a claim for credit or refund of any overpayment attributable to any partnership item of a federally registered partnership would not expire before the later of (A) the date which was 4 years after the date prescribed by law (including extensions thereof) for filing the partnership return for the partnership taxable year in which the item arose, or (B) if an agreement under the provisions of section 6501(c)(4) extending the period for the assessment of any deficiency attributable to such partnership item was made before the date specified in subpar. (A), the date 6 months after the expiration of such extension, with the amount of the credit or refund allowed to exceed the portion of the tax paid within the period provided in subsec. (b)(2) or (c), whichever was applicable, and (2) for purposes of this subsec., the terms ''partnership item'' and ''federally registered partnership'' would have the same meanings as such terms had when used in section 6501(*o*).

1981—Subsec. (d)(4)(C). Pub. L. 97–34, § 331(d)(2)(A), inserted reference to employee stock ownership credit carryback.

Pub. L. 97–34, § 221(b)(2)(A), inserted reference to research credit carryback.

1980—Subsec. (f). Pub. L. 96–222, § 108(b)(1)(B), inserted in heading ''and certain chapter 43'' after ''chapter 42'', and in text ''or section 4975'' after ''chapter 42''.

Subsec. (g)(2). Pub. L. 96–222, § 102(a)(2)(B), substituted ''section 6501(*o*)'' for ''section 6501(q)''.

Subsec. (h). Pub. L. 96–223 added subsec. (h) and redesignated former subsec. (h) as (i).

Subsec. (i). Pub. L. 96–598 added subsec. (i) and redesignated former subsec. (i) as (j).

Pub. L. 96–223 redesignated former subsec. (h) as (i).

Subsec. (j). Pub. L. 96–598 redesignated former subsec. (i) as (j).

1978—Subsec. (d)(2)(A). Pub. L. 95–628, § 8(a), substituted ''3 years after the time prescribed by law for filing the return (including extensions thereof) for'' for ''with the expiration of the 15th day of the 40th month (or the 39th month, in the case of a corporation) following the end of''.

Pub. L. 95–600, § 703(p)(3), struck out provisions relating to the period of limitations with respect to an overpayment attributable to a net operating loss carryback

to any year on account of a certification issued to the taxpayer under section 317 of the Trade Expansion Act of 1962.

Subsec. (d)(4). Pub. L. 95–628, §8(b)(1), substituted in heading ''certain credit carrybacks'' for ''investment credit carrybacks'', in subpar. (A), substituted ''a credit carryback'' for ''an investment credit carryback'', ''period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the unused credit which results in such carryback'' for ''period shall be that period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused investment credit which results in such carryback'', and ''(or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, the period shall be that period which ends 3 years after the time prescribed by law for filing the return, including extensions thereof, for such subsequent taxable year)'' for ''(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the end of such subsequent taxable year),'', in subpar. (B), substituted ''a credit carryback'' for ''an investment credit carryback'', ''any credit'' for ''the investment credit'', and ''affected by a credit carryback'' for ''affected by a carryback''; and added subpar. (C).

Subsec. (d)(7). Pub. L. 95–628, §8(b)(2), redesignated par. (8) as (7). Former par. (7), which provided for a special period of limitation with respect to work incentive program credit carrybacks, was struck out.

Subsec. (d)(8). Pub. L. 95–628, §8(b)(2)(B), redesignated par. (8) as (7).

Subsec. (d)(9). Pub. L. 95–628, §8(b)(2)(A), struck out par. (9) which provided for a special period of limitation with respect to new employee credit carrybacks.

Subsecs. (g), (h). Pub. L. 95–600, §212(b)(1), added subsec. (g) and redesignated former subsec. (g) as (h).

1977—Subsec. (d)(9). Pub. L. 95–30 added par. (9).

1976—Subsec. (d)(2)(A)(ii). Pub. L. 94–455, §1906(a)(33)(A), struck out ''September 1, 1959, or'' after ''shall not expire before'' and '', whichever is the later'' after ''profits becomes final''.

Subsec. (d)(5). Pub. L. 94–455, §1906(a)(33)(B), struck out ''the later of the following dates: (A)'' after ''filed on or before'' and '', or (B) December 31, 1965'' after ''Health, Education, and Welfare''.

Subsec. (d)(7). Pub. L. 94–455, §2107(g)(2)(B), inserted '', an investment credit carryback,'' after ''net operating loss carryback''.

Subsec. (g)(7). Pub. L. 94–455, §1203(h)(3), added par. (7).

1974—Subsec. (d)(8). Pub. L. 93–406 added par. (8).

1971—Subsec. (d)(7). Pub. L. 92–178 added par. (7).

1969—Subsec. (d)(2). Pub. L. 91–172, §512(e)(2)(A), substituted ''loss or capital loss carrybacks'' for ''loss carrybacks'' in heading.

Subsec. (d)(2)(A). Pub. L. 91–172, §512(e)(2)(B), (C), substituted ''loss carryback or a capital loss carryback'' for ''loss carryback'' and ''operating loss or net capital loss which'' for ''operating loss which''.

Subsec. (d)(2)(B)(i). Pub. L. 91–172, §512(e)(2)(D), (E), substituted ''loss carryback or a capital loss carryback'' for ''loss carryback'' and inserted reference to short-term capital loss.

Subsec. (d)(2)(B)(ii). Pub. L. 91–172, §§311(d)(3), 512(e)(2)(F), substituted references to section ''1302(c)(1)'' and ''1302(c)(3)'' for section ''1302(e)(1)'' and ''1302(e)(3)'', respectively, and substituted ''loss carryback or a capital loss carryback, as the case may be,'' for ''loss carryback''.

Subsec. (d)(4)(A). Pub. L. 91–172, §512(e)(2)(G), substituted ''loss carryback or a capital loss carryback'' for ''loss carryback''.

Subsecs. (f), (g). Pub. L. 91–172, §101(h), added subsec. (f) and redesignated former subsec. (f) as (g).

1967—Subsec. (d)(4)(A). Pub. L. 90–225 inserted ''(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the end of such subsequent taxable year)'' after ''the unused investment credit which results in such carryback''.

1965—Subsec. (e)(1). Pub. L. 89–331 inserted ''or production'' after ''distillation'' in heading.

1964—Subsec. (d)(6). Pub. L. 88–571 added par. (6).

Pub. L. 88–272 designated existing provisions as clause (i) and added clause (ii) in par. (2)(B), and added par. (5).

1962—Subsec. (d)(2)(A). Pub. L. 87–794 inserted provisions stating that, with respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification under section 317 of the Trade Expansion Act of 1962, the period of limitations shall not expire before the expiration of the sixth month following the month in which such certification is issued to the taxpayer.

Subsec. (d)(4). Pub. L. 87–834 added par. (4).

1959—Subsec. (d)(2)(A). Pub. L. 86–280 inserted in first sentence exception with respect to overpayment as a result of elimination of excess profits by renegotiation.

1958—Subsec. (a). Pub. L. 85–866, §82(a), struck out from first sentence ''required to be'' after ''3 years from the time the return was'', and ''(determined without regard to any extension of time)'' before ''or 2 years''.

Subsec. (b)(2)(A). Pub. L. 85–866, §82(b), substituted ''Limit where claim not filed within 3-year period'' for ''Limit to amount paid within years'' in heading, and in text substituted ''within the period,'' for ''within the 3 years'', inserted ''equal to 3 years plus the period of any extension of time for filing the return'' and struck out provision that if the tax was required to be paid by means of a stamp, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

Subsec. (b)(2)(B). Pub. L. 85–866, §82(c), substituted ''Limit where claim not filed within 3-year period'' for ''Limit to amount paid within 2 years'' in heading.

Subsec. (d)(2)(A). Pub. L. 85–866, §82(d), substituted in first sentence ''15th day of the 40th month (or 39th month, in the case of a corporation)'' for ''15th day of the 39th month''.

1956—Subsec. (f)(5). Act Apr. 2, 1956, added par. (5).

Subsec. (f)(6). Act June 29, 1956, added par. (6).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, §3202(b), July 22, 1998, 112 Stat. 741, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to periods of disability before, on, or after the date of the enactment of this Act [July 22, 1998] but shall not apply to any claim for credit or refund which (without regard to such amendment) is barred by the operation of any law or rule of law (including res judicata) as of the date of the enactment of this Act.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1056(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].''

Section 1454(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [enacting section 7436 of this title, amending this section and sections 7421, 7453, and 7481 of this title, and renumbering section 7436 of this title as 7437] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note

under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1988 AMENDMENTS

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.

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 141(b)(3) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99–514, set out as a note under section 1 of this title.

Amendment by section 231(d)(3)(I) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1985, see section 231(g) of Pub. L. 99–514, set out as a note under section 41 of this title.

Amendment by section 1847(b)(15) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 163(b)(2) of Pub. L. 98–369 applicable to expenditures with respect to which the second taxable year described in section 118(b)(2)(B) of this title ends after Dec. 31, 1984, see section 163(c) of Pub. L. 98–369, set out as a note under section 118 of this title.

Amendment by section 211(b)(25) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98–369, set out as an Effective Date note under section 801 of this title.

Amendment by section 474(r)(40) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

Amendment by section 714(p)(2)(G) 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 735(c)(14) of Pub. L. 98–369 effective, except as otherwise provided, as if included in the provisions of the Highway Revenue Act of 1982, title V of Pub. L. 97–424, to which such amendment relates, see section 736 of Pub. L. 98–369, set out as a note under section 4051 of this title.

Amendment by section 2663(j)(5)(F) of Pub. L. 98–369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98–369, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 221(b)(2)(A) of Pub. L. 97–34 applicable to amounts paid or incurred after June 30, 1981, see section 221(d) of Pub. L. 97–34, as amended, set out as an Effective Date note under section 41 of this title.

Amendment by section 331(d)(2)(A) of Pub. L. 97–34 applicable to taxable years beginning after Dec. 31, 1981, see section 339 of Pub. L. 97–34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–598 effective on first day of first calendar month which begins more than 10 days after Dec. 24, 1980, see section 1(e) of Pub. L. 96–598, set out as a note under section 4071 of this title.

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

Amendment by section 102(a)(2)(B) of Pub. L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95–600, to which such amendment relates, see section 201 of Pub. L. 96–222, set out as a note under section 32 of this title.

Amendment by section 108(b)(1)(B) of Pub. L. 96–222 effective as if included in the provisions of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95–227, see section 108(b)(4) of Pub. L. 96–222, set out as a note under section 192 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Section 8(d) of Pub. L. 95–628 provided that: ''The amendments made by this section [amending this section and sections 6501, 6601, and 6611 of this title] shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act [Nov. 10, 1978].''

Amendment by section 212(b)(1) of Pub. L. 95–600 applicable to partnership items arising in partnership taxable years beginning after Dec. 31, 1978, see section 212(c) of Pub. L. 95–600, set out as a note under section 6501 of this title.

Amendment by section 703(p)(3) of Pub. L. 95–600 applicable with respect to losses sustained in taxable years ending Nov. 6, 1978, see section 703(p)(4) of Pub. L. 95–600, set out as a note under section 172 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95–30, set out as an Effective Date note under section 44B of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1203(h)(3) of Pub. L. 94–455 applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94–455, set out as a note under section 7701 of this title.

Amendment by section 1906(a)(33) of 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.

Amendment by section 2107(g)(2)(B) of Pub. L. 94–455 applicable to parts and accessories sold after Oct. 4, 1976, see section 2108(b) of Pub. L. 94–455, set out as a note under section 6416 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 effective Sept. 2, 1974, with exceptions specified in section 1461(b), (c) of Title 29, Labor, see section 1461(a) of Title 29.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92–178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(h) of Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172,

set out as an Effective Date note under section 4940 of this title.

Amendment by section 311(d)(3) of Pub. L. 91–172 applicable with respect to computation years (within the meaning of section 1302(c)(1) of this title) beginning after Dec. 31, 1969, and to base period years (within the meaning of section 1302(c)(3) of this title) applicable to such computation years, see section 311(e) of Pub. L. 91–172, set out as a note under section 1301 of this title.

Amendment by section 512(e)(2) of Pub. L. 91–172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91–172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90–225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–331 effective Nov. 8, 1965, see section 14 of Pub. L. 89–331.

EFFECTIVE DATE OF 1964 AMENDMENTS

Amendment by Pub. L. 88–571 effective, with respect to amounts added to policyholders surplus accounts, for taxable years beginning after Dec. 31, 1958, see section 3(f) of Pub. L. 88–571, set out as a note under section 815 of this title.

Amendment by Pub. L. 88–272, applicable to taxable years beginning after Dec. 31, 1964, see section 232(g) of Pub. L. 88–272, set out as an Effective Date note under section 1301 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–834 applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87–834, set out as an Effective Date note under section 46 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 1(c) of Pub. L. 86–280, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided in part that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to claims for credit or refund resulting from the elimination of excessive profits by renegotiation to which section 6511(d)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] applies.''

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 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.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

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.

EXTENSION OF TIME FOR FILING CLAIMS FOR TAX REFUNDS

Section 96 of Pub. L. 85–866 authorized refunds and credits for tax overpayments for any taxable year beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, based upon business, trade, or education expenses, if the proper claim were filed on or before Sept. 2, 1958, or within 60 days thereafter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 815, 2011, 2014, 6013, 6015, 6234, 6501, 6512, 6513, 6601, 6611, 6901 of this title.

§ 6512. Limitations in case of petition to Tax Court

(a) Effect of petition to Tax Court

If the Secretary has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, gift, and certain excise taxes) and if the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a) (or 7481(c) with respect to a determination of statutory interest or section 7481(d) solely with respect to a determination of estate tax by the Tax Court), no credit or refund of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 41, 42, 43, or 44 with respect to any act (or failure to act) to which such petition relates, in respect of which the Secretary has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Tax Court which has become final, and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Tax Court which has become final, and

(3) As to any amount collected after the period of limitation upon the making of levy or beginning a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Tax Court which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive, and

(4) As to overpayments attributable to partnership items, in accordance with subchapter C of chapter 63, and

(5) As to any amount collected within the period during which the Secretary is prohibited from making the assessment or from collecting by levy or through a proceeding in court under the provisions of section 6213(a), and

(6) As to overpayments the Secretary is authorized to refund or credit pending appeal as provided in subsection (b).

(b) Overpayment determined by Tax Court

(1) Jurisdiction to determine

Except as provided by paragraph (3) and by section 7463, if the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, of gift tax for the same calendar year, or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 41, 42, 43, or 44 with respect to any act (or failure to act) to which such petition relates, in respect of which the Secretary determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the Tax Court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Tax Court has become final, be credited or refunded to the taxpayer. If a notice of appeal in respect of the decision of the Tax Court is filed under section 7483, the Secretary is authorized to refund or credit the overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.

(2) Jurisdiction to enforce

If, after 120 days after a decision of the Tax Court has become final, the Secretary has failed to refund the overpayment determined by the Tax Court, together with the interest thereon as provided in subchapter B of chapter 67, then the Tax Court, upon motion by the taxpayer, shall have jurisdiction to order the refund of such overpayment and interest. An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(3) Limit on amount of credit or refund

No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

(A) after the mailing of the notice of deficiency,

(B) within the period which would be applicable under section 6511(b)(2), (c), or (d), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment, or

(C) within the period which would be applicable under section 6511(b)(2), (c), or (d), in respect of any claim for refund filed within the applicable period specified in section 6511 and before the date of the mailing of the notice of deficiency—

(i) which had not been disallowed before that date,

(ii) which had been disallowed before that date and in respect of which a timely suit for refund could have been commenced as of that date, or

(iii) in respect of which a suit for refund had been commenced before that date and within the period specified in section 6532.

In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d).

In a case described in subparagraph (B) where the date of the mailing of the notice of deficiency is during the third year after the due date (with extensions) for filing the return of tax and no return was filed before such date, the applicable period under subsections (a) and (b)(2) of section 6511 shall be 3 years.

(4) Denial of jurisdiction regarding certain credits and reductions

The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402.

(c) Cross references

(1) For provisions allowing determination of tax in title 11 cases, see section 505(a) of title 11 of the United States Code.

(2) For provision giving the Tax Court jurisdiction to award reasonable litigation costs in proceedings to enforce an overpayment determined by such court, see section 7430.

(Aug. 16, 1954, ch. 736, 68A Stat. 811; Pub. L. 87–870, § 4, Oct. 23, 1962, 76 Stat. 1161; Pub. L. 91–172, title I, § 101(j)(47), (48), title IX, § 960(b), Dec. 30, 1969, 83 Stat. 531, 734; Pub. L. 91–614, title I, § 102(d)(9), Dec. 31, 1970, 84 Stat. 1842; Pub. L. 93–406, title II, § 1016(a)(16), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94–455, title XIII, § 1307(d)(2)(F)(vii), title XVI, § 1605(b)(9), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1728, 1755, 1834; Pub. L. 95–600, title II, § 212(b)(2), Nov. 6, 1978, 92 Stat. 2819; Pub. L. 96–223, title I, § 101(f)(6), Apr. 2, 1980, 94 Stat. 253; Pub. L. 96–589, § 6(d)(3), Dec. 24, 1980, 94 Stat. 3408; Pub. L. 97–248, title IV, § 402(c)(8), (9), Sept. 3, 1982, 96 Stat. 668; Pub. L. 100–418, title I, § 1941(b)(2)(J), (K), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100–647, title VI, §§ 6244(a), (b)(2), 6246(b)(1), 6247(b)(1), Nov. 10, 1988, 102 Stat. 3750–3752; Pub. L. 105–34, title XII, §§ 1239(c)(2), 1282(a), title XIV, § 1451(a), (b), Aug. 5, 1997, 111 Stat. 1028, 1037, 1054; Pub. L. 105–206, title III, § 3464(b), (c), July 22, 1998, 112 Stat. 767; Pub. L. 106–554, § 1(a)(7) [title III, § 319(19)], Dec. 21, 2000, 114 Stat. 2763, 2763A–647.)

AMENDMENTS

2000—Subsec. (a)(1), (2), (5). Pub. L. 106–554 substituted a comma for a semicolon before ''and'' at end.

1998—Subsec. (a)(5), (6). Pub. L. 105–206, § 3464(b), added pars. (5) and (6).

Subsec. (b)(1). Pub. L. 105–206, § 3464(c), inserted at end ''If a notice of appeal in respect of the decision of the Tax Court is filed under section 7483, the Secretary is authorized to refund or credit the overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.''

1997—Subsec. (b)(2). Pub. L. 105–34, § 1451(a), inserted at end ''An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.''

Subsec. (b)(3). Pub. L. 105–34, § 1282(a), inserted concluding provisions ''In a case described in subparagraph (B) where the date of the mailing of the notice of deficiency is during the third year after the due date (with extensions) for filing the return of tax and no return

was filed before such date, the applicable period under subsections (a) and (b)(2) of section 6511 shall be 3 years.''

Pub. L. 105–34, §1239(c)(2), inserted concluding provisions ''In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d).''

Subsec. (b)(4). Pub. L. 105–34, §1451(b), added par. (4).

1988—Subsec. (a). Pub. L. 100–647, §6247(b)(1), substituted ''interest or section 7481(d) solely with respect to a determination of estate tax by the Tax Court)'' for ''interest)''.

Pub. L. 100–647, §6246(b)(1), inserted ''(or 7481(c) with respect to a determination of statutory interest)'' after ''section 6213(a)''.

Pub. L. 100–418, §1941(b)(2)(J), substituted ''or of tax imposed by chapter 41'' for ''of tax imposed by chapter 41'' and struck out '', or of tax imposed by chapter 45 for the same taxable period'' after ''to which such petition relates''.

Subsec. (b)(1). Pub. L. 100–647, §6244(a), substituted ''paragraph (3)'' for ''paragraph (2)''.

Pub. L. 100–418, §1941(b)(2)(K), substituted ''or of tax imposed by chapter 41'' for ''of tax imposed by chapter 41'' and struck out '', or of tax imposed by chapter 45 for the same taxable period'' after ''to which such petition relates''.

Subsec. (b)(2), (3). Pub. L. 100–647, §6244(a), added par. (2) and redesignated former par. (2) as (3).

Subsec. (c). Pub. L. 100–647, §6244(b)(2), substituted ''references'' for ''reference'' in heading, designated existing provisions as par. (1), and added par. (2).

1982—Subsec. (a)(4). Pub. L. 97–248, §402(c)(8), added par. (4).

Subsec. (b)(2). Pub. L. 97–248, §402(c)(9), substituted ''(c), or (d)'' for ''(c), (d), or (g)'' wherever appearing.

1980—Subsec. (a). Pub. L. 96–223, §101(f)(6)(A), substituted ''certain excise taxes'' for ''chapter 41, 42, 43, or 44 taxes'' and ''decedent, of tax imposed'' for ''decedent, or of tax imposed'' and inserted '', or of tax imposed by chapter 45 for the same taxable period'' after ''to which such petition relates'' in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 96–223, §101(f)(6)(B), substituted ''of tax imposed by chapter 41'' for ''or of tax imposed by chapter 41'' and inserted '', or of tax imposed by chapter 45 for the same taxable period'' after ''to which such petition relates''.

Subsec. (c). Pub. L. 96–589 added subsec. (c).

1978—Subsec. (b)(2). Pub. L. 95–600 substituted ''(c), (d), or (g)'' for ''(c), or (d)'' wherever appearing.

1976—Subsecs. (a), (b)(1). Pub. L. 94–455 substituted reference to chapter 41, 42, 43, or 44 for reference to chapter 42 or 43 and reference to Secretary for reference to Secretary or his delegate.

1974—Subsec. (a). Pub. L. 93–406 inserted reference to chapter 43 in provisions preceding par (1).

Subsec. (b)(1). Pub. L. 93–406 inserted reference to chapter 43.

1970—Pub. L. 91–614 substituted ''the same calendar year or calendar quarter'' for ''the same calendar year'' in two places.

1969—Subsec. (a). Pub. L. 91–172, §101(j)(47), inserted references to chapter 42 taxes.

Subsec. (b)(1). Pub. L. 91–172, §§101(j)(48), 960(b), inserted reference to chapter 42 taxes and inserted reference to the exception to the Tax Court's jurisdiction provided for in par. (2) and in section 7463 of this title.

1962—Subsec. (b)(2)(C). Pub. L. 87–870 added subpar. (C).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1239(c)(2) of Pub. L. 105–34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1239(f) of Pub. L. 105–34, set out as a note under section 6225 of this title.

Section 1282(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to claims for credit or refund for taxable years ending after the date of the enactment of this Act [Aug. 5, 1997].''

Section 1451(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 6244(a), (b)(2) of Pub. L. 100–647 applicable to overpayments determined by the Tax Court which have not been refunded by the 90th day after Nov. 10, 1988, see section 6244(c) of Pub. L. 100–647, set out as a note under section 6214 of this title.

Section 6246(c) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending this section and section 7481 of this title] shall apply to assessments of deficiencies redetermined by the Tax Court made after the date of the enactment of this Act [Nov. 10, 1988].''

Section 6247(c) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending this section and section 7481 of this title] shall be effective with respect to Tax Court cases for which the decision is not final on the date of the enactment of this Act [Nov. 10, 1988].''

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 applicable to partnership items arising in partnership taxable years beginning after Dec. 31, 1978, see section 212(c) of Pub. L. 95–600, set out as a note under section 6501 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(F)(vii) of Pub. L. 94–455 applicable to taxable years beginning after Dec. 31, 1976, see section 1307(e) of Pub. L. 94–455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91–614, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(47), (48) of Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 960(b) of Pub. L. 91–172 effective one year after Dec. 30, 1969, see section 962(e) of Pub. L. 91–172, set out as an Effective Date note under section 7463 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2011, 2014, 6015, 6212, 6213, 6214, 6404, 6513, 7436, 7463, 7481 of this title.

§ 6513. Time return deemed filed and tax considered paid

(a) Early return or advance payment of tax

For purposes of section 6511, any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day. For purposes of section 6511(b)(2) and (c) and section 6512, payment of any portion of the tax made before the last day prescribed for the payment of the tax shall be considered made on such last day. For purposes of this subsection, the last day prescribed for filing the return or paying the tax shall be determined without regard to any extension of time granted the taxpayer and without regard to any election to pay the tax in installments.

(b) Prepaid income tax

For purposes of section 6511 or 6512—

(1) Any tax actually deducted and withheld at the source during any calendar year under chapter 24 shall, in respect of the recipient of the income, be deemed to have been paid by him on the 15th day of the fourth month following the close of his taxable year with respect to which such tax is allowable as a credit under section 31.

(2) Any amount paid as estimated income tax for any taxable year shall be deemed to have been paid on the last day prescribed for filing the return under section 6012 for such taxable year (determined without regard to any extension of time for filing such return).

(3) Any tax withheld at the source under chapter 3 shall, in respect of the recipient of the income, be deemed to have been paid by such recipient on the last day prescribed for filing the return under section 6012 for the taxable year (determined without regard to any extension of time for filing) with respect to which such tax is allowable as a credit under section 1462. For this purpose, any exemption granted under section 6012 from the requirement of filing a return shall be disregarded.

(c) Return and payment of social security taxes and income tax withholding

Notwithstanding subsection (a), for purposes of section 6511 with respect to any tax imposed by chapter 3, 21, or 24—

(1) If a return for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such succeeding calendar year; and

(2) If a tax with respect to remuneration or other amount paid during any period ending with or within a calendar year is paid before April 15 of the succeeding calendar year, such tax shall be considered paid on April 15 of such succeeding calendar year.

(d) Overpayment of income tax credited to estimated tax

If any overpayment of income tax is, in accordance with section 6402(b), claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year (whether or not claimed as a credit in the return of estimated tax for such succeeding taxable year), and no claim for credit or refund of such overpayment shall be allowed for the taxable year in which the overpayment arises.

(e) Payments of Federal unemployment tax

Notwithstanding subsection (a), for purposes of section 6511 any payment of tax imposed by chapter 23 which, pursuant to section 6157, is made for a calendar quarter or other period within a calendar year shall, if made before the last day prescribed for filing the return for the calendar year (determined without regard to any extension of time for filing), be considered made on such last day.

(Aug. 16, 1954, ch. 736, 68A Stat. 812; Pub. L. 89–809, title I, § 105(f)(1), (2), Nov. 13, 1966, 80 Stat. 1567, 1568; Pub. L. 91–53, § 2(d), Aug. 7, 1969, 83 Stat. 92; Pub. L. 98–76, title II, § 231(b)(2)(C), Aug. 12, 1983, 97 Stat. 429; Pub. L. 100–647, title VII, § 7106(c)(4), Nov. 10, 1988, 102 Stat. 3774.)

AMENDMENTS

1988—Subsec. (e). Pub. L. 100–647 struck out last sentence which read as follows: ''Notwithstanding subsection (a), for purposes of section 6511, any payment of tax imposed by chapter 23A which, pursuant to section 6157, is made for a calendar quarter within a taxable period shall, if made before the last day prescribed for filing the return for the taxable period (determined without regard to any extension of time for filing), be considered made on such last day.''

1983—Subsec. (e). Pub. L. 98–76 inserted provisions that notwithstanding subsection (a), for purposes of section 6511, any payment of tax imposed by chapter 23A which, pursuant to section 6157, is made for a calendar quarter within a taxable period shall, if made before the last day prescribed for filing the return for the taxable period (determined without regard to any extension of time for filing), be considered made on such last day.

1969—Subsec. (e). Pub. L. 91–53 added subsec. (e).

1966—Subsec. (b). Pub. L. 89–809, § 105(f)(1), designated existing provisions as pars. (1) and (2) and added par. (3).

Subsec. (c). Pub. L. 89–809, § 105(f)(2), inserted reference to chapter 3 in provisions preceding par. (1) and ''or other amount'' after ''remuneration'' in par. (2).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 applicable to remuneration paid after Dec. 31, 1988, see section 7106(d) of Pub. L. 100–647, set out as a note under section 3321 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–76 applicable to remuneration paid after June 30, 1986, see section 231(d) of Pub. L. 98–76, set out as an Effective Date note under section 3321 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–53 applicable with respect to calendar years beginning after Dec. 31, 1969, see sec-

tion 4(a) of Pub. L. 91–53, set out as an Effective Date note under section 6157 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–809 effective Nov. 13, 1966, see section 105(f)(4) of Pub. L. 89–809, set out as a note under section 6501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6511, 6531, 6611 of this title.

§6514. Credits or refunds after period of limitation

(a) Credits or refunds after period of limitation

A refund of any portion of an internal revenue tax shall be considered erroneous and a credit of any such portion shall be considered void—

(1) Expiration of period for filing claim

If made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(2) Disallowance of claim and expiration of period for filing suit

In the case of a claim filed within the proper time and disallowed by the Secretary, if the credit or refund was made after the expiration of the period of limitation for filing suit, unless within such period suit was begun by the taxpayer.

(3) Recovery of erroneous refunds

For procedure by the United States to recover erroneous refunds, see sections 6532(b) and 7405.

(b) Credit after period of limitation

Any credit against a liability in respect of any taxable year shall be void if any payment in respect of such liability would be considered an overpayment under section 6401(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 812; Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7405 of this title.

§6515. Cross references

For limitations in case of—

(1) Deficiency dividends of a personal holding company, see section 547.

(2) Tentative carry-back adjustments, see section 6411.

(3) Service in a combat zone, etc., see section 7508.

(4) Suits for refund by taxpayers, see section 6532(a).

(5) Deficiency dividends of a regulated investment company or real estate investment trust, see section 860.

(6) Refunds or credits attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230.

(Aug. 16, 1954, ch. 736, 68A Stat. 813; Pub. L. 94–455, title XVI, §1601(f)(3), title XIX, §1901(b)(36)(D), (37)(E), Oct. 4, 1976, 90 Stat. 1746, 1802, 1803; Pub. L. 95–600, title III, §362(d)(4), Nov. 6, 1978, 92 Stat. 2852; Pub. L. 97–248, title IV, §402(c)(10), Sept. 3, 1982, 96 Stat. 668; Pub. L. 101–508, title XI, §11801(c)(17)(C), Nov. 5, 1990, 104 Stat. 1388–528.)

AMENDMENTS

1990—Pub. L. 101–508 struck out par. (2) and redesignated the succeeding pars. accordingly, which was executed with respect to the succeeding pars. (consisting of pars. (3) to (7)) by redesignating such pars. as (2) to (6), respectively. Prior to amendment, par. (2) provided a cross reference to section 1481 for overpayment in certain renegotiations of war contracts.

1982—Par. (7). Pub. L. 97–248 added par. (7).

1978—Par. (6). Pub. L. 95–600 inserted ''regulated investment company or'' before ''real estate investment trust'' and substituted ''section 860'' for ''section 859''. Notwithstanding the directory language that the amendment be made to par. (5), the amendment was executed to par. (6) to reflect the probable intent of Congress.

1976—Par. (1). Pub. L. 94–455, §1901(b)(36)(D), (b)(37)(E), redesignated par. (3) as (1). Former par. (1), which referred to section 1321 for adjustments incident to involuntary liquidation of inventory, was struck out.

Par. (2). Pub. L. 94–455, §1901(b)(37)(E), redesignated par. (4) as (2). Former par. (2), which referred to section 1335 for war loss recoveries where the prior benefit rule was elected, was struck out.

Pars. (3) to (7). Pub. L. 94–455, §1901(b)(37)(E), redesignated pars. (3) to (7) as (1) to (5), respectively.

Par. (8). Pub. L. 94–455, §1601(f)(3), added par. (8) which was redesignated par. (6) by section 1901(b)(37)(E) of Pub. L. 94–455.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for applicability of amendment to any partnership taxable year ending after Sept. 3, 1982, if partnership, each partner, and each indirect partner requests such application and Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 applicable with respect to determinations (as defined in section 860(e) of this title) after Nov. 6, 1978, see section 362(e) of Pub. L. 95–600, set out as an Effective Date note under section 860 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by section 1601(f)(3) of Pub. L. 94–455, see section 1608(a) of Pub. L. 94–455, set out as a note under section 857 of this title.

Amendment by section 1901(b)(36)(D), (37)(E) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

Subchapter C—Mitigation of Effect of Period of Limitations

Sec.
6521. Mitigation of effect of limitation in case of related taxes under different chapters.

§ 6521. Mitigation of effect of limitation in case of related taxes under different chapters

(a) Self-employment tax and tax on wages

In the case of the tax imposed by chapter 2 (relating to tax on self-employment income) and the tax imposed by section 3101 (relating to tax on employees under the Federal Insurance Contributions Act)—

(1) If an amount is erroneously treated as self-employment income, or if an amount is erroneously treated as wages, and

(2) If the correction of the error would require an assessment of one such tax and the refund or credit of the other tax, and

(3) If at any time the correction of the error is authorized as to one such tax but is prevented as to the other tax by any law or rule of law (other than section 7122, relating to compromises),

then, if the correction authorized is made, the amount of the assessment, or the amount of the credit or refund, as the case may be, authorized as to the one tax shall be reduced by the amount of the credit or refund, or the amount of the assessment, as the case may be, which would be required with respect to such other tax for the correction of the error if such credit or refund, or such assessment, of such other tax were not prevented by any law or rule of law (other than section 7122, relating to compromises).

(b) Definitions

For purposes of subsection (a), the terms ''self-employment income'' and ''wages'' shall have the same meaning as when used in section 1402(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 814.)

REFERENCES IN TEXT

The Federal Insurance Contributions Act, referred to in subsec. (a), is act Aug. 16, 1954, ch. 736, §§3101, 3102, 3111, 3112, 3121 to 3128, 68A Stat. 415, as amended, which is classified generally to chapter 21 (§3101 et seq.) of this title. For complete classification of this Act to the Code, see section 3128 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3509 of this title.

Subchapter D—Periods of Limitation in Judicial Proceedings

Sec.
6531. Periods of limitation on criminal prosecutions.
6532. Periods of limitation on suits.
6533. Cross references.

§ 6531. Periods of limitation on criminal prosecutions

No person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws unless the indictment is found or the information instituted within 3 years next after the commission of the offense, except that the period of limitation shall be 6 years—

(1) for offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner;

(2) for the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof;

(3) for the offense of willfully aiding or assisting in, or procuring, counseling, or advising, the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document);

(4) for the offense of willfully failing to pay any tax, or make any return (other than a return required under authority of part III of subchapter A of chapter 61) at the time or times required by law or regulations;

(5) for offenses described in sections 7206(1) and 7207 (relating to false statements and fraudulent documents);

(6) for the offense described in section 7212(a) (relating to intimidation of officers and employees of the United States);

(7) for offenses described in section 7214(a) committed by officers and employees of the United States; and

(8) for offenses arising under section 371 of Title 18 of the United States Code, where the object of the conspiracy is to attempt in any manner to evade or defeat any tax or the payment thereof.

The time during which the person committing any of the various offenses arising under the internal revenue laws is outside the United States or is a fugitive from justice within the meaning of section 3290 of Title 18 of the United States Code, shall not be taken as any part of the time limited by law for the commencement of such proceedings. (The preceding sentence shall also be deemed an amendment to section 3748(a) of the Internal Revenue Code of 1939, and shall apply in lieu of the sentence in section 3748(a) which relates to the time during which a person committing an offense is absent from the district wherein the same is committed, except that such amendment shall apply only if the period of limitations under section 3748 would, without the application of such amendment, expire more than 3 years after the date of enactment of this title, and except that such period shall not, with the application of this amendment, expire prior to the date which is 3 years after the date of enactment of this title.) Where a complaint is instituted before a commissioner of the United States within the period above limited, the time shall be extended until the date which is 9 months after the date of the making of the complaint before the commissioner of the United States. For the purpose of determining the periods of limitation on criminal prosecutions, the rules of section 6513 shall be applicable.

(Aug. 16, 1954, ch. 736, 68A Stat. 815.)

REFERENCES IN TEXT

Section 3748(a) of the Internal Revenue Code of 1939, referred to in text, was classified to section 3748(a) of former Title 26, Internal Revenue Code. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title. See, also, section

7851(a)(6)(B) of this title for applicability of section 3748 of former Title 26. See also section 7851(e) for provision that references in the 1986 Code to a provision of the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

The date of enactment of this title, referred to in text, is Aug. 16, 1986 [formerly I.R.C. 1954], the date of enactment of the Internal Revenue Code of 1954.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 982, 6038A, 6330, 7609 of this title.

§ 6532. Periods of limitation on suits

(a) Suits by taxpayers for refund

(1) General rule

No suit or proceeding under section 7422(a) for the recovery of any internal revenue tax, penalty, or other sum, shall be begun before the expiration of 6 months from the date of filing the claim required under such section unless the Secretary renders a decision thereon within that time, nor after the expiration of 2 years from the date of mailing by certified mail or registered mail by the Secretary to the taxpayer of a notice of the disallowance of the part of the claim to which the suit or proceeding relates.

(2) Extension of time

The 2-year period prescribed in paragraph (1) shall be extended for such period as may be agreed upon in writing between the taxpayer and the Secretary.

(3) Waiver of notice of disallowance

If any person files a written waiver of the requirement that he be mailed a notice of disallowance, the 2-year period prescribed in paragraph (1) shall begin on the date such waiver is filed.

(4) Reconsideration after mailing of notice

Any consideration, reconsideration, or action by the Secretary with respect to such claim following the mailing of a notice by certified mail or registered mail of disallowance shall not operate to extend the period within which suit may be begun.

(5) Cross reference

For substitution of 120-day period for the 6-month period contained in paragraph (1) in a title 11 case, see section 505(a)(2) of title 11 of the United States Code.

(b) Suits by United States for recovery of erroneous refunds

Recovery of an erroneous refund by suit under section 7405 shall be allowed only if such suit is begun within 2 years after the making of such refund, except that such suit may be brought at any time within 5 years from the making of the refund if it appears that any part of the refund was induced by fraud or misrepresentation of a material fact.

(c) Suits by persons other than taxpayers

(1) General rule

Except as provided by paragraph (2), no suit or proceeding under section 7426 shall be begun after the expiration of 9 months from the date of the levy or agreement giving rise to such action.

(2) Period when claim is filed

If a request is made for the return of property described in section 6343(b), the 9-month period prescribed in paragraph (1) shall be extended for a period of 12 months from the date of filing of such request or for a period of 6 months from the date of mailing by registered or certified mail by the Secretary to the person making such request of a notice of disallowance of the part of the request to which the action relates, whichever is shorter.

(Aug. 16, 1954, ch. 736, 68A Stat. 816; Pub. L. 85–866, title I, § 89(b), Sept. 2, 1958, 72 Stat. 1665; Pub. L. 89–719, title I, § 110(b), Nov. 2, 1966, 80 Stat. 1144; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–589, § 6(d)(4), Dec. 24, 1980, 94 Stat. 3408.)

AMENDMENTS

1980—Subsec. (a)(5). Pub. L. 96–589 added par. (5).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1966—Subsec. (c). Pub. L. 89–719 added subsec. (c).

1958—Subsec. (a)(1), (4). Pub. L. 85–866 inserted ''certified mail or'' before ''registered mail'' wherever appearing.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 applicable only if mailing occurs after Sept. 2, 1958, see section 89(d) of Pub. L. 85–866, set out as a note under section 7502 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6015, 6230, 6234, 6330, 6512, 6514, 6515, 7405, 7426, 7479 of this title.

§ 6533. Cross references

(1) For period of limitation in respect of civil actions for fines, penalties, and forfeitures, see section 2462 of Title 28 of the United States Code.

(2) For extensions of time by reason of armed service in a combat zone, see section 7508.

(3) For suspension of running of statute until 3 years after termination of hostilities, see section 3287 of Title 18.

(Aug. 16, 1954, ch. 736, 68A Stat. 816.)

CHAPTER 67—INTEREST

Subchapter		Sec.[1]
A.	Interest on underpayments	6601
B.	Interest on overpayments	6611
C.	Determination of interest rate; compounding of interest	6621

[1] Section numbers editorially supplied.

D. Notice requirements 6631

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3308(b), July 22, 1998, 112 Stat. 745, added item for subchapter D.

1982—Pub. L. 97–248, title III, § 344(b)(3)(B), Sept. 3, 1982, 96 Stat. 636, inserted ''; compounding of interest'' after ''rate'' in item for subchapter C.

1975—Pub. L. 93–625, § 7(d)(5), Jan. 3, 1975, 88 Stat. 2115, added item for subchapter C.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6226, 6242, 6247 of this title.

Subchapter A—Interest on Underpayments

Sec.
6601. Interest on underpayment, nonpayment, or extensions of time for payment, of tax.
6602. Interest on erroneous refund recoverable by suit.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6621 of this title.

§ 6601. Interest on underpayment, nonpayment, or extensions of time for payment, of tax

(a) General rule

If any amount of tax imposed by this title (whether required to be shown on a return, or to be paid by stamp or by some other method) is not paid on or before the last date prescribed for payment, interest on such amount at the underpayment rate established under section 6621 shall be paid for the period from such last date to the date paid.

(b) Last date prescribed for payment

For purposes of this section, the last date prescribed for payment of the tax shall be determined under chapter 62 with the application of the following rules:

(1) Extensions of time disregarded

The last date prescribed for payment shall be determined without regard to any extension of time for payment or any installment agreement entered into under section 6159.

(2) Installment payments

In the case of an election under section 6156(a) to pay the tax in installments—

(A) The date prescribed for payment of each installment of the tax shown on the return shall be determined under section 6156(b), and

(B) The last date prescribed for payment of the first installment shall be deemed the last date prescribed for payment of any portion of the tax not shown on the return.

(3) Jeopardy

The last date prescribed for payment shall be determined without regard to any notice and demand for payment issued, by reason of jeopardy (as provided in chapter 70), prior to the last date otherwise prescribed for such payment.

(4) Accumulated earnings tax

In the case of the tax imposed by section 531 for any taxable year, the last date prescribed for payment shall be deemed to be the due date (without regard to extensions) for the return of tax imposed by subtitle A for such taxable year.

(5) Last date for payment not otherwise prescribed

In the case of taxes payable by stamp and in all other cases in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for tax arises (and in no event shall be later than the date notice and demand for the tax is made by the Secretary).

(c) Suspension of interest in certain income, estate, gift, and certain excise tax cases

In the case of a deficiency as defined in section 6211 (relating to income, estate, gift, and certain excise taxes), if a waiver of restrictions under section 6213(d) on the assessment of such deficiency has been filed, and if notice and demand by the Secretary for payment of such deficiency is not made within 30 days after the filing of such waiver, interest shall not be imposed on such deficiency for the period beginning immediately after such 30th day and ending with the date of notice and demand and interest shall not be imposed during such period on any interest with respect to such deficiency for any prior period. In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence.

(d) Income tax reduced by carryback or adjustment for certain unused deductions

(1) Net operating loss or capital loss carryback

If the amount of any tax imposed by subtitle A is reduced by reason of a carryback of a net operating loss or net capital loss, such reduction in tax shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which the net operating loss or net capital loss arises.

(2) Foreign tax credit carrybacks

If any credit allowed for any taxable year is increased by reason of a carryback of tax paid or accrued to foreign countries or possessions of the United States, such increase shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year.

(3) Certain credit carrybacks

(A) In general

If any credit allowed for any taxable year is increased by reason of a credit carryback,

such increase shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which the credit carryback arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the filing date for such subsequent taxable year.

(B) Credit carryback defined

For purposes of this paragraph, the term ''credit carryback'' has the meaning given such term by section 6511(d)(4)(C).

(4) Filing date

For purposes of this subsection, the term ''filing date'' has the meaning given to such term by section 6611(f)(3)(A).[1]

(e) Applicable rules

Except as otherwise provided in this title—

(1) Interest treated as tax

Interest prescribed under this section on any tax shall be paid upon notice and demand, and shall be assessed, collected, and paid in the same manner as taxes. Any reference to this title (except subchapter B of chapter 63, relating to deficiency procedures) to any tax imposed by this title shall be deemed also to refer to interest imposed by this section on such tax.

(2) Interest on penalties, additional amounts, or additions to the tax

(A) In general

Interest shall be imposed under subsection (a) in respect of any assessable penalty, additional amount, or addition to the tax (other than an addition to tax imposed under section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 68) only if such assessable penalty, additional amount, or addition to the tax is not paid within 21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000), and in such case interest shall be imposed only for the period from the date of the notice and demand to the date of payment.

(B) Interest on certain additions to tax

Interest shall be imposed under this section with respect to any addition to tax imposed by section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 68 for the period which—

(i) begins on the date on which the return of the tax with respect to which such addition to tax is imposed is required to be filed (including any extensions), and

(ii) ends on the date of payment of such addition to tax.

(3) Payments made within specified period after notice and demand

If notice and demand is made for payment of any amount and if such amount is paid within 21 calendar days (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.

(f) Satisfaction by credits

If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this section on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowable with respect to such overpayment. The preceding sentence shall not apply to the extent that section 6621(d) applies.

(g) Limitation on assessment and collection

Interest prescribed under this section on any tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be collected.

(h) Exception as to estimated tax

This section shall not apply to any failure to pay any estimated tax required to be paid by section 6654 or 6655.

(i) Exception as to Federal unemployment tax

This section shall not apply to any failure to make a payment of tax imposed by section 3301 for a calendar quarter or other period within a taxable year required under authority of section 6157.

(j) 2-percent rate on certain portion of estate tax extended under section 6166

(1) In general

If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, then in lieu of the annual rate provided by subsection (a)—

(A) interest on the 2-percent portion of such amount shall be paid at the rate of 2 percent, and

(B) interest on so much of such amount as exceeds the 2-percent portion shall be paid at a rate equal to 45 percent of the annual rate provided by subsection (a).

For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

(2) 2-percent portion

For purposes of this subsection, the term ''2-percent portion'' means the lesser of—

(A)(i) the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the sum of $1,000,000 and the applicable exclusion amount in effect under section 2010(c), reduced by

(ii) the applicable credit amount in effect under section 2010(c), or

[1] See References in Text note below.

(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.

(3) Inflation adjustment

In the case of estates of decedents dying in a calendar year after 1998, the $1,000,000 amount contained in paragraph (2)(A) shall be increased by an amount equal to—

(A) $1,000,000, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ''calendar year 1997'' for ''calendar year 1992'' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.

(4) Treatment of payments

If the amount of tax imposed by chapter 11 which is extended as provided in section 6166 exceeds the 2-percent portion, any payment of a portion of such amount shall, for purposes of computing interest for periods after such payment, be treated as reducing the 2-percent portion by an amount which bears the same ratio to the amount of such payment as the amount of the 2-percent portion (determined without regard to this paragraph) bears to the amount of the tax which is extended as provided in section 6166.

(k) No interest on certain adjustments

For provisions prohibiting interest on certain adjustments in tax, see section 6205(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 817; Pub. L. 85–866, title I, §§66(c), 83(a)(1), 84(a), title II, §206(e), Sept. 2, 1958, 72 Stat. 1658, 1663, 1664, 1685; Pub. L. 87–61, title II, §203(c)(2), June 29, 1961, 75 Stat. 126; Pub. L. 87–834, §2(e)(3), Oct. 16, 1962, 76 Stat. 972; Pub. L. 88–571, §3(d), Sept. 2, 1964, 78 Stat. 858; Pub. L. 89–384, §1(f), Apr. 8, 1966, 80 Stat. 104; Pub. L. 90–225, §2(e), Dec. 27, 1967, 81 Stat. 731; Pub. L. 91–53, §2(e), Aug. 7, 1969, 83 Stat. 92; Pub. L. 91–172, title I, §101(j)(49), title V, §512(e)(3), Dec. 30, 1969, 83 Stat. 531, 641; Pub. L. 92–178, title VI, §601(d)(3), Dec. 10, 1971, 85 Stat. 559; Pub. L. 93–406, title II, §1016(a)(17), Sept. 2, 1974, 88 Stat. 930; Pub. L. 93–625, §7(a)(2)(A), (b)(1), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94–452, §3(c)(3), Oct. 2, 1976, 90 Stat. 1514; Pub. L. 94–455, title XIII, §1307(d)(2)(H), title XVI, §1605(b)(10), title XIX, §§1906(a)(34), (b)(13)(A), title XX, §2004(b), title XXI, §2107(g)(2)(C), Oct. 4, 1976, 90 Stat. 1728, 1755, 1829, 1834, 1867, 1904; Pub. L. 95–30, title II, §202(d)(4)(C), May 23, 1977, 91 Stat. 150; Pub. L. 95–628, §8(c)(2), Nov. 10, 1978, 92 Stat. 3632; Pub. L. 96–223, title I, §101(f)(7), Apr. 2, 1980, 94 Stat. 253; Pub. L. 97–248, title III, §§344(b)(1), 346(c)(2), Sept. 3, 1982, 96 Stat. 635, 637; Pub. L. 98–76, title II, §231(b)(2)(D), Aug. 12, 1983, 97 Stat. 429; Pub. L. 98–369, div. A, title I, §158(a), title II, §211(b)(26), title IV, §412(b)(7), title VII, §714(n)(1), July 18, 1984, 98 Stat. 696, 757, 792, 963; Pub. L. 99–514, title XIV, §1404(c)(3), title XV, §§1511(c)(11), 1512(a), 1564(a), Oct. 22, 1986, 100 Stat. 2714, 2745, 2746, 2762; Pub. L. 100–203, title X, §10301(b)(5), Dec. 22, 1987, 101 Stat. 1330–429; Pub. L. 100–647, title I, §§1015(b)(2)(C), 1018(u)(42), title VI, §6234(b)(1), title VII, §7106(c)(5), Nov. 10, 1988, 102 Stat. 3569, 3592, 3736, 3774; Pub. L. 101–239, title VII, §7721(c)(8), Dec. 19, 1989, 103 Stat. 2400; Pub. L. 101–508, title XI, §11801(c)(20)(B), Nov. 5, 1990, 104 Stat. 1388–528; Pub. L. 104–168, title III, §303(a), (b)(1), July 30, 1996, 110 Stat. 1458; Pub. L. 105–34, title V, §§501(e), 503(a), (c)(2), (3), title X, §1055(a), title XII, §1242(a), Aug. 5, 1997, 111 Stat. 846, 852, 853, 944, 1029; Pub. L. 105–206, title III, §3301(b), July 22, 1998, 112 Stat. 741.)

ADJUSTMENT OF DOLLAR AMOUNT USED IN DETERMINING ''2-PERCENT PORTION''

For adjustment of dollar amount used in determining ''2-percent portion'' for purpose of calculating interest under subsec. (j) of this section in the case of decedents dying in calendar year 2001, see section 3.25 of Revenue Procedure 2001–13, set out as a note under section 1 of this title.

REFERENCES IN TEXT

Section 6611(f)(3)(A), referred to in subsec. (d)(4), was redesignated section 6611(f)(4)(A) of this title by Pub. L. 105–34, title X, §1055(b)(1), Aug. 5, 1997, 111 Stat. 944.

AMENDMENTS

1998—Subsec. (f). Pub. L. 105–206 inserted at end ''The preceding sentence shall not apply to the extent that section 6621(d) applies.''

1997—Subsec. (c). Pub. L. 105–34, §1242(a), inserted at end ''In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence.''

Subsec. (d)(2) to (4). Pub. L. 105–34, §1055(a), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (j). Pub. L. 105–34, §503(c)(3), substituted ''2-percent'' for ''4-percent'' in heading.

Subsec. (j)(1). Pub. L. 105–34, §503(a), reenacted par. heading without change and amended text generally. Prior to amendment, text read as follows: ''If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, interest on the 4-percent portion of such amount shall (in lieu of the annual rate provided by subsection (a)) be paid at the rate of 4 percent. For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.''

Subsec. (j)(2). Pub. L. 105–34, §503(a), amended heading and text generally. Prior to amendment, text read as follows: ''For purposes of this subsection, the term '4-percent portion' means the lesser of—

''(A) $345,800 reduced by the amount of the credit allowable under section 2010(a); or

''(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.''

Subsec. (j)(3). Pub. L. 105–34, §501(e), added par. (3). Former par. (3) redesignated (4).

Subsec. (j)(4). Pub. L. 105–34, §503(c)(2), substituted ''2-percent'' for ''4-percent'' wherever appearing.

Pub. L. 105–34, §501(e), redesignated par. (3) as (4).

1996—Subsec. (e)(2)(A). Pub. L. 104–168, §303(b)(1), substituted ''21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)'' for ''10 days from the date of notice and demand therefor''.

Subsec. (e)(3). Pub. L. 104–168, §303(a), substituted ''specified period'' for ''10 days'' in heading and amend-

ed text generally. Prior to amendment, text read as follows: ''If notice and demand is made for payment of any amount, and if such amount is paid within 10 days after the date of such notice and demand interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.''

1990—Subsec. (b)(2). Pub. L. 101–508 struck out ''or 6158(a)'' after ''6156(a)'' in introductory provisions, struck out ''or 6158(a), as the case may be'' after ''6156(a)'' in subpar. (A), and struck out at end ''For purposes of subparagraph (A), section 6158(a) shall be treated as providing that the date prescribed for payment of each installment shall not be later than the date prescribed for payment of the 1985 installment.''

1989—Subsec. (e)(2). Pub. L. 101–239 substituted ''section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 68'' for ''section 6651(a)(1), 6653, 6659, 6660, or 6661'' in subpars. (A) and (B).

1988—Subsec. (b)(1). Pub. L. 100–647, § 6234(b)(1), inserted ''or any installment agreement entered into under section 6159'' after ''time for payment''.

Subsec. (b)(2). Pub. L. 100–647, § 1018(u)(42), made technical correction to directory language of Pub. L. 99–514, § 1404(c)(3), see 1986 Amendment note below.

Subsec. (e)(2)(A), (B). Pub. L. 100–647, § 1015(b)(2)(C), substituted ''6653, 6659'' for ''6659''.

Subsec. (i). Pub. L. 100–647, § 7106(c)(5), struck out ''or 3321'' after ''3301''.

1987—Subsec. (h). Pub. L. 100–203 substituted ''section 6654 or 6655'' for ''section 6154 or 6654''.

1986—Subsec. (a). Pub. L. 99–514, § 1511(c)(11), substituted ''the underpayment rate established under section 6621'' for ''an annual rate established under section 6621''.

Subsec. (b)(2). Pub. L. 99–514, § 1404(c)(3), as amended by Pub. L. 100–647, § 1018(u)(42), substituted ''6156(a) or 6158(a)'' for ''6152(a), 6156(a), or 6158(a)'' in introductory provisions and ''6156(b) or 6158(a)'' for ''6152(b), 6156(b), or 6158(a)'' in subpar. (A).

Subsec. (b)(4), (5). Pub. L. 99–514, § 1512(a), added par. (4) and redesignated former par. (4) as (5).

Subsec. (c). Pub. L. 99–514, § 1564(a), inserted ''and interest shall not be imposed during such period on any interest with respect to such deficiency for any prior period''.

1984—Subsec. (d)(2)(A). Pub. L. 98–369, § 714(n)(1), made technical correction to directory language of Pub. L. 97–248, § 346(c)(2)(B). See 1982 Amendment note below.

Subsec. (d)(3), (4). Pub. L. 98–369, § 211(b)(26), redesignated par. (4) as (3) and struck out former par. (3) which had provided that if the amount of any tax imposed by subtitle A was reduced by operation of section 815(d)(5) (relating to reduction of policyholders surplus account of life insurance companies for certain unused deductions), such reduction in tax would not affect the computation of interest under this section for the period ending with the last day of the last taxable year to which the loss described in section 815(d)(5)(A) was carried under section 812(b)(2).

Subsec. (e)(2). Pub. L. 98–369, § 158(a), in amending par. (2) generally, inserted ''(other than an addition to tax imposed under section 6651(a)(1), 6659, 6660, or 6661)'', and added subpar. (B).

Subsec. (h). Pub. L. 98–369, § 412(b)(7), amended subsec. (h) generally, substituting ''any estimated tax required to be paid by section 6154 or 6654'' for ''estimated tax required by section 6153 or section 6154''.

1983—Subsec. (i). Pub. L. 98–76 inserted ''or 3321'' after ''3301''.

1982—Subsec. (d)(1). Pub. L. 97–248, § 346(c)(2)(A), substituted ''the filing date for the taxable year'' for ''the last day of the taxable year''.

Subsec. (d)(2)(A). Pub. L. 97–248, § 346(c)(2)(B), as amended by Pub. L. 98–369, § 346(c)(2)(B), substituted ''the filing date for'' for ''the last day of'' in two places.

Subsec. (d)(4). Pub. L. 97–248, § 346(c)(2)(C), added par. (4).

Subsec. (e). Pub. L. 97–248, § 344(b)(1), struck out par. (2) which had provided that no interest under this section was to be imposed on the interest provided by this section, and redesignated pars. (3) and (4) as (2) and (3), respectively.

1980—Subsec. (c). Pub. L. 96–223 substituted ''certain excise tax cases'' for ''chapter 41, 42, 43, or 44 tax cases'' in heading.

1978—Subsec. (d)(2). Pub. L. 95–628, § 8(c)(2)(A), substituted in heading ''Certain credit carrybacks'' for ''Investment credit carryback'', designated existing provision as subpar. (A), and in subpar. (A) as so designated, inserted heading ''In general'' and in text extended the application of the provision to credit carrybacks, previously limited to investment credit carrybacks, included other credit carrybacks, and added subpar. (B).

Subsec. (d)(4), (5). Pub. L. 95–628, § 8(c)(2)(B), struck out pars. (4) and (5) which provided for work incentive program credit carrybacks and new employee credit carrybacks, respectively.

1977—Subsec. (d)(5). Pub. L. 95–30 added par. (5).

1976—Subsec. (b)(2). Pub. L. 94–452 substituted '', 6156(a), or 6158(a)'' for ''or 6156(a)'' and '', 6156(b), or 6158(a)'' for ''or 6156(b)'' and inserted requirement that for purposes of subparagraph (A), section 6158(a) of this title shall be treated as providing that the date prescribed for payment of each installment shall not be later than the date prescribed for payment of the 1985 installment.

Subsec. (b)(4). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (c). Pub. L. 94–455, §§ 1307(d)(2)(H), 1605(b)(10), substituted in heading ''chapter 41, 42'' for ''chapter 42'' and ''43, or 44'' for ''or 43''.

Subsec. (d)(4). Pub. L. 94–455, § 2107(g)(2)(C), inserted '', an investment credit carryback,'' after ''net operating loss carryback''.

Subsec. (h). Pub. L. 94–455, § 1906(a)(34), struck out ''(or section 59 of the Internal Revenue Code of 1939)''.

Subsecs. (j), (k). Pub. L. 94–455, § 2004(b), added subsec. (j) and redesignated former subsec. (j) as (k).

1975—Subsec. (a). Pub. L. 93–625, § 7(a)(2)(A), substituted ''an annual rate established under section 6621'' for ''the rate of 6 percent per annum''.

Subsecs. (b) to (*l*). Pub. L. 93–625, § 7(b)(1), struck out subsec. (b) relating to extensions of time for payment of estate tax, redesignated subsecs. (c) to (i) as (b) to (h), respectively, struck out subsec. (j) relating to extensions of time for payment of tax attributable to recoveries of foreign expropriation losses, and redesignated subsecs. (k) and (*l*) as (i) and (j), respectively.

1974—Subsec. (d). Pub. L. 93–406 inserted reference to chapter 43 in heading, and substituted ''certain excise'' for ''chapter 42'' in text.

1971—Subsec. (e)(4). Pub. L. 92–178 added par. (4).

1969—Subsec. (d). Pub. L. 91–172, § 101(j)(49), inserted reference to chapter 42 both in subsec. heading and in text.

Subsec. (e)(1). Pub. L. 91–172, § 512(e)(3)(A), (B), substituted ''loss or capital loss carryback'' for ''loss carryback'' in heading, and ''net operating loss or net capital loss'' for ''net operating loss'' wherever it appears in text.

Subsec. (e)(2). Pub. L. 91–172, § 512(e)(3)(C), substituted ''loss carryback or a capital loss carryback'' for ''loss carryback''.

Subsecs. (k), (*l*). Pub. L. 91–53 added subsec. (k) and redesignated former subsec. (k) as (*l*).

1967—Subsec. (e)(2). Pub. L. 90–225 inserted '', or with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year,'' after ''the investment credit carryback arises''.

1966—Subsecs. (j), (k). Pub. L. 89–384 added subsec. (j) and redesignated former subsec. (j) as (k).

1964—Subsec. (e). Pub. L. 88–571 added par. (3) and inserted ''or adjustment for certain unused deductions'' in heading.

1962—Subsec. (e). Pub. L. 87–834 designated existing provisions as par. (1) and added par. (2).

1961—Subsec. (c)(2). Pub. L. 87–61 substituted ''6152(a) or 6156(a)'' for ''6152(a)'' in introductory provisions, and ''6152(b) or 6156(b), as the case may be'' for ''6152(b)'' in subpar. (A).

1958—Subsec. (b). Pub. L. 85–866, §§ 66(c), 206(e), inserted reference to section 6166, and substituted ''if the time for payment of an amount of such tax is postponed or extended as provided by section 6163'' for ''if postponement of the payment of an amount of such tax is permitted by section 6163(a)''.

Subsecs. (g) to (j). Pub. L. 85–866, §§ 83(a)(1), 84(a), added subsecs. (g) and (h) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3301(c), July 22, 1998, 112 Stat. 741, as amended by Pub. L. 105–277, div. J, title IV, § 4002(d), Oct. 21, 1998, 112 Stat. 2681–906, provided that:

''(1) IN GENERAL.—Except as provided under paragraph (2), the amendments made by this section [amending this section and section 6621 of this title] shall apply to interest for periods beginning after the date of the enactment of this Act [July 22, 1998].

''(2) SPECIAL RULE.—Subject to any applicable statute of limitation not having expired with regard to either a tax underpayment or a tax overpayment, the amendments made by this section shall apply to interest for periods beginning before the date of the enactment of this Act if the taxpayer—

''(A) reasonably identifies and establishes periods of such tax overpayments and underpayments for which the zero rate applies; and

''(B) not later than December 31, 1999, requests the Secretary of the Treasury to apply section 6621(d) of the Internal Revenue Code of 1986, as added by subsection (a), to such periods.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 501(e) of Pub. L. 105–34 applicable to estates of decedents dying, and gifts made, after Dec. 31, 1997, see section 501(f) of Pub. L. 105–34, set out as a note under section 2001 of this title.

Amendment by section 503(a), (c)(2), (3) of Pub. L. 105–34 applicable to estates of decedents dying after Dec. 31, 1997, with special rule in case of estate of any decedent dying before Jan. 1, 1998, with respect to which there is an election under section 6166 of this title, see section 503(d) of Pub. L. 105–34, set out as a note under section 163 of this title.

Section 1055(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section and section 6611 of this title] shall apply to foreign tax credit carrybacks arising in taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].''

Section 1242(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall apply to adjustments with respect to partnership taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 303(c) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section and section 6651 of this title] shall apply in the case of any notice and demand given after December 31, 1996.''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as a note under section 461 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1015(b)(2)(C) of Pub. L. 100–647 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1988, see section 1015(b)(4) of Pub. L. 100–647, set out as a note under section 6013 of this title.

Amendment by section 1018(u)(42) 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.

Amendment by section 6234(b)(1) of Pub. L. 100–647 applicable to agreements entered into after Nov. 10, 1988, see section 6234(c) of Pub. L. 100–647, set out as an Effective Date note under section 6159 of this title.

Amendment by section 7106(c)(5) of Pub. L. 100–647 applicable to remuneration paid after Dec. 31, 1988, see section 7106(d) of Pub. L. 100–647, set out as a note under section 3321 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100–203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1404(c)(3) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 1404(d) of Pub. L. 99–514, set out as a note under section 643 of this title.

Amendment by section 1511(c)(11) of Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

Section 1512(b) of Pub. L. 99–514 provided that: ''The amendments made by this section [amending this section] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1985.''

Section 1564(b) of Pub. L. 99–514 provided that:

''(1) EFFECTIVE DATE.—The amendment made by subsection (a) [amending this section] shall apply to interest accruing after December 31, 1982.

''(2) STATUTE OF LIMITATIONS.—If refund or credit of any amount resulting from the application of the amendment made by subsection (a) is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act [Oct. 22, 1986] by the operation of any law or rule of law (including res judicata), refund or credit of such amount (to the extent attributable to the application of the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefore [sic] is filed before the close of such 1-year period.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 158(b) of Pub. L. 98–369 provided that: ''The amendment made by this section [amending this section] shall apply to interest accrued after the date of the enactment of this Act [July 18, 1984], except with respect to additions to tax for which notice and demand is made before such date.''

Amendment by section 211(b)(26) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98–369, set out as an Effective Date note under section 801 of this title.

Amendment by section 412(b)(7) of Pub. L. 98–369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98–369, set out as a note under section 6654 of this title.

Amendment by section 714(n)(1) 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.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–76 applicable to remuneration paid after June 30, 1986, see section 231(d) of Pub. L. 98–76, set out as an Effective Date note under section 3321 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 344(b)(1) of Pub. L. 97–248 applicable to interest accruing after Dec. 31, 1982, see section 344(c) of Pub. L. 97–248, set out as an Effective Date note under section 6622 of this title.

Amendment by section 346(c)(2) of Pub. L. 97–248 applicable to interest accruing after the 30th day after Sept. 3, 1982, see section 346(d)(2) of Pub. L. 97–248, set out as a note under section 6611 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–628 applicable to carrybacks arising in taxable years beginning after Nov. 10, 1978, see section 8(d) of Pub. L. 95–628, set out as a note under section 6511 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95–30, set out as an Effective Date note under section 51 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by section 2004(b) of Pub. L. 94–455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2004(g) of Pub. L. 94–455, set out as a note under section 6166 of this title.

Amendment by Pub. L. 94–452 effective Oct. 1, 1977, see section 3(e) of Pub. L. 94–452, set out as a note under section 6151 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93–625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92–178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(49) of Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 512(e)(3) of Pub. L. 91–172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91–172, set out as an Effective Date of 1969 Amendment note under section 1212 of this title. Amendment by Pub. L. 91–53 applicable with respect to calendar years beginning after Dec. 31, 1969, see section 4(a) of Pub. L. 91–53, set out as an Effective Date note under section 6157 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90–225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–384 applicable with respect to amounts received after December 31, 1964, in respect of foreign expropriation losses (as defined in section 1351(b) of this title) sustained after December 31, 1958, see section 2 of Pub. L. 89–384, set out as an Effective Date note under section 1351 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–571 effective, with respect to amounts added to policyholders surplus accounts, for taxable years beginning after Dec. 31, 1958, see section 3(f) of Pub. L. 88–571, set out as a note under section 815 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–834 applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87–834, set out as an Effective Date note under section 46 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–61 effective July 1, 1961, see section 208 of Pub. L. 87–61, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by sections 66(c) and 84(a) of Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

Section 83(d) of Pub. L. 85–866 provided that: ''The amendments made by subsections (a) [amending this section and section 3794 of I.R.C. 1939], (b) [amending section 6611 of this title and section 3771 of I.R.C. 1939], and (c) [amending section 6611 of this title] shall apply only in respect of overpayments credited after December 31, 1957.''

For effective date of amendment by section 206(e) of Pub. L. 85–866, see section 206(f) of Pub. L. 85–866, set out as a note under section 6161 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

ADMINISTRATION OF PENALTIES AND INTEREST

Pub. L. 105–206, title III, §3801, July 22, 1998, 112 Stat. 782, provided that: ''The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study—

''(1) reviewing the administration and implementation by the Internal Revenue Service of the interest and penalty provisions of the Internal Revenue Code of 1986 (including the penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989 [Pub. L. 101–239, see Tables for classification]); and

''(2) making any legislative and administrative recommendations the Committee or the Secretary deems appropriate to simplify penalty or interest administration and reduce taxpayer burden.

Such studies shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 1 year after the date of the enactment of this Act [July 22, 1998].''

INTEREST NOT PAYABLE ON UNDERPAYMENTS CREATED OR INCREASED BY TAX REFORM ACT OF 1976

Section 305 of Pub. L. 95–30, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''No interest shall be payable for any period before April 16, 1977 (March 16, 1977, in the case of a corporation), on any underpayment of a tax imposed by the Internal Revenue Code of 1986 [formerly I.R.C. 1954], to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1976 [Pub. L. 94–455].''

INTEREST ON UNDERPAYMENT

Section 946(a) of Pub. L. 91–172 provided that in the case of any taxable year ending before Dec. 30, 1969, no interest on underpayment of taxes, to the extent that such underpayment was attributable to the amendments made by Pub. L. 91–172, was not to be assessed or collected for any period before the 90th day after Dec. 30, 1969.

INTEREST ATTRIBUTABLE TO NET OPERATING LOSS CARRYBACK FOR CERTAIN TAXABLE YEARS ENDING IN 1954

Section 83(e) of Pub. L. 85–866 provided that if by reason of the enactment of section 172(b)(1)(A) of this title, a deficiency resulted for the first taxable year preceding a taxable year ending after Dec. 31, 1953 but before Aug. 17, 1954 and an overpayment resulted in the second preceding taxable year, then no interest was payable for any portion of such deficiency for any period during which there existed a corresponding overpayment to which interest was not payable.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 163, 815, 860, 936, 995, 1016, 1260, 1291, 1363, 2053, 5684, 6166, 6167, 6404, 6504, 6621, 7404, 7518 of this title; title 29 section 1307; title 46 App. section 1177.

§ 6602. Interest on erroneous refund recoverable by suit

Any portion of an internal revenue tax (or any interest, assessable penalty, additional amount, or addition to tax) which has been erroneously refunded, and which is recoverable by suit pursuant to section 7405, shall bear interest at the underpayment rate established under section 6621 from the date of the payment of the refund.

(Aug. 16, 1954, ch. 736, 68A Stat. 818; Pub. L. 93–625, § 7(a)(2)(B), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 99–514, title XV, § 1511(c)(12), Oct. 22, 1986, 100 Stat. 2745.)

AMENDMENTS

1986—Pub. L. 99–514 substituted ''the underpayment rate established under section 6621'' for ''an annual rate established under section 6621''.

1975—Pub. L. 93–625 substituted ''an annual rate established under section 6621'' for ''the rate of 6 percent per annum''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93–625, set out as an Effective Date note under section 6621 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6404, 7405 of this title.

Subchapter B—Interest on Overpayments

Sec.
6611. Interest on overpayments.
6612. Cross references.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6512, 6621 of this title.

§ 6611. Interest on overpayments

(a) Rate

Interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the overpayment rate established under section 6621.

(b) Period

Such interest shall be allowed and paid as follows:

(1) Credits

In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken.

(2) Refunds

In the case of a refund, from the date of the overpayment to a date (to be determined by the Secretary) preceding the date of the refund check by not more than 30 days, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

(3) Late returns

Notwithstanding paragraph (1) or (2) in the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed.

[(c) Repealed. Pub. L. 85–866, title I, § 83(c), Sept. 2, 1958, 72 Stat. 1664]

(d) Advance payment of tax, payment of estimated tax, and credit for income tax withholding

The provisions of section 6513 (except the provisions of subsection (c) thereof, applicable in determining the date of payment of tax for purposes of determining the period of limitation on credit or refund, shall be applicable in determining the date of payment for purposes of subsection (a).

(e) Disallowance of interest on certain overpayments

(1) Refunds within 45 days after return is filed

If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

(2) Refunds after claim for credit or refund

If—

(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

(3) IRS initiated adjustments

If an adjustment initiated by the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment.

(f) Refund of income tax caused by carryback or adjustment for certain unused deductions

(1) Net operating loss or capital loss carryback

For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of a net operating loss or net capital loss, such overpayment shall be deemed not to have been made prior to the filing date for the taxable year in which such net operating loss or net capital loss arises.

(2) Foreign tax credit carrybacks

For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such taxes were in fact paid or accrued, or, with respect to any portion of such credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year.

(3) Certain credit carrybacks

(A) In general

For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a credit carryback, such overpayment shall be deemed not to have been made before the filing date for the taxable year in which such credit carryback arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the filing date for such subsequent taxable year.

(B) Credit carryback defined

For purposes of this paragraph, the term ''credit carryback'' has the meaning given such term by section 6511(d)(4)(C).

(4) Special rules for paragraphs (1), (2), and (3)

(A) Filing date

For purposes of this subsection, the term ''filing date'' means the last date prescribed for filing the return of tax imposed by subtitle A for the taxable year (determined without regard to extensions).

(B) Coordination with subsection (e)

(i) In general

For purposes of subsection (e)—

(I) any overpayment described in paragraph (1), (2), or (3) shall be treated as an overpayment for the loss year,

(II) such subsection shall be applied with respect to such overpayment by treating the return for the loss year as not filed before claim for such overpayment is filed.

(ii) Loss year

For purposes of this subparagraph, the term ''loss year'' means—

(I) in the case of a carryback of a net operating loss or net capital loss, the taxable year in which such loss arises,

(II) in the case of a carryback of taxes paid or accrued to foreign countries or possessions of the United States, the taxable year in which such taxes were in fact paid or accrued (or, with respect to any portion of such carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such subsequent taxable year), and

(III) in the case of a credit carryback (as defined in paragraph (3)(B)), the taxable year in which such credit carryback arises (or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, a capital loss carryback, or other credit carryback from a subsequent taxable year, such subsequent taxable year).

(C) Application of subparagraph (B) where section 6411(a) claim filed

For purposes of subparagraph (B)(i)(II), if a taxpayer—

(i) files a claim for refund of any overpayment described in paragraph (1), (2), or (3) with respect to the taxable year to which a loss or credit is carried back, and

(ii) subsequently files an application under section 6411(a) with respect to such overpayment,

then the claim for overpayment shall be treated as having been filed on the date the application under section 6411(a) was filed.

(g) No interest until return in processible form

(1) For purposes of subsections (b)(3) and (e), a return shall not be treated as filed until it is filed in processible form.

(2) For purposes of paragraph (1), a return is in a processible form if—

(A) such return is filed on a permitted form, and

(B) such return contains—

(i) the taxpayer's name, address, and identifying number and the required signature, and

(ii) sufficient required information (whether on the return or on required attachments) to permit the mathematical

verification of tax liability shown on the return.

(h) Prohibition of administrative review

For prohibition of administrative review, see section 6406.

(Aug. 16, 1954, ch. 736, 68A Stat. 819; Pub. L. 85–866, title I, §§42(b), 83(b), (c), Sept. 2, 1958, 72 Stat. 1640, 1664; Pub. L. 87–834, §2(e)(4), Oct. 16, 1962, 76 Stat. 972; Pub. L. 88–571, §3(e), Sept. 2, 1964, 78 Stat. 858; Pub. L. 89–721, §1(a), Nov. 2, 1966, 80 Stat. 1150; Pub. L. 90–225, §2(f), Dec. 27, 1967, 81 Stat. 732; Pub. L. 91–172, title V, §512(e)(4), Dec. 30, 1969, 83 Stat. 641; Pub. L. 92–178, title VI, §601(d)(4), Dec. 10, 1971, 85 Stat. 559; Pub. L. 93–17, §3(i)(2), Apr. 10, 1973, 87 Stat. 19; Pub. L. 93–625, §7(a)(2)(C), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94–455, title XIX, §1904(b)(10)(A)(iv), 1906(b)(13)(A), title XXI, §2107(g)(2)(D), Oct. 4, 1976, 90 Stat. 1817, 1834, 1904; Pub. L. 95–30, title II, §202(d)(4)(D), May 23, 1977, 91 Stat. 150; Pub. L. 95–628, §8(c)(3), Nov. 10, 1978, 92 Stat. 3632; Pub. L. 96–223, title I, §101(h), Apr. 2, 1980, 94 Stat. 254; Pub. L. 97–248, title III, §346(a)–(c)(1), Sept. 3, 1982, 96 Stat. 636, 637; Pub. L. 98–369, div. A, title II, §211(b)(27), title VII, §714(n)(2)(A), July 18, 1984, 98 Stat. 757, 963; Pub. L. 99–514, title XV, §1511(c)(13), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 100–418, title I, §1941(b)(2)(L), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 103–66, title XIII, §13271(a), Aug. 10, 1993, 107 Stat. 541; Pub. L. 105–34, title X, §1055(b), Aug. 5, 1997, 111 Stat. 944; Pub. L. 105–206, title VI, §6010(*l*), July 22, 1998, 112 Stat. 816; Pub. L. 106–554, §1(a)(7) [title III, §319(20)], Dec. 21, 2000, 114 Stat. 2763, 2763A–647.)

AMENDMENTS

2000—Subsec. (g)(1). Pub. L. 106–554 struck out comma after ''(b)(3)''.

1998—Subsec. (g)(1). Pub. L. 105–206 substituted ''and (e)'' for ''(e), and (h)''.

1997—Subsec. (f)(2), (3). Pub. L. 105–34, §1055(b)(1), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (f)(4). Pub. L. 105–34, §1055(b)(1), (2)(A)(i), redesignated par. (3) as (4) and substituted ''paragraphs (1), (2), and (3)'' for ''paragraphs (1) and (2)'' in heading.

Subsec. (f)(4)(B)(i)(I). Pub. L. 105–34, §1055(b)(2)(A), substituted ''paragraph (1), (2), or (3)'' for ''paragraph (1) or (2)''.

Subsec. (f)(4)(B)(ii)(II). Pub. L. 105–34, §1055(b)(2)(B), added subcl. (II). Former subcl. (II) redesignated (III).

Subsec. (f)(4)(B)(ii)(III). Pub. L. 105–34, §1055(b)(2)(B), (C), redesignated subcl. (II) as (III) and inserted ''(as defined in paragraph (3)(B))'' after ''case of a credit carryback''.

Subsec. (f)(4)(C)(i). Pub. L. 105–34, §1055(b)(2)(A), substituted ''paragraph (1), (2), or (3)'' for ''paragraph (1) or (2)''.

Subsecs. (g) to (i). Pub. L. 105–34, §1055(b)(2)(D), redesignated subsecs. (h) and (i) as (g) and (h), respectively, and struck out former subsec. (g) which read as follows:

''(g) REFUND OF INCOME TAX CAUSED BY CARRYBACK OF FOREIGN TAXES.—For purposes of subsection (a), if any overpayment of tax results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been paid or accrued prior to the filing date (as defined in subsection (f)(3)) for the taxable year under this subtitle in which such taxes were in fact paid or accrued.''

1993—Subsec. (e). Pub. L. 103–66 amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: ''If any overpayment of tax imposed by subtitle A is refunded within 45 days after the last date prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in case the return is filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.''

1988—Subsecs. (h) to (j). Pub. L. 100–418 redesignated subsecs. (i) and (j) as (h) and (i), respectively, and struck out former subsec. (h) which related to special rule for windfall profit tax.

1986—Subsec. (a). Pub. L. 99–514 substituted ''the overpayment rate established under section 6621'' for ''an annual rate established under section 6621''.

1984—Subsec. (f)(3)(C). Pub. L. 98–369, §714(n)(2)(A), added subpar. (C).

Subsec. (f)(4). Pub. L. 98–369, §211(b)(27), struck out par. (4) which provided that for purposes of subsection (a), if any overpayment of tax imposed by subtitle A arose by operation of section 815(d)(5) (relating to reduction of policyholders surplus account of life insurance companies for certain unused deductions), such overpayment would be deemed not to have been made prior to the close of the last taxable year to which the loss described in section 815(d)(5)(A) was carried under section 812(b)(2).

1982—Subsec. (b)(3). Pub. L. 97–248, §346(a), added par. (3).

Subsec. (f)(1). Pub. L. 97–248, §346(c)(1)(A), substituted ''the filing date for the taxable year'' for ''the close of the taxable year''.

Subsec. (f)(2)(A). Pub. L. 97–248, §346(c)(1)(B), substituted ''the filing date for'' for ''the close of'' wherever appearing.

Subsec. (f)(3), (4). Pub. L. 97–248, §346(c)(1)(C), added par. (3) and redesignated former par. (3) as (4).

Subsec. (g). Pub. L. 97–248, §346(c)(1)(D), substituted ''the filing date (as defined in subsection (f)(3)) for the taxable year'' for ''the close of the taxable year''.

Subsecs. (i), (j). Pub. L. 97–248, §346(b), added subsec. (i) and redesignated former subsec. (i) as (j).

1980—Subsecs. (h), (i). Pub. L. 96–223 added subsec. (h) and redesignated former subsec. (h) as (i).

1978—Subsec. (f)(2). Pub. L. 95–628, §8(c)(3)(A), substituted in heading ''Certain credit carrybacks'' for ''Investment credit carryback'', designated existing provision as subpar. (A), and in subpar. (A) as so designated inserted heading ''In general'' and extended the application of provision to credit carrybacks, previously limited to investment credit carrybacks, included other credit carrybacks, and added subpar. (B).

Subsec. (f)(4), (5). Pub. L. 95–628, §8(c)(3)(B), struck out pars. (4) and (5) which provided for work incentive program credit carrybacks and new employee credit carrybacks, respectively.

1977—Subsec. (f)(5). Pub. L. 95–30 added par. (5).

1976—Subsec. (b). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (f)(4). Pub. L. 94–455, §2107(g)(2)(D), inserted '', an investment credit carryback,'' after ''net operating loss carryback''.

Subsecs. (h), (i). Pub. L. 94–455, §1904(b)(10)(A)(iv), redesignated subsec. (i) as (h). Former subsec. (h), which related to a refund within 45 days after filing claim for refund of interest equalization tax paid on securities sold to foreigners, was struck out.

1975—Subsec. (a). Pub. L. 93–625 substituted ''an annual rate established under section 6621'' for ''the rate of 6 percent per annum''.

1973—Subsecs. (h), (i). Pub. L. 93–17 added subsec. (h) and redesignated former subsec. (h) as (i).

1971—Subsec. (f)(4). Pub. L. 92–178 added par. (4).

1969—Subsec. (f)(1). Pub. L. 91–172, §512(e)(4)(A), (B), substituted ''loss or capital loss carryback'' for ''loss carryback'' in heading, and ''net operating loss or net capital loss'' for ''net operating loss'' wherever appearing in text.

Subsec. (f)(2). Pub. L. 91–172, §512(e)(4)(C), substituted ''loss carryback or a capital loss carryback'' for ''loss carryback''.

1967—Subsec. (f)(2). Pub. L. 90–225 inserted ‘‘, or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year’’ after ‘‘such investment credit carryback arises’’.

1966—Subsec. (e). Pub. L. 89–721 inserted ‘‘or, in case the return is filed after such last date, is refunded within 45 days after the date the return is filed’’ after ‘‘(determined without regard to any extension of time for filing the return)’’ and changed heading to reflect amendment.

1964—Subsec. (f). Pub. L. 88–571 added par. (3) and inserted ‘‘or adjustment for certain unused deductions’’ in heading.

1962—Subsec. (f). Pub. L. 87–834 designated existing provisions as par. (1) and added par. (2).

1958—Subsec. (b)(1). Pub. L. 85–866, §83(b), struck out ‘‘, but if the amount against which the credit is taken is an additional assessment, then to the date of the assessment of that amount’’ after ‘‘taken’’.

Subsec. (c). Pub. L. 85–866, §83(c), repealed subsec. (c) which defined ‘‘additional assessment’’.

Subsecs. (g), (h). Pub. L. 85–866, §42(b), added subsec. (g) and redesignated former subsec. (g) as (h).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to foreign tax credit carrybacks arising in taxable years beginning after Aug. 5, 1997, see section 1055(c) of Pub. L. 105–34, set out as a note under section 6601 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13271(b) of Pub. L. 103–66 provided that:

‘‘(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after January 1, 1994.

‘‘(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after January 1, 1995, regardless of the taxable period to which such refund relates.

‘‘(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after January 1, 1995, regardless of the taxable period to which such refund relates.’’

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by section 211(b)(27) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98–369, set out as an Effective Date note under section 801 of this title.

Amendment by section 714(n)(2)(A) 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.

Section 1875(d)(3) of Pub. L. 99–514 provided that: ‘‘Notwithstanding section 715 of the Tax Reform Act of 1984 [Pub. L. 98–369], the amendments made by section 714(n)(2) of such Act [amending this section and section 6411 of this title] shall apply only to applications filed after July 18, 1984.’’

EFFECTIVE DATE OF 1982 AMENDMENT

Section 346(d) of Pub. L. 97–248 provided that:

‘‘(1) IN GENERAL.—The amendments made by subsections (a) and (b) [amending this section] shall apply to returns filed after the 30th day after the date of the enactment of this Act [Sept. 3, 1982].

‘‘(2) SUBSECTION (c).—The amendments made by subsection (c) [amending this section and section 6601 of this title] shall apply to interest accruing after the 30th day after the date of the enactment of this Act [Sept. 3, 1982].’’

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–628 applicable to carrybacks arising in taxable years beginning after Nov. 10, 1978, see section 8(d) of Pub. L. 95–628, set out as a note under section 6511 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, and to credit carrybacks from such years, see section 202(e) of Pub. L. 95–30, set out as an Effective Date note under section 51 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93–625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–178 applicable to taxable years beginning after Dec. 31, 1971, see section 601(f) of Pub. L. 92–178, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 applicable with respect to net capital losses sustained in taxable years beginning after Dec. 31, 1969, see section 512(g) of Pub. L. 91–172, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–225 applicable with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967, see section 2(g) of Pub. L. 90–225, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 1(b) of Pub. L. 89–721 provided that: ‘‘The amendment made by subsection (a) [amending this section] shall apply with respect to refunds made more than 45 days after the date of the enactment of this Act [Nov. 2, 1966].’’

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–571 effective, with respect to amounts added to policyholders surplus accounts, for taxable years beginning after Dec. 31, 1958, see section 3(f) of Pub. L. 88–571, set out as a note under section 815 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–834 applicable with respect to taxable years ending after Dec. 31, 1961, see section 2(h) of Pub. L. 87–834, set out as an Effective Date note under section 46 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 42(b) of Pub. L. 85–866 applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 42(c) of Pub. L. 85–866, set out as a note under section 904 of this title.

Amendment by section 83(b), (c) of Pub. L. 85–866 applicable only in respect of overpayments credited after Dec. 31, 1957, see section 83(d) of Pub. L. 85–866, set out as a note under section 6601 of this title.

NO INTEREST ON INDIVIDUAL INCOME TAX REFUNDS FOR 1974 REFUNDED WITHIN 60 DAYS AFTER RETURN IS FILED

Pub. L. 94–12, title I, § 101(b), Mar. 29, 1975, 89 Stat. 28, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''In applying section 6611(e) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to income tax refund within 45 days after return is filed) in the case of any overpayment of tax imposed by subtitle A of such Code by an individual (other than an estate or trust and other than a nonresident alien individual) for a taxable year beginning in 1974, '60 days' shall be substituted for '45 days' each place it appears in such section 6611(e).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 815, 6411, 6601, 7508 of this title.

§ 6612. Cross references

(a) Interest on judgments for overpayments

For interest on judgments for overpayments, see 28 U.S.C. 2411(a).

(b) Adjustments

For provisions prohibiting interest on certain adjustments in tax, see section 6413(a).

(c) Other restrictions on interest

For other restrictions on interest, see section 2011(c) (relating to refunds due to credit for State taxes), 2014(e) (relating to refunds attributable to foreign tax credits), 6412 (relating to floor stock refunds), 6413(d) (relating to taxes under the Federal Unemployment Tax Act), 6416 (relating to certain taxes on sales and services), 6419 (relating to the excise tax on wagering), and 6420 (relating to payments in the case of gasoline used on the farm for farming purposes), and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems).

(Aug. 16, 1954, ch. 736, 68A Stat. 820; Apr. 2, 1956, ch. 160, § 4(f), 70 Stat. 91; June 29, 1956, ch. 462, title II, § 208(e)(7), 70 Stat. 397.)

REFERENCES IN TEXT

The Federal Unemployment Tax Act, referred to in subsec. (c), is act Aug. 16, 1954, ch. 736, §§ 3301 to 3311, 68A Stat. 454, as amended, which is classified generally to chapter 23 (§ 3301 et seq.) of this title. For complete classification of this Act to the Code, see section 3311 of this title and Tables.

AMENDMENTS

1956—Subsec. (c). Act June 29, 1956, inserted reference to section 6421 of this title.

Act Apr. 2, 1956, inserted reference to section 6420 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 an Effective Date note under section 4041 of this title.

Subchapter C—Determination of Interest Rate; Compounding of Interest

Sec.
6621. Determination of rate of interest.
6622. Interest compounded daily.

AMENDMENTS

1982—Pub. L. 97–248, title III, § 344(b)(3)(A), Sept. 3, 1982, 96 Stat. 636, inserted ''; Compounding of Interest'' after ''Rate'' in heading for subchapter C.

Pub. L. 97–248, title III, § 344(b)(2), Sept. 3, 1982, 96 Stat. 636, added item 6622.

§ 6621. Determination of rate of interest

(a) General rule

(1) Overpayment rate

The overpayment rate established under this section shall be the sum of—

(A) the Federal short-term rate determined under subsection (b), plus

(B) 3 percentage points (2 percentage points in the case of a corporation).

To the extent that an overpayment of tax by a corporation for any taxable period (as defined in subsection (c)(3), applied by substituting ''overpayment'' for ''underpayment'') exceeds $10,000, subparagraph (B) shall be applied by substituting ''0.5 percentage point'' for ''2 percentage points''.

(2) Underpayment rate

The underpayment rate established under this section shall be the sum of—

(A) the Federal short-term rate determined under subsection (b), plus

(B) 3 percentage points.

(b) Federal short-term rate

For purposes of this section—

(1) General rule

The Secretary shall determine the Federal short-term rate for the first month in each calendar quarter.

(2) Period during which rate applies

(A) In general

Except as provided in subparagraph (B), the Federal short-term rate determined under paragraph (1) for any month shall apply during the first calendar quarter beginning after such month.

(B) Special rule for individual estimated tax

In determining the addition to tax under section 6654 for failure to pay estimated tax for any taxable year, the Federal short-term rate which applies during the 3rd month following such taxable year shall also apply during the first 15 days of the 4th month following such taxable year.

(3) Federal short-term rate

The Federal short-term rate for any month shall be the Federal short-term rate determined during such month by the Secretary in accordance with section 1274(d). Any such rate shall be rounded to the nearest full percent (or, if a multiple of ½ of 1 percent, such rate shall be increased to the next highest full percent).

(c) Increase in underpayment rate for large corporate underpayments

(1) In general

For purposes of determining the amount of interest payable under section 6601 on any large corporate underpayment for periods after the applicable date, paragraph (2) of subsection (a) shall be applied by substituting ''5 percentage points'' for ''3 percentage points''.

(2) Applicable date

For purposes of this subsection—

(A) In general

The applicable date is the 30th day after the earlier of—

(i) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, or

(ii) the date on which the deficiency notice under section 6212 is sent.

The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.

(B) Special rules

(i) Nondeficiency procedures

In the case of any underpayment of any tax imposed by this title to which the deficiency procedures do not apply, subparagraph (A) shall be applied by taking into account any letter or notice provided by the Secretary which notifies the taxpayer of the assessment or proposed assessment of the tax.

(ii) Exception where amounts paid in full

For purposes of subparagraph (A), a letter or notice shall be disregarded if, during the 30-day period beginning on the day on which it was sent, the taxpayer makes a payment equal to the amount shown as due in such letter or notice, as the case may be.

(iii) Exception for letters or notices involving small amounts

For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).

(3) Large corporate underpayment

For purposes of this subsection—

(A) In general

The term ''large corporate underpayment'' means any underpayment of a tax by a C corporation for any taxable period if the amount of such underpayment for such period exceeds $100,000.

(B) Taxable period

For purposes of subparagraph (A), the term ''taxable period'' means—

(i) in the case of any tax imposed by subtitle A, the taxable year, or

(ii) in the case of any other tax, the period to which the underpayment relates.

(d) Elimination of interest on overlapping periods of tax overpayments and underpayments

To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by this title, the net rate of interest under this section on such amounts shall be zero for such period.

(Added Pub. L. 93–625, § 7(a)(1), Jan. 3, 1975, 88 Stat. 2114; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–167, § 4(b), Dec. 29, 1979, 93 Stat. 1275; Pub. L. 97–34, title VII, § 711(a)–(c), Aug. 13, 1981, 95 Stat. 340; Pub. L. 97–248, title III, § 345(a), Sept. 3, 1982, 96 Stat. 636; Pub. L. 98–369, div. A, title I, § 144(a), July 18, 1984, 98 Stat. 682; Pub. L. 99–514, title XV, §§ 1511(a), (c)(1), 1535(a), Oct. 22, 1986, 100 Stat. 2744, 2750; Pub. L. 100–647, title I, § 1015(d), Nov. 10, 1988, 102 Stat. 3569; Pub. L. 101–239, title VII, § 7721(b), Dec. 19, 1989, 103 Stat. 2399; Pub. L. 101–508, title XI, § 11341(a), Nov. 5, 1990, 104 Stat. 1388–470; Pub. L. 103–465, title VII, § 713(a), Dec. 8, 1994, 108 Stat. 5001; Pub. L. 104–188, title I, § 1702(c)(6), (7), Aug. 20, 1996, 110 Stat. 1870; Pub. L. 105–34, title XIV, § 1463(a), title XVI, § 1604(b)(1), Aug. 5, 1997, 111 Stat. 1057, 1097; Pub. L. 105–206, title III, §§ 3301(a), 3302(a), July 22, 1998, 112 Stat. 741.)

AMENDMENTS

1998—Subsec. (a)(1)(B). Pub. L. 105–206, § 3302(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''2 percentage points.''

Subsec. (d). Pub. L. 105–206, § 3301(a), added subsec. (d).

1997—Subsec. (a)(1). Pub. L. 105–34, § 1604(b)(1), substituted ''subsection (c)(3), applied by substituting 'overpayment' for 'underpayment')'' for ''subsection (c)(3))'' in concluding provisions.

Subsec. (c)(2)(B)(iii). Pub. L. 105–34, § 1463(a), added cl. (iii).

1996—Subsec. (c)(2)(A). Pub. L. 104–188, § 1702(c)(6), inserted closing provisions ''The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.''

Subsec. (c)(2)(B)(i). Pub. L. 104–188, § 1702(c)(7), substituted ''this title'' for ''this subtitle''.

1994—Subsec. (a)(1). Pub. L. 103–465 inserted concluding provisions.

1990—Subsec. (c). Pub. L. 101–508 added subsec. (c).

1989—Subsec. (c). Pub. L. 101–239 repealed subsec. (c) which related to attribution of interest on substantial underpayments to tax motivated transactions.

1988—Subsec. (a)(1)(A), (2)(A). Pub. L. 100–647, § 1015(d)(1), substituted ''Federal short-term'' for ''short-term Federal''.

Subsec. (b). Pub. L. 100–647, § 1015(d)(2), substituted ''Federal short-term'' for ''short-term Federal'' in heading.

Subsec. (b)(1). Pub. L. 100–647, § 1015(d)(1), substituted ''Federal short-term'' for ''short-term Federal''.

1986—Subsec. (a). Pub. L. 99–514, § 1511(a), added subsec. (a) and struck out former subsec. (a) which read as follows: ''The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b).''

Subsec. (b). Pub. L. 99–514, § 1511(a), added subsec. (b) relating to determination of Federal short-term rate and struck out former subsec. (b) which related to interest rate adjustments and establishment of adjusted rates.

Subsec. (c). Pub. L. 99–514, § 1511(a), (c)(1), redesignated subsec. (d) as (c), in par. (1), struck out ''annual''

before ''rate of interest'' and substituted ''the underpayment rate established under this section'' for ''the adjusted rate established under subsection (b)'', and struck out former subsec. (c) definition of prime rate, which read as follows: ''For purposes of subsection (b), the term 'adjusted prime rate charged by banks' means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System.''

Subsec. (c)(3)(A)(v). Pub. L. 99–514, § 1535(a), added cl. (v).

Subsec. (d). Pub. L. 99–514, § 1511(c)(1)(A), redesignated subsec. (d) as (c).

1984—Subsec. (d). Pub. L. 98–369 added subsec. (d).

1982—Subsec. (b). Pub. L. 97–248 substituted provisions that if the adjusted prime rate charged by banks (rounded to the nearest full percent) during the 6-month period ending on September 30 of any calendar year, or during the 6-month period ending on March 31 of any calendar year, differs from the interest rate in effect under this section on either such date, respectively, then the Secretary shall establish, within 15 days after the close of the applicable 6-month period, an adjusted rate of interest equal to such adjusted prime rate, and that any adjusted rate of interest established under paragraph (1) shall become effective on January 1 of the succeeding year in the case of an adjustment attributable to paragraph (1)(A), and on July 1 of the same year in the case of an adjustment attributable to paragraph (1)(B), for provisions that the Secretary was to establish an adjusted rate of interest for the purpose of subsection (a) not later than October 15 of any year if the adjusted prime rate charged by banks during September of that year, rounded to the nearest full percent, was at least a full percentage point more or less than the interest rate which was then in effect, and that any such adjusted rate of interest would be equal to the adjusted prime rate charged by banks, rounded to the nearest full percent, and would become effective on January 1 of the immediately succeeding year.

1981—Subsec. (b). Pub. L. 97–34, § 711(a), struck out provision that an adjustment provided for under this subsection not be made prior to the expiration of 23 months following the date of any preceding adjustment under this subsection which changes the rate of interest.

Pub. L. 97–34, § 711(c), substituted ''January 1'' for ''February 1''.

Subsec. (c). Pub. L. 97–34, § 711(b), struck out ''90 percent of'' before ''the average predominant prime rate''.

1979—Subsec. (a). Pub. L. 96–167 substituted provisions setting the annual rate established under this section to be such adjusted rate as is established by the Secretary under subsec. (b) of this section for provision that the rate of interest under sections 6601(a), 6602, 6611(a), 6332(c)(1), and 7426(g) of this title, and under section 2411(a) of title 28 was to be 9 percent per annum, or such adjusted rate as was established by the Secretary under subsection (b).

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 3301(a) of Pub. L. 105–206 applicable to interest for periods beginning after July 22, 1998, and, subject to applicable statutes of limitation, to interest for periods beginning before July 22, 1998, if taxpayer reasonably identifies and establishes periods of overpayments and underpayments for which zero rate applies, and not later than Dec. 31, 1999, requests application of subsec. (d) of this section to such periods, see section 3301(c) of Pub. L. 105–206, set out as a note under section 6601 of this title.

Pub. L. 105–206, title III, § 3302(b), July 22, 1998, 112 Stat. 742, provided that: ''The amendment made by this section [amending this section] shall apply to interest for the second and succeeding calendar quarters beginning after the date of the enactment of this Act [July 22, 1998].''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1463(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall apply for purposes of determining interest for periods after December 31, 1997.''

Amendment by section 1604(b)(1) of Pub. L. 105–34 effective as if included in the sections of the Uruguay Round Agreements Act, Pub. L. 103–465, to which it relates, see section 1604(b)(4) of Pub. L. 105–34, set out as a note under section 412 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 713(b) of Pub. L. 103–465 provided that: ''The amendment made by this section [amending this section] shall apply for purposes of determining interest for periods after December 31, 1994.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11341(b) of Pub. L. 101–508 provided that: ''The amendment made by subsection (a) [amending this section] shall apply for purposes of determining interest for periods after December 31, 1990.''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as a note under section 461 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 OF 1986 AMENDMENT

Amendment by section 1511(a), (c)(1) of Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

Section 1535(b) of Pub. L. 99–514 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to interest accruing after December 31, 1984; except that such amendment shall not apply in the case of any underpayment with respect to which there was a final court decision before the date of the enactment of this Act [Oct. 22, 1986].''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 144(c) of Pub. L. 98–369 provided that: ''The amendments made by this section [amending this section and section 6214 of this title] shall apply with respect to interest accruing after December 31, 1984.''

EFFECTIVE DATE OF 1982 AMENDMENT

Section 345(b) of Pub. L. 97–248, as amended by Pub. L. 98–369, div. A, title VII, § 714(m), July 18, 1984, 98 Stat. 963, provided that: ''The amendment made by this section [amending this section] shall apply to adjustments taking effect on or after January 1, 1983.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 711(d) of Pub. L. 97–34 provided that:

''(1) FOR SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) [amending this section] shall apply to adjustments made after the date of the enactment of this Act [Aug. 13, 1981].

''(2) FOR SUBSECTION (c).—The amendment made by subsection (c) [amending this section] shall apply to adjustments made for periods after 1982.''

EFFECTIVE DATE OF 1979 AMENDMENT

Section 4(c)(2) of Pub. L. 96–167 provided that: ''The amendment made by subsection (b) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 29, 1979].''

EFFECTIVE DATE

Section 7(e) of Pub. L. 93–625 provided that: ''The amendments made by this section [enacting this section and amending sections 514, 6163, 6166, 6167, 6332, 6504, 6601, 6602, 6611, 6654, 6655, and 7426 of this title and section 2411 of Title 28, Judiciary and Judicial Procedure] shall take effect on July 1, 1975, and apply to amounts outstanding on such date or arising thereafter.''

REGULATIONS

Section 1511(b) of Pub. L. 99–514 provided that: ''The Secretary of the Treasury or his delegate may issue regulations to coordinate section 6621 of the Internal Revenue Code of 1954 [now 1986] (as amended by this section) with section 6601(f) of such Code. Such regulations shall not apply to any period after the date 3 years after the date of the enactment of this Act [Oct. 22, 1986].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 42, 45D, 148, 412, 453A, 460, 664, 668, 852, 1258, 1291, 2057, 6325, 6332, 6343, 6427, 6601, 6602, 6611, 6654, 6655, 7426 of this title; title 5 section 5596; title 10 section 2306a; title 14 section 830; title 15 sections 1116, 1117; title 19 sections 1557, 1592, 1593a, 1677g; title 28 sections 1961, 2411, 2644; title 29 sections 1083, 1084, 1132; title 30 sections 934, 1721; title 41 sections 254b, 422; title 42 sections 7413, 7511d, 7524, 7661a.

§ 6622. Interest compounded daily

(a) General rule

In computing the amount of any interest required to be paid under this title or sections 1961(c)(1) or 2411 of title 28, United States Code, by the Secretary or by the taxpayer, or any other amount determined by reference to such amount of interest, such interest and such amount shall be compounded daily.

(b) Exception for penalty for failure to file estimated tax

Subsection (a) shall not apply for purposes of computing the amount of any addition to tax under section 6654 or 6655.

(Added Pub. L. 97–248, title III, § 344(a), Sept. 3, 1982, 96 Stat. 635.)

EFFECTIVE DATE

Section 344(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [enacting this section and amending section 6601 of this title] shall apply to interest accruing after December 31, 1982.''

Subchapter D—Notice Requirements

Sec.
6631. Notice requirements.

AMENDMENTS

2000—Pub. L. 106–554, § 1(a)(7) [title III, § 319(22)], Dec. 21, 2000, 114 Stat. 2763, 2763A–647, substituted ''Requirements'' for ''requirements'' in subchapter heading.

§ 6631. Notice requirements

The Secretary shall include with each notice to an individual taxpayer which includes an amount of interest required to be paid by such taxpayer under this title information with respect to the section of this title under which the interest is imposed and a computation of the interest.

(Added Pub. L. 105–206, title III, § 3308(a), July 22, 1998, 112 Stat. 745.)

EFFECTIVE DATE

Pub. L. 105–206, title III, § 3308(c), July 22, 1998, 112 Stat. 745, as amended by Pub. L. 106–554, § 1(a)(7) [title III, § 302(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A–632, provided that: ''The amendments made by this section [enacting this subchapter] shall apply to notices issued after June 30, 2001. In the case of any notice issued after June 30, 2001, and before July 1, 2003, to which section 6631 of the Internal Revenue Code of 1986 applies, the requirements of section 6631 of such Code shall be treated as met if such notice contains a telephone number at which the taxpayer can request a copy of the taxpayer's payment history relating to interest amounts included in such notice.''

CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

Subchapter Sec.[1]
A. Additions to the tax and additional amounts 6651
B. Assessable penalties 6671
C. Procedural requirements 6751

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3306(b), July 22, 1998, 112 Stat. 744, added item for subchapter C.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7463 of this title.

Subchapter A—Additions to the Tax and Additional Amounts

Part
I. General provisions.
II. Accuracy-related and fraud penalties.
III. Applicable rules.

AMENDMENTS

1989—Pub. L. 101–239, title VII, § 7721(c)(13), Dec. 19, 1989, 103 Stat. 2400, added part analysis consisting of parts I to III.

PART I—GENERAL PROVISIONS

Sec.
6651. Failure to file tax return or pay tax.[1]
6652. Failure to file certain information returns, registration statements, etc.
6653. Failure to pay stamp tax.
6654. Failure by individual to pay estimated income tax.
6655. Failure by corporation to pay estimated income tax.
6656. Failure to make deposit of taxes.
6657. Bad checks.
6658. Coordination with title 11.
[6659 to 6662. Repealed.]

AMENDMENTS

1996—Pub. L. 104–188, title I, § 1704(t)(19), Aug. 20, 1996, 110 Stat. 1888, struck out item 6662 ''Applicable rules''.

1989—Pub. L. 101–239, title VII, §§ 7721(c)(13), (14), 7742(b), Dec. 19, 1989, 103 Stat. 2400, 2405, added part

[1] Section numbers editorially supplied.

[1] So in original. Does not conform to section catchline.

heading, substituted ''Failure to pay stamp tax'' for ''Additions to tax for negligence and fraud'' in item 6653, substituted ''of taxes'' for ''of taxes or over-statement of deposits'' in item 6656, and struck out items 6659 ''Addition to tax in the case of valuation overstatements for purposes of the income tax'', 6659A ''Addition to tax in case of overstatements of pension liabilities'', 6660 ''Addition to tax in the case of valuation understatement for purposes of estate or gift taxes'', and 6661 ''Substantial understatement of liability''.

1986—Pub. L. 99–514, title XI, §1138(b), title XV, §1503(d)(2), Oct. 22, 1986, 100 Stat. 2486, 2743, substituted ''Additions to tax for negligence and fraud'' for ''Failure to pay tax'' in item 6653 and added item 6659A.

1984—Pub. L. 98–369, div. A, title I, §155(c)(2)(B), July 18, 1984, 98 Stat. 695, added item 6660.

1982—Pub. L. 97–248, title III, §323(b), Sept. 3, 1982, 96 Stat. 615, added item 6661 and redesignated former item 6660 as 6662. See Codification note set out under section 6662 of this title.

1981—Pub. L. 97–34, title VII, §§722(a)(2), 724(b)(2), Aug. 13, 1981, 95 Stat. 342, 345, inserted ''or overstatement of deposits'' in item 6656, added item 6659, and redesignated item 6659 as 6660.

1980—Pub. L. 96–589, §6(e)(2), Dec. 24, 1980, 94 Stat. 3408, added item 6658.

1979—Pub. L. 96–167, §6(b), Dec. 29, 1979, 93 Stat. 1276, struck out item 6658 ''Addition to tax in case of jeopardy''.

1974—Pub. L. 93–406, title II, §1031(b)(1)(B)(ii), Sept. 2, 1974, 88 Stat. 946, inserted '', registration statements, etc.'' in item 6652.

1969—Pub. L. 91–172, title IX, §943(c)(5), 83 Stat. 729, inserted ''or pay tax'' in item 6651.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6229 of this title.

§ 6651. Failure to file tax return or to pay tax

(a) Addition to the tax

In case of failure—

(1) to file any return required under authority of subchapter A of chapter 61 (other than part III thereof), subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

(2) to pay the amount shown on tax on any return specified in paragraph (1) on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate; or

(3) to pay any amount in respect of any tax required to be shown on a return specified in paragraph (1) which is not so shown (including an assessment made pursuant to section 6213(b)) within 21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount of tax stated in such notice and demand 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall not be less than the lesser of $100 or 100 percent of the amount required to be shown as tax on such return.

(b) Penalty imposed on net amount due

For purposes of—

(1) subsection (a)(1), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return,

(2) subsection (a)(2), the amount of tax shown on the return shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid on or before the beginning of such month and by the amount of any credit against the tax which may be claimed on the return, and

(3) subsection (a)(3), the amount of tax stated in the notice and demand shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the beginning of such month.

(c) Limitations and special rule

(1) Additions under more than one paragraph

With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month (or fraction thereof) to which an addition to tax applies under both paragraphs (1) and (2). In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence.

(2) Amounts of tax shown more than amount required to be shown

If the amount required to be shown as tax on a return is less than the amount shown as tax on such return, subsections (a)(2) and (b)(2) shall be applied by substituting such lower amount.

(d) Increase in penalty for failure to pay tax in certain cases

(1) In general

In the case of each month (or fraction thereof) beginning after the day described in paragraph (2) of this subsection, paragraphs (2) and (3) of subsection (a) shall be applied by substituting ''1 percent'' for ''0.5 percent'' each place it appears.

(2) Description

For purposes of paragraph (1), the day described in this paragraph is the earlier of—

(A) the day 10 days after the date on which notice is given under section 6331(d), or

(B) the day on which notice and demand for immediate payment is given under the last sentence of section 6331(a).

(e) Exception for estimated tax

This section shall not apply to any failure to pay any estimated tax required to be paid by section 6654 or 6655.

(f) Increase in penalty for fraudulent failure to file

If any failure to file any return is fraudulent, paragraph (1) of subsection (a) shall be applied—

(1) by substituting ''15 percent'' for ''5 percent'' each place it appears, and

(2) by substituting ''75 percent'' for ''25 percent''.

(g) Treatment of returns prepared by Secretary under section 6020(b)

In the case of any return made by the Secretary under section 6020(b)—

(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).

(h) Limitation on penalty on individual's failure to pay for months during period of installment agreement

In the case of an individual who files a return of tax on or before the due date for the return (including extensions), paragraphs (2) and (3) of subsection (a) shall each be applied by substituting ''0.25'' for ''0.5'' each place it appears for purposes of determining the addition to tax for any month during which an installment agreement under section 6159 is in effect for the payment of such tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 821; Pub. L. 90–364, title I, §103(e)(4), June 28, 1968, 82 Stat. 264; Pub. L. 91–172, title IX, §943(a), Dec. 30, 1969, 83 Stat. 727; Pub. L. 92–9, §3(j)(1), Apr. 1, 1971, 85 Stat. 22; Pub. L. 94–455, title XIX, §1904(b)(10)(A)(v), Oct. 4, 1976, 90 Stat. 1817; Pub. L. 97–248, title III, §318(a), (b), Sept. 3, 1982, 96 Stat. 610; Pub. L. 98–369, div. A, title IV, §412(b)(8), July 18, 1984, 98 Stat. 792; Pub. L. 99–514, title XV, §1502(a), (b), Oct. 22, 1986, 100 Stat. 2741; Pub. L. 100–203, title X, §10301(b)(6), Dec. 22, 1987, 101 Stat. 1330–429; Pub. L. 101–239, title VII, §7741(a), Dec. 19, 1989, 103 Stat. 2404; Pub. L. 104–168, title III, §303(b)(2), title XIII, §1301(a), July 30, 1996, 110 Stat. 1458, 1475; Pub. L. 105–206, title III, §3303(a), July 22, 1998, 112 Stat. 742.)

AMENDMENTS

1998—Subsec. (h). Pub. L. 105–206 added subsec. (h).

1996—Subsec. (a)(3). Pub. L. 104–168, §303(b)(2), substituted ''21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)'' for ''10 days of the date of the notice and demand therefor''.

Subsec. (g). Pub. L. 104–168, §1301(a), added subsec. (g).

1989—Subsec. (f). Pub. L. 101–239 added subsec. (f).

1987—Subsec. (e). Pub. L. 100–203 substituted ''section 6654 or 6655'' for ''section 6154 or 6654''.

1986—Subsec. (c)(1). Pub. L. 99–514, §1502(b), amended par. (1) generally, striking out the designation ''(A)'' before ''With respect to'', inserting ''(or fraction thereof)'', and striking out subpar. (B) which read as follows: ''With respect to any return, the maximum amount of the addition permitted under paragraph (3) of subsection (a) shall be reduced by the amount of the addition under paragraph (1) of subsection (a) (determined without regard to the last sentence of such subsection) which is attributable to the tax for which the notice and demand is made and which is not paid within 10 days of notice and demand.''

Subsecs. (d), (e). Pub. L. 99–514, §1502(a), added subsec. (d) and redesignated former subsec. (d) as (e).

1984—Subsec. (d). Pub. L. 98–369 in amending subsec. (d) generally, substituted in heading ''estimated tax'' for ''declarations of estimated tax'', struck out provisions making section inapplicable to any failure to file a declaration of estimated tax required by section 6015 or to any failure to pay any estimated tax required to be paid by section 6153, and made section inapplicable to any failure to pay any estimated tax required to be paid by section 6654.

1982—Subsec. (a). Pub. L. 97–248, §318(a), inserted provision that, in the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under par. (1) shall not be less than the lesser of $100 or 100 percent of the amount required to be shown as tax on such return.

Subsec. (c)(1)(A). Pub. L. 97–248, §318(b)(1), inserted provision that in any case described in last sentence of subsec. (a), the amount of the addition under par. (1) of subsec. (a) shall not be reduced under first sentence of this subpar. below the amount provided in such last sentence.

Subsec. (c)(1)(B). Pub. L. 97–248, §318(b)(2), inserted ''(determined without regard to the last sentence of such subsection)'' after ''paragraph (1) of subsection (a)''.

1976—Subsec. (e). Pub. L. 94–455 struck out subsec. (e) which related to certain interest equalization tax returns.

1971—Subsec. (e). Pub. L. 92–9 added subsec. (e).

1969—Subsec. (a). Pub. L. 91–172 designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (b). Pub. L. 91–172 designated existing provisions as par. (1) and added pars. (2) and (3).

Subsecs. (c), (d). Pub. L. 91–172 added subsec. (c), redesignated former subsec. (c) as (d) and struck out reference to section 6016 of this title and provided that this section would not be applicable for failure to pay

any estimated tax required under section 6153 or 6154 of this title.

1968—Subsec. (c). Pub. L. 90–364 struck out reference to section 6016.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3303(b), July 22, 1998, 112 Stat. 742, provided that: ''The amendment made by this section [amending this section] shall apply for purposes of determining additions to the tax for months beginning after December 31, 1999.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 303(b)(2) of Pub. L. 104–168 applicable in case of any notice and demand given after Dec. 31, 1996, see section 303(c) of Pub. L. 104–168, set out as a note under section 6601 of this title.

Section 1301(b) of Pub. L. 104–168 provided that: ''The amendment made by subsection (a) [amending this section] shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7741(b) of Pub. L. 101–239 provided that: ''The amendment made by subsection (a) [amending this section] shall apply in the case of failures to file returns the due date for which (determined without regard to extensions) is after December 31, 1989.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100–203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1502(c) of Pub. L. 99–514 provided that:

''(1) SUBSECTION (a).—The amendments made by subsection (a) [amending this section] shall apply—

''(A) to failures to pay which begin after December 31, 1986, and

''(B) to failures to pay which begin on or before December 31, 1986, if after December 31, 1986—

''(i) notice (or renotice) under section 6331(d) of the Internal Revenue Code of 1954 [now 1986] is given with respect to such failure, or

''(ii) notice and demand for immediate payment of the underpayment is made under the last sentence of section 6331(a) of such Code.

In the case of a failure to pay described in subparagraph (B), paragraph (2) of section 6651(d) of such Code (as added by subsection (a)) shall be applied by taking into account the first notice (or renotice) after December 31, 1986.

''(2) SUBSECTION (b).—The amendment made by subsection (b) [amending this section] shall apply to amounts assessed after December 31, 1986, with respect to failures to pay which begin before, on, or after such date.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98–369, set out as a note under section 6654 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 318(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [amending this section] shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.''

EFFECTIVE DATE OF 1971 AMENDMENT

Section 3(j)(3) of Pub. L. 92–9 provided that: ''The amendments made by this subsection [amending this section and section 6680 of this title] shall apply with respect to returns required to be filed on or after the date of the enactment of this Act [Apr. 1, 1971].''

EFFECTIVE DATE OF 1969 AMENDMENT

Section 943(d) of Pub. L. 91–172 provided that: ''The amendments made by subsections (a) [amending this section] and (c) [amending sections 3121, 5684, and 6653 of this title] shall apply with respect to returns the date prescribed by law (without regard to any extension of time) for filing of which is after December 31, 1969, and with respect to notices and demands for payment of tax made after December 31, 1969. The amendment made by subsection (b) [amending section 6656 of this title] shall apply with respect to deposits the time for making of which is after December 31, 1969.''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–364 applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90–364, see section 103(f) of Pub. L. 90–364, set out as a note under section 243 of this title.

ILLEGAL TAX PROTESTER DESIGNATION

Pub. L. 105–206, title III, § 3707, July 22, 1998, 112 Stat. 778, provided that:

''(a) PROHIBITION.—The officers and employees of the Internal Revenue Service—

''(1) shall not designate taxpayers as illegal tax protesters (or any similar designation); and

''(2) in the case of any such designation made on or before the date of the enactment of this Act [July 22, 1998]—

''(A) shall remove such designation from the individual master file; and

''(B) shall disregard any such designation not located in the individual master file.

''(b) DESIGNATION OF NONFILERS ALLOWED.—An officer or employee of the Internal Revenue Service may designate any appropriate taxpayer as a nonfiler, but shall remove such designation once the taxpayer has filed income tax returns for 2 consecutive taxable years and paid all taxes shown on such returns.

''(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act [July 22, 1998], except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3121, 5684, 5761, 6013, 6404, 6601, 6658, 6665, 6751, 7518 of this title; title 30 section 932; title 46 App. section 1177.

§ 6652. Failure to file certain information returns, registration statements, etc.

(a) Returns with respect to certain payments aggregating less than $10

In the case of each failure to file a statement of a payment to another person required under the authority of—

(1) section 6042(a)(2) (relating to payments of dividends aggregating less than $10), or

(2) section 6044(a)(2) (relating to payments of patronage dividends aggregating less than $10),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so file the statement, $1 for each such statement not so filed, but the total

amount imposed on the delinquent person for all such failures during the calendar year shall not exceed $1,000.

(b) Failure to report tips

In the case of failure by an employee to report to his employer on the date and in the manner prescribed therefor any amount of tips required to be so reported by section 6053(a) which are wages (as defined in section 3121(a)) or which are compensation (as defined in section 3231(e)), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be paid by the employee, in addition to the tax imposed by section 3101 or section 3201 (as the case may be) with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax.

(c) Returns by exempt organizations and by certain trusts

(1) Annual returns under section 6033 or 6012(a)(6)

(A) Penalty on organization

In the case of—

(i) a failure to file a return required under section 6033 (relating to returns by exempt organizations) or section 6012(a)(6) (relating to returns by political organizations) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), or

(ii) a failure to include any of the information required to be shown on a return filed under section 6033 or section 6012(a)(6) or to show the correct information,

there shall be paid by the exempt organization $20 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 return shall not exceed the lesser of $10,000 or 5 percent of the gross receipts of the organization for the year. In the case of an organization having gross receipts exceeding $1,000,000 for any year, with respect to the return required under section 6033 or section 6012(a)(6) for such year, the first sentence of this subparagraph shall be applied by substituting ''$100'' for ''$20'' and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed $50,000.

(B) Managers

(i) In general

The Secretary may make a written demand on any organization subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the return shall be filed (or the information furnished) for purposes of this subparagraph.

(ii) Failure to comply with demand

If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by the person failing to so comply $10 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed $5,000.

(C) Public inspection of annual returns and reports

In the case of a failure to comply with the requirements of section 6104(d) with respect to any annual return on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing) or report required under section 527(j), there shall be paid by the person failing to meet such requirements $20 for each day during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return or report shall not exceed $10,000.

(D) Public inspection of applications for exemption and notice of status

In the case of a failure to comply with the requirements of section 6104(d) with respect to any exempt status application materials (as defined in such section) or notice materials (as defined in such section) on the date and in the manner prescribed therefor, there shall be paid by the person failing to meet such requirements $20 for each day during which such failure continues.

(2) Returns under section 6034 or 6043(b)

(A) Penalty on organization or trust

In the case of a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the exempt organization or trust failing so to file $10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization or trust for failure to file any 1 return shall not exceed $5,000.

(B) Managers

The Secretary may make written demand on an organization or trust failing to file under subparagraph (A) specifying therein a reasonable future date by which such filing shall be made for purposes of this subparagraph. If such filing is not made on or before such date, there shall be paid by the person failing so to file $10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return shall not exceed $5,000.

(3) Reasonable cause exception

No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

(4) Other special rules

(A) Treatment as tax

Any penalty imposed under this subsection shall be paid on notice and demand of the Secretary and in the same manner as tax.

(B) Joint and several liability

If more than 1 person is liable under this subsection for any penalty with respect to any failure, all such persons shall be jointly and severally liable with respect to such failure.

(C) Person

For purposes of this subsection, the term ''person'' means any officer, director, trustee, employee, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(d) Annual registration and other notification by pension plan

(1) Registration

In the case of any failure to file a registration statement required under section 6057(a) (relating to annual registration of certain plans) which includes all participants required to be included in such statement, on the date prescribed therefor (determined without regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, an amount equal to $1 for each participant with respect to whom there is a failure to file, multiplied by the number of days during which such failure continues, but the total amount imposed under this paragraph on any person for any failure to file with respect to any plan year shall not exceed $5,000.

(2) Notification of change of status

In the case of failure to file a notification required under section 6057(b) (relating to notification of change of status) on the date prescribed therefor (determined without regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, $1 for each day during which such failure continues, but the total amounts imposed under this paragraph on any person for failure to file any notification shall not exceed $1,000.

(e) Information required in connection with certain plans of deferred compensation, etc.

In the case of failure to file a return or statement required under section 6058 (relating to information required in connection with certain plans of deferred compensation), 6047 (relating to information relating to certain trusts and annuity and bond purchase plans), or 6039D (relating to returns and records with respect to certain fringe benefit plans) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, $25 for each day during which such failure continues, but the total amount imposed under this subsection on any person for failure to file any return shall not exceed $15,000. This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(Y).

(f) Returns required under section 6039C

(1) In general

In the case of each failure to make a return required by section 6039C which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return.

(2) Amount of penalty

For purposes of paragraph (1), the amount determined under this paragraph with respect to any failure shall be $25 for each day during which such failure continues.

(3) Limitation

The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of section 6039C for any calendar year shall not exceed the lesser of—

(A) $25,000, or

(B) 5 percent of the aggregate of the fair market value of the United States real property interests owned by such person at any time during such year.

For purposes of the preceding sentence, fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition).

(g) Information required in connection with deductible employee contributions

In the case of failure to make a report required by section 219(f)(4) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing so to file, an amount equal to $25 for each participant with respect to whom there was a failure to file such information, multiplied by the number of years during which such failure continues, but the total amount imposed under this subsection on any person for failure to file shall not exceed $10,000. No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.

(h) Failure to give notice to recipients of certain pension, etc., distributions

In the case of each failure to provide notice as required by section 3405(e)(10)(B), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to $10 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $5,000.

(i) Failure to give written explanation to recipients of certain qualifying rollover distributions

In the case of each failure to provide a written explanation as required by section 402(f), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such written explanation, an amount equal to $100 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $50,000.

(j) Failure to file certification with respect to certain residential rental projects

In the case of each failure to provide a certification as required by section 142(d)(7) at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such certification, an amount equal to $100 for each such failure.

(k)[1] Failure to make reports required under section 1202

In the case of a failure to make a report required under section 1202(d)(1)(C) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to $50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard, the preceding sentence shall be applied by substituting ''$100'' for ''$50''. In the case of a report covering periods in 2 or more years, the penalty determined under preceding provisions of this subsection shall be multiplied by the number of such years. No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.

(*l*) Failure to file return with respect to certain corporate transactions

In the case of any failure to make a return required under section 6043(c) containing the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to file such return, an amount equal to $500 for each day during which such failure continues, but the total amount imposed under this subsection with respect to any return shall not exceed $100,000.

(m) Alcohol and tobacco taxes

For penalties for failure to file certain information returns with respect to alcohol and tobacco taxes, see, generally, subtitle E.

[1] See 1993 Amendment note below.

(Aug. 16, 1954, ch. 736, 68A Stat. 821; Pub. L. 85–866, title I, § 85, Sept. 2, 1958, 72 Stat. 1664; Pub. L. 87–834, § 19(d), Oct. 16, 1962, 76 Stat. 1057; Pub. L. 88–272, title II, § 221(b)(2), Feb. 26, 1964, 78 Stat. 74; Pub. L. 89–97, title III, § 313(e)(2)(B), (3), July 30, 1965, 79 Stat. 385; Pub. L. 89–212, § 2(e), Sept. 29, 1965, 79 Stat. 859; Pub. L. 91–172, title I, § 101(d)(4), Dec. 30, 1969, 83 Stat. 522; Pub. L. 93–406, title II, § 1031(b)(1)(A), (B)(i), Sept. 2, 1974, 88 Stat. 945, 946; Pub. L. 94–455, title XII, § 1207(e)(3)(B), (C), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1708, 1834; Pub. L. 96–167, § 7(b)(1), Dec. 29, 1979, 93 Stat. 1277; Pub. L. 96–223, title I, § 101(d)(2)(A), Apr. 2, 1980, 94 Stat. 251; Pub. L. 96–499, title XI, § 1123(b), Dec. 5, 1980, 94 Stat. 2689; Pub. L. 96–603, § 1(d)(2), Dec. 28, 1980, 94 Stat. 3504; Pub. L. 97–34, title III, § 311(f), title VII, § 723(a)(1), (3), (4), Aug. 13, 1981, 95 Stat. 281, 343, 344; Pub. L. 97–248, title III, §§ 309(b)(2), 315(a), (b), Sept. 3, 1982, 96 Stat. 595, 605, 606; Pub. L. 97–448, title II, § 201(i)(2), Jan. 12, 1983, 96 Stat. 2395; Pub. L. 98–67, title I, § 105(b)(1), Aug. 5, 1983, 97 Stat. 380; Pub. L. 98–369, div. A, title I, §§ 145(b)(1), (2), 146(b)(1), (2), 148(b)(1), (2), 149(b)(1), 155(b)(2)(A), title IV, § 491(d)(50), title V, § 531(b)(4)(B), title VII, § 714(j)(3), July 18, 1984, 98 Stat. 685, 686, 688, 689, 693, 852, 882, 963; Pub. L. 98–397, title II, § 207(b), Aug. 23, 1984, 98 Stat. 1450; Pub. L. 98–611, § 1(d)(2), Oct. 31, 1984, 98 Stat. 3177; Pub. L. 98–612, § 1(b)(2), Oct. 31, 1984, 98 Stat. 3181; Pub. L. 99–514, title XI, § 1151(b), title XIII, § 1301(g), title XV, § 1501(d)(1)(A), title XVII, § 1702(b), title XVIII, §§ 1810(f)(9), 1811(c)(2), Oct. 22, 1986, 100 Stat. 2502, 2656, 2740, 2774, 2828, 2833; Pub. L. 100–203, title X, §§ 10502(d)(11), 10704(a), Dec. 22, 1987, 101 Stat. 1330–444, 1330–461; Pub. L. 100–647, title I, §§ 1011B(a)(10), 1017(b), 1018(u)(36), title III, § 3021(a)(10), Nov. 10, 1988, 102 Stat. 3484, 3575, 3592, 3630; Pub. L. 101–140, title II, § 203(a)(1), Nov. 8, 1989, 103 Stat. 830; Pub. L. 101–239, title VII, §§ 7208(b)(2), 7841(d)(5), Dec. 19, 1989, 103 Stat. 2338, 2428; Pub. L. 102–318, title V, § 522(b)(2)(F), July 3, 1992, 106 Stat. 314; Pub. L. 103–66, title XIII, § 13113(c), Aug. 10, 1993, 107 Stat. 429; Pub. L. 104–168, title XIII, §§ 1314(a), (b), July 30, 1996, 110 Stat. 1480; Pub. L. 104–188, title I, §§ 1455(c), (d)(2), 1704(s), Aug. 20, 1996, 110 Stat. 1818, 1887; Pub. L. 105–34, title XII, § 1281(a), (b), title XVI, § 1602(d)(2)(B), Aug. 5, 1997, 111 Stat. 1037, 1094; Pub. L. 105–277, div. J, title I, § 1004(b)(2)(B), (C), Oct. 21, 1998, 112 Stat. 2681–890; Pub. L. 106–230, §§ 1(c), 2(c), 3(c), July 1, 2000, 114 Stat. 479, 482, 483.)

CODIFICATION

Pub. L. 101–140, § 203(a)(1), amended this section to read as if the amendments made by section 1151(b) of Pub. L. 99–514 (enacting subsec. (*l*)) had not been enacted. Subsequent to enactment by Pub. L. 99–514, subsec. (*l*) was amended by Pub. L. 100–203, Pub. L. 100–647, and Pub. L. 101–239. See 1989, 1988, and 1987 Amendment notes below.

AMENDMENTS

2000—Subsec. (c)(1). Pub. L. 106–230, § 3(c)(4), inserted ''or 6012(a)(6)'' after ''section 6033'' in heading.

Subsec. (c)(1)(A). Pub. L. 106–230, § 3(c)(3), inserted ''or section 6012(a)(6)'' after ''section 6033'' in last sentence.

Subsec. (c)(1)(A)(i). Pub. L. 106–230, § 3(c)(1), inserted ''or section 6012(a)(6) (relating to returns by political organizations)'' after ''organizations)''.

Subsec. (c)(1)(A)(ii). Pub. L. 106–230, § 3(c)(2), inserted ''or section 6012(a)(6)'' after ''section 6033''.

Subsec. (c)(1)(C). Pub. L. 106–230, §2(c), in heading inserted ''and reports'' after ''returns'' and in text inserted ''or report required under section 527(j)'' after ''filing)'' and ''or report'' after ''1 return''.

Subsec. (c)(1)(D). Pub. L. 106–230, §1(c), in heading inserted ''and notice of status'' after ''exemption'' and in text inserted ''or notice materials (as defined in such section)'' after ''section)''.

1998—Subsec. (c)(1)(C). Pub. L. 105–277, §1004(b)(2)(B), substituted ''section 6104(d) with respect to any annual return'' for ''subsection (d) or (e)(1) of section 6104 (relating to public inspection of annual returns)''.

Subsec. (c)(1)(D). Pub. L. 105–277, §1004(b)(2)(C), substituted ''section 6104(d) with respect to any exempt status application materials (as defined in such section)'' for ''section 6104(e)(2) (relating to public inspection of applications for exemption)''.

1997—Subsec. (e). Pub. L. 105–34, §1602(d)(2)(B), substituted ''section 6724(d)(2)(Y)'' for ''section 6724(d)(2)(X)''.

Subsec. (g). Pub. L. 105–34, §1281(a), inserted at end ''No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.''

Subsec. (k). Pub. L. 105–34, §1281(b), inserted at end ''No penalty shall be imposed under this subsection on any failure which is shown to be due to reasonable cause and not willful neglect.''

1996—Subsec. (c)(1)(A). Pub. L. 104–168 in concluding provisions, substituted ''$20'' for ''$10'' and ''$10,000'' for ''$5,000'' and inserted at end ''In the case of an organization having gross receipts exceeding $1,000,000 for any year, with respect to the return required under section 6033 for such year, the first sentence of this subparagraph shall be applied by substituting '$100' for '$20' and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed $50,000.''

Subsec. (c)(1)(C). Pub. L. 104–188, §1704(s)(1), substituted ''$20'' for ''$10'' and ''$10,000'' for ''$5,000''.

Subsec. (c)(1)(D). Pub. L. 104–188, §1704(s)(2), substituted ''$20'' for ''$10''.

Subsec. (e). Pub. L. 104–188, §1455(d)(2), inserted at end ''This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(X).''

Subsec. (i). Pub. L. 104–188, §1455(c), substituted ''$100'' and ''$50,000'' for ''the $10'' and ''$5,000'', respectively.

1993—Subsec. (k). Pub. L. 103–66, which directed amendment of section by adding subsec. (k) before the last subsection, was executed by adding subsec. (k) after subsec. (j) to reflect the probable intent of Congress.

1992—Subsec. (h). Pub. L. 102–318 substituted ''3405(e)(10)(B)'' for ''3405(d)(10)(B)''.

1989—Subsec. (k). Pub. L. 101–239, §7841(d)(5)(B), redesignated the subsec. (k), relating to alcohol and tobacco taxes, as (*l*).

Pub. L. 101–239, §7841(d)(5)(A), redesignated the subsection relating to information with respect to includible employee benefits as (k), see Codification note above.

Pub. L. 101–140 amended this section to read as if amendments by Pub. L. 99–514, §1151(b), had not been enacted, see Codification note above and 1986 Amendment note below.

Subsec. (*l*). Pub. L. 101–239, §7208(b)(2), added subsec. (*l*) and redesignated former subsec. (*l*) as (m).

Pub. L. 101–239, §7841(d)(5)(B), redesignated subsec. (k), relating to alcohol and tobacco taxes, as (*l*).

Subsec. (m). Pub. L. 101–239, §7208(b)(2), redesignated subsec. (*l*) as (m).

1988—Subsec. (j). Pub. L. 100–647, §1017(b), amended subsec. (j) as it existed prior to its repeal by Pub. L. 100–203, §10502(d)(11), by inserting ''(and the corresponding provision of section 4041(d)(1))'' after ''section 4041(a)(1)'', see 1987 Amendment note below.

Subsec. (k)(2)(B). Pub. L. 100–647, §3021(a)(10), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''the employer-provided benefit (within the meaning of section 89 without regard to subsection (g)(3) thereof) with respect to the employee to whom such failure relates.'' See Codification note above.

Pub. L. 100–647, §1011B(a)(10), substituted ''subsection (g)(3)(C)(i)'' for ''subsection (g)(3)''. See Codification note above.

Subsec. (k)(4). Pub. L. 100–647, §1018(u)(36), substituted ''or part II of subchapter B of this chapter'' for ''or section 6678''. See Codification note above.

1987—Subsec. (c). Pub. L. 100–203, §10704(a), amended subsec. (c) generally, revising and restating as pars. (1) to (4) provisions of former pars. (1) to (3).

Subsec. (j). Pub. L. 100–203, §10502(d)(11), struck out subsec. (j), as added by section 1702(b) of Pub. L. 99–514, which related to failure to give written notice to certain sellers of diesel fuel.

Subsecs. (k), (*l*). Pub. L. 100–203, §10502(d)(11), redesignated subsec. (*l*), relating to information with respect to includible employee benefits, as (k), and directed the redesignation of a nonexistent subsec. (m) as (*l*). See Codification note above.

1986—Subsec. (a). Pub. L. 99–514, §1501(d)(1)(A), redesignated subsec. (b) as (a), substituted ''Returns with respect to certain payments aggregating less than $10'' for ''Other returns'' in heading, and struck out former subsec. (a) which provided penalties for failure to file returns relating to information at source, payments of dividends, etc. and certain transfers of stock.

Pub. L. 99–514, §1811(c)(2), inserted ''(other than by subsection (d) of such section)'' in par. (3)(A)(ii).

Subsecs. (b) to (f). Pub. L. 99–514, §1501(d)(1)(A)(i), redesignated subsecs. (c) to (f) as (b) to (e), respectively. Former subsec. (b) redesignated (a).

Subsec. (g). Pub. L. 99–514, §1501(d)(1)(A)(i), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Pub. L. 99–514, §1810(f)(9)(C), struck out ''etc.,'' after ''Returns'' in heading.

Subsec. (g)(1). Pub. L. 99–514, §1810(f)(9)(A), in amending par. (1) generally, struck out ''(A)'' after ''In the case of each failure'', and struck out ''(B) to furnish a statement required by section 6039C(b)(3),'' before ''on the date required''.

Subsec. (g)(3). Pub. L. 99–514, §1810(f)(9)(B), in amending par. (3) generally, designated former subpar. (B) of par. (3) as the entire paragraph, struck out former subpar. (A) setting a limitation of $25,000 with respect to each subsection for failure to meet the requirements of subsection (a) or (b) of section 6039C, struck out former subpar. (B) heading ''For failure to meet requirements of section 6039C(c)'' and in text substituted ''requirements of section 6039C'' for ''requirements of subsection (c) of section 6039C'' and inserted ''(A)'' before ''$25,000'' and ''(B)'' before ''5 percent''.

Subsecs. (h), (i). Pub. L. 99–514, §1501(d)(1)(A)(i), redesignated subsecs. (i) and (j) as (h) and (i), respectively. Former subsec. (h) redesignated (g).

Subsec. (j). Pub. L. 99–514, §1702(b), added subsec. (j) relating to failure to give written notice to certain sellers of diesel fuel, and redesignated former subsec. (j), relating to alcohol and tobacco taxes, as (k).

Pub. L. 99–514, §1301(g), added subsec. (j) relating to failure to file certification with respect to certain residential projects.

Pub. L. 99–514, §1501(d)(1)(A)(i), redesignated subsec. (k), relating to alcohol and tobacco taxes, as (j). Former subsec. (j), relating to failure to give written explanation to recipients of certain qualifying rollover distributions, redesignated (i). Such subsec. (j), relating to alcohol and tobacco taxes, was subsequently redesignated as subsec. (k) by section 1301(g) of Pub. L. 99–514, and also by section 1702(b) of Pub. L. 99–514, both of which added a new subsec. (j), see above.

Subsec. (k). Pub. L. 99–514, §1501(d)(1)(A)(i), redesignated subsec. (k), relating to alcohol and tobacco taxes, as (j). Subsequently, such subsec. (j) was redesignated as subsec. (k) by section 1301(g) of Pub. L. 99–514, and also by section 1702(b) of Pub. L. 99–514.

Subsecs. (*l*), (m). Pub. L. 99–514, §1151(b), directed the redesignation of a nonexistent subsec. (*l*) as (m), and added a new subsec. (*l*) relating to information with respect to includible employee benefits.

1984—Subsec. (a)(1)(B)(v). Pub. L. 98–369, §145(b)(1), added cl. (v).

Subsec. (a)(1)(B)(vi). Pub. L. 98–369, §146(b)(1), added cl. (vi).

Subsec. (a)(1)(B)(vii). Pub. L. 98–369, §148(b)(1), added cl. (vii).

Subsec. (a)(1)(B)(viii). Pub. L. 98–369, §149(b)(1), added cl. (viii).

Subsec. (a)(1)(B)(ix). Pub. L. 98–369, §155(b)(2)(A), added cl. (ix).

Subsec. (a)(3)(A)(iii). Pub. L. 98–369, §148(b)(2), substituted ", 6050I, or 6050J" for "or 6050I".

Pub. L. 98–369, §146(b)(2), substituted ", 6050H or 6050I" for "or section 6050H".

Pub. L. 98–369, §145(b)(2), inserted "or section 6050H" after "section 6041A(b)".

Subsec. (f). Pub. L. 98–611, §1(d)(2), and Pub. L. 98–612, §1(b)(2), made identical amendments, substituting "6039D (relating to returns and records with respect to certain fringe benefit plans)" for "125(h) (relating to information with respect to cafeteria plans)".

Pub. L. 98–369, §531(b)(4)(B)(i), which directed the amendment of subsec. (f) by striking out "or 6047 (relating to information relating to certain trusts and annuity and bond purchase plans)" and inserting in lieu thereof ", 6047 (relating to information relating to certain trusts and annuity and bond purchase plans), or 125(h) (relating to information with respect to cafeteria plans)", was executed by substituting the quoted phrase for "or 6047 (relating to information relating to certain trusts and annuity plans)", as the probable intent of Congress.

Pub. L. 98–369, §531(b)(4)(B)(ii), inserted "; etc." in heading.

Pub. L. 98–369, §491(d)(50), struck out "and bond purchase" after "trusts and annuity".

Subsec. (i). Pub. L. 98–369, §714(j)(3), added subsec. (i). Former subsec. (i), relating to alcohol and tobacco taxes, redesignated (j).

Subsec. (j). Pub. L. 98–397, §207(b), added subsec. (j). Former subsec. (j), relating to alcohol and tobacco taxes, redesignated (k).

Pub. L. 98–369, §714(j)(3), redesignated former subsec. (i), relating to alcohol and tobacco taxes, as (j).

Subsec. (k). Pub. L. 98–397, §207(b), redesignated subsec. (j), relating to alcohol and tobacco taxes, as (k).

1983—Subsec. (a)(1)(A). Pub. L. 98–67, §105(b)(1)(B), struck out cls. (ii), (iii), and (iv), redesignated cls. (v) and (vi) as (ii) and (iii), respectively, and in cl. (iii), as so redesignated, struck out "6042(e), 6044(f), 6049(e), or" before "6051(d)".

Subsec. (a)(2), (3). Pub. L. 98–67, §105(b)(1)(A), (C), added par. (2), redesignated former par. (2) as (3), and in par. (3), as so redesignated, inserted references to paragraph (2) in provisions preceding subpar. (A) and in provisions of subpar. (A) preceding cl. (i).

Subsec. (a). Pub. L. 97–448, which directed that "or" be struck out at end of subpar. (F) of par. (1), "or" be inserted at end of par. (2), a new par. (3) be added, and that in provision following par. (3), "paragraph (2) or (3)" be substituted for "paragraph (2)", was executed by striking out "or" at end of subpar. (A)(vi) of par. (1), inserting "or" at end of subpar. (B)(iv) of par. (1), redesignating par. (3) as subpar. (C) and adding such subpar. (C), to par. (1), and in provision following subpar. (C) substituting "subparagraph (B) or (C)" for "subparagraph (B)", to reflect the probable intent of Congress and the intervening amendment of subsec. (a) by section 315(a) of Pub. L. 97–248 which redesignated former par. (1) as subpar. (A), former subpars. (A) to (F) as cls. (i) to (vi), and former par. (2) as subpar. (B), and in provision following subpar. (B) as so redesignated, substituted "subparagraph (B)" for "paragraph (2)".

1982—Subsec. (a). Pub. L. 97–248, §315(a), designated existing provisions as par. (1) with a heading "In general", redesignated former par. (1) as subpar. (A), in subpar. (A) as so redesignated struck out "aggregate" before "amount", redesignated former subpars. (A) through (F) as cls. (i) through (vi), respectively, in cls. (ii) and (iii) as so redesignated struck out "aggregating $10 or more" after "dividends", in cl. (iv) as so redesignated substituted "(a)" for "(a)(1)" and struck out "aggregating $10 or more" after "interest", in cl. (vi) as so redesignated inserted "6042(e), 6044(f), 6049(e), or" before "6051(d)", redesignated former par. (2) as subpar. (B), in subpar. (B) as so redesignated designated from "section 6052(a)" through the end of the parenthesis as cl. (iii) and struck out "with respect to group-term life insurance on the life of an employee" thereafter, added cls. (i), (ii), and (iv), in text after cl. (iv) substituted "subparagraph (A)" for "paragraph (1)", "subparagraph (B)" for "paragraph (2)", "$50 for each such failure" for "$10 for each such failure", and "shall not exceed $50,000" for "shall not exceed $25,000", and added par. (2).

Subsec. (b). Pub. L. 97–248, §309(b)(2), struck out pars. (3) and (4) which referred to section 6049(a)(2) and section 6049(a)(3), respectively, as sources of authority for the requirement of filing a statement of payment to another person.

Subsec. (f). Pub. L. 97–248, §315(b), substituted "$25" and "$15,000" for "$10" and "$5,000", respectively.

1981—Subsec. (a). Pub. L. 97–34, §723(a)(4), inserted in heading "information at source," before "payments of dividends".

Subsec. (a)(1). Pub. L. 97–34, §723(a)(1), added subpars. (A), (E), and (F), and redesignated former subpars. (A) to (C) as (B) to (D), respectively.

Subsec. (b). Pub. L. 97–34, §723(a)(3), substituted provisions relating to failure to file required statement of payment to another person under authority of section 6042(a)(2), 6044(a)(2), or 6049(a)(2) or (3), and imposition of penalties with a maximum of $1,000 for all failures during the calendar year, for provisions relating to failure to file required statement of payment to another person under authority of section 6041, 6042(a)(2), 6044(a)(2), 6049(a)(2) or (3), 6050A(a) or (b), 6050C, 6051(d), or 6053(b), and imposition of penalties with a maximum of $1,000 for all failures during the calendar year.

Subsecs. (h), (i). Pub. L. 97–34, §311(f), added subsec. (h) and redesignated former subsec. (h) as (i).

1980—Subsec. (b). Pub. L. 96–223 inserted reference to statement required by section 6050C (relating to information regarding windfall profit tax on crude oil).

Subsec. (d)(3). Pub. L. 96–603 substituted in heading "returns" for "reports" and in text "failure to comply" for "failure to file a report required under section 6056 (relating to annual reports by private foundations) or to comply", "failing to meet such requirements" for "failing so to file or meet the publicity requirement", and "failure with respect" for "failure to file or comply with the requirements of section 6104(d) with regard".

Subsecs. (g), (h). Pub. L. 96–499 added subsec. (g) and redesignated former subsec. (g) as (h).

1979—Subsec. (a). Pub. L. 96–167 inserted "or" after "$10 or more)," in par. (1), struck out par. (2) relating to failure to make a return required by section 6039(a) with respect to a transfer of stock or a transfer of legal title to stock, redesignated par. (3) as (2), and in closing provision substituted "return referred to in paragraph (2)" for "return referred to in paragraph (2) or (3)".

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

Subsec. (b). Pub. L. 94–455, §§1207(e)(3)(B), (C), 1906(b)(13)(A), inserted "in the case of each failure to make a return required by section 6050A(a) (relating to reporting requirements of certain fishing boat operators)," after "income tax withheld)," and "or section 6050A(b) (relating to statements furnished by certain fishing boat operators)," after "respect to tips)," and struck out "or his delegate" after "Secretary".

Subsecs. (d) to (f). Pub. L. 94–455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary" wherever appearing.

1974—Pub. L. 93–406, §1031(b)(1)(B)(i), inserted ", registration statements, etc." in section catchline.

Subsecs. (e) to (g). Pub. L. 93–406, §1031(b)(1)(A), added subsecs. (e) and (f) and redesignated former subsec. (e) as (g).

1969—Subsecs. (d), (e). Pub. L. 91–172 added subsec. (d) and redesignated former subsec. (d) as (e).

1965—Subsec. (b). Pub. L. 89–97, § 313(e)(2)(B), inserted ''and in the case of each failure to furnish a statement required by section 6053(b) (relating to statements furnished by employers with respect to tips),'' after ''income tax withheld).''.

Subsec. (c). Pub. L. 89–212 inserted ''or which are compensation (as defined in section 3231(e))'' and ''or section 3201 (as the case may be)''.

Pub. L. 89–97, § 313(e)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 89–97, § 313(e)(3), redesignated former subsec. (c) as (d).

1964—Subsec. (a). Pub. L. 88–272 provided a penalty for failure to make a return required by section 6039(a) with respect to a transfer of stock or a transfer of legal title to stock, and by section 6052(a) with respect to group-term life insurance on the life of an employee.

1962—Subsec. (a). Pub. L. 87–834 added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 87–834 redesignated former subsec. (a) as (b), and substituted ''section 6042(a)(2) (relating to payments of dividends aggregating less than $10), section 6044(a)(2) (relating to payments of patronage dividends aggregating less than $10), section 6049(a)(2) (relating to payments of interest aggregating less than $10), section 6049(a)(3) (relating to other payments of interest by corporations), or section 6051(d) (relating to information returns with respect to income tax withheld)'' for ''section 6042(1) (relating to payments of corporate dividends), section 6044 (relating to patronage dividends), or section 6051(d) (relating to information returns with respect to income tax withheld)''. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 87–834 redesignated former subsec. (b) as (c).

1958—Subsec. (a). Pub. L. 85–866 substituted ''section 6042(1)'' for ''section 6042'' and ''(upon notice and demand by the Secretary or his delegate and in the same manner as tax), by the person failing to so file the statement, $1 for each such statement not so filed'' for ''by the person failing to file the statement, upon notice and demand by the Secretary or his delegate and in the same manner as tax, $1 for each such statement not filed'', deleted ''section 6045 (relating to returns of brokers)'' after ''patronage dividends)'' and inserted ''on the date prescribed therefor (determined with regard to any extension of time for filing)'' after ''income tax withheld),''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 1(c) of Pub. L. 106–230 effective July 1, 2000, see section 1(d) of Pub. L. 106–230, set out as a note under section 527 of this title.

Amendment by section 3(c) of Pub. L. 106–230 applicable to returns for taxable years beginning after June 30, 2000, see section 3(d) of Pub. L. 106–230, set out as a note under section 6012 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 applicable to requests made after the later of Dec. 31, 1998, or the 60th day after the Secretary of the Treasury first issues the regulations referred to in section 6104(d)(4) of this title, see section 1004(b)(3) of Pub. L. 105–277, set out as a note under section 6104 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1281(e) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section and sections 6683 and 7519 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by section 1602(d)(2)(B) of Pub. L. 105–34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104–191, to which such amendment relates, see section 1602(i) of Pub. L. 105–34, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 1455(c), (d)(2) of Pub. L. 104–188 applicable to returns, reports, and other statements the due date for which (determined without regard to extensions) is after Dec. 31, 1996, see section 1455(e) of Pub. L. 104–188, set out as a note under section 408 of this title.

Section 1314(c) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section] shall apply to returns for taxable years ending on or after the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 applicable to stock issued after Aug. 10, 1993, see section 13113(e) of Pub. L. 103–66, set out as a note under section 53 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–318 applicable, except as otherwise provided, to distributions after Dec. 31, 1992, see section 522(d) of Pub. L. 102–318, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1989 AMENDMENTS

Amendment by section 7208(b)(2) of Pub. L. 101–239 applicable to transactions after Mar. 31, 1990, see section 7208(b)(4) of Pub. L. 101–239, set out as a note under section 6043 of this title.

Amendment by Pub. L. 101–140 effective as if included in section 1151 of Pub. L. 99–514, see section 203(c) of Pub. L. 101–140, set out as a note under section 79 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by sections 1011B(a)(10), 1017(b), 1018(u)(36) 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.

Amendment by section 3021(a)(10) of Pub. L. 100–647 effective as if included in the amendments by section 1151 of Pub. L. 99–514, see section 3021(d)(1) of Pub. L. 100–647, set out as a note under section 129 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10502(d)(11) of Pub. L. 100–203 applicable to sales after Mar. 31, 1988, see section 10502(e) of Pub. L. 100–203, set out as a note under section 40 of this title.

Section 10704(d) of Pub. L. 100–203 provided that: ''The amendments made by this section [amending this section and sections 6685 and 7207 of this title] shall apply—

''(1) to returns for years beginning after December 31, 1986, and

''(2) on and after the date of the enactment of this Act [Dec. 22, 1987] in the case of applications submitted to the Internal Revenue Service—

''(A) after July 15, 1987, or

''(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1151(b) of Pub. L. 99–514 applicable to years beginning after Dec. 31, 1988, with certain qualifications and exceptions, see section 1151(k) of Pub. L. 99–514, as amended, set out as a note under section 79 of this title.

Amendment by section 1301(g) of Pub. L. 99–514 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99–514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

Amendment by section 1501(d)(1)(A) of Pub. L. 99–514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31,

1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

Amendment by section 1702(b) of Pub. L. 99–514 applicable to sales after first calendar quarter beginning more than 60 days after Oct. 22, 1986, see section 1702(c) of Pub. L. 99–514, set out as a note under section 4041 of this title.

Amendment by sections 1810(f)(9) and 1811(c)(2) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–612 effective Jan. 1, 1985, see section 1(d)(2) of Pub. L. 98–612.

Amendment by Pub. L. 98–611 effective Jan. 1, 1985, see section 1(g)(2) of Pub. L. 98–611, set out as a note under section 127 of this title.

Amendment by Pub. L. 98–397 applicable to distributions after Dec. 31, 1984, see section 302(c) of Pub. L. 98–397, set out as a note under section 1001 of Title 29, Labor.

Amendment by section 145(b)(1), (2) of Pub. L. 98–369 applicable to amounts received after Dec. 31, 1984, see section 145(d) of Pub. L. 98–369, set out as an Effective Date note under section 6050H of this title.

Amendment by section 146(b)(1), (2) of Pub. L. 98–369 applicable to amounts received after Dec. 31, 1984, see section 146(d) of Pub. L. 98–369, set out as an Effective Date note under section 6050I of this title.

Amendment by section 148(b)(1), (2) of Pub. L. 98–369 applicable with respect to acquisitions of property and abandonments of property after Dec. 31, 1984, see section 148(d) of Pub. L. 98–369, set out as an Effective Date note under section 6050J of this title.

Amendment by section 149(b)(1) of Pub. L. 98–369 applicable with respect to exchanges after Dec. 31, 1984, see section 149(d) of Pub. L. 98–369, set out as an Effective Date note under section 6050K of this title.

Amendment by section 155(b)(2)(A) of Pub. L. 98–369 applicable to contributions made after Dec. 31, 1984, in taxable years ending after such date, see section 155(d)(1) of Pub. L. 98–369, set out as an Effective Date note under section 6050L of this title.

Amendment by section 491(d)(50) of Pub. L. 98–369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98–369, set out as a note under section 62 of this title.

Amendment by section 531(b)(4)(B) of Pub. L. 98–369 effective Jan. 1, 1985, see section 531(h) of Pub. L. 98–369, set out as an Effective Date note under section 132 of this title.

Amendment by section 714(j)(3) 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.

EFFECTIVE DATE OF 1983 AMENDMENTS

Amendment by Pub. L. 98–67 applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98–67, set out as a note under section 31 of this title.

Section 203(a), (b) of title II of Pub. L. 97–448, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) GENERAL RULE.—Except as provided in subsection (b), any amendment made by this title [amending this section and sections 44D [now 29], 46, 48, 193, 613A, 4988, 4989, 4991–4997, 6015, 6154, 6654, 6655, and 6678 of this title, enacting provisions set out as notes under section 4996 of this title, and amending a provision set out as a note under section 44E of this title] shall take effect as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980 [Pub. L. 96–223] to which such amendment relates.

''(b) EXCEPTIONS.—

''(1) DEFINITION OF INDEPENDENT PRODUCER.—The amendment made by section 201(d)(1) [amending section 4992 of this title] shall take effect on January 1, 1983.

''(2) PENALTY PROVISION.—The amendments made by section 201(i) [amending this section and sections 4997 and 6678 of this title] shall apply with respect to returns and statements the due dates for which (without regard to extensions) are after the date of the enactment of this Act [Jan. 12, 1983].

''(3) AMENDMENTS TO SECTION 613A.—

''(A) The amendment made by section 202(d)(1) [amending section 613A of this title] shall apply to transfers in taxable years ending after December 31, 1974, but only for purposes of applying section 613A of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] to periods after December 31, 1979.

''(B) The amendment made by section 202(d)(2) [amending section 613A of this title] shall apply to bulk sales after September 18, 1982.

''(4) NO WITHHOLDING BY REASON OF CONDENSATE PROVISION.—No withholding of tax shall be required under section 4995 of the Internal Revenue Code of 1986 by reason of the amendment made by section 201(h)(2)(A) of this Act [amending section 4996 of this title] before the date on which regulations with respect to such amendment are published in the Federal Register.''

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 309(b)(2) of Pub. L. 97–248 applicable to amounts paid (or treated as paid) after Dec. 31, 1982, see section 309(c) of Pub. L. 97–248, set out as a note under section 6049 of this title.

Section 315(d) of Pub. L. 97–248 provided that: ''The amendments made by this section [amending this section and section 6678 of this title] shall apply with respect to returns or statements the due date for the filing of which (without regard to extensions) is after December 31, 1982.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 311(f) of Pub. L. 97–34 applicable to taxable years beginning after Dec. 31, 1981, see section 311(i)(1) of Pub. L. 97–34, set out as a note under section 219 of this title.

Section 723(c) of Pub. L. 97–34 provided that: ''The amendments made by this section [amending this section and sections 6041 and 6678 of this title] shall apply to returns and statements required to be furnished after December 31, 1981.''

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–603 applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of Pub. L. 96–603, set out as a note under section 6033 of this title.

Amendment by Pub. L. 96–499, applicable to 1980 and subsequent calendar years, with 1980 being treated as beginning on June 19, 1980, and ending on Dec. 31, 1980, see section 1125(b) of Pub. L. 96–499, set out as an Effective Date note under section 897 of this title.

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 7(c) of Pub. L. 96–167 provided that: ''The amendments made by this section [amending this section and sections 6039 and 6678 of this title] shall apply with respect to calendar years beginning after 1979.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1207(e)(3)(B), (C) of Pub. L. 94–455 applicable to calendar years beginning after Oct. 4, 1976, see section 1207(f)(4) of Pub. L. 94–455, set out as a note under section 3121 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 effective Sept. 2, 1974, see section 1034 of Pub. L. 93–406, set out as an Effective Date note under section 6057 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 101(k)(2)(B) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1965 AMENDMENTS

Amendment by Pub. L. 89–212 effective only with respect to tips received after 1965, see section 6 of Pub. L. 89–212, set out as a note under section 3201 of this title.

Amendment by Pub. L. 89–97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89–97, set out as an Effective Date note under section 6053 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–272 applicable to group-term life insurance provided after Dec. 31, 1963, in taxable years ending after such date, see section 204(d) of Pub. L. 88–272, set out as an Effective Date note under section 79 of this title.

Amendment by Pub. L. 88–272 applicable to taxable years ending after Dec. 31, 1963, except for par. (2) of subsec. (a) which shall apply to stock transferred pursuant to options exercised on or after Jan. 1, 1964, see section 221(e) of Pub. L. 88–272, set out as a note under section 421 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–834 applicable to payments of dividends and interest made on or after Jan. 1, 1963, and to payments of amounts described in section 6044(b) of this title made on or after Jan. 1, 1963, with respect to patronage occurring on or after the first day of the first taxable year of the cooperative beginning on or after Jan. 1, 1963, see section 19(h) of Pub. L. 87–834, set out as a note under section 6042 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 99–514 FOR FISCAL YEAR 1990

No monies appropriated by Pub. L. 101–136 to be used to implement or enforce section 1151 of Pub. L. 99–514 or the amendments made by such section, see section 528 of Pub. L. 101–136, set out as a note under section 89 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401–1465] of title I of Pub. L. 104–188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104–188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§521–523] of title V of Pub. L. 102–318 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, 1994, see section 523 of Pub. L. 102–318, set out as a note under section 401 of this title.

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 sections 42, 142, 219, 6033, 6034, 6047, 6057, 6058 of this title.

§ 6653. Failure to pay stamp tax

Any person (as defined in section 6671(b)) who—

(1) willfully fails to pay any tax imposed by this title which is payable by stamp, coupons, tickets, books, or other devices or methods prescribed by this title or by regulations under the authority of this title, or

(2) willfully attempts in any manner to evade or defeat any such tax or the payment thereof,

shall, in addition to other penalties provided by law, be liable for a penalty of 50 percent of the total amount of the underpayment of the tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 822; Pub. L. 85–866, title I, §86, Sept. 2, 1958, 72 Stat. 1665; Pub. L. 91–172, title I, §101(j)(50), title IX, §943(c)(6), Dec. 30, 1969, 83 Stat. 531, 729; Pub. L. 91–679, §2, Jan. 12, 1971, 84 Stat. 2063; Pub. L. 93–406, title II, §1016(a)(18), Sept. 2, 1974, 88 Stat. 931; Pub. L. 96–223, title I, §101(f)(8), Apr. 2, 1980, 94 Stat. 253; Pub. L. 97–34, title V, §501(b), title VII, §722(b)(1), Aug. 13, 1981, 95 Stat. 326, 342; Pub. L. 97–248, title III, §325(a), Sept. 3, 1982, 96 Stat. 616; Pub. L. 97–448, title I, §§105(a)(1)(D), 107(a)(3), Jan. 12, 1983, 96 Stat. 2384, 2391; Pub. L. 98–67, title I, §106, Aug. 5, 1983, 97 Stat. 382; Pub. L. 98–369, div. A, title I, §179(b)(3), July 18, 1984, 98 Stat. 718; Pub. L. 99–44, §1(b), May 24, 1985, 99 Stat. 77; Pub. L. 99–514, title XV, §1503(a), (b), (c)(2), (3), (d)(1), Oct. 22, 1986, 100 Stat. 2742, 2743; Pub. L. 100–647, title I, §1015(b)(2)(A), (B), (3), Nov. 10, 1988, 102 Stat. 3569; Pub. L. 101–239, title VII, §7721(c)(1), Dec. 19, 1989, 103 Stat. 2399.)

AMENDMENTS

1989—Pub. L. 101–239 substituted ''Failure to pay stamp tax'' for ''Additions to tax for negligence and fraud'' in section catchline and amended text generally, substituting a single par. for former subsecs. (a) to (g).

1988—Subsec. (a)(1). Pub. L. 100–647, §1015(b)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''If any part of any underpayment (as defined in subsection (c)) is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to the sum of—

''(A) 5 percent of the underpayment, and

''(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to the portion of such underpayment which is attributable to negligence for the period beginning on the last date prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).''

Subsec. (b)(1). Pub. L. 100–647, §1015(b)(2)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to the sum of—

''(A) 75 percent of the portion of the underpayment which is attributable to fraud, and

''(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to such portion for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax or, if earlier, the date of the payment of the tax.''

Subsec. (g). Pub. L. 100–647, § 1015(b)(3), inserted at end ''If any penalty is imposed under subsection (a) by reason of the preceding sentence, only the portion of the underpayment which is attributable to the failure described in the preceding sentence shall be taken into account in determining the amount of the penalty under subsection (a).''

1986—Pub. L. 99–514, § 1503(d)(1), substituted ''Additions to tax for negligence and fraud'' for ''Failure to pay tax'' in section catchline.

Subsec. (a). Pub. L. 99–514, § 1503(a), added subsec. (a) and struck out former subsec. (a) which added percentage to tax due for underpayment of taxes where negligence or intentional disregard of rules and regulations with respect to income, gift, or windfall profit taxes was involved, and also provided additional interest penalty for portion of underpayment attributable to negligence, etc.

Subsec. (b). Pub. L. 99–514, § 1503(b), added subsec. (b) and struck out former subsec. (b) which added percentage to tax due for underpayment of taxes where fraud was involved, and also provided for additional interest penalty, but stated that there would be no negligence addition where there was addition for fraud, and concluded with special rule for joint returns.

Subsec. (d). Pub. L. 99–514, § 1503(c)(2), substituted ''portion of the underpayment which is attributable to fraud'' for ''same underpayment''.

Subsec. (f). Pub. L. 99–514, § 1503(c)(3), struck out ''or intentional disregard of rules and regulations (but without intent to defraud)'' after ''underpayment due to negligence''.

Subsec. (g). Pub. L. 99–514, § 1503(b), amended subsec. (g) generally, substituting provisions relating to special rule for amounts shown on information returns for provisions relating to special rule in case of interest or dividend payments, and struck out provision that penalty was to apply only to portion of underpayment due to failure to include interest or dividend payment.

1985—Subsec. (h). Pub. L. 99–44 repealed Pub. L. 98–369, § 179(b)(3), which added subsec. (h), and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered as if section 179(b)(3) (and the amendments made by such section) had not been enacted. See 1984 Amendment note and Effective Date of 1985 Amendment note below.

1984—Subsec. (h). Pub. L. 98–369 added subsec. (h) which provided for a special rule in the case of underpayment attributable to failure to meet the substantiation requirements of section 274(d) of this title. See 1985 Amendment note above.

1983—Subsec. (a)(2)(B). Pub. L. 97–448, § 107(a)(3), inserted ''(or, if earlier, the date of the payment of the tax)'' after ''assessment of the tax''.

Subsec. (f). Pub. L. 97–448, § 105(a)(1)(D), redesignated subsec. (g), added by Pub. L. 97–34, as (f) and substituted ''unrecognized gain'' for ''unrealized gain'' in heading.

Subsec. (g). Pub. L. 98–67 added subsec. (g).

Pub. L. 97–448, § 105(a)(1)(D), redesignated subsec. (g), added by Pub. L. 97–34, as (f).

1982—Subsec. (b). Pub. L. 97–248 designated first sentence of existing provisions as par. (1) with heading ''In general'', struck out second sentence which provided that in the case of income taxes and gift taxes, the amount under this subsec. shall be in lieu of any amount determined under subsec. (a), added pars. (2) and (3), designated last sentence as par. (4) with heading ''Special rule for joint returns'', and in par. (4) as so designated substituted ''of the spouse'' for ''of a spouse''.

1981—Subsec. (a). Pub. L. 97–34, § 722(b)(1), designated existing provisions as par. (1), inserted heading, struck out ''(relating to income taxes and gift taxes)'', and added par. (2) after ''subtitle B''.

Subsec. (g). Pub. L. 97–34, § 501(b), added subsec. (g).

1980—Subsec. (a). Pub. L. 96–223 substituted '', gift, or windfall profit taxes'' for ''or gift taxes'' in heading, and in text substituted '','' for ''or'' before ''by chapter 12'' and inserted '', or by chapter 45 (relating to windfall profit tax)'' before ''is due to negligence''.

1974—Subsec. (c)(1). Pub. L. 93–406 substituted ''certain excise'' for ''chapter 42'' in heading and text.

1971—Subsec. (b). Pub. L. 91–679 inserted sentence making subsection inapplicable, in the case of a joint return under section 6013 of this title, with respect to the tax of a spouse unless some part of the underpayment is due to the fraud of such spouse.

1969—Subsec. (c)(1). Pub. L. 91–172, § 101(j)(50), inserted reference to chapter 42 taxes in heading and text.

Subsec. (d). Pub. L. 91–172, § 943(c)(6), inserted ''or pay tax'' after ''such return''.

1958—Subsec. (c)(1). Pub. L. 85–866, inserted ''on or'' after ''such return was filed''.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as a note under section 461 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1015(b)(2)(A), (B) of Pub. L. 100–647 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1988, see section 1015(b)(4) of Pub. L. 100–647, set out as a note under section 6013 of this title.

Amendment by section 1015(b)(3) 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 1503(e) of Pub. L. 99–514 provided that: ''The amendments made by this section [amending this section and section 6222 of this title] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.''

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–44 effective as if included in the amendments made by section 179(b) of Pub. L. 98–369, see section 6(a) of Pub. L. 99–44, set out as a note under section 274 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1984, see section 179(d)(2) of Pub. L. 98–369, set out as an Effective Date note under section 280F of this title.

EFFECTIVE DATE OF 1983 AMENDMENTS

Amendment by Pub. L. 98–67 applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98–67, set out as a note under section 31 of this title.

Amendment by Pub. L. 97–448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97–34, to which such amendment relates, see section 109 of Pub. L. 97–448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 325(b) of Pub. L. 97–248 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to taxes the last day prescribed by law for payment of which (determined with-

out regard to any extension) is after the date of enactment of this Act [Sept. 3, 1982].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 501(b) of Pub. L. 97–34 applicable to property acquired and positions established by the taxpayer after June 23, 1981, in taxable years ending after such date, and applicable when so elected with respect to property held on June 23, 1981, see section 508 of Pub. L. 97–34, set out as an Effective Date note under section 1092 of this title.

Section 722(b)(2) of Pub. L. 97–34 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to taxes the last date prescribed for payment of which is after December 31, 1981.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91–679 applicable to all taxable years to which this title applies, see section 3 of Pub. L. 91–679, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(50) of Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 943(c)(6) of Pub. L. 91–172 applicable with respect to tax returns the date prescribed by law for filing of which is after Dec. 31, 1969, see section 943(d) of Pub. L. 91–172, set out as a note under section 6651 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

REPEAL OF REGULATIONS COVERING SUBSTANTIATION BY ADEQUATE CONTEMPORANEOUS RECORDS

Regulations issued before May 24, 1985, to carry out subsec. (h) of this section as added by section 179(b)(3) of Pub. L. 98–369 to have no force and effect, see section 1(c) of Pub. L. 99–44, set out as a note under section 274 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5684, 5761, 6601, 6672 of this title.

§ 6654. Failure by individual to pay estimated income tax

(a) Addition to the tax

Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under chapter 1 and the tax under chapter 2 for the taxable year an amount determined by applying—

(1) the underpayment rate established under section 6621,

(2) to the amount of the underpayment,

(3) for the period of the underpayment.

(b) Amount of underpayment; period of underpayment

For purposes of subsection (a)—

(1) Amount

The amount of the underpayment shall be the excess of—

(A) the required installment, over

(B) the amount (if any) of the installment paid on or before the due date for the installment.

(2) Period of underpayment

The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

(A) the 15th day of the 4th month following the close of the taxable year, or

(B) with respect to any portion of the underpayment, the date on which such portion is paid.

(3) Order of crediting payments

For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

(c) Number of required installments; due dates

For purposes of this section—

(1) Payable in 4 installments

There shall be 4 required installments for each taxable year.

(2) Time for payment of installments

In the case of the following required installments:	The due date is:
1st	April 15
2nd	June 15
3rd	September 15
4th	January 15 of the following taxable year.

(d) Amount of required installments

For purposes of this section—

(1) Amount

(A) In general

Except as provided in paragraph (2), the amount of any required installment shall be 25 percent of the required annual payment.

(B) Required annual payment

For purposes of subparagraph (A), the term ''required annual payment'' means the lesser of—

(i) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

(ii) 100 percent of the tax shown on the return of the individual for the preceding taxable year.

Clause (ii) shall not apply if the preceding taxable year was not a taxable year of 12 months or if the individual did not file a return for such preceding taxable year.

(C) Limitation on use of preceding year's tax

(i) In general

If the adjusted gross income shown on the return of the individual for the preceding taxable year beginning in any calendar year exceeds $150,000, clause (ii) of subparagraph (B) shall be applied by substituting the applicable percentage for ''100 percent''. For purposes of the preceding sentence, the applicable percentage shall be determined in accordance with the following table:

If the preceding taxable year begins in:	The applicable percentage is:
1998	105
1999	108.6
2000	110
2001	112
2002 or thereafter	110.

This clause shall not apply in the case of a preceding taxable year beginning in calendar year 1997.

(ii) Separate returns

In the case of a married individual (within the meaning of section 7703) who files a separate return for the taxable year for which the amount of the installment is being determined, clause (i) shall be applied by substituting ''$75,000'' for ''$150,000''.

(iii) Special rule

In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).

(2) Lower required installment where annualized income installment is less than amount determined under paragraph (1)

(A) In general

In the case of any required installment, if the individual establishes that the annualized income installment is less than the amount determined under paragraph (1)—

(i) the amount of such required installment shall be the annualized income installment, and

(ii) any reduction in a required installment resulting from the application of this subparagraph shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction (and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this clause).

(B) Determination of annualized income installment

In the case of any required installment, the annualized income installment is the excess (if any) of—

(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income, alternative minimum taxable income, and adjusted self-employment income for months in the taxable year ending before the due date for the installment, over

(ii) the aggregate amount of any prior required installments for the taxable year.

(C) Special rules

For purposes of this paragraph—

(i) Annualization

The taxable income, alternative minimum taxable income, and adjusted self-employment income shall be placed on an annualized basis under regulations prescribed by the Secretary.

(ii) Applicable percentage

In the case of the following required installments:	The applicable percentage is:
1st	22.5
2nd	45
3rd	67.5
4th	90.

(iii) Adjusted self-employment income

The term ''adjusted self-employment income'' means self-employment income (as defined in section 1402(b)); except that section 1402(b) shall be applied by placing wages (within the meaning of section 1402(b)) for months in the taxable year ending before the due date for the installment on an annualized basis consistent with clause (i).

(D) Treatment of subpart F and section 936 income

(i) In general

Any amounts required to be included in gross income under section 936(h) or 951(a) (and credits properly allocable thereto) shall be taken into account in computing any annualized income installment under subparagraph (B) in a manner similar to the manner under which partnership income inclusions (and credits properly allocable thereto) are taken into account.

(ii) Prior year safe harbor

If a taxpayer elects to have this clause apply to any taxable year—

(I) clause (i) shall not apply, and

(II) for purposes of computing any annualized income installment for such taxable year, the taxpayer shall be treated as having received ratably during such taxable year items of income and credit described in clause (i) in an amount equal to the amount of such items shown on the return of the taxpayer for the preceding taxable year (the second preceding taxable year in the case of the first and second required installments for such taxable year).

(e) Exceptions

(1) Where tax is small amount

No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax), reduced by the credit allowable under section 31, is less than $1,000.

(2) Where no tax liability for preceding taxable year

No addition to tax shall be imposed under subsection (a) for any taxable year if—

(A) the preceding taxable year was a taxable year of 12 months,

(B) the individual did not have any liability for tax for the preceding taxable year, and

(C) the individual was a citizen or resident of the United States throughout the preceding taxable year.

(3) Waiver in certain cases

(A) In general

No addition to tax shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience.

(B) Newly retired or disabled individuals

No addition to tax shall be imposed under subsection (a) with respect to any underpayment if the Secretary determines that—

(i) the taxpayer—

(I) retired after having attained age 62, or

(II) became disabled,

in the taxable year for which estimated payments were required to be made or in the taxable year preceding such taxable year, and

(ii) such underpayment was due to reasonable cause and not to willful neglect.

(f) Tax computed after application of credits against tax

For purposes of this section, the term ''tax'' means—

(1) the tax imposed by chapter 1 (other than any increase in such tax by reason of section 143(m)), plus

(2) the tax imposed by chapter 2, minus

(3) the credits against tax provided by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages).

(g) Application of section in case of tax withheld on wages

(1) In general

For purposes of applying this section, the amount of the credit allowed under section 31 for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each due date for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

(2) Separate application

The taxpayer may apply paragraph (1) separately with respect to—

(A) wage withholding, and

(B) all other amounts withheld for which credit is allowed under section 31.

(h) Special rule where return filed on or before January 31

If, on or before January 31 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, then no addition to tax shall be imposed under subsection (a) with respect to any underpayment of the 4th required installment for the taxable year.

(i) Special rules for farmers and fishermen

For purposes of this section—

(1) In general

If an individual is a farmer or fisherman for any taxable year—

(A) there shall be only 1 required installment for the taxable year,

(B) the due date for such installment shall be January 15 of the following taxable year,

(C) the amount of such installment shall be equal to the required annual payment determined under subsection (d)(1)(B) by substituting ''66⅔ percent'' for ''90 percent'' and without regard to subparagraph (C) of subsection (d)(1), and

(D) subsection (h) shall be applied—

(i) by substituting ''March 1'' for ''January 31'', and

(ii) by treating the required installment described in subparagraph (A) of this paragraph as the 4th required installment.

(2) Farmer or fisherman defined

An individual is a farmer or fisherman for any taxable year if—

(A) the individual's gross income from farming or fishing (including oyster farming) for the taxable year is at least 66⅔ percent of the total gross income from all sources for the taxable year, or

(B) such individual's gross income from farming or fishing (including oyster farming) shown on the return of the individual for the preceding taxable year is at least 66⅔ percent of the total gross income from all sources shown on such return.

(j) Special rules for nonresident aliens

In the case of a nonresident alien described in section 6072(c):

(1) Payable in 3 installments

There shall be 3 required installments for the taxable year.

(2) Time for payment of installments

The due dates for required installments under this subsection shall be determined under the following table:

In the case of the following required installments:	The due date is:
1st	June 15
2nd	September 15
3rd	January 15 of the following taxable year.

(3) Amount of required installments

(A) First required installment

In the case of the first required installment, subsection (d) shall be applied by substituting ''50 percent'' for ''25 percent'' in subsection (d)(1)(A).

(B) Determination of applicable percentage

The applicable percentage for purposes of subsection (d)(2) shall be determined under the following table:

In the case of the following required installments:	The applicable percentage is:
1st	45
2nd	67.5
3rd	90.

(k) Fiscal years and short years

(1) Fiscal years

In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

(2) Short taxable year

This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

(*l*) Estates and trusts

(1) In general

Except as otherwise provided in this subsection, this section shall apply to any estate or trust.

(2) Exception for estates and certain trusts

With respect to any taxable year ending before the date 2 years after the date of the decedent's death, this section shall not apply to—

(A) the estate of such decedent, or

(B) any trust—

(i) all of which was treated (under subpart E of part I of subchapter J of chapter 1) as owned by the decedent, and

(ii) to which the residue of the decedent's estate will pass under his will (or, if no will is admitted to probate, which is the trust primarily responsible for paying debts, taxes, and expenses of administration).

(3) Exception for charitable trusts and private foundations

This section shall not apply to any trust which is subject to the tax imposed by section 511 or which is a private foundation.

(4) Special rule for annualizations

In the case of any estate or trust to which this section applies, subsection (d)(2)(B)(i) shall be applied by substituting ''ending before the date 1 month before the due date for the installment'' for ''ending before the due date for the installment''.

(m) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 823; Pub. L. 87–682, §1(a)(4), Sept. 25, 1962, 76 Stat. 575; Pub. L. 89–368, title I, §§102(b)(1)–(3), 103(a), Mar. 15, 1966, 80 Stat. 62–64; Pub. L. 91–172, title III, §301(b)(13), Dec. 30, 1969, 83 Stat. 586; Pub. L. 92–5, title II, §203(b)(7), Mar. 17, 1971, 85 Stat. 11; Pub. L. 92–336, title II, §203(b)(7), July 1, 1972, 86 Stat. 420; Pub. L. 93–66, title II, §203(b)(7), (d), July 9, 1973, 87 Stat. 153; Pub. L. 93–233, §5(b)(7), (d), Dec. 31, 1973, 87 Stat. 954; Pub. L. 93–625, §7(c), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94–455, title XIX, §1906(a)(35), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1829, 1834; Pub. L. 95–30, title I, §102(b)(16), May 23, 1977, 91 Stat. 139; Pub. L. 95–600, title IV, §421(e)(9), Nov. 6, 1978, 92 Stat. 2877; Pub. L. 97–34, title VI, §601(a)(6)(A), title VII, §725(b), (c)(5), Aug. 13, 1981, 95 Stat. 336, 346; Pub. L. 97–248, title II, §207(d)(7), formerly §207(c)(7), title III, §§307(a)(14), 308(a), 328(a), Sept. 3, 1982, 96 Stat. 420, 590, 591, 618, renumbered §207(d)(7), Pub. L. 97–448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97–448, title I, §§106(a)(4)(C), 107(c)(1), title II, §201(j)(3), Jan. 12, 1983, 96 Stat. 2390, 2391, 2396; Pub. L. 98–67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 98–369, div. A, title IV, §411, July 18, 1984, 98 Stat. 788; Pub. L. 99–514, title XIV, §1404(a), title XV, §§1511(c)(14), 1541(a), (b), title XVIII, §1841, Oct. 22, 1986, 100 Stat. 2713, 2745, 2751, 2852; Pub. L. 100–418, title I, §1941(b)(6)(A), Aug. 23, 1988, 102 Stat. 1324; Pub. L. 100–647, title I, §1014(d)(1), (2), title IV, §4005(g)(5), Nov. 10, 1988, 102 Stat. 3560, 3651; Pub. L. 101–239, title VII, §7811(j)(5), (6), Dec. 19, 1989, 103 Stat. 2411, 2412; Pub. L. 102–164, title IV, §403(a), (b), Nov. 15, 1991, 105 Stat. 1062, 1064; Pub. L. 103–66, title XIII, §13214(a), (b), Aug. 10, 1993, 107 Stat. 475; Pub. L. 103–465, title VII, §711(b), Dec. 8, 1994, 108 Stat. 4998; Pub. L. 105–34, title X, §1091(a), title XII, §1202(a), Aug. 5, 1997, 111 Stat. 962, 994; Pub. L. 105–277, div. J, title II, §2003(a), Oct. 21, 1998, 112 Stat. 2681–901; Pub. L. 106–170, title V, §531(a), Dec. 17, 1999, 113 Stat. 1928.)

AMENDMENTS

1999—Subsec. (d)(1)(C)(i). Pub. L. 106–170 in table substituted items assigning applicable percentages of 108.6 for 1999 and 110 for 2000 for item assigning applicable percentage of 106 for 1999 or 2000.

1998—Subsec. (d)(1)(C)(i). Pub. L. 105–277 in table substituted items assigning applicable percentages of 105 for 1998 and 106 for 1999 or 2000 for item assigning applicable percentage of 105 for 1998, 1999, or 2000.

1997—Subsec. (d)(1)(C)(i). Pub. L. 105–34, §1091(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''If the adjusted gross income shown on the return of the individual for the preceding taxable year exceeds $150,000, clause (ii) of subparagraph (B) shall be applied by substituting '110 percent' for '100 percent'.''

Subsec. (e)(1). Pub. L. 105–34, §1202(a), substituted ''$1,000'' for ''$500''.

1994—Subsec. (d)(2)(D). Pub. L. 103–465 added subpar. (D).

1993—Subsec. (d)(1)(C) to (F). Pub. L. 103–66, §13214(a), added subpar. (C) and struck out former subpars. (C) to (F) which related to limitation on use of preceding year's tax, modified adjusted gross income for current year, qualified pass-thru item, and other definitions and special rules, respectively.

Subsec. (j)(3)(A). Pub. L. 103–66, §13214(b)(1), struck out before period at end ''and subsection (d)(1)(C)(iii) shall not apply''.

Subsec. (*l*)(4). Pub. L. 103–66, §13214(b)(2), substituted ''subsection (d)(2)(B)(i)'' for ''paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)''.

1991—Subsec. (d)(1)(C) to (F). Pub. L. 102–164, §403(a), added subpars. (C) to (F).

Subsec. (i)(1)(C). Pub. L. 102–164, §403(b)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''the amount of such installment shall be equal to the required annual payment (determined under subsection (d)(1)(B) by substituting '66⅔ percent' for '90 percent', and''.

Subsec. (j)(3)(A). Pub. L. 102–164, § 403(b)(2), inserted before period at end ''and subsection (d)(1)(C)(iii) shall not apply''.

Subsec. (*l*)(4). Pub. L. 102–164, § 403(b)(3), substituted ''paragraphs (*l*)(C)(iv) and (2)(B)(i) of subsection (d)'' for ''subsection (d)(2)(B)(i)''.

1989—Subsec. (*l*)(1). Pub. L. 101–239, § 7811(j)(5), substituted ''this section shall'' for ''this subsection shall''.

Subsec. (*l*)(2)(B)(ii). Pub. L. 101–239, § 7811(j)(6), inserted before period at end ''(or, if no will is admitted to probate, which is the trust primarily responsible for paying debts, taxes, and expenses of administration)''.

1988—Subsec. (f)(1). Pub. L. 100–647, § 4005(g)(5), inserted ''(other than any increase in such tax by reason of section 143(m))'' after ''chapter 1''.

Subsec. (f)(3). Pub. L. 100–418 amended par. (3) generally. Prior to amendment par. (3) read as follows: ''the sum of—

''(A) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages), plus

''(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).''

Subsec. (*l*). Pub. L. 100–647, § 1014(d)(2), substituted ''Estates and trusts'' for ''Trusts and certain estates'' in heading and amended text generally. Prior to amendment, text read as follows: ''This section shall apply to—

''(1) any trust, and

''(2) any estate with respect to any taxable year ending 2 or more years after the date of the death of the decedent's death.''

Pub. L. 100–647, § 1014(d)(1), made clarifying amendment to directory language of Pub. L. 99–514, § 1404(a), to reflect prior redesignation of subsec. (k) as (*l*) by section 1841 of Pub. L. 99–514, see 1986 Amendment note below.

1986—Subsec. (a)(1). Pub. L. 99–514, § 1511(c)(14), substituted ''the underpayment rate established under section 6621'' for ''the applicable annual rate established under section 6621''.

Subsec. (d)(1)(B)(i). Pub. L. 99–514, § 1541(a), substituted ''90 percent'' for ''80 percent'' in two places.

Subsec. (d)(2)(C)(ii). Pub. L. 99–514, § 1541(b)(1), in table of applicable percentages increased applicable percentages from ''20'' to ''22.5'', from ''40'' to ''45'', from ''60'' to ''67.5'', and from ''80'' to ''90'', respectively.

Subsec. (i)(1)(C). Pub. L. 99–514, § 1541(b)(2), substituted ''90 percent'' for ''80 percent''.

Subsec. (j). Pub. L. 99–514, § 1841, added subsec. (j). Former subsec. (j) redesignated (k).

Subsec. (j)(3)(B). Pub. L. 99–514, § 1541(b)(3), which directed the amendment of the table in subpar. (B) by substituting ''45'' for ''40'', ''65.5'' for ''60'', and ''90'' for ''80'', could not be executed because the higher figures appear in the text as enacted by section 1841 of Pub. L. 99–514.

Subsec. (k). Pub. L. 99–514, § 1841, redesignated former subsec. (j) as (k). Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 99–514, § 1404(a), as amended by Pub. L. 100–647, § 1014(d)(1), amended subsec. (*l*) generally. Prior to amendment, subsec. (*l*) read as follows: ''This section shall not apply to any estate or trust.''

Pub. L. 99–514, § 1841, redesignated subsec. (k) as (*l*). Former subsec. (*l*) redesignated (m).

Subsec. (m). Pub. L. 99–514, § 1841, redesignated former subsec. (*l*) as (m).

1984—Subsec. (a). Pub. L. 98–369 amended subsec. (a) generally, setting out the exception provision as initial phrase, previously set out as second phrase, substituting ''subsection (d)'' for ''this section''; and substituting ''determined by applying—'' and provisions designated cls. (1) to (3) for provisions reading ''determined at an annual rate established under section 6621 upon the amount of the underpayment (determined under subsection (b)) for the period of the underpayment (determined under subsection (c)))''.

Subsec. (b). Pub. L. 98–369 amended subsec. (b) generally, substituting provisions relating to amount and period of underpayment for provisions relating only to amount of underpayment.

Subsec. (c). Pub. L. 98–369 amended subsec. (c) generally, substituting provisions relating to number of required installments and due dates for provisions respecting period of underpayment. See subsec. (b)(2) of this section.

Subsec. (d). Pub. L. 98–369 amended subsec. (d) generally, substituting provisions relating to amount of required installments for provisions designated ''Exception'' and describing conditions for nonimposition of an addition to the tax with respect to any underpayment of any installment.

Subsec. (e). Pub. L. 98–369 amended subsec. (e) generally, substituting provisions relating to exceptions for provisions relating to application of section in case of tax withheld on wages. See subsec. (g) of this section.

Subsec. (f). Pub. L. 98–369 amended subsec. (f) generally, substituting provisions relating to tax computed after application of credits against tax for provisions relating to exception where tax is small amount. See subsec. (e)(1) of this section.

Subsec. (g). Pub. L. 98–369 amended subsec. (g) generally, substituting provisions relating to application of section in case of tax withheld on wages for provisions relating to tax computed after application of credits against tax. See subsec. (f) of this section.

Subsec. (h). Pub. L. 98–369 amended subsec. (h) generally, substituting provisions relating to special rule for returns filed on or before January 31 for provisions relating to exception for no tax liability for preceding taxable year. See subsec. (e)(2) of this section.

Subsec. (i). Pub. L. 98–369 amended subsec. (i) generally, substituting provisions relating to special rules for farmers and fishermen for provisions relating to short taxable year. See subsec. (j)(2) of this section.

Subsecs. (j) to (*l*). Pub. L. 98–369, in amending section generally, added subsecs. (j) to (*l*).

1983—Subsec. (e)(1). Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

Subsec. (f)(1). Pub. L. 97–448, § 107(c)(1), inserted '', reduced by the credit allowable under section 31,'' before ''is less than''.

Subsec. (g)(3)(B). Pub. L. 97–448, § 201(j)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''to the extent allowed under regulations prescribed by the Secretary, any amount which is treated under section 6429 or 6430 as an overpayment of the tax imposed by section 4986''.

Pub. L. 97–448, § 106(a)(4)(C), inserted ''or 6430'' after ''section 6429''.

1982—Subsec. (e)(1). Pub. L. 97–248, §§ 307(a)(14), 308(a), provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, par. (1) is amended by inserting '', interest, dividends, and patronage dividends'' after ''tax withheld at source on wages''. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

Subsec. (g). Pub. L. 97–248, § 328(a)(2), substituted ''(f), and (h)'' for ''and (f)''.

Subsec. (g)(1). Pub. L. 97–248, § 201(d)(7), formerly § 201(c)(7), substituted ''section 55'' for ''section 55 or 56''.

Subsec. (g)(3). Pub. L. 97–248, §§ 307(a)(14), 308(a), provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (g)(3) is amended by inserting '', interest, dividends, and patronage dividends'' after ''tax withheld at source on wages''. Section 102(a), (b)

of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

Subsecs. (h), (i). Pub. L. 97–248, § 328(a)(1), added subsec. (h) and redesignated former subsec. (h) as (i).

1981—Subsec. (f). Pub. L. 97–34, § 725(b), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (f)(3). Pub. L. 97–34, § 601(a)(6)(A), inserted ''the sum of—'' after ''(3)'', designated former par. (3) as subpar. (A), and added subpar. (B).

Subsecs. (g), (h). Pub. L. 97–34, §§ 601(a)(6)(A), 725(b), (c)(5), redesignated former subsec. (f) as (g), inserted reference to subsec. (f) in introductory text, and ''the sum of—'' after ''(3)'', designated former par. (3) as subpar. (A), and added subpar. (B). Former subsec. (g) redesignated (h).

1978—Subsec. (f)(1). Pub. L. 95–600 substituted ''section 55 or 56'' for ''section 56''.

1977—Subsec. (d)(2)(A). Pub. L. 95–30 substituted provisions directing that the placement of taxable income on an annualized basis be accomplished under regulations prescribed by the Secretary for provisions which had spelled out in detail the formula under which taxable income would be placed on an annualized basis.

1976—Subsec. (g). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (h). Pub. L. 94–455, § 1906(a)(35), struck out subsec. (h) which provided that this section shall apply to taxable years beginning after Dec. 31, 1954 and that section 294(d) of the Internal Revenue Code of 1939 shall continue in force with respect to taxable years beginning before Jan. 1, 1955.

1975—Subsec. (a). Pub. L. 93–625 substituted ''an annual rate established under section 6621'' for ''the rate of 6 percent per annum''.

1973—Subsec. (d)(2)(B)(ii). Pub. L. 93–233, § 5(b)(7), effective with respect to taxable years beginning after 1973, substituted ''$13,200'' for ''$12,600''.

Pub. L. 93–233, § 5(d), applicable only with respect to remuneration paid after, and taxable years beginning after, 1973 (as provided in section 5(e) of Pub. L. 93–233, set out as an Effective Date of 1973 Amendments note under section 409 of Title 42, The Public Health and Welfare), amended section 203(b)(7)(C) of Pub. L. 92–336 (set out as 1973 Amendment note below), substituting ''$13,200'' for ''$12,600''. See, also, 1973 Amendment note below.

Pub. L. 93–66, § 203(b)(7), effective with respect to taxable years beginning after 1973, substituted ''$12,600'' for ''$12,000''.

Pub. L. 93–66, § 203(d), applicable only with respect to remuneration paid after, and taxable years beginning after, 1973 (as provided in section 203(e) of Pub. L. 93–66, set out as an Effective Date of 1973 Amendments note under section 409 of Title 42, The Public Health and Welfare), amended section 203(b)(7)(C) of Pub. L. 92–336 (set out as 1972 Amendment note below, substituting ''$12,600'' for ''$12,000''. See, also, such 1972 Amendment note below.

1972—Subsec. (d)(2)(B)(ii). Pub. L. 92–336, § 203(b)(7)(A) substituted ''$10,800'' for ''$9,000''.

Pub. L. 92–336, § 203(b)(7)(B), effective with respect to taxable years beginning after 1973, substituted ''$12,000'' for ''$10,800''.

Pub. L. 92–336, § 203(b)(7)(C), effective with respect to taxable years beginning after 1974, substituted ''(I) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which the taxable year begins, over (II)'' for ''$12,000 over''.

1971—Subsec. (d)(2)(B)(ii). Pub. L. 92–5 substituted ''$9,000'' for ''$6,600''.

1969—Subsec. (f)(1). Pub. L. 91–172 inserted ''(other than by section 56)'' after ''chapter 1''.

1966—Subsec. (a). Pub. L. 89–368, § 102(b)(1), inserted ''and the tax under chapter 2'' after ''chapter 1''.

Subsec. (b). Pub. L. 89–368, § 103(a), substituted ''80 percent'' for ''70 percent'' whenever appearing.

Subsec. (d). Pub. L. 89–368, §§ 102(b)(2), 103(a), inserted requirement that, for purposes of applying the annualization exception, the tax on adjusted self-employment income be included in determining if the net earnings from self-employment for the taxable year equal or exceed $400, inserted definition of ''adjusted self-employment income'', inserted a requirement that, for purposes of determining the applicability of the 90 percent exception, the tax on actual self-employment income be included, and substituted ''80 percent'' for ''70 percent'' wherever appearing.

Subsec. (f). Pub. L. 89–368, § 102(b)(3), inserted tax imposed by chapter 2 to definition of ''tax''.

1962—Subsecs. (b), (d)(1)(C). Pub. L. 87–682 inserted ''or fishing'' after ''from farming'' wherever appearing.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–170, title V, § 531(b), Dec. 17, 1999, 113 Stat. 1928, provided that: ''The amendment made by this section [amending this section] shall apply with respect to any installment payment for taxable years beginning after December 31, 1999.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. J, title II, § 2003(b), Oct. 21, 1998, 112 Stat. 2681–902, provided that: ''The amendment made by this section [amending this section] shall apply with respect to any installment payment for taxable years beginning after December 31, 1999.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1091(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall apply with respect to any installment payment for taxable years beginning after December 31, 1997.''

Section 1202(b) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1997.''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 711(c) of Pub. L. 103–465 provided that: ''The amendments made by this section [amending this section and section 6655 of this title] shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after December 31, 1994.''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13214(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1993.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 403(c) of Pub. L. 102–164 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1991.''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 1014(d)(1), (2) 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.

Amendment by section 4005(g)(5) of Pub. L. 100–647 applicable to financing provided, and mortgage credit cer-

tificates issued, after Dec. 31, 1990, with certain exceptions, see section 4005(h)(3) of Pub. L. 100–647, set out as a note under section 143 of this title.

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 100–203, title X, § 10303(a), Dec. 22, 1987, 101 Stat. 1330–430, provided that: ''Notwithstanding section 1541(c) of the Tax Reform Act of 1986 [section 1541(c) of Pub. L. 99–514, set out below], the amendments made by section 1541 of such Act [amending this section] shall apply only to taxable years beginning after December 31, 1987.''

Amendment by section 1404(a) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 1404(d) of Pub. L. 99–514, set out as a note under section 643 of this title.

Amendment by section 1511(c)(14) of Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

Section 1541(c) of Pub. L. 99–514 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1986.'' [See section 10303(a) of Pub. L. 100–203, set out above.]

Amendment by section 1841 of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 414(a) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—The amendments made by sections 411 and 412 [amending this section and sections 871, 1403, 6012, 6020, 6201, 6362, 6601, 6651, 7203, 7216, and 7701 of this title and repealing sections 6015, 6073, and 6153 of this title] shall apply with respect to taxable years beginning after December 31, 1984.

''(2) WAIVER AUTHORITY.—The provisions of paragraph (3) of section 6654(e) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by section 411) shall also apply with respect to underpayments for taxable years beginning in 1984.''

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 106(a)(4)(C) of Pub. L. 97–448 effective Jan. 1, 1982, see section 106(a)(4)(E)(ii) of Pub. L. 97–448, set out as an Effective Date note under section 6430 of this title.

Amendment by title I of Pub. L. 97–448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97–34, to which such amendment relates, see section 109 of Pub. L. 97–448, set out as a note under section 1 of this title.

Amendment by title II of Pub. L. 97–448 effective, except as otherwise provided, as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980, Pub. L. 96–223, to which such amendment relates, see section 203(a), (b) of Pub. L. 97–448, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 201(d)(7) of Pub. L. 97–248 applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1) of Pub. L. 97–248, set out as a note under section 5 of this title.

Section 328(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [amending this section and sections 6015, 6073, and 6153 of this title] shall apply to taxable years beginning after December 31, 1982.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 601(c)(1), (2) of Pub. L. 97–34 provided that:

''(1) Except as provided in paragraph (2), subsection (a) [amending this section and sections 6429 and 6655 of this title] shall take effect on January 1, 1981.

''(2) The amendments made by paragraph (6) of subsection (a) [amending this section and section 6655 of this title] shall take effect on January 1, 1980.''

Amendment by section 725(b), (c)(5) of Pub. L. 97–34 applicable to estimated tax for taxable years beginning after Dec. 31, 1980, see section 725(d) of Pub. L. 97–34, set out as a note under section 871 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 applicable to taxable years beginning after Dec. 31, 1978, see section 421(g) of Pub. L. 95–600, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95–30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 effective 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.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93–625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93–233 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 5(e) of Pub. L. 93–233, set out as a note under section 409 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 93–66 applicable only with respect to remuneration paid after, and taxable years beginning after, 1973, see section 203(e) of Pub. L. 93–66, set out as a note under section 409 of Title 42.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–336 applicable only with respect to taxable years beginning after 1972, see section 203(c) of Pub. 92–336, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–5 applicable only with respect to taxable years beginning after 1971, see section 203(c) of Pub. L. 92–5, set out as a note under section 409 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 applicable to taxable years ending after Dec. 31, 1969, see section 301(c) of Pub. L. 91–172, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 102(d) of Pub. L. 89–368 provided that: ''The amendments made by subsections (a) amending section 6015 of this title], (b) [amending this section and sections 1403, 6211, and 7701 of this title], and (c) [amending section 1402 of this title] shall apply with respect to taxable years beginning after December 31, 1966.''

Section 103(b) of Pub. L. 89–368 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after December 31, 1966.''

EFFECTIVE DATE OF 1962 AMENDMENT

Section 2 of Pub. L. 87–682 provided that: ''The amendments made by the first section of this Act [amending this section and sections 6015, 6073, and 6153 of this title] shall apply only with respect to taxable years beginning after December 31, 1962.''

WAIVER OF ESTIMATED TAX PENALTIES FOR 1998 UNDERPAYMENTS

Pub. L. 105–206, § 1(c), July 22, 1998, 112 Stat. 685, provided that: ''No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an installment required to be paid on or before the 30th day after the date of the enactment of this Act [July 22, 1998] to the extent such underpayment was created or increased by any provision of this Act [see Tables for classification].''

Section 1(d) of Pub. L. 105–34 provided that: ''No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before January 1, 1998, for any payment the due date of which is before January 16, 1998, with respect to any underpayment attributable to such period to the extent such underpayment was created or increased by any provision of this Act [see Tables for classification].''

UNDERPAYMENTS OF ESTIMATED TAX FOR 1996

Pub. L. 104–188, title I, § 1102, Aug. 20, 1996, 110 Stat. 1758, provided that: ''No addition to the tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) with respect to any underpayment of an installment required to be paid before the date of the enactment of this Act [Aug. 20, 1996] to the extent such underpayment was created or increased by any provision of this title [title I (§§ 1101–1954) of Pub. L. 104–188, see Tables for classification].''

WAIVER OF ESTIMATED PENALTIES FOR 1993 UNDERPAYMENTS ATTRIBUTABLE TO REVENUE RECONCILIATION ACT OF 1993

Section 13001(d) of Pub. L. 103–66 provided that: ''No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1994 (March 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of this chapter [chapter 1 (§§ 13001–13444) of title XIII of Pub. L. 103–66, see Tables for classification].''

WAIVER OF ESTIMATED TAX PENALTIES FOR UNDERPAYMENTS ATTRIBUTABLE TO SECTION 420(b)(4)(B) OF THIS TITLE

No addition to tax to be made under this section for taxable year preceding taxpayer's first taxable year beginning after Dec. 31, 1990, with respect to any underpayment to the extent such underpayment was created or increased by reason of section 420(b)(4)(B) of this title, see section 12011(c)(2) of Pub. L. 101–508, set out as an Effective Date note under section 420 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1988 UNDERPAYMENTS ATTRIBUTABLE TO TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

No addition to tax to be made under this section for any period before Apr. 16, 1989, with respect to any underpayment to the extent that such underpayment was created or increased by any provision of title I (§§ 1001–1019) or II (§§ 2001–2006) of Pub. L. 100–647, see section 1019(b) of Pub. L. 100–647, set out as an Effective Date of 1988 Amendment note under section 1 of this title.

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.

WAIVER OF ESTIMATED PENALTIES FOR 1986 UNDERPAYMENTS ATTRIBUTABLE TO TAX REFORM ACT OF 1986

Section 1543 of Pub. L. 99–514 provided that: ''No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) for any period before April 16, 1987 (March 16, 1987, in the case of a taxpayer subject to section 6655 of such Code), with respect to any underpayment, to the extent such underpayment was created or increased by any provision of this Act [Pub. L. 99–514, see Tables for classification].''

WAIVER OF ESTIMATED TAX PENALTIES

No addition to tax to be made under this section for any period before Apr. 16, 1985, with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of Pub. L. 98–369, div. A, see section 1879(a) of Pub. L. 99–514, set out as a note under section 6655 of this title.

INCREASE IN SECTION 31 CREDIT FOR TAXABLE YEARS WHICH INCLUDE ANY PORTION OF PERIOD JULY 1, 1983, TO DECEMBER 31, 1983

For purposes of determining the amount of any addition to tax under this section with respect to any installment required to be paid before July 1, 1983, the amount of the credit allowed by section 31 of this title for any taxable year which includes any portion of the period beginning July 1, 1983, and ending December 31, 1983, to be increased by an amount equal to 10 percent of the aggregate amount of payments (1) which are received during the portion of such taxable year after June 30, 1983, and before January 1, 1984, and (2) which (but for the repeal of sections 3451 to 3456 of this title) would have been subject to withholding under sections 3451 to 3456 of this title (determined without regard to any exemption described in former section 3452 of this title, see section 102(d) of Pub. L. 98–67, set out as a note under section 3451 of this title.

ESTIMATED TAX UNDERPAYMENTS CREATED OR INCREASED BY TAX REFORM ACT OF 1976

Section 303 of Pub. L. 95–30, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''No addition to the tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to failure to pay estimated income tax) for any period before April 16, 1977 (March 16, 1977, in the case of a taxpayer subject to section 6655), with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1976 [Pub. L. 94–455].''

WAIVER OF PENALTY FOR UNDERPAYMENT OF 1971 ESTIMATED INCOME TAX

Pub. L. 92–178, title II, § 207, Dec. 10, 1971, 85 Stat. 512, provided that subsec. (a) of this section did not apply to any taxable year beginning after Dec. 31, 1970 and ending before Jan. 1, 1972, if the gross income for such taxable year did not exceed $10,000 for a single individual other than head of household or a married individual filing separately, or if the gross income did not exceed $20,000 for a head of household, a surviving spouse, of married individuals filing jointly, or if the taxpayer had income from sources other than wages in excess of $200 or $400 in case of a joint return.

DECLARATION OF ESTIMATED TAX

With respect to taxable years beginning before Dec. 30, 1969, if a taxpayer is required to make a declaration,

or to pay any amount of estimated tax by reason of amendments made by Pub. L. 91–172, such amount shall be paid ratably on each of the remaining installment dates for the taxable year beginning with the first installment date on or after Dec. 30, 1969; as to any declaration or payment of estimates tax before the first installment date, this section, and sections 6015, 6154, and 6655 of this title shall be applied without regard to amendments made by Pub. L. 91–172, see section 946(b) of Pub. L. 91–172, set out as a note under section 6153 of this title.

TAX SURCHARGE EXTENSION; DECLARATIONS OF ESTIMATED TAX

Requirement of making a declaration or amended declaration or amended declaration of estimated tax or of payment of any amount or additional amount of estimated tax by reason of amendment of sections 51(a)(1)(A), (B), (2)(A) and 963(b) of this title as calling for payment of such amount or additional amount ratably on or before each of remaining installment dates for taxable year beginning with first installment date on or after the 30th day after Aug. 7, 1969; application of this section without regard to such amendment with respect to any declaration or payment of estimated tax before such first installment date; and definition of ''installment date'', see Pub. L. 91–53, § 5(c), Aug. 7, 1969, 83 Stat. 95.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 167, 460, 3510, 6201, 6601, 6621, 6622, 6651, 6658, 6665, 6751, 7203 of this title; title 42 section 430.

§ 6655. Failure by corporation to pay estimated income tax

(a) Addition to tax

Except as otherwise provided in this section, in the case of any underpayment of estimated tax by a corporation, there shall be added to the tax under chapter 1 for the taxable year an amount determined by applying—

(1) the underpayment rate established under section 6621,

(2) to the amount of the underpayment,

(3) for the period of the underpayment.

(b) Amount of underpayment; period of underpayment

For purposes of subsection (a)—

(1) Amount

The amount of the underpayment shall be the excess of—

(A) the required installment, over

(B) the amount (if any) of the installment paid on or before the due date for the installment.

(2) Period of underpayment

The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

(A) the 15th day of the 3rd month following the close of the taxable year, or

(B) with respect to any portion of the underpayment, the date on which such portion is paid.

(3) Order of crediting payments

For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

(c) Number of required installments; due dates

For purposes of this section—

(1) Payable in 4 installments

There shall be 4 required installments for each taxable year.

(2) Time for payment of installments

In the case of the following required installments:	The due date is:
1st	April 15
2nd	June 15
3rd	September 15
4th	December 15.

(d) Amount of required installments

For purposes of this section—

(1) Amount

(A) In general

Except as otherwise provided in this section, the amount of any required installment shall be 25 percent of the required annual payment.

(B) Required annual payment

Except as otherwise provided in this subsection, the term ''required annual payment'' means the lesser of—

(i) 100 percent of the tax shown on the return for the taxable year (or, if no return is filed, 100 percent of the tax for such year), or

(ii) 100 percent of the tax shown on the return of the corporation for the preceding taxable year.

Clause (ii) shall not apply if the preceding taxable year was not a taxable year of 12 months, or the corporation did not file a return for such preceding taxable year showing a liability for tax.

(2) Large corporations required to pay 100 percent of current year tax

(A) In general

Except as provided in subparagraph (B), clause (ii) of paragraph (1)(B) shall not apply in the case of a large corporation.

(B) May use last year's tax for 1st installment

Subparagraph (A) shall not apply for purposes of determining the amount of the 1st required installment for any taxable year. Any reduction in such 1st installment by reason of the preceding sentence shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction.

(e) Lower required installment where annualized income installment or adjusted seasonal installment is less than amount determined under subsection (d)

(1) In general

In the case of any required installment, if the corporation establishes that the annualized income installment or the adjusted seasonal installment is less than the amount determined under subsection (d)(1) (as modified by paragraphs (2) and (3) of subsection (d))—

(A) the amount of such required installment shall be the annualized income install-

ment (or, if lesser, the adjusted seasonal installment), and

(B) any reduction in a required installment resulting from the application of this paragraph shall be recaptured by increasing the amount of the next required installment determined under subsection (d)(1) (as so modified) by the amount of such reduction (and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this subparagraph).

(2) Determination of annualized income installment

(A) In general

In the case of any required installment, the annualized income installment is the excess (if any) of—

(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income, alternative minimum taxable income, and modified alternative minimum taxable income—

(I) for the first 3 months of the taxable year, in the case of the 1st required installment,

(II) for the first 3 months of the taxable year, in the case of the 2nd required installment,

(III) for the first 6 months of the taxable year in the case of the 3rd required installment, and

(IV) for the first 9 months of the taxable year, in the case of the 4th required installment, over

(ii) the aggregate amount of any prior required installments for the taxable year.

(B) Special rules

For purposes of this paragraph—

(i) Annualization

The taxable income, alternative minimum taxable income, and modified alternative minimum taxable income shall be placed on an annualized basis under regulations prescribed by the Secretary.

(ii) Applicable percentage

In the case of the following required installments:	The applicable percentage is:
1st	25
2nd	50
3rd	75
4th	100.

(iii) Modified alternative minimum taxable income

The term ''modified alternative minimum taxable income'' has the meaning given to such term by section 59A(b).

(C) Election for different annualization periods

(i) If the taxpayer makes an election under this clause—

(I) subclause (I) of subparagraph (A)(i) shall be applied by substituting ''2 months'' for ''3 months'',

(II) subclause (II) of subparagraph (A)(i) shall be applied by substituting ''4 months'' for ''3 months'',

(III) subclause (III) of subparagraph (A)(i) shall be applied by substituting ''7 months'' for ''6 months'', and

(IV) subclause (IV) of subparagraph (A)(i) shall be applied by substituting ''10 months'' for ''9 months''.

(ii) If the taxpayer makes an election under this clause—

(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting ''5 months'' for ''3 months'',

(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting ''8 months'' for ''6 months'', and

(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting ''11 months'' for ''9 months''.

(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the first required installment for such taxable year.

(3) Determination of adjusted seasonal installment

(A) In general

In the case of any required installment, the amount of the adjusted seasonal installment is the excess (if any) of—

(i) 100 percent of the amount determined under subparagraph (C), over

(ii) the aggregate amount of all prior required installments for the taxable year.

(B) Limitation on application of paragraph

This paragraph shall apply only if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70 percent.

(C) Determination of amount

The amount determined under this subparagraph for any installment shall be determined in the following manner—

(i) take the taxable income for all months during the taxable year preceding the filing month,

(ii) divide such amount by the base period percentage for all months during the taxable year preceding the filing month,

(iii) determine the tax on the amount determined under clause (ii), and

(iv) multiply the tax computed under clause (iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

(D) Definitions and special rules

For purposes of this paragraph—

(i) Base period percentage

The base period percentage for any period of months shall be the average percent which the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income for the 3 preceding taxable years.

(ii) Filing month

The term ''filing month'' means the month in which the installment is required to be paid.

(iii) Reorganization, etc.

The Secretary may by regulations provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

(4) Treatment of subpart F and section 936 income

(A) In general

Any amounts required to be included in gross income under section 936(h) or 951(a) (and credits properly allocable thereto) shall be taken into account in computing any annualized income installment under paragraph (2) in a manner similar to the manner under which partnership income inclusions (and credits properly allocable thereto) are taken into account.

(B) Prior year safe harbor

(i) In general

If a taxpayer elects to have this subparagraph apply for any taxable year—

(I) subparagraph (A) shall not apply, and

(II) for purposes of computing any annualized income installment for such taxable year, the taxpayer shall be treated as having received ratably during such taxable year items of income and credit described in subparagraph (A) in an amount equal to 115 percent of the amount of such items shown on the return of the taxpayer for the preceding taxable year (the second preceding taxable year in the case of the first and second required installments for such taxable year).

(ii) Special rule for noncontrolling shareholder

(I) In general

If a taxpayer making the election under clause (i) is a noncontrolling shareholder of a corporation, clause (i)(II) shall be applied with respect to items of such corporation by substituting ''100 percent'' for ''115 percent''.

(II) Noncontrolling shareholder

For purposes of subclause (I), the term ''noncontrolling shareholder'' means, with respect to any corporation, a shareholder which (as of the beginning of the taxable year for which the installment is being made) does not own (within the meaning of section 958(a)), and is not treated as owning (within the meaning of section 958(b)), more than 50 percent (by vote or value) of the stock in the corporation.

(5) Treatment of certain REIT dividends

(A) In general

Any dividend received from a closely held real estate investment trust by any person which owns (after application of subsection (d)(5) of section 856) 10 percent or more (by vote or value) of the stock or beneficial interests in the trust shall be taken into account in computing annualized income installments under paragraph (2) in a manner similar to the manner under which partnership income inclusions are taken into account.

(B) Closely held REIT

For purposes of subparagraph (A), the term ''closely held real estate investment trust'' means a real estate investment trust with respect to which 5 or fewer persons own (after application of subsection (d)(5) of section 856) 50 percent or more (by vote or value) of the stock or beneficial interests in the trust.

(f) Exception where tax is small amount

No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax) is less than $500.

(g) Definitions and special rules

(1) Tax

For purposes of this section, the term ''tax'' means the excess of—

(A) the sum of—

(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever applies,

(ii) the tax imposed by section 55,

(iii) the tax imposed by section 59A, plus

(iv) the tax imposed by section 887, over

(B) the credits against tax provided by part IV of subchapter A of chapter 1.

For purposes of the preceding sentence, in the case of a foreign corporation subject to taxation under section 11 or 1201(a), or under subchapter L of chapter 1, the tax imposed by section 881 shall be treated as a tax imposed by section 11.

(2) Large corporation

(A) In general

For purposes of this section, the term ''large corporation'' means any corporation if such corporation (or any predecessor corporation) had taxable income of $1,000,000 or more for any taxable year during the testing period.

(B) Rules for applying subparagraph (A)

(i) Testing period

For purposes of subparagraph (A), the term ''testing period'' means the 3 taxable years immediately preceding the taxable year involved.

(ii) Members of controlled group

For purposes of applying subparagraph (A) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the $1,000,000 amount specified in subparagraph (A) shall be divided among such members under rules similar to the rules of section 1561.

(iii) Certain carrybacks and carryovers not taken into account

For purposes of subparagraph (A), taxable income shall be determined without

regard to any amount carried to the taxable year under section 172 or 1212(a).

(3) Certain tax-exempt organizations

For purposes of this section—

(A) Any organization subject to the tax imposed by section 511, and any private foundation, shall be treated as a corporation subject to tax under section 11.

(B) Any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11.

(C) Any reference to taxable income shall be treated as including a reference to unrelated business taxable income or net investment income (as the case may be).

In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting ''5th month'' for ''3rd month'', subsection (e)(2)(A) shall be applied by substituting ''2 months'' for ''3 months'' in clause (i)(I), the election under clause (i) of subsection (e)(2)(C) may be made separately for each installment, and clause (ii) of subsection (e)(2)(C) shall not apply. In the case of a private foundation, subsection (c)(2) shall be applied by substituting ''May 15'' for ''April 15''.

(4) Application of section to certain taxes imposed on S corporations

In the case of an S corporation, for purposes of this section—

(A) The following taxes shall be treated as imposed by section 11:

(i) The tax imposed by section 1374(a) (or the corresponding provisions of prior law).

(ii) The tax imposed by section 1375(a).

(iii) Any tax for which the S corporation is liable by reason of section 1371(d)(2).

(B) Paragraph (2) of subsection (d) shall not apply.

(C) Clause (ii) of subsection (d)(1)(B) shall be applied as if it read as follows:

''(ii) the sum of—

''(I) the amount determined under clause (i) by only taking into account the taxes referred to in clauses (i) and (iii) of subsection (g)(4)(A), and

''(II) 100 percent of the tax imposed by section 1375(a) which was shown on the return of the corporation for the preceding taxable year.''

(D) The requirement in the last sentence of subsection (d)(1)(B) that the return for the preceding taxable year show a liability for tax shall not apply.

(E) Any reference in subsection (e) to taxable income shall be treated as including a reference to the net recognized built-in gain or the excess passive income (as the case may be).

(h) Excessive adjustment under section 6425

(1) Addition to tax

If the amount of an adjustment under section 6425 made before the 15th day of the 3rd month following the close of the taxable year is excessive, there shall be added to the tax under chapter 1 for the taxable year an amount determined at the underpayment rate established under section 6621 upon the excessive amount from the date on which the credit is allowed or the refund is paid to such 15th day.

(2) Excessive amount

For purposes of paragraph (1), the excessive amount is equal to the amount of the adjustment or (if smaller) the amount by which—

(A) the income tax liability (as defined in section 6425(c)) for the taxable year as shown on the return for the taxable year, exceeds

(B) the estimated income tax paid during the taxable year, reduced by the amount of the adjustment.

(i) Fiscal years and short years

(1) Fiscal years

In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

(2) Short taxable year

This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

(j) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(Aug. 16, 1954, ch. 736, 68A Stat. 825; Pub. L. 88–272, title I, § 122(c), Feb. 26, 1964, 78 Stat. 28; Pub. L. 90–364, title I, § 103(c), (d)(2), (e)(1), June 28, 1968, 82 Stat. 262, 264; Pub. L. 93–625, § 7(c), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94–455, title XIX, § 1906(b)(3)(A)–(C)(i), (13)(A), Oct. 4, 1976, 90 Stat. 1833, 1834; Pub. L. 95–600, title III, § 301(b)(20)(B), Nov. 6, 1978, 92 Stat. 2824; Pub. L. 96–499, title XI, § 1111(a), (b), Dec. 5, 1980, 94 Stat. 2681, 2682; Pub. L. 97–34, title VI, § 601(a)(6)(B), title VII, § 731(a), (b), Aug. 13, 1981, 95 Stat. 336, 346, 347; Pub. L. 97–248, title II, § 234(a), (c), (d), Sept. 3, 1982, 96 Stat. 503, 504; Pub. L. 97–448, title II, § 201(j)(4), Jan. 12, 1983, 96 Stat. 2396; Pub. L. 99–499, title V, § 516(b)(4)(D), Oct. 17, 1986, 100 Stat. 1771; Pub. L. 99–514, title VII, § 701(d)(3), title XV, § 1511(c)(15), Oct. 22, 1986, 100 Stat. 2342, 2745; Pub. L. 100–203, title X, § 10301(a), Dec. 22, 1987, 101 Stat. 1330–424; Pub. L. 100–418, title I, § 1941(b)(6)(B), Aug. 23, 1988, 102 Stat. 1324; Pub. L. 100–647, title II, § 2004(r), title V, § 5001(a), Nov. 10, 1988, 102 Stat. 3609, 3660; Pub. L. 101–239, title VII, §§ 7209(a), 7822(a), Dec. 19, 1989, 103 Stat. 2338, 2424; Pub. L. 101–508, title XI, § 11704(a)(28), Nov. 5, 1990, 104 Stat. 1388–519; Pub. L. 102–227, title II, § 201(a), (b), Dec. 11, 1991, 105 Stat. 1689; Pub. L. 102–244, § 3(a), Feb. 7, 1992, 106 Stat. 4; Pub. L. 102–318, title V, § 512(a), (b), July 3, 1992, 106 Stat. 300; Pub. L. 103–66, title XIII, § 13225(a), (b), Aug. 10, 1993, 107 Stat. 486; Pub. L. 103–465, title VII, § 711(a), Dec. 8, 1994, 108 Stat. 4998; Pub. L. 104–188, title I, § 1703(h), Aug. 20, 1996, 110 Stat. 1876; Pub. L. 105–34, title XIV, § 1461(a), Aug. 5, 1997, 111 Stat. 1057; Pub. L. 106–170, title V, § 571(a), Dec. 17, 1999, 113 Stat. 1950; Pub. L. 106–554, § 1(a)(7) [title III, § 319(21)], Dec. 21, 2000, 114 Stat. 2763, 2763A–647.)

AMENDMENTS

2000—Subsec. (e)(5)(A), (B). Pub. L. 106–554 substituted ''subsection (d)(5)'' for ''subsections (d)(5) and (*l*)(3)(B)''.

1999—Subsec. (e)(5). Pub. L. 106–170 added par. (5).

1997—Subsec. (g)(3). Pub. L. 105–34 inserted at end ''In the case of a private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15'.''

1996—Subsec. (g)(3). Pub. L. 104–188, § 1703(h), in closing provisions, substituted '', subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' in clause (i)(I), the election under clause (i) of subsection (e)(2)(C) may be made separately for each installment, and clause (ii) of subsection (e)(2)(C) shall not apply.'' for '', and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' and in clause (i)(I), by substituting '4 months' for '5 months' in clause (i)(II), by substituting '7 months' for '8 months' in clause (i)(III), and by substituting '10 months' for '11 months' in clause (i)(IV).''

1994—Subsec. (e)(4). Pub. L. 103–465 added par. (4).

1993—Subsec. (d)(1)(B)(i). Pub. L. 103–66, § 13225(a)(1), substituted ''100 percent'' for ''91 percent'' in two places.

Subsec. (d)(2). Pub. L. 103–66, § 13225(a)(2)(A)(ii), substituted ''100 percent'' for ''91 percent'' in heading.

Subsec. (d)(3). Pub. L. 103–66, § 13225(a)(2)(A)(i), struck out heading and text of par. (3). Text read as follows: ''In the case of any taxable year beginning after June 30, 1992, and before 1997—

''(A) paragraph (1)(B)(i) and subsection (e)(3)(A)(i) shall be applied by substituting '97 percent' for '91 percent' each place it appears, and

''(B) the table contained in subsection (e)(2)(B)(ii) shall be applied by substituting '24.25', '48.50', '72.75', and '97' for '22.75', '45.50', '68.25', and '91.00', respectively.''

Subsec. (e)(2)(A)(i)(II). Pub. L. 103–66, § 13225(b)(1)(A), struck out ''or for the first 5 months'' after ''3 months''.

Subsec. (e)(2)(A)(i)(III). Pub. L. 103–66, § 13225(b)(1)(B), struck out ''or for the first 8 months'' after ''6 months''.

Subsec. (e)(2)(A)(i)(IV). Pub. L. 103–66, § 13225(b)(1)(C), struck out ''or for the first 11 months'' after ''9 months''.

Subsec. (e)(2)(B)(ii). Pub. L. 103–66, § 13225(a)(2)(B), in table, substituted applicable percentages of 25, 50, 75, and 100 for 22.75, 45.50, 68.25, and 91.00, respectively, in 1st, 2nd, 3rd, and 4th installments.

Subsec. (e)(2)(C). Pub. L. 103–66, § 13225(b)(2), added subpar. (C).

Subsec. (e)(3)(A)(i). Pub. L. 103–66, § 13225(a)(2)(C), substituted ''100 percent'' for ''91 percent''.

Subsec. (g)(3). Pub. L. 103–66, § 13225(b)(3), substituted ''and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)'' for ''and subsection (e)(2)(A)'' in last sentence.

1992—Subsec. (d)(1)(B)(i). Pub. L. 102–318, § 512(a)(1), substituted ''91 percent'' for ''90 percent'' in two places.

Subsec. (d)(2). Pub. L. 102–318, § 512(a)(2), substituted ''91 percent'' for ''90 percent'' in heading.

Subsec. (d)(3). Pub. L. 102–318, § 512(a)(3), added par. (3) and struck out former par. (3) which related to temporary increase in amount of installment method based on current tax year for taxable years beginning after 1991 and before 1997.

Subsec. (d)(3)(A). Pub. L. 102–244, amended table generally, substituting a single entry ''1993 through 1996 . . . . . 95'' for former arrangement under which years after 1992 were covered by two table entries: ''1993 or 1994 . . . . . 94'' and ''1995 or 1996 . . . . . 95''.

Subsec. (e)(2)(B)(ii). Pub. L. 102–318, § 512(b)(1), in table, substituted applicable percentages of 22.75, 45.50, 68.25, and 91.00 for 22.5, 45, 67.5, and 90, respectively, in 1st, 2nd, 3rd and 4th installments.

Subsec. (e)(3)(A)(i). Pub. L. 102–318, § 512(b)(2), substituted ''91 percent'' for ''90 percent''.

1991—Subsec. (d)(3). Pub. L. 102–227, § 201(a), added par. (3).

Subsec. (e)(1). Pub. L. 102–227, § 201(b), substituted ''paragraphs (2) and (3) of subsection (d)'' for ''subsection (d)(2)''.

1990—Subsec. (g)(3). Pub. L. 101–508 inserted a period at end of last sentence.

1989—Subsec. (e)(1). Pub. L. 101–239, § 7822(a), substituted ''under subsection (d)(1)'' for ''under section (d)(1)''.

Subsec. (g)(4). Pub. L. 101–239, § 7209(a), added par. (4).

1988—Subsec. (e)(1). Pub. L. 100–647, § 5001(a), struck out at end ''A reduction shall be treated as recaptured for purposes of subparagraph (B) if 90 percent of the reduction is recaptured.''

Subsec. (g)(1)(B). Pub. L. 100–418 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''the sum of—

''(i) the credits against tax provided by part IV of subchapter A of chapter 1, plus

''(ii) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).''

Subsec. (g)(3). Pub. L. 100–647, § 2004(r), inserted last sentence, and struck out former last sentence which read as follows: ''In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting '5th month' for '3rd month'.''

1987—Pub. L. 100–203 amended section generally, revising and restating as subsecs. (a) to (j) provisions of former subsecs. (a) to (i).

1986—Subsec. (a)(1). Pub. L. 99–514, § 1511(c)(15), substituted ''the underpayment rate established under section 6621'' for ''the rate established under section 6621''.

Subsec. (f)(1). Pub. L. 99–514, § 701(d)(3), amended par. (1) generally, restating existing provisions in subpar. (A) and adding subpar. (B).

Pub. L. 99–499 amended subsec. (f)(1), as amended by the Tax Reform Act of 1986 (Pub. L. 99–514), by striking out ''plus'' at end of subpar. (A), substituting ''plus'' for ''over'' at end of subpar. (B), and adding subpar. (C).

1983—Subsec. (f)(2)(B). Pub. L. 97–448 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''to the extent allowed under regulations prescribed by the Secretary, any amount which is treated under section 6429 as an overpayment of the tax imposed by section 4986''. Notwithstanding directory language that amendment be made to subsec. (e)(2)(B), the amendment was executed to subsec. (f)(2)(B) to reflect the probable intent of Congress, the intervening redesignation of subsec. (e) as (f) by Pub. L. 97–248, and the retrospective effect of the amendment as provided by section 203(a), (b) of Pub. L. 97–448, set out as an Effective Date of 1983 Amendment note under section 4988 of this title.

1982—Subsec. (a). Pub. L. 97–248, § 234(c), in heading substituted ''Addition to tax'' for ''Addition to the tax'', in provisions preceding par. (1) inserted reference to subsec. (e) as an exception and struck out ''estimated'' before ''tax'', designated existing provisions as par. (1), and in par. (1) as so designated struck out parenthetical reference to subsecs. (b) and (c) for determination of the amount of the underpayment and the period of the underpayment, respectively, and added par. (2).

Subsec. (b)(1). Pub. L. 97–248, § 234(a)(1), substituted ''90'' for ''80'' wherever appearing.

Subsec. (d)(3)(A). Pub. L. 97–248, § 234(a)(2), substituted ''90'' for ''80''.

Subsec. (e). Pub. L. 97–248, § 234(d)(1), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 97–248, § 234(d), redesignated former subsec. (e) as (f) and substituted references to subsecs. (e) and (i) for references to subsec. (h). Former subsec. (f) redesignated (g).

Subsecs. (g) to (i). Pub. L. 97–248, § 234(d)(1), redesignated former subsecs. (f) to (h) as (g) to (i), respectively.

1981—Subsec. (e)(2). Pub. L. 97–34, § 601(a)(6)(B), inserted ''the sum of—'', designated existing provisions as subpar. (A), inserted at end of subpar. (A) '', plus'', and added subpar. (B).

Subsec. (h). Pub. L. 97–34, §731(a), (b), substituted in heading ''minimum percentage'' for ''at least 60 percent'' and provisions of par. (1) respecting minimum percentage, for provisions respecting in the case of a large corporation, the amount treated as the estimated tax for the taxable year under paragraphs (1) and (2) of subsection (d) shall in no event be less than 60 percent of the tax shown on the return for the taxable year, or if no return was filed, the tax for such year.

1980—Subsec. (e). Pub. L. 96–499, §1111(b), substituted ''subsections (b), (d), and (h)'' for ''subsections (b) and (d)''.

Subsec. (h). Pub. L. 96–499, §1111(a), added subsec. (h).

1978—Subsec. (e). Pub. L. 95–600 struck out provisions relating to the corporation's temporary estimated tax exemption.

1976—Subsec. (e)(1)(B). Pub. L. 94–455, §1906(b)(3)(A), struck out in cl. (ii) ''after December 31, 1967, and'' after ''taxable year beginning'' and struck out cl. (iii) which related to the case of a taxable year beginning after Dec. 31, 1967, and before Jan. 1, 1972, the amount of the corporation's transitional exemption for such year.

Subsec. (e)(2)(B). Pub. L. 94–455, §1906(b)(3)(B), substituted ''clause (ii)'' for ''clauses (ii) and (iii)''.

Subsec. (e)(3), (4). Pub. L. 94–455, §1906(b)(3)(C)(i), redesignated par. (4) as (3). Former par. (3), which related to the computation of a corporation's transitional exemption, was struck out.

Subsec. (f). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1975—Subsecs. (a), (g)(1). Pub. L. 93–625 substituted ''an annual rate established under section 6621'' for ''the rate of 6 percent per annum''.

1968—Subsec. (b)(1). Pub. L. 90–364, §103(c)(1), substituted ''80 percent'' for ''70 percent''.

Subsec. (d)(1). Pub. L. 90–364, §103(e)(1), struck out ''reduced by $100,000'' after ''The tax shown on the return of the corporation for the preceding taxable year''.

Subsec. (d)(3)(A). Pub. L. 90–364, §103(c)(1), substituted ''80 percent'' for ''70 percent''.

Subsec. (e). Pub. L. 90–364, §103(c)(2), designated existing provisions as par. (1) under a heading ''In general'', in such redesignated par. (1) substituted ''For purposes of subsections (b) and (d)'' for ''For purposes of subsections (b), (d)(2), and (d)(3)'' in introductory text, redesignated as subpar. (A) former par. (1) and as subpar. (B) former par. (2), struck out reference to $100,000 as one factor in the sum required for redesignated subpar. (B) and added cls. (ii) and (iii), and added pars. (2), (3), and (4) under headings ''Temporary estimated tax exemption'', ''Transitional exemption'', and ''Special rule for subsection (d)(1) and (2)'' respectively.

Subsec. (g). Pub. L. 90–364, §103(d)(2), added subsec. (g).

1964—Subsec. (c)(2). Pub. L. 88–272, §122(c)(1), substituted ''any installment date'' and ''such installment date'' for ''the 15th day of the 12th month''.

Subsec. (d)(3). Pub. L. 88–272, §122(c)(2), redesignated cls. (A)(i) and (ii) as (A)(iii) and (iv), respectively, added cls. (A)(i) and (ii), and substituted ''(3, 5, 6, 8, 9,)'' for ''(6 or 8, or 9)'' in subpar. (B)(ii).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–170, title V, §571(b), Dec. 17, 1999, 113 Stat. 1951, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to estimated tax payments due on or after December 15, 1999.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1461(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103–66, §§13001–13444, to which such amendment relates, see section 1703(*o*) of Pub. L. 104–188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 applicable for purposes of determining underpayments of estimated tax for taxable years beginning after Dec. 31, 1994, see section 711(c) of Pub. L. 103–465, set out as a note under section 6654 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13225(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1993.''

EFFECTIVE DATE OF 1992 AMENDMENTS

Section 512(c) of Pub. L. 102–318 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after June 30, 1992.''

Section 3(b) of Pub. L. 102–244 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1992.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 201(c) of Pub. L. 102–227 provided that: ''The amendments made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1991.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7209(b) of Pub. L. 101–239 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1989.''

Amendment by section 7822(a) of 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 AMENDMENTS

Amendment by section 2004(r) of Pub. L. 100–647 effective, except as otherwise provided, 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 2004(u) of Pub. L. 100–647, set out as a note under section 56 of this title.

Section 5001(b) of Pub. L. 100–647 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to installments required to be made after December 31, 1988.''

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to taxable years beginning after Dec. 31, 1987, see section 10301(c) of Pub. L. 100–203, set out as a note under section 585 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by section 701(d)(3) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99–514, set out as an Effective Date note under section 55 of this title.

Amendment by section 1511(c)(15) of Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

Amendment by Pub. L. 99–499 applicable to taxable years beginning after Dec. 31, 1986, see section 516(c) of

Pub. L. 99–499, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective, except as otherwise provided, as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980, Pub. L. 96–223, to which such amendment relates, see section 203(a), (b) of Pub. L. 97–448, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 234(e) of Pub. L. 97–248 provided that: ''The amendments made by this section [amending this section and sections 832, 6081, 6152, and 6164 of this title] shall apply to taxable years beginning after December 31, 1982.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 601(a)(6)(B) of Pub. L. 97–34 effective Jan. 1, 1980, see section 601(c)(2) of Pub. L. 97–34, set out as a note under section 6654 of this title.

Section 731(c) of Pub. L. 97–34 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1981.''

EFFECTIVE DATE OF 1980 AMENDMENT

Section 1111(c) of Pub. L. 96–499 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1980.''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95–600, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1906(b)(3)(A)–(C)(i) of Pub. L. 94–455 effective with respect to taxable years after Dec. 31, 1976, see section 1906(d)(2) of Pub. L. 94–455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93–625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–364 applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90–364, see section 103(f) of Pub. L. 90–364, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–272 effective, except for purposes of section 21 of this title, with respect to taxable years beginning after Dec. 31, 1963, see section 131 of Pub. L. 88–272, set out as a note under section 1 of this title.

WAIVER OF ESTIMATED TAX PENALTIES FOR 1998 UNDERPAYMENTS

No addition to tax to be made under this section with respect to any underpayment of an installment required to be paid on or before the 30th day after July 22, 1998, to the extent such underpayment was created or increased by any provision of Pub. L. 105–206, see section 1(c) of Pub. L. 105–206, set out as a note under section 6654 of this title.

No addition to tax to be made under this section for any period before Jan. 1, 1998, for any payment the due date of which is before Jan. 16, 1998, with respect to any underpayment attributable to such period to the extent such underpayment was created or increased by any provision of Pub. L. 105–34, see section 1(d) of Pub. L. 105–34, set out as a note under section 6654 of this title.

UNDERPAYMENTS OF ESTIMATED TAX FOR 1996

No addition to tax to be made under this section with respect to any underpayment of an installment required to be paid before Aug. 20, 1996, to the extent such underpayment was created or increased by any provision of title I (§§ 1101–1954) of Pub. L. 104–188, see section 1102 of Pub. L. 104–188, set out as a note under section 6654 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1993 UNDERPAYMENTS ATTRIBUTABLE TO REVENUE RECONCILIATION ACT OF 1993

No addition to tax to be made under this section for any period before Apr. 16, 1994 (Mar. 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of chapter 1 (§§ 13001–13444) of title XIII of Pub. L. 103–66, see section 13001(d) of Pub. L. 103–66, set out as a note under section 6654 of this title.

WAIVER OF ESTIMATED TAX PENALTIES FOR UNDERPAYMENTS ATTRIBUTABLE TO SECTION 420(b)(4)(B) OF THIS TITLE

No addition to tax to be made under this section for taxable year preceding taxpayer's first taxable year beginning after Dec. 31, 1990, with respect to any underpayment to the extent such underpayment was created or increased by reason of section 420(b)(4)(B) of this title, see section 12011(c)(2) of Pub. L. 101–508, set out as an Effective Date note under section 420 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1990 UNDERPAYMENTS ATTRIBUTABLE TO REVENUE RECONCILIATION ACT OF 1990

Section 11307 of Pub. L. 101–508 provided that: ''No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part [part I (§§ 11301–11307) of subtitle C of title XI of Pub. L. 101–508, see Tables for classification].''

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99–514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(d)(3) of Pub. L. 99–514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(2) of Pub. L. 100–647, set out as a note under section 861 of this title.

WAIVER OF ESTIMATED PENALTIES FOR 1988 UNDERPAYMENTS ATTRIBUTABLE TO TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

No addition to tax to be made under this section for any period before Mar. 16, 1989, with respect to any underpayment to the extent such underpayment was created or increased by any provision of title I (§§ 1001 to 1019) or II (§§ 2001 to 2006) of Pub. L. 100–647, see section 1019(b) of Pub. L. 100–647, set out as an Effective Date of 1988 Amendment note under section 1 of this title.

CORPORATIONS ALSO MAY USE 1986 TAX TO DETERMINE AMOUNT OF CERTAIN ESTIMATED TAX INSTALLMENTS DUE ON OR BEFORE JUNE 15, 1987

Section 10303(b)(2) of Pub. L. 100–203 provided that:

''(A) IN GENERAL.—In the case of a large corporation, no addition to tax shall be imposed by section 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an estimated tax installment to

which this subsection applies if no addition would be imposed with respect to such underpayment by reason of section 6655(d)(1) of such Code if such corporation were not a large corporation. The preceding sentence shall apply only to the extent the underpayment is paid on or before the last date prescribed for payment of the most recent installment of estimated tax due on or before September 15, 1987.

''(B) INSTALLMENT TO WHICH SUBSECTION APPLIES.—This subsection applies to any installment of estimated tax for a taxable year beginning after December 31, 1986, which is due on or before June 15, 1987.

''(C) LARGE CORPORATION.—For purposes of this subsection, the term 'large corporation' has the meaning given such term by section 6655(i)(2) of such Code (as in effect on the day before the date of the enactment of this Act [Dec. 22, 1987]).''

WAIVER OF ESTIMATED PENALTIES FOR 1986 UNDERPAYMENTS ATTRIBUTABLE TO TAX REFORM ACT OF 1986

No addition to tax to be made under this section for any period before Mar. 16, 1987, with respect to any underpayment, to the extent such underpayment was created or increased by any provision of Pub. L. 99–514, see section 1543 of Pub. L. 99–514, set out as a note under section 6654 of this title.

WAIVER OF ESTIMATED TAX PENALTIES

Section 1879(a) of Pub. L. 99–514 provided that: ''No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1954 [now 1986] (relating to failure to pay estimated income tax) for any period before April 16, 1985 (March 16, 1985 in the case of a taxpayer subject to section 6655 of such Code), with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1984 [Pub. L. 98–369, div. A].''

UNDERPAYMENTS OF ESTIMATED TAX FOR 1984

Pub. L. 98–369, div. A, title II, subtitle A, § 218, July 18, 1984, 98 Stat. 766, which provided that no addition to the tax shall be made under section 6655 of this title with respect to any underpayment of an installment required to be paid before July 18, 1984, to the extent such underpayment was created or increased by any provision of this subtitle, and such underpayment was paid in full on or before the last date prescribed for payment of the first installment of estimated tax required to be paid after July 18, 1984, was repealed by Pub. L. 99–514, title XVIII, § 1824, Oct. 22, 1986, 100 Stat. 2846.

WAIVER OF PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX

Section 803(g) of Pub. L. 94–455, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''If—

''(1) a corporation made underpayments of estimated tax for a taxable year of the corporation which includes August 1, 1975, because the corporation intended to elect to have the provisions of subparagraph (B) of section 46(a)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as it existed before the date of enactment of this Act [Oct. 4, 1976]) apply for such taxable year, and

''(2) the corporation does not elect to have the provisions of such subparagraph apply for such taxable year because this Act does not contain the amendments made by section 804(a)(2) (relating to flow-through of investment credit), or the provisions of subsection (f) of such section (relating to grace period for certain plan transfers), of the bill H.R. 10612 (94th Congress, 2d Session), as amended by the Senate,

then the provisions of section 6655 of such Code (relating to failure by corporation to pay estimated income tax) shall not apply to so much of any such underpayment as the corporation can establish, to the satisfaction of the Secretary of the Treasury, is properly attributable to the inapplicability of such subparagraph (B) for such taxable year.''

DECLARATION OF ESTIMATED TAX

With respect to taxable years beginning before Dec. 30, 1969, if a taxpayer is required to make a declaration, or to pay any amount of estimated tax by reason of amendments made by Pub. L. 91–172, such amount shall be paid ratably on each of the remaining installment dates for the taxable year beginning with the first installment date on or after Dec. 30, 1969; as to any declaration or payment of estimated tax before the first installment date, this section, and sections 6015, 6154, and 6654 of this title shall be applied without regard to amendments made by Pub. L. 91–172, see section 946(b) of Pub. L. 91–172, set out as a note under section 6153 of this title.

TAX SURCHARGE EXTENSION; DECLARATIONS OF ESTIMATED TAX

Requirement of making a declaration or amended declaration of estimated tax or of payment of any amount or additional amount of estimated tax by reason of amendment of sections 51(a)(1)(A), (B), (2)(A) and 963(b) of this title as calling for payment of such amount or additional amount ratably on or before each of remaining installment dates for taxable year beginning with installment date on or after the 30th day after Aug. 7, 1969; application of this section without regard to such amendment with respect to any declaration or payment of estimated tax before such first installment date; and definition of ''installment date'', see Pub. L. 93–53, § 5(c), Aug. 7, 1969, 83 Stat. 95.

ESTIMATED TAX OF LIFE INSURANCE COMPANIES FOR 1958

Pub. L. 86–69, June 25, 1959, § 3(h), 73 Stat. 140, provided that in the case of a taxpayer subject to tax under section 811 of this title, as in effect before June 25, 1959, no additional tax was to be payable under this section with respect to estimated tax for a taxable year beginning in 1958.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 167, 338, 460, 585, 809, 847, 1446, 6201, 6425, 6601, 6622, 6651, 6658, 6665, 6751, 7203, 7704 of this title.

§ 6656. Failure to make deposit of taxes

(a) Underpayment of deposits

In the case of any failure by any person to deposit (as required by this title or by regulations of the Secretary under this title) on the date prescribed therefor any amount of tax imposed by this title in such government depository as is authorized under section 6302(c) to receive such deposit, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be imposed upon such person a penalty equal to the applicable percentage of the amount of the underpayment.

(b) Definitions

For purposes of subsection (a)—

(1) Applicable percentage

(A) In general

Except as provided in subparagraph (B), the term ''applicable percentage'' means—

(i) 2 percent if the failure is for not more than 5 days,

(ii) 5 percent if the failure is for more than 5 days but not more than 15 days, and

(iii) 10 percent if the failure is for more than 15 days.

(B) Special rule

In any case where the tax is not deposited on or before the earlier of—

(i) the day 10 days after the date of the first delinquency notice to the taxpayer under section 6303, or

(ii) the day on which notice and demand for immediate payment is given under section 6861 or 6862 or the last sentence of section 6331(a),

the applicable percentage shall be 15 percent.

(2) Underpayment

The term ''underpayment'' means the excess of the amount of the tax required to be deposited over the amount, if any, thereof deposited on or before the date prescribed therefor.

(c) Exception for first-time depositors of employment taxes

The Secretary may waive the penalty imposed by subsection (a) on a person's inadvertent failure to deposit any employment tax if—

(1) such person meets the requirements referred to in section 7430(c)(4)(A)(ii),

(2) such failure—

(A) occurs during the first quarter that such person was required to deposit any employment tax; or

(B) if such person is required to change the frequency of deposits of any employment tax, relates to the first deposit to which such change applies, and

(3) the return of such tax was filed on or before the due date.

For purposes of this subsection, the term ''employment taxes'' means the taxes imposed by subtitle C.

(d) Authority to abate penalty where deposit sent to Secretary

The Secretary may abate the penalty imposed by subsection (a) with respect to the first time a depositor is required to make a deposit if the amount required to be deposited is inadvertently sent to the Secretary instead of to the appropriate government depository.

(e) Designation of periods to which deposits apply

(1) In general

A person may, with respect to any deposit of tax to be reported on such person's return for a specified tax period, designate the period or periods within such specified tax period to which the deposit is to be applied for purposes of this section.

(2) Time for making designation

A person may make a designation under paragraph (1) only during the 90-day period beginning on the date of a notice that a penalty under subsection (a) has been imposed for the specified tax period to which the deposit relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 826; Pub. L. 91–172, title IX, § 943(b), Dec. 30, 1969, 83 Stat. 728; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–34, title VII, § 724(a), (b)(1), (3), Aug. 13, 1981, 95 Stat. 344, 345; Pub. L. 99–509, title VIII, § 8001(a), Oct. 21, 1986, 100 Stat. 1951; Pub. L. 101–239, title VII, § 7742(a), Dec. 19, 1989, 103 Stat. 2405; Pub. L. 104–168, title III, § 304(a), title VII, § 701(c)(3), July 30, 1996, 110 Stat. 1458, 1464; Pub. L. 105–206, title III, § 3304(a)–(c), July 22, 1998, 112 Stat. 742.)

AMENDMENT OF SUBSECTION (e)(1)

Pub. L. 105–206, title III, § 3304(c), (d), July 22, 1998, 112 Stat. 742, provided that, applicable to deposits required to be made after Dec. 31, 2001, subsection (e)(1) of this section is amended to read as follows:

(1) In general

A deposit made under this section shall be applied to the most recent period or periods within the specified tax period to which the deposit relates, unless the person making such deposit designates a different period or periods to which such deposit is to be applied.

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105–206, § 3304(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''such failure occurs during the 1st quarter that such person was required to deposit any employment tax, and''.

Subsec. (e). Pub. L. 105–206, § 3304(a), added subsec. (e).

1996—Subsec. (c). Pub. L. 104–168, § 304(a), added subsec. (c).

Subsec. (c)(1). Pub. L. 104–168, § 701(c)(3), substituted ''section 7430(c)(4)(A)(ii)'' for ''section 7430(c)(4)(A)(iii)''.

Subsec. (d). Pub. L. 104–168, § 304(a), added subsec. (d).

1989—Pub. L. 101–239 substituted ''taxes'' for ''taxes or overstatement of deposits'' as section catchline and amended text generally, revising substance and structure.

1986—Subsec. (a). Pub. L. 99–509 substituted ''10 percent'' for ''5 percent''.

1981—Pub. L. 97–34, § 724(b)(1), inserted ''or overstatement of deposits'' after ''taxes'' in section catchline.

Subsec. (a). Pub. L. 97–34, § 724(b)(3), substituted ''Underpayment of deposits'' for ''Penalty'' in heading.

Subsec. (b). Pub. L. 97–34, § 724(a), substituted provisions relating to conditions for imposition of penalties for overstated deposit claims and definition of ''overstated deposit claim'', for provisions relating to imposition of penalties after due date for return.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1969—Subsec. (a). Pub. L. 91–172 substituted provisions imposing a penalty of five percent for the failure to deposit on the date prescribed any amount of tax imposed by this title, for provisions imposing a penalty of one percent of the amount of underpayment each month but not to exceed six percent in the aggregate.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3304(d), July 22, 1998, 112 Stat. 742, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to deposits required to be made after the 180th day after the date of the enactment of this Act [July 22, 1998].

''(2) APPLICATION TO CURRENT LIABILITIES.—The amendment made by subsection (c) [amending this section] shall apply to deposits required to be made after December 31, 2001.''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 304(b) of Pub. L. 104–168 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to deposits required to be made after the date of the enactment of this Act [July 30, 1996].''

Amendment by section 701(c)(3) of Pub. L. 104–168 applicable in case of proceedings commenced after July 30, 1996, see section 701(d) of Pub. L. 104–168, set out as a note under section 6404 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7742(c) of Pub. L. 101–239 provided that: ''The amendments made by this section [amending this sec-

tion] shall apply to deposits required to be made after December 31, 1989.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 8001(b) of Pub. L. 99–509 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to penalties assessed after the date of the enactment of this Act [Oct. 21, 1986].''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 724(c) of Pub. L. 97–34 provided that: ''The amendments made by this section [amending this section and sections 5684 and 5761 of this title] shall apply to returns filed after the date of the enactment of this Act [Aug. 13, 1981].''

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 applicable with respect to deposits the time for making of which is after Dec. 31, 1969, see section 943(d) of Pub. L. 91–172, set out as a note under section 6651 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5684, 5761 of this title.

§ 6657. Bad checks

If any check or money order in payment of any amount receivable under this title is not duly paid, in addition to any other penalties provided by law, there shall be paid as a penalty by the person who tendered such check, upon notice and demand by the Secretary, in the same manner as tax, an amount equal to 2 percent of the amount of such check, except that if the amount of such check is less than $750, the penalty under this section shall be $15 or the amount of such check, whichever is the lesser. This section shall not apply if the person tendered such check in good faith and with reasonable cause to believe that it would be duly paid.

(Aug. 16, 1954, ch. 736, 68A Stat. 826; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100–647, title V, § 5071(a), Nov. 10, 1988, 102 Stat. 3681.)

AMENDMENTS

1988—Pub. L. 100–647 substituted ''2'' for ''1'', ''$750'' for ''$500'', and ''$15'' for ''$5''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 5071(b) of Pub. L. 100–647 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to checks or money orders received after the date of the enactment of this Act [Nov. 10, 1988].''

§ 6658. Coordination with title 11

(a) Certain failures to pay tax

No addition to the tax shall be made under section 6651, 6654, or 6655 for failure to make timely payment of tax with respect to a period during which a case is pending under title 11 of the United States Code—

(1) if such tax was incurred by the estate and the failure occurred pursuant to an order of the court finding probable insufficiency of funds of the estate to pay administrative expenses, or

(2) if—

(A) such tax was incurred by the debtor before the earlier of the order for relief or (in the involuntary case) the appointment of a trustee, and

(B)(i) the petition was filed before the due date prescribed by law (including extensions) for filing a return of such tax, or

(ii) the date for making the addition to the tax occurs on or after the day on which the petition was filed.

(b) Exception for collected taxes

Subsection (a) shall not apply to any liability for an addition to the tax which arises from the failure to pay or deposit a tax withheld or collected from others and required to be paid to the United States.

(Added Pub. L. 96–589, § 6(e)(1), Dec. 24, 1980, 94 Stat. 3408.)

PRIOR PROVISIONS

A prior section 6658, act Aug. 16, 1954, ch. 736, 68A Stat. 826, authorized inclusion as part of the tax a 25 percent penalty in cases of violations or attempted violations of section 6851 of this title, prior to repeal by Pub. L. 96–167, § 6(a), Dec. 29, 1979, 93 Stat. 1276.

EFFECTIVE DATE

Section effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as an Effective Date of 1980 Amendment note under section 108 of this title.

[§§ 6659 to 6661. Repealed. Pub. L. 101–239, title VII, § 7721(c)(2), Dec. 19, 1989, 103 Stat. 2399]

Section 6659, added Pub. L. 97–34, title VII, § 722(a)(1), Aug. 13, 1981, 95 Stat. 341; amended Pub. L. 97–448, title I, § 107(a)(1), (2), Jan. 12, 1983, 96 Stat. 2391; Pub. L. 98–369, div. A, title I, § 155(c)(1), title VII, § 721(x)(4), July 18, 1984, 98 Stat. 693, 971, related to additions to tax in case of valuation overstatements for purposes of the income tax.

A prior section 6659 was renumbered section 6662 of this title.

Section 6659A, added Pub. L. 99–514, title XI, § 1138(a), Oct. 22, 1986, 100 Stat. 2486, related to additions to tax in case of overstatements of pension liabilities.

Section 6660, added Pub. L. 98–369, div. A, title I, § 155(c)(2)(A), July 18, 1984, 98 Stat. 694; amended Pub. L. 99–514, title XVIII, §§ 1811(d), 1899A(57), Oct. 22, 1986, 100 Stat. 2833, 2961, related to additions to tax in case of valuation understatements for purposes of estate or gift taxes.

A prior section 6660 was renumbered section 6662 of this title.

Section 6661, added Pub. L. 97–248, title III, § 323(a), Sept. 3, 1982, 96 Stat. 613; amended Pub. L. 97–354, § 5(a)(42), Oct. 19, 1982, 96 Stat. 1697; Pub. L. 98–369, div. A, title VII, § 714(h)(3), July 18, 1984, 98 Stat. 962; Pub. L. 99–509, title VIII, § 8002(a), (c), Oct. 21, 1986, 100 Stat. 1951; Pub. L. 99–514, title XV, § 1504(a), Oct. 22, 1986, 100 Stat. 2743, related to substantial understatements of liability.

EFFECTIVE DATE OF REPEAL

Repeal applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as an Effective Date of 1989 Amendment note under section 461 of this title.

PART II—ACCURACY-RELATED AND FRAUD PENALTIES

Sec.
6662. Imposition of accuracy-related penalty.

Sec.
6663. Imposition of fraud penalty.
6664. Definitions and special rules.

AMENDMENTS

1989—Pub. L. 101–239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2395, added part heading and analysis of sections.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 5761, 6013, 6034A, 6037, 6222, 6241, 6242, 6601, 6672, 7519 of this title.

§ 6662. Imposition of accuracy-related penalty

(a) Imposition of penalty

If this section applies to any portion of an underpayment of tax required to be shown on a return, there shall be added to the tax an amount equal to 20 percent of the portion of the underpayment to which this section applies.

(b) Portion of underpayment to which section applies

This section shall apply to the portion of any underpayment which is attributable to 1 or more of the following:

(1) Negligence or disregard of rules or regulations.

(2) Any substantial understatement of income tax.

(3) Any substantial valuation misstatement under chapter 1.

(4) Any substantial overstatement of pension liabilities.

(5) Any substantial estate or gift tax valuation understatement.

This section shall not apply to any portion of an underpayment on which a penalty is imposed under section 6663.

(c) Negligence

For purposes of this section, the term ''negligence'' includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term ''disregard'' includes any careless, reckless, or intentional disregard.

(d) Substantial understatement of income tax

(1) Substantial understatement

(A) In general

For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

(i) 10 percent of the tax required to be shown on the return for the taxable year, or

(ii) $5,000.

(B) Special rule for corporations

In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting ''$10,000'' for ''$5,000''.

(2) Understatement

(A) In general

For purposes of paragraph (1), the term ''understatement'' means the excess of—

(i) the amount of the tax required to be shown on the return for the taxable year, over

(ii) the amount of the tax imposed which is shown on the return, reduced by any rebate (within the meaning of section 6211(b)(2)).

(B) Reduction for understatement due to position of taxpayer or disclosed item

The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

(ii) any item if—

(I) the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return, and

(II) there is a reasonable basis for the tax treatment of such item by the taxpayer.

For purposes of clause (ii)(II), in no event shall a corporation be treated as having a reasonable basis for its tax treatment of an item attributable to a multiple-party financing transaction if such treatment does not clearly reflect the income of the corporation.

(C) Special rules in cases involving tax shelters

(i) In general

In the case of any item of a taxpayer other than a corporation which is attributable to a tax shelter—

(I) subparagraph (B)(ii) shall not apply, and

(II) subparagraph (B)(i) shall not apply unless (in addition to meeting the requirements of such subparagraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

(ii) Subparagraph (B) not to apply to corporations

Subparagraph (B) shall not apply to any item of a corporation which is attributable to a tax shelter.

(iii) Tax shelter

For purposes of this subparagraph, the term ''tax shelter'' means—

(I) a partnership or other entity,

(II) any investment plan or arrangement, or

(III) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

(D) Secretarial list

The Secretary shall prescribe (and revise not less frequently than annually) a list of positions—

(i) for which the Secretary believes there is not substantial authority, and

(ii) which affect a significant number of taxpayers.

Such list (and any revision thereof) shall be published in the Federal Register.

(e) Substantial valuation misstatement under chapter 1

(1) In general

For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

(B)(i) the price for any property or services (or for the use of property) claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

(ii) the net section 482 transfer price adjustment for the taxable year exceeds the lesser of $5,000,000 or 10 percent of the taxpayer's gross receipts.

(2) Limitation

No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

(3) Net section 482 transfer price adjustment

For purposes of this subsection—

(A) In general

The term ''net section 482 transfer price adjustment'' means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the price for any property or services (or for the use of property).

(B) Certain adjustments excluded in determining threshold

For purposes of determining whether the threshold requirements of paragraph (1)(B)(ii) are met, the following shall be excluded:

(i) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if—

(I) it is established that the taxpayer determined such price in accordance with a specific pricing method set forth in the regulations prescribed under section 482 and that the taxpayer's use of such method was reasonable,

(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such a method and which establishes that the use of such method was reasonable, and

(III) the taxpayer provides such documentation to the Secretary within 30 days of a request for such documentation.

(ii) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to a redetermination of price where such price was not determined in accordance with such a specific pricing method if—

(I) the taxpayer establishes that none of such pricing methods was likely to result in a price that would clearly reflect income, the taxpayer used another pricing method to determine such price, and such other pricing method was likely to result in a price that would clearly reflect income,

(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such other method and which establishes that the requirements of subclause (I) were satisfied, and

(III) the taxpayer provides such documentation to the Secretary within 30 days of request for such documentation.

(iii) Any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States.

(C) Special rule

If the regular tax (as defined in section 55(c)) imposed by chapter 1 on the taxpayer is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of this paragraph.

(D) Coordination with reasonable cause exception

For purposes of section 6664(c) the taxpayer shall not be treated as having reasonable cause for any portion of an underpayment attributable to a net section 482 transfer price adjustment unless such taxpayer meets the requirements of clause (i), (ii), or (iii) of subparagraph (B) with respect to such portion.

(f) Substantial overstatement of pension liabilities

(1) In general

For purposes of this section, there is a substantial overstatement of pension liabilities if the actuarial determination of the liabilities taken into account for purposes of computing the deduction under paragraph (1) or (2) of section 404(a) is 200 percent or more of the

amount determined to be the correct amount of such liabilities.

(2) Limitation

No penalty shall be imposed by reason of subsection (b)(4) unless the portion of the underpayment for the taxable year attributable to substantial overstatements of pension liabilities exceeds $1,000.

(g) Substantial estate or gift tax valuation understatement

(1) In general

For purposes of this section, there is a substantial estate or gift tax valuation understatement if the value of any property claimed on any return of tax imposed by subtitle B is 50 percent or less of the amount determined to be the correct amount of such valuation.

(2) Limitation

No penalty shall be imposed by reason of subsection (b)(5) unless the portion of the underpayment attributable to substantial estate or gift tax valuation understatements for the taxable period (or, in the case of the tax imposed by chapter 11, with respect to the estate of the decedent) exceeds $5,000.

(h) Increase in penalty in case of gross valuation misstatements

(1) In general

To the extent that a portion of the underpayment to which this section applies is attributable to one or more gross valuation misstatements, subsection (a) shall be applied with respect to such portion by substituting ''40 percent'' for ''20 percent''.

(2) Gross valuation misstatements

The term ''gross valuation misstatements'' means—

(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

(i) ''400 percent'' for ''200 percent'' each place it appears,

(ii) ''25 percent'' for ''50 percent'', and

(iii) in paragraph (1)(B)(ii)—

(I) ''$20,000,000'' for ''$5,000,000'', and

(II) ''20 percent'' for ''10 percent''.

(B) any substantial overstatement of pension liabilities as determined under subsection (f) by substituting ''400 percent'' for ''200 percent'', and

(C) any substantial estate or gift tax valuation understatement as determined under subsection (g) by substituting ''25 percent'' for ''50 percent''.

(Added Pub. L. 101–239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2395; amended Pub. L. 101–508, title XI, § 11312(a), (b), Nov. 5, 1990, 104 Stat. 1388–454, 1388–455; Pub. L. 103–66, title XIII, §§ 13236(a)–(d), 13251(a), Aug. 10, 1993, 107 Stat. 505, 506, 531; Pub. L. 103–465, title VII, § 744(a), (b), Dec. 8, 1994, 108 Stat. 5011; Pub. L. 105–34, title X, § 1028(c), Aug. 5, 1997, 111 Stat. 928.)

PRIOR PROVISIONS

A prior section 6662, acts Aug. 16, 1954, ch. 736, 68A Stat. 827, § 6659; May 14, 1960, Pub. L. 86–470, § 1, 74 Stat. 132; Dec. 30, 1969, Pub. L. 91–172, title I, § 101(j)(51), 83 Stat. 531; Sept. 2, 1974, Pub. L. 93–406, title II, § 1016(a)(19), 88 Stat. 931; renumbered § 6660, Aug. 13, 1981, Pub. L. 97–34, title VII, § 722(a)(1), 95 Stat. 341; renumbered § 6662, Sept. 3, 1982, Pub. L. 97–248, title III, § 323(a), 96 Stat. 613, directed that additions be treated as tax and set procedure for assessing certain additions to tax, prior to repeal by Pub. L. 101–239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2395, applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989. See section 6665 of this title.

AMENDMENTS

1997—Subsec. (d)(2)(B). Pub. L. 105–34, § 1028(c)(1), inserted concluding provisions.

Subsec. (d)(2)(C)(iii). Pub. L. 105–34, § 1028(c)(2), substituted ''a significant purpose'' for ''the principal purpose'' in concluding provisions.

1994—Subsec. (d)(2)(C)(i). Pub. L. 103–465, § 744(b)(1), substituted ''In the case of any item of a taxpayer other than a corporation which is'' for ''In the case of any item'' in introductory provisions.

Subsec. (d)(2)(C)(ii). Pub. L. 103–465, § 744(a), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (d)(2)(C)(iii). Pub. L. 103–465, § 744(a), (b)(2), redesignated cl. (ii) as (iii) and substituted ''this subparagraph'' for ''clause (i)'' in introductory provisions.

1993—Subsec. (d)(2)(B)(ii). Pub. L. 103–66, § 13251(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.''

Subsec. (e)(1)(B)(ii). Pub. L. 103–66, § 13236(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.''

Subsec. (e)(3)(B). Pub. L. 103–66, § 13236(b), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: ''For purposes of determining whether the $10,000,000 threshold requirement of paragraph (1)(B)(ii) is met, there shall be excluded—

''(i) any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if it is shown that there was a reasonable cause for the taxpayer's determination of such price and that the taxpayer acted in good faith with respect to such price, and

''(ii) any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any of such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States.''

Subsec. (e)(3)(D). Pub. L. 103–66, § 13236(c), added subpar. (D).

Subsec. (h)(2)(A)(iii). Pub. L. 103–66, § 13236(d), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: '' '$20,000,000' for '$10,000,000',''.

1990—Subsec. (b)(3). Pub. L. 101–508, § 11312(b)(1), amended par. (3) generally, substituting ''misstatement'' for ''overstatement''.

Subsec. (e). Pub. L. 101–508, § 11312(a), substituted ''misstatement'' for ''overstatement'' in heading and amended text generally. Prior to amendment, text read as follows:

''(1) IN GENERAL.—For purposes of this section, there is a substantial valuation overstatement under chapter 1 if the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be).

''(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substan-

tial valuation overstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).''

Subsec. (h)(2)(A). Pub. L. 101–508, § 11312(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''any substantial valuation overstatement under chapter 1 as determined under subsection (e) by substituting '400 percent' for '200 percent',''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to items with respect to transactions entered into after Aug. 5, 1997, see section 1028(e)(2) of Pub. L. 105–34, set out as a note under section 6111 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 744(c) of Pub. L. 103–465 provided that: ''The amendments made by this section [amending this section] shall apply to items related to transactions occurring after the date of the enactment of this Act [Dec. 8, 1994].''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13236(e) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1993.''

Section 13251(b) of Pub. L. 103–66 provided that: ''The amendment made by this section [amending this section] shall apply to returns the due dates for which (determined without regard to extensions) are after December 31, 1993.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11312(c) of Pub. L. 101–508 provided that: ''The amendments made by this section [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Nov. 5, 1990].''

EFFECTIVE DATE

Part applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as an Effective Date of 1989 Amendment note under section 461 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 461, 1274, 6015, 6694, 7525 of this title.

§ 6663. Imposition of fraud penalty

(a) Imposition of penalty

If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud.

(b) Determination of portion attributable to fraud

If the Secretary establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except with respect to any portion of the underpayment which the taxpayer establishes (by a preponderance of the evidence) is not attributable to fraud.

(c) Special rule for joint returns

In the case of a joint return, this section shall not apply with respect to a spouse unless some part of the underpayment is due to the fraud of such spouse.

(Added Pub. L. 101–239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6662 of this title.

§ 6664. Definitions and special rules

(a) Underpayment

For purposes of this part, the term ''underpayment'' means the amount by which any tax imposed by this title exceeds the excess of—

(1) the sum of—

(A) the amount shown as the tax by the taxpayer on his return, plus

(B) amounts not so shown previously assessed (or collected without assessment), over

(2) the amount of rebates made.

For purposes of paragraph (2), the term ''rebate'' means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed was less than the excess of the amount specified in paragraph (1) over the rebates previously made.

(b) Penalties applicable only where return filed

The penalties provided in this part shall apply only in cases where a return of tax is filed (other than a return prepared by the Secretary under the authority of section 6020(b)).

(c) Reasonable cause exception

(1) In general

No penalty shall be imposed under this part with respect to any portion of an underpayment if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

(2) Special rule for certain valuation overstatements

In the case of any underpayment attributable to a substantial or gross valuation overstatement under chapter 1 with respect to charitable deduction property, paragraph (1) shall not apply unless—

(A) the claimed value of the property was based on a qualified appraisal made by a qualified appraiser, and

(B) in addition to obtaining such appraisal, the taxpayer made a good faith investigation of the value of the contributed property.

(3) Definitions

For purposes of this subsection—

(A) Charitable deduction property

The term ''charitable deduction property'' means any property contributed by the taxpayer in a contribution for which a deduction was claimed under section 170. For purposes of paragraph (2), such term shall not include any securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

(B) Qualified appraiser

The term ''qualified appraiser'' means any appraiser meeting the requirements of the

regulations prescribed under section 170(a)(1).

(C) Qualified appraisal

The term ''qualified appraisal'' means any appraisal meeting the requirements of the regulations prescribed under section 170(a)(1).

(Added Pub. L. 101–239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2398.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6662 of this title.

PART III—APPLICABLE RULES

Sec.
6665. Applicable rules.

AMENDMENTS

1989—Pub. L. 101–239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2398, added part heading and analysis.

§ 6665. Applicable rules

(a) Additions treated as tax

Except as otherwise provided in this title—

(1) the additions to the tax, additional amounts, and penalties provided by this chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes; and

(2) any reference in this title to ''tax'' imposed by this title shall be deemed also to refer to the additions to the tax, additional amounts, and penalties provided by this chapter.

(b) Procedure for assessing certain additions to tax

For purposes of subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes), subsection (a) shall not apply to any addition to tax under section 6651, 6654, or 6655; except that it shall apply—

(1) in the case of an addition described in section 6651, to that portion of such addition which is attributable to a deficiency in tax described in section 6211; or

(2) to an addition described in section 6654 or 6655, if no return is filed for the taxable year.

(Added Pub. L. 101–239, title VII, § 7721(a), Dec. 19, 1989, 103 Stat. 2399.)

EFFECTIVE DATE

Section applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as an Effective Date of 1989 Amendment note under section 461 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5134, 5684, 5761 of this title.

Subchapter B—Assessable Penalties

Part
I. General provisions.
II. Failure to comply with certain information reporting requirements.

AMENDMENTS

1989—Pub. L. 101–239, title VII, § 7711(b)(5), Dec. 19, 1989, 103 Stat. 2393, substituted ''Failure to comply with certain information reporting requirements'' for ''Failure to file certain information returns or statements'' in item for part II.

PART I—GENERAL PROVISIONS

Sec.
6671. Rules for application of assessable penalties.
6672. Failure to collect and pay over tax, or attempt to evade or defeat tax.
6673. Sanctions and costs awarded by courts.
6674. Fraudulent statement or failure to furnish statement to employee.
6675. Excessive claims with respect to the use of certain fuels.
[6676. Repealed.]
6677. Failure to file information with respect to certain foreign trusts.
[6678. Repealed.]
6679. Failure to file returns, etc., with respect to foreign corporations or foreign partnerships.
[6680, 6681. Repealed.]
6682. False information with respect to withholding.
6683. Failure of foreign corporation to file return of personal holding company tax.
6684. Repeated liability for tax under chapter 42.[1]
6685. Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations.
6686. Failure to file returns or supply information by DISC or FSC.
[6687. Repealed.]
6688. Assessable penalties with respect to information required to be furnished under section 7654.
6689. Failure to file notice of redetermination of foreign tax.
6690. Fraudulent statement or failure to furnish statement to plan participant.
[6691. Reserved.]
6692. Failure to file actuarial report.
6693. Failure to provide reports on certain tax-favored accounts or annuities; penalties relating to designated nondeductible contributions.
6694. Understatement of taxpayer's liability by income tax return preparer.
6695. Other assessable penalties with respect to the preparation of income tax returns for other persons.
6696. Rules applicable with respect to sections 6694 and 6695.
6697. Assessable penalties with respect to liability for tax of regulated investment companies.
6698. Failure to file partnership return.
[6698A, 6699. Repealed.]
6700. Promoting abusive tax shelters, etc.
6701. Penalties for aiding and abetting understatement of tax liability.
6702. Frivolous income tax return.
6703. Rules applicable to penalties under sections 6700, 6701, and 6702.
6704. Failure to keep records necessary to meet reporting requirements under section 6047(d).
6705. Failure by broker to provide notice to payors.
6706. Original issue discount information requirements.
6707. Failure to furnish information regarding tax shelters.
6708. Failure to maintain lists of investors in potentially abusive tax shelters.
6709. Penalties with respect to mortgage credit certificates.
6710. Failure to disclose that contributions are nondeductible.
6711. Failure by tax-exempt organization to disclose that certain information or service available from Federal Government.

[1] So in original. Does not conform to section catchline.

6712. Failure to disclose treaty-based return positions.
6713. Disclosure or use of information by preparers of returns.
6714. Failure to meet disclosure requirements applicable to quid pro quo contributions.
6715. Dyed fuel sold for use or used in taxable use, etc.

AMENDMENTS

1997—Pub. L. 105–34, title II, § 211(e)(2)(D), Aug. 5, 1997, 111 Stat. 812, substituted ''certain tax-favored'' for ''individual retirement'' in item 6693.

1996—Pub. L. 104–188, title I, §§ 1703(n)(9)(B), 1901(c)(3), Aug. 20, 1996, 110 Stat. 1877, 1908, substituted ''information'' for ''information returns'' in item 6677 and redesignated item 6714, relating to dyed fuel sold for use or used in taxable use, etc., as item 6715.

1993—Pub. L. 103–66, title XIII, § 13242(b)(2), Aug. 10, 1993, 107 Stat. 521, added item 6714 ''Dyed fuel sold for use or used in taxable use, etc.''.

Pub. L. 103–66, title XIII, § 13173(c)(2), Aug. 10, 1993, 107 Stat. 457, added item 6714 ''Failure to meet disclosure requirements applicable to quid pro quo contributions''.

1989—Pub. L. 101–239, title VII, §§ 7711(b)(4), 7731(c), 7816(v)(2), Dec. 19, 1989, 103 Stat. 2393, 2401, 2423, substituted ''Sanctions and costs awarded by courts'' for ''Damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.'' in item 6673, struck out items 6676 ''Failure to supply identifying numbers'' and 6687 ''Failure to supply information with respect to place of residence'', and redesignated item 6712 ''Disclosure or use of information by preparers of returns'' as 6713.

1988—Pub. L. 100–647, title I, § 1011(b)(4)(B)(ii), Nov. 10, 1988, 102 Stat. 3457, substituted ''penalties relating to'' for ''overstatement of'' in item 6693.

Pub. L. 100–647, title VI, § 6242(c), Nov. 10, 1988, 102 Stat. 3749, added item 6712 ''Disclosure or use of information by preparers of returns''.

Pub. L. 100–647, title I, § 1012(aa)(5)(C)(ii), Nov. 10, 1988, 102 Stat. 3533, added item 6712 ''Failure to disclose treaty-based return positions''.

1987—Pub. L. 100–203, title X, §§ 10701(c)(2), 10704(b)(2), 10705(b), Dec. 22, 1987, 101 Stat. 1330–459, 1330–463, 1330–464, substituted ''Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations'' for ''Assessable penalties with respect to private foundation annual returns'' in item 6685 and added items 6710 and 6711.

1986—Pub. L. 99–514, title VI, § 667(b)(2), title XI, §§ 1102(d)(2)(C), 1171(b)(7)(B), title XV, § 1501(d)(3), (4), title XVIII, §§ 1848(e)(3), 1862(d)(3), Oct. 22, 1986, 100 Stat. 2306, 2416, 2513, 2740, 2858, 2884, inserted analysis of parts comprising subchapter B, inserted heading for Part I, struck out item 6678 ''Failure to furnish certain statements'', inserted ''; overstatement of designated nondeductible contributions'' in item 6693, substituted ''regulated investment companies'' for ''qualified investment entities'' in item 6697, struck out item 6699 ''Assessable penalties relating to tax credit employee stock ownership plan'', substituted ''section 6047(d)'' for ''section 6047(e)'' in item 6704, and redesignated item 6708, relating to penalties with respect to mortgage credit certificates, as 6709.

1984—Pub. L. 98–369, div. A, title I, §§ 41(c)(2), 141(c)(2), title VIII, § 801(d)(15)(B), July 18, 1984, 98 Stat. 556, 680, 997, added items 6686, 6706, and 6707.

Pub. L. 98–369, div. A, title VI, § 612(d)(2), July 18, 1984, 98 Stat. 912, added item 6708 ''Penalties with respect to mortgage credit certificates''.

Pub. L. 98–369, div. A, title I, § 142(c)(2), July 18, 1984, 98 Stat. 682, added item 6708 ''Failure to maintain lists of investors in potentially abusive tax shelters''.

1983—Pub. L. 98–67, title I, § 104(c)(2), Aug. 5, 1983, 97 Stat. 379, added item 6705.

Pub. L. 97–424, title V, § 515(b)(11)(D), Jan. 6, 1983, 96 Stat. 2182, struck out ''or lubricating oil'' after ''certain fuels'' in item 6675.

1982—Pub. L. 97–248, title II, § 292(d)(2)(B), title III, §§ 320(b), 322(b), 324(b), 326(b), 334(c)(2), 340(b)(3), title IV, § 405(c)(3), Sept. 3, 1982, 96 Stat. 574, 612, 613, 616, 617, 627, 634, 670, as amended by Pub. L. 97–448, title III, § 306(c)(2)(B), Jan. 12, 1983, 96 Stat. 2406, substituted ''primarily for delay, etc.'' for ''merely for delay.'' in item 6673, substituted ''returns, etc., with respect to foreign corporations or foreign partnerships'' for ''returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock'' in item 6679, and added items 6700 to 6704.

1981—Pub. L. 97–34, title VII, § 721(c), Aug. 13, 1981, 95 Stat. 341, struck out ''allowances based on itemized deductions'' after ''withholding'' in item 6682.

1980—Pub. L. 96–603, §§ 1(e)(3), 2(d)(2), Dec. 28, 1980, 94 Stat. 3505, 3510, substituted ''returns'' for ''reports'' in item 6685 and added item 6689.

Pub. L. 96–223, title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299, repealed Pub. L. 94–455, § 2005(e)(4), and Pub. L. 95–600, § 702(r)(1)(C), and the amendments made thereby, which resulted in striking out item 6698A ''Failure to file information with respect to carryover basis property'', which had been added as item 6694 in 1976 and redesignated as item 6698 in 1978. Pub. L. 96–222, §§ 107(a)(2)(E), 201, redesignated item 6698 as 6698A, effective as if included in Pub. L. 95–600.

Pub. L. 96–222, title I, §§ 101(a)(7)(L)(v)(X), 107(a)(2)(E), Apr. 1, 1980, 94 Stat. 201, 223, redesignated item 6698, relating to failure to file information with respect to carry-over basis property, as 6698A and substituted ''tax credit employee stock ownership plan'' for ''ESOP'' in item 6699.

1978—Pub. L. 95–600, title VII, § 701(r)(1)(C), Nov. 6, 1978, 92 Stat. 2938, which redesignated item 6694 ''Failure to file information with respect to carryover basis property'' as item 6698, was repealed by Pub. L. 96–223, § 401(a). See section 401(b), (e) of Pub. L. 96–223, set out as an Effective Date of 1980 Amendments and Revival of Prior Law note under section 1023 of this title.

Pub. L. 95–600, title I, § 141(c)(2), title II, § 211(b), title III, § 362(d)(9), Nov. 6, 1978, 92 Stat. 2794, 2818, 2852, substituted ''qualified investment entities'' for ''real estate investment trusts'' in item 6697, and added item 6698 ''Failure to file partnership return'' and item 6699 ''Assessable penalties relating to ESOP''.

1976—Pub. L. 94–455, title XX, § 2005(e)(4), Oct. 4, 1976, 90 Stat. 1878, which added item 6694 ''Failure to file information with respect to carryover basis property'', was repealed by Pub. L. 96–223, § 401(a). See section 401(b), (e) of Pub. L. 96–223, set out as an Effective Date of 1980 Amendments and Revival of Prior Law note under section 1023 of this title.

Pub. L. 94–455, title XII, § 1203(i)(3), title XVI, § 1601(b)(2), title XIX, § 1904(b)(10)(A)(vi)(II), (D)(ii), (E)(ii), Oct. 4, 1976, 90 Stat. 1694, 1746, 1817, struck out item 6680 ''Failure to file interest equalization tax returns'', item 6681 ''False equalization tax certificates'' and item 6689 ''Failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements'' and added item 6694 ''Understatement of taxpayer's liability by income tax return preparer'' and items 6695 to 6697.

1974—Pub. L. 93–406, title II, §§ 1016(b)(3), 1031(b)(2)(B), 1033(d), 2002(h)(4), Sept. 2, 1974, 88 Stat. 932, 946, 948, 971, substituted ''6688'' for ''6687'' as section number in item relating to assessable penalties with respect to information required to be furnished under section 7654, and added items 6690, 6692, and 6693.

1973—Pub. L. 93–17, § 3(d)(3)(B), Apr. 10, 1973, 87 Stat. 17, added item 6689.

1972—Pub. L. 92–606, § 1(f)(7), Oct. 31, 1972, 86 Stat. 1497, added item 6687 relating to assessable penalties with respect to information required to be furnished under section 7654.

Pub. L. 92–512, title I, § 144(b)(2), Oct. 20, 1972, 86 Stat. 936, added item 6687 relating to failure to supply information with respect to place of residence.

1970—Pub. L. 91–258, title II, § 207(d)(13), May 21, 1970, 84 Stat. 249, substituted ''fuels'' for ''gasoline'' in item 6675.

1969—Pub. L. 91–172, title I, § 101(j)(60), Dec. 30, 1969, 83 Stat. 532, added items 6684 and 6685.

1966—Pub. L. 89–809, title I, § 104(h)(4)(B), Nov. 13, 1966, 80 Stat. 1560, added item 6683.

Pub. L. 89–368, title I, § 101(e)(4)(B), Mar. 15, 1966, 80 Stat. 62, added item 6682.

1965—Pub. L. 89–44, title II, § 202(c)(3)(B), June 21, 1965, 79 Stat. 139, inserted ''or lubricating oil'' after ''certain gasoline'' in item 6675.

1964—Pub. L. 88–563, § 6(c)(1), Sept. 2, 1964, 78 Stat. 847, added items 6680 and 6681.

1962—Pub. L. 87–834, §§ 7(i)(3), 19(g)(2), 20(d)(3), Oct. 16, 1962, 76 Stat. 989, 1058, 1063, added items 6677 to 6679.

1961—Pub. L. 87–397, § 1(c)(2), Oct. 5, 1961, 75 Stat. 829, added item 6676.

1956—Act June 29, 1956, ch. 462, title II, § 208(e)(8), 70 Stat. 397, substituted ''Excessive claims with respect to the use of certain gasoline'' for ''Excessive claims for gasoline used on farms'' in item 6675.

Act Apr. 2, 1956, ch. 160, § 4(g), 70 Stat. 91, added item 6675.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6166 of this title.

§ 6671. Rules for application of assessable penalties

(a) Penalty assessed as tax

The penalties and liabilities provided by this subchapter shall be paid upon notice and demand by the Secretary, and shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in this title to ''tax'' imposed by this title shall be deemed also to refer to the penalties and liabilities provided by this subchapter.

(b) Person defined

The term ''person'', as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(Aug. 16, 1954, ch. 736, 68A Stat. 828; 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 sections 999, 6653 of this title.

§ 6672. Failure to collect and pay over tax, or attempt to evade or defeat tax

(a) General rule

Any person required to collect, truthfully account for, and pay over any tax imposed by this title who willfully fails to collect such tax, or truthfully account for and pay over such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over. No penalty shall be imposed under section 6653 or part II of subchapter A of chapter 68 for any offense to which this section is applicable.

(b) Preliminary notice requirement

(1) In general

No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 6212(b) or in person that the taxpayer shall be subject to an assessment of such penalty.

(2) Timing of notice

The mailing of the notice described in paragraph (1) (or, in the case of such a notice delivered in person, such delivery) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

(3) Statute of limitations

If a notice described in paragraph (1) with respect to any penalty is mailed or delivered in person before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the later of—

(A) the date 90 days after the date on which such notice was mailed or delivered in person, or

(B) if there is a timely protest of the proposed assessment, the date 30 days after the Secretary makes a final administrative determination with respect to such protest.

(4) Exception for jeopardy

This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy.

(c) Extension of period of collection where bond is filed

(1) In general

If, within 30 days after the day on which notice and demand of any penalty under subsection (a) is made against any person, such person—

(A) pays an amount which is not less than the minimum amount required to commence a proceeding in court with respect to his liability for such penalty,

(B) files a claim for refund of the amount so paid, and

(C) furnishes a bond which meets the requirements of paragraph (3),

no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until a final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court. Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).

(2) Suit must be brought to determine liability for penalty

If, within 30 days after the day on which his claim for refund with respect to any penalty

under subsection (a) is denied, the person described in paragraph (1) fails to begin a proceeding in the appropriate United States district court (or in the Court of Claims)[1] for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the 30-day period referred to in this paragraph.

(3) Bond

The bond referred to in paragraph (1) shall be in such form and with such sureties as the Secretary may by regulations prescribe and shall be in an amount equal to 1½ times the amount of excess of the penalty assessed over the payment described in paragraph (1).

(4) Suspension of running of period of limitations on collection

The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

(5) Jeopardy collection

If the Secretary makes a finding that the collection of the penalty is in jeopardy, nothing in this subsection shall prevent the immediate collection of such penalty.

(d) Right of contribution where more than 1 person liable for penalty

If more than 1 person is liable for the penalty under subsection (a) with respect to any tax, each person who paid such penalty shall be entitled to recover from other persons who are liable for such penalty an amount equal to the excess of the amount paid by such person over such person's proportionate share of the penalty. Any claim for such a recovery may be made only in a proceeding which is separate from, and is not joined or consolidated with—

(1) an action for collection of such penalty brought by the United States, or

(2) a proceeding in which the United States files a counterclaim or third-party complaint for the collection of such penalty.

(e) Exception for voluntary board members of tax-exempt organizations

No penalty shall be imposed by subsection (a) on any unpaid, volunteer member of any board of trustees or directors of an organization exempt from tax under subtitle A if such member—

(1) is solely serving in an honorary capacity,

(2) does not participate in the day-to-day or financial operations of the organization, and

(3) does not have actual knowledge of the failure on which such penalty is imposed.

The preceding sentence shall not apply if it results in no person being liable for the penalty imposed by subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 828; Pub. L. 95–628, § 9(a), Nov. 10, 1978, 92 Stat. 3633; Pub. L. 101–239, title VII, §§ 7721(c)(9), 7737(a), Dec. 19, 1989, 103 Stat. 2400, 2404; Pub. L. 104–168, title IX, §§ 901(a), 903(a), 904(a), July 30, 1996, 110 Stat. 1465–1467; Pub. L. 105–206, title III, § 3307(a), (b), July 22, 1998, 112 Stat. 744.)

[1] See References in Text note below.

REFERENCES IN TEXT

The Court of Claims, referred to in subsec. (c)(2), and the United States Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–206, § 3307(a), inserted ''or in person'' after ''section 6212(b)''.

Subsec. (b)(2). Pub. L. 105–206, § 3307(b)(1), inserted ''(or, in the case of such a notice delivered in person, such delivery)'' after ''paragraph (1)''.

Subsec. (b)(3). Pub. L. 105–206, § 3307(b)(2), inserted ''or delivered in person'' after ''mailed'' in introductory provisions and in subpar. (A).

1996—Subsecs. (b), (c). Pub. L. 104–168, § 901(a), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (d). Pub. L. 104–168, § 903(a), added subsec. (d).

Subsec. (e). Pub. L. 104–168, § 904(a), added subsec. (e).

1989—Subsec. (a). Pub. L. 101–239, § 7721(c)(9), inserted ''or part II of subchapter A of chapter 68'' after ''under section 6653''.

Subsec. (b)(1). Pub. L. 101–239, § 7737(a), inserted at end ''Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).''

1978—Pub. L. 95–628 designated existing provisions as subsec. (a), added subsec. (a) heading, and added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3307(c), July 22, 1998, 112 Stat. 744, provided that: ''The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 901(b) of Pub. L. 104–168 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to proposed assessments made after June 30, 1996.''

Section 903(b) of Pub. L. 104–168 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to penalties assessed after the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7721(c)(9) of Pub. L. 101–239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as a note under section 461 of this title.

Section 7737(b) of Pub. L. 101–239 provided that: ''The amendment made by subsection (a) [amending this section and sections 6694 and 6703 of this title] shall take effect on the date of the enactment of this Act [Dec. 19, 1989].''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 9(c) of Pub. L. 95–628 provided that: ''The amendments made by this section [amending this section and sections 7103 and 7421 of this title] shall apply with respect to penalties assessed more than 60 days

after the date of the enactment of this Act [Nov. 10, 1978].''

PUBLIC INFORMATION TO ENSURE EMPLOYEE AWARENESS OF RESPONSIBILITIES AND LIABILITIES UNDER TAX DEPOSITORY SYSTEM

Section 904(b) of Pub. L. 104–168 provided that:

''(1) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate (hereafter in this subsection referred to as the 'Secretary') shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

''(A) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

''(B) the development of a special information packet.

''(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

''(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6050C, 6103, 6331, 7103, 7421, 7501 of this title; title 20 section 1099c.

§ 6673. Sanctions and costs awarded by courts

(a) Tax court proceedings

(1) Procedures instituted primarily for delay, etc.

Whenever it appears to the Tax Court that—

(A) proceedings before it have been instituted or maintained by the taxpayer primarily for delay,

(B) the taxpayer's position in such proceeding is frivolous or groundless, or

(C) the taxpayer unreasonably failed to pursue available administrative remedies,

the Tax Court, in its decision, may require the taxpayer to pay to the United States a penalty not in excess of $25,000.

(2) Counsel's liability for excessive costs

Whenever it appears to the Tax Court that any attorney or other person admitted to practice before the Tax Court has multiplied the proceedings in any case unreasonably and vexatiously, the Tax Court may require—

(A) that such attorney or other person pay personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct, or

(B) if such attorney is appearing on behalf of the Commissioner of Internal Revenue, that the United States pay such excess costs, expenses, and attorneys' fees in the same manner as such an award by a district court.

(b) Proceedings in other courts

(1) Claims under section 7433

Whenever it appears to the court that the taxpayer's position in the proceedings before the court instituted or maintained by such taxpayer under section 7433 is frivolous or groundless, the court may require the taxpayer to pay to the United States a penalty not in excess of $10,000.

(2) Collection of sanctions and costs

In any civil proceeding before any court (other than the Tax Court) which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, any monetary sanctions, penalties, or costs awarded by the court to the United States may be assessed by the Secretary and, upon notice and demand, may be collected in the same manner as a tax.

(3) Sanctions and costs awarded by a court of appeals

In connection with any appeal from a proceeding in the Tax Court or a civil proceeding described in paragraph (2), an order of a United States Court of Appeals or the Supreme Court awarding monetary sanctions, penalties or court costs to the United States may be registered in a district court upon filing a certified copy of such order and shall be enforceable as other district court judgments. Any such sanctions, penalties, or costs may be assessed by the Secretary and, upon notice and demand, may be collected in the same manner as a tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 828; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title II, § 292(b), (d)(2)(A), Sept. 3, 1982, 96 Stat. 574; Pub. L. 99–514, title XV, § 1552(a), Oct. 22, 1986, 100 Stat. 2753; Pub. L. 100–647, title VI, § 6241(b), Nov. 10, 1988, 102 Stat. 3748; Pub. L. 101–239, title VII, § 7731(a), Dec. 19, 1989, 103 Stat. 2400.)

AMENDMENTS

1989—Pub. L. 101–239 substituted ''Sanctions and costs awarded by courts'' for ''Damages assessable for instituting proceedings before the Court primarily for delay, etc.'' in section catchline and amended text generally, making changes in substance and structure of subsecs. (a) and (b).

1988—Pub. L. 100–647 struck out ''Tax'' after ''before the'' in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

1986—Pub. L. 99–514 substituted '', that the taxpayer's position in such proceeding is frivolous or groundless, or that the taxpayer unreasonably failed to pursue available administrative remedies'' for ''or that the taxpayer's position in such proceedings is frivolous or groundless''.

1982—Pub. L. 97–248, § 292(d)(2)(A), substituted ''primarily for delay, etc.'' for ''merely for delay'' after ''Tax Court'' in section catchline.

Subsec. (a). Pub. L. 97–248, § 292(b), substituted ''or maintained by the taxpayer primarily for delay or that the taxpayer's position in such proceedings is frivolous or groundless, damages in an amount not in excess of $5,000'' for ''by the taxpayer merely for delay, damages in an amount not in excess of $500'' in first sentence.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7731(d) of Pub. L. 101–239 provided that: ''The amendments made by this section [amending this section and section 7482 of this title] shall apply to positions taken after December 31, 1989, in proceedings which are pending on, or commenced after such date.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6241(d) of Pub. L. 100–647 provided that: ''The amendments made by this section [enacting section 7433 of this title and amending this section] shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act [Nov. 10, 1988].''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1552(b) of Pub. L. 99–514 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to proceedings commenced after the date of the enactment of this Act [Oct. 22, 1986].''

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to any action or proceeding in the Tax Court commenced after Dec. 31, 1982, or pending in the Tax Court on the day 120 days after July 18, 1984, see section 292(e)(2) of Pub. L. 97–248, as amended, set out as an Effective Date note under section 7430 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6215, 7459 of this title.

§ 6674. Fraudulent statement or failure to furnish statement to employee

In addition to the criminal penalty provided by section 7204, any person required under the provisions of section 6051 or 6053(b) to furnish a statement to an employee who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051 or 6053(b), or regulations prescribed thereunder, shall for each such failure be subject to a penalty under this subchapter of $50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111.

(Aug. 16, 1954, ch. 736, 68A Stat. 828; Pub. L. 89–97, title III, § 313(e)(2)(C), July 30, 1965, 79 Stat. 385.)

AMENDMENTS

1965—Pub. L. 89–97 substituted ''6051 or 6053(b)'' for ''6051'' wherever appearing.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 313 of Pub. L. 89–97 applicable only with respect to tips received by employees after 1965, see section 313(f) of Pub. L. 89–97, set out as a note under section 6053 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6051, 7204 of this title.

§ 6675. Excessive claims with respect to the use of certain fuels

(a) Civil penalty

In addition to any criminal penalty provided by law, if a claim is made under section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes) for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the person making such claim shall be liable to a penalty in an amount equal to whichever of the following is the greater:

(1) Two times the excessive amount; or

(2) $10.

(b) Excessive amount defined

For purposes of this section, the term ''excessive amount'' means in the case of any person the amount by which—

(1) the amount claimed under section 6420, 6421, or 6427, as the case may be, for any period, exceeds

(2) the amount allowable under such section for such period.

(c) Assessment and collection of penalty

For assessment and collection of penalty provided by subsection (a), see section 6206.

(Added Apr. 2, 1956, ch. 160, § 3, 70 Stat. 90; amended June 29, 1956, ch. 462, title II, § 208(d)(2), 70 Stat. 396; Pub. L. 89–44, title II, § 202(c)(3)(A), June 21, 1965, 79 Stat. 139; Pub. L. 91–258, title II, § 207(d)(8), May 21, 1970, 84 Stat. 249; Pub. L. 95–618, title II, § 233(b)(2)(D), Nov. 9, 1978, 92 Stat. 3191; Pub. L. 97–424, title V, § 515(b)(11)(A)–(C), Jan. 6, 1983, 96 Stat. 2182.)

AMENDMENTS

1983—Pub. L. 97–424, § 515(b)(11)(C), struck out ''or lubricating oil'' after ''fuels'' in section catchline.

Subsec. (a). Pub. L. 97–424, § 515(b)(11)(A), struck out ''6424 (relating to lubricating oil used for certain nontaxable purposes),'' after ''systems),''.

Subsec. (b)(1). Pub. L. 97–424, § 515(b)(11)(B), struck out ''6424,'' after ''6421,''.

1978—Subsec. (a). Pub. L. 95–618 substituted ''used for certain nontaxable purposes'' for ''not used in highway motor vehicles''.

1970—Pub. L. 91–258, § 207(d)(8)(A), substituted ''fuels'' for ''gasoline'' in section catchline.

Subsec. (a). Pub. L. 91–258, § 207(d)(8)(B), inserted reference to section 6427 relating to fuels not used for taxable purposes.

Subsec. (b)(1). Pub. L. 91–258, § 207(d)(8)(C), inserted reference to section 6427.

1965—Pub. L. 89–44, § 202(c)(3)(A)(i), inserted ''or lubricating oil'' after ''gasoline'' in section catchline.

Subsec. (a). Pub. L. 89–44, § 202(c)(3)(A)(ii), inserted reference to claims made under section 6424.

Subsec. (b)(1). Pub. L. 89–44, § 202(c)(3)(A)(iii), inserted reference to amounts claimed under section 6424.

1956—Act June 29, 1956, § 208(d)(2)(A), substituted ''with respect to the use of certain gasoline'' for ''for gasoline used on farms'' in section catchline.

Subsec. (a). Act June 29, 1956, § 208(d)(2)(B), inserted reference to claims made under section 6421.

Subsec. (b). Act June 29, 1956, § 208(d)(2)(C), inserted reference to amounts claimed under section 6421.

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 1978 AMENDMENT

Amendment by Pub. L. 95–618 effective on first day of first calendar month which begins more than 10 days after Nov. 9, 1978, see section 233(d) of Pub. L. 95–618, set out as a note under section 34 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6206, 6420, 6421, 6427, 6504 of this title.

[§ 6676. Repealed. Pub. L. 101–239, title VII, § 7711(b)(1), Dec. 19, 1989, 103 Stat. 2393]

Section, added Pub. L. 87–397, §1(b), Oct. 5, 1961, 75 Stat. 828; amended Pub. L. 91–172, title I, §101(j)(52), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93–406, title II, §1016(a)(20), Sept. 2, 1974, 88 Stat. 931; Pub. L. 97–248, title III, §316(a), Sept. 3, 1982, 96 Stat. 607; Pub. L. 98–67, title I, §105(a), Aug. 5, 1983, 97 Stat. 380; Pub. L. 98–369, div. A, title IV, §422(c), July 18, 1984, 98 Stat. 798; Pub. L. 99–514, title XV, §§1501(b), 1523(b)(3), 1524(b), Oct. 22, 1986, 100 Stat. 2736, 2748, 2749; Pub. L. 100–647, title I, §1015(g), Nov. 10, 1988, 102 Stat. 3570, related to failure to supply identifying numbers.

EFFECTIVE DATE OF REPEAL

Repeal applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7711(c) of Pub. L. 101–239, set out as an Effective Date of 1989 Amendment note under section 6721 of this title.

§ 6677. Failure to file information with respect to certain foreign trusts

(a) Civil penalty

In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

(1) is not filed on or before the time provided in such section, or

(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

(b) Special rules for returns under section 6048(b)

In the case of a return required under section 6048(b)—

(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

(2) subsection (a) shall be applied by substituting ''5 percent'' for ''35 percent''.

(c) Gross reportable amount

For purposes of subsection (a), the term ''gross reportable amount'' means—

(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

(d) Reasonable cause exception

No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

(e) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 87–834, §7(g), Oct. 16, 1962, 76 Stat. 988; amended Pub. L. 91–172, title I, §101(j)(53), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93–406, title II, §1016(a)(21), Sept. 2, 1974, 88 Stat. 931; Pub. L. 94–455, title X, §1013(d)(2), Oct. 4, 1976, 90 Stat. 1616; Pub. L. 104–188, title I, §1901(b), Aug. 20, 1996, 110 Stat. 1907.)

AMENDMENTS

1996—Pub. L. 104–188, §1901(b), substituted ''information'' for ''information returns'' in section catchline and amended text generally, substituting present provisions for former provisions which related to civil penalty in subsec. (a) and nonapplicability of deficiency procedures in subsec. (b).

1976—Subsec. (a). Pub. L. 94–455 inserted ''(or, in the case of a failure with respect to section 6048(c), equal to 5 percent of the value of the corpus of the trust at the close of the taxable year)'' after ''transferred to a trust''.

1974—Subsec. (b). Pub. L. 93–406 substituted ''and certain excise'' for ''chapter 42''.

1969—Subsec. (b). Pub. L. 91–172 inserted reference to chapter 42 taxes.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188, to the extent related to section 6048(a) of this title, applicable to reportable events (as defined in such section) occurring after Aug. 20, 1996, to the extent related to section 6048(b) of this title, applicable to taxable years of United States persons beginning after Dec. 31, 1995, and to the extent related to section 6048(c) of this title, applicable to distributions received after Aug. 20, 1996, see section 1901(d) of Pub. L. 104–188, set out as a note under section 6048 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 applicable to taxable years ending after Dec. 31, 1975, but only in the case of foreign trusts created after May 21, 1974 and transfer of property to foreign trusts after May 21, 1974, see section 1013(f)(1) of Pub. L. 94–455, set out as a note under section 679 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub.

L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

[§ 6678. Repealed. Pub. L. 99–514, title XV, § 1501(d)(2), Oct. 22, 1986, 100 Stat. 2740]

Section, added Pub. L. 87–834, § 19(e), Oct. 16, 1962, 76 Stat. 1058; amended Pub. L. 88–272, title II, §§ 204(c)(2), 221(b)(3), Feb. 26, 1964, 78 Stat. 37, 75; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–167, § 7(b)(2), Dec. 29, 1979, 93 Stat. 1277; Pub. L. 97–34, title VII, § 723(a)(2), (b)(2), Aug. 13, 1981, 95 Stat. 343, 344; Pub. L. 97–248, title III, §§ 309(b)(3), 311(a)(2), 312(b), 314(b), 315(c), Sept. 3, 1982, 96 Stat. 595, 600, 602, 605, 607; Pub. L. 97–448, title II, § 201(i)(3), Jan. 12, 1983, 96 Stat. 2395; Pub. L. 98–67, title I, § 105(b)(2), Aug. 5, 1983, 97 Stat. 381; Pub. L. 98–369, div. A, title I, §§ 145(b)(3), 146(b)(3), 148(b)(3), 149(b)(2), (3), 155(b)(2)(B), title VII, § 714(f), (q)(3), July 18, 1984, 98 Stat. 685, 686, 689, 690, 693, 961, 966; Pub. L. 99–514, title XVIII, § 1811(c)(1), Oct. 22, 1986, 100 Stat. 2833, related to penalties for failure to furnish certain statements.

EFFECTIVE DATE OF REPEAL

Repeal applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as an Effective Date note under section 6721 of this title.

§ 6679. Failure to file returns, etc., with respect to foreign corporations or foreign partnerships

(a) Civil penalty

(1) In general

In addition to any criminal penalty provided by law, any person required to file a return under section 6035, 6046, or 6046A who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of $10,000, unless it is shown that such failure is due to reasonable cause.

(2) Increase in penalty where failure continues after notification

If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $50,000.

(3) Reduced penalty for returns relating to foreign personal holding companies

In the case of a return required under section 6035, paragraph (1) shall be applied by substituting ''$1,000'' for ''$10,000'', and paragraph (2) shall not apply.

(b) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 87–834, § 20(c), Oct. 16, 1962, 76 Stat. 1062; amended Pub. L. 91–172, title I, § 101(j)(54), Dec. 30, 1969, 83 Stat. 532; Pub. L. 93–406, title II, § 1016(a)(22), Sept. 2, 1974, 88 Stat. 931; Pub. L. 97–248, title III, § 340(b)(1), (2), title IV, § 405(b), (c)(2), Sept. 3, 1982, 96 Stat. 634, 670; Pub. L. 97–448, title III, § 306(c)(2), Jan. 12, 1983, 96 Stat. 2406; Pub. L. 105–34, title XI, § 1143(b), Aug. 5, 1997, 111 Stat. 983.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–34 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''In addition to any criminal penalty provided by law, any person required to file a return under section 6035, 6046, or 6046A who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of $1,000, unless it is shown that such failure is due to reasonable cause.''

1983—Pub. L. 97–448 amended language of Pub. L. 97–248, § 405(b), (c)(2), to clarify an ambiguity created by the conflicting language of §§ 340(b)(1), (2) and 405(b), (c)(2) of Pub. L. 97–248. See 1982 Amendment note below.

1982—Pub. L. 97–248, §§ 340(b)(2), 405(c)(2), as amended by Pub. L. 97–448, § 306(c)(2)(B), substituted ''Failure to file returns, etc., with respect to foreign corporations or foreign partnerships'' for ''Failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock'' in section catchline.

Subsec. (a). Pub. L. 97–248, §§ 340(b)(1), 405(b), as amended by Pub. L. 97–448, § 306(a)(2)(A), substituted ''section 6035, 6046, or 6046A'' for ''section 6046''.

1974—Subsec. (b). Pub. L. 93–406 substituted ''and certain excise'' for ''chapter 42''.

1969—Subsec. (b). Pub. L. 91–172 inserted reference to chapter 42 taxes.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to transfers and changes after Aug. 5, 1997, see section 1143(c) of Pub. L. 105–34, set out as a note under section 6046A of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 311(d) of Pub. L. 97–448, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 340(b)(1), (2) of Pub. L. 97–248 applicable to taxable years of foreign corporations beginning after Sept. 3, 1982, see section 340(c) of Pub. L. 97–248, set out as a note under section 6035 of this title.

Amendment by section 405(b), (c)(2) of Pub. L. 97–248 applicable with respect to acquisitions or dispositions of, or substantial changes in, interests in foreign partnerships occurring after Sept. 3, 1982, see section 407(b) of Pub. L. 97–248, set out as an Effective Date note under section 6046A of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6046A of this title.

[§ 6680. Repealed. Pub. L. 94–455, title XIX, § 1904(b)(10)(A)(vi)(I), Oct. 4, 1976, 90 Stat. 1817]

Section, added Pub. L. 88–563, § 6(a), Sept. 2, 1964, 78 Stat. 845; amended Pub. L. 91–128, § 4(h)(1), Nov. 26, 1969, 83 Stat. 268; Pub. L. 92–9, § 3(j)(2), Apr. 1, 1971, 85 Stat. 22, related to failure to file interest equalization tax returns.

[§ 6681. Repealed. Pub. L. 94–455, title XIX, § 1904(b)(10)(D)(i), Oct. 4, 1976, 90 Stat. 1817]

Section, added Pub. L. 88–563, § 6(a), Sept. 2, 1964, 78 Stat. 845; amended Pub. L. 90–59, § 4(d), July 1, 1967, 81 Stat. 155; Pub. L. 90–73, § 2(d), Aug. 29, 1967, 81 Stat. 176; Pub. L. 92–9, § 3(k)(1)–(3), Apr. 1, 1971, 85 Stat. 22, related to false equalization tax certificates.

EFFECTIVE DATE OF REPEAL

Section 1904(b)(10)(D)(iii) of Pub. L. 94–455 provided that: ''The amendments made by this subparagraph [repealing this section] shall apply with respect to actions occurring after June 30, 1974.''

§ 6682. False information with respect to withholding

(a) Civil penalty

In addition to any criminal penalty provided by law, if—

(1) any individual makes a statement under section 3402 or section 3406 which results in a decrease in the amounts deducted and withheld under chapter 24, and

(2) as of the time such statement was made, there was no reasonable basis for such statement,

such individual shall pay a penalty of $500 for such statement.

(b) Exception

The Secretary may waive (in whole or in part) the penalty imposed under subsection (a) if the taxes imposed with respect to the individual under subtitle A for the taxable year are equal to or less than the sum of—

(1) the credits against such taxes allowed by part IV of subchapter A of chapter 1, and

(2) the payments of estimated tax which are considered payments on account of such taxes.

(c) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect to the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 89–368, title I, § 101(e)(4)(A), Mar. 15, 1966, 80 Stat. 61; amended Pub. L. 91–172, title I, § 101(j)(55), Dec. 30, 1969, 83 Stat. 532; Pub. L. 93–406, title II, § 1016(a)(23), Sept. 2, 1974, 88 Stat. 931; Pub. L. 97–34, title VII, § 721(a), Aug. 13, 1981, 95 Stat. 340; Pub. L. 97–248, title III, §§ 306(a), 308(a), Sept. 3, 1982, 96 Stat. 588, 591; Pub. L. 98–67, title I, §§ 102(a), 107(a), Aug. 5, 1983, 97 Stat. 369, 382.)

AMENDMENTS

1983—Subsec. (a)(1). Pub. L. 98–67 inserted reference to section 3406 and repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

1982—Subsec. (a)(1). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, par. (1) is amended by inserting ''or section 3452(f)(1)(A)'' after ''section 3402''. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1981—Pub. L. 97–34 struck out ''allowances based on itemized deductions'' after ''withholding'' in section catchline.

Subsec. (a). Pub. L. 97–34 substituted provisions relating to imposition of penalty of $500 for statement under section 3402 resulting in decreased amounts withheld under chapter 24 and no reasonable basis existed for making such statement at the time it was made, for provisions relating to imposition of penalty of $50 for statement under section 3402(f)(1)(F) concerning amount of wages under chapter 24, or itemized deductions under section 3402(m), and provisions setting forth conditions for mitigation of such penalty.

Subsecs. (b), (c). Pub. L. 97–34 added subsec. (b) and redesignated former subsec. (b) as (c).

1974—Subsec. (b). Pub. L. 93–406 substituted ''and certain excise'' for ''chapter 42.''

1969—Subsec. (b). Pub. L. 91–172 inserted reference to chapter 42 taxes.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 107(a) of Pub. L. 98–67 effective Aug. 5, 1983, see section 110(c) of Pub. L. 98–67, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 721(d) of Pub. L. 97–34 provided that: ''The amendments made by this section [amending sections 6682 and 7205 of this title] shall apply to acts and failures to act after December 31, 1981.''

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

§ 6683. Failure of foreign corporation to file return of personal holding company tax

Any foreign corporation which—

(1) is a personal holding company for any taxable year, and

(2) fails to file or to cause to be filed with the Secretary a true and accurate return of the tax imposed by section 541,

shall, in addition to other penalties provided by law, pay a penalty equal to 10 percent of the taxes imposed by chapter 1 (including the tax

imposed by section 541) on such foreign corporation for such taxable year. No penalty shall be imposed under this section on any failure which is shown to be due to reasonable cause and not willful neglect.

(Added Pub. L. 89–809, title I, § 104(h)(4)(A), Nov. 13, 1966, 80 Stat. 1560; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105–34, title XII, § 1281(c), Aug. 5, 1997, 111 Stat. 1037.)

AMENDMENTS

1997—Pub. L. 105–34 inserted at end ''No penalty shall be imposed under this section on any failure which is shown to be due to reasonable cause and not willful neglect.''

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to taxable years beginning after Aug. 5, 1997, see section 1281(e) of Pub. L. 105–34, set out as a note under section 6652 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1966, see section 104(n) of Pub. L. 89–809, set out as an Effective Date of 1966 Amendment note under section 11 of this title.

§ 6684. Assessable penalties with respect to liability for tax under chapter 42

If any person becomes liable for tax under any section of chapter 42 (relating to private foundations and certain other tax-exempt organizations) by reason of any act or failure to act which is not due to reasonable cause and either—

(1) such person has theretofore been liable for tax under such chapter, or

(2) such act or failure to act is both willful and flagrant,

then such person shall be liable for a penalty equal to the amount of such tax.

(Added Pub. L. 91–172, title I, § 101(c), Dec. 30, 1969, 83 Stat. 519; amended Pub. L. 100–203, title X, § 10712(c)(4), Dec. 22, 1987, 101 Stat. 1330–467.)

AMENDMENTS

1987—Pub. L. 100–203 inserted ''and certain other tax-exempt organizations'' after ''private foundations'' in parenthetical.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100–203, set out as an Effective Date note under section 4955 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as a note under section 4940 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4948 of this title.

§ 6685. Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations

In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of subsection (d) of section 6104 and who fails to so comply with respect to any return or application, if such failure is willful, shall pay a penalty of $5,000 with respect to each such return or application.

(Added Pub. L. 91–172, title I, § 101(e)(4), Dec. 30, 1969, 83 Stat. 524; amended Pub. L. 96–603, § 1(d)(4), Dec. 28, 1980, 94 Stat. 3504; Pub. L. 100–203, title X, § 10704(b)(1), Dec. 22, 1987, 101 Stat. 1330–462; Pub. L. 104–168, title XIII, § 1313(b), July 30, 1996, 110 Stat. 1480; Pub. L. 105–277, div. J, title I, § 1004(b)(2)(D), Oct. 21, 1998, 112 Stat. 2681–890.)

AMENDMENTS

1998—Pub. L. 105–277 struck out ''or (e)'' after ''subsection (d)''.

1996—Pub. L. 104–168 substituted ''$5,000'' for ''$1,000''.

1987—Pub. L. 100–203 substituted current section catchline for ''Assessable penalties with respect to private foundation annual returns'' and amended text generally. Prior to amendment, text read as follows: ''In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of section 6104(d) (relating to private foundations' annual returns) and who fails to so comply with respect to any return, if such failure is willful, shall pay a penalty of $1,000 with respect to each such return.''

1980—Pub. L. 96–603 substituted in section catchline ''returns'' for ''reports'', and in text ''required to comply'' for ''required to file the report and the notice required under section 6056 (relating to annual reports by private foundations) or to comply'', ''(relating to private foundations' annual returns) and who fails to so comply with respect to any return'' for ''(relating to public inspection of private foundations' annual reports) and who fails so to file or comply'', and ''each such return'' for ''each such report or notice''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 applicable to requests made after the later of Dec. 31, 1998, or the 60th day after the Secretary of the Treasury first issues the regulations referred to in section 6104(d)(4) of this title, see section 1004(b)(3) of Pub. L. 105–277, set out as a note under section 6104 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to requests made on or after 60th day after Secretary of the Treasury first issues regulations referred to in section 6104(e)(3) of this title, see section 1313(c) of Pub. L. 104–168, set out as a note under section 6104 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to returns for years beginning after Dec. 31, 1986, and on and after Dec. 22, 1987, in case of applications submitted after July 15, 1987, or on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987, see section 10704(d) of Pub. L. 100–203, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–603 applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of Pub. L. 96–603, set out as a note under section 6033 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as a note under section 4940 of this title.

§ 6686. Failure to file returns or supply information by DISC or FSC

In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax) any person required to supply information or to file a return under section 6011(c) who fails to supply such information or file such return at the time prescribed by the Secretary, or who files a return which does not show the information required, shall pay a penalty of $100 for each failure to supply information (but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000) or a penalty of $1,000 for each failure to file a return, unless it is shown that such failure is due to reasonable cause.

(Added Pub. L. 92–178, title V, § 504(d), Dec. 10, 1971, 85 Stat. 551; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. A, title VIII, § 801(d)(15)(A), July 18, 1984, 98 Stat. 997.)

AMENDMENTS

1984—Pub. L. 98–369 substituted ''Failure to file returns or supply information by DISC or FSC'' for ''Failure of DISC to file returns'' in section catchline, and in text substituted ''section 6011(c)'' for ''section 6011(e)''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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, as amended, set out as a note under section 245 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years ending after Dec. 31, 1971, except that a corporation may not be a DISC for any taxable year beginning before Jan. 1, 1972, see section 507 of Pub. L. 92–178, set out as a note under section 991 of this title.

[§ 6687. Repealed. Pub. L. 101–239, title VII, § 7711(b)(1), Dec. 19, 1989, 103 Stat. 2393]

Section, added Pub. L. 92–512, title I, § 144(b)(1), Oct. 20, 1972, 86 Stat. 936, related to failure to supply information with respect to place of residence.

EFFECTIVE DATE OF REPEAL

Repeal applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7711(c) of Pub. L. 101–239, set out as an Effective Date of 1989 Amendment note under section 6721 of this title.

§ 6688. Assessable penalties with respect to information required to be furnished under section 7654

In addition to any criminal penalty provided by law, any person described in section 7654(a) who is required by regulations prescribed under section 7654 to furnish information and who fails to comply with such requirement at the time prescribed by such regulations unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay (upon notice and demand by the Secretary and in the same manner as tax) a penalty of $100 for each such failure.

(Added Pub. L. 92–606, § 1(c), Oct. 31, 1972, 86 Stat. 1496, § 6687; renumbered § 6688, Pub. L. 93–406, title II, § 1016(b)(4), Sept. 2, 1974, 88 Stat. 932; amended 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''.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1972, see section 2 of Pub. L. 92–606, set out in part as a note under section 931 of this title.

§ 6689. Failure to file notice of redetermination of foreign tax

(a) Civil penalty

If the taxpayer fails to notify the Secretary (on or before the date prescribed by regulations for giving such notice) of a foreign tax redetermination, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the deficiency attributable to such redetermination an amount (not in excess of 25 percent of the deficiency) determined as follows—

(1) 5 percent of the deficiency if the failure is for not more than 1 month, with

(2) an additional 5 percent of the deficiency for each month (or fraction thereof) during which the failure continues.

(b) Foreign tax redetermination defined

For purposes of this section, the term ''foreign tax redetermination'' means any redetermination for which a notice is required under subsection (c) of section 905 or paragraph (2) of section 404A(g).

(Added Pub. L. 96–603, § 2(c)(2), Dec. 28, 1980, 94 Stat. 3509.)

PRIOR PROVISIONS

A prior section 6689, added Pub. L. 93–17, § 3(d)(2), Apr. 10, 1973, 87 Stat. 16, related to failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements, prior to repeal by Pub. L. 94–455, title XIX, § 1904(b)(10)(E)(i), Oct. 4, 1976, 90 Stat. 1817.

EFFECTIVE DATE

For applicability of section with respect to employer contributions or accruals for taxable years beginning after Dec. 31, 1979, election to apply amendments retroactively with respect to foreign subsidiaries, allowance of prior deductions in case of certain funded branch plans, and time and manner for making elections, see section 2(e) of Pub. L. 96–603, set out as a note under section 404A of this title.

§ 6690. Fraudulent statement or failure to furnish statement to plan participant

Any person required under section 6057(e) to furnish a statement to a participant who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6057(e), or regulations prescribed thereunder, shall for each such act, or for each such failure, be subject to a penalty under this subchapter of $50, which shall be

assessed and collected in the same manner as the tax on employers imposed by section 3111.

(Added Pub. L. 93–406, title II, § 1031(b)(2)(A), Sept. 2, 1974, 88 Stat. 946.)

EFFECTIVE DATE

Section effective Sept. 2, 1974, see section 1034 of Pub. L. 93–406, set out as a note under section 6057 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6057 of this title.

[§ 6691. Reserved]

§ 6692. Failure to file actuarial report

The plan administrator (as defined in section 414(g)) of each defined benefit plan to which section 412 applies who fails to file the report required by section 6059 at the time and in the manner required by section 6059, shall pay a penalty of $1,000 for each such failure unless it is shown that such failure is due to reasonable cause.

(Added Pub. L. 93–406, title II, § 1033(b), Sept. 2, 1974, 88 Stat. 948.)

EFFECTIVE DATE

Section effective Sept. 2, 1974, see section 1034 of Pub. L. 93–406, set out as a note under section 6057 of this title.

§ 6693. Failure to provide reports on certain tax-favored accounts or annuities; penalties relating to designated nondeductible contributions

(a) Reports

(1) In general

If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

(2) Provisions

The provisions referred to in this paragraph are—

(A) subsections (i) and (*l*) of section 408 (relating to individual retirement plans),

(B) section 220(h) (relating to Archer MSAs),

(C) section 529(d) (relating to qualified State tuition programs), and

(D) section 530(h) (relating to education individual retirement accounts).

This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(X).

(b) Penalties relating to nondeductible contributions

(1) Overstatement of designated nondeductible contributions

Any individual who—

(A) is required to furnish information under section 408(*o*)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

(B) overstates the amount of such contributions made for such taxable year,

shall pay a penalty of $100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause.

(2) Failure to file form

Any individual who fails to file a form required to be filed by the Secretary under section 408(*o*)(4) shall pay a penalty of $50 for each such failure unless it is shown that such failure is due to reasonable cause.

(c) Penalties relating to simple retirement accounts

(1) Employer penalties

An employer who fails to provide 1 or more notices required by section 408(*l*)(2)(C) shall pay a penalty of $50 for each day on which such failures continue.

(2) Trustee and issuer penalties

A trustee or issuer who fails—

(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of $50 for each day on which such failures continue, or

(B) to provide 1 or more summary descriptions required by section 408(*l*)(2)(B) shall pay a penalty of $50 for each day on which such failures continue.

(3) Reasonable cause exception

No penalty shall be imposed under this subsection with respect to any failure which the taxpayer shows was due to reasonable cause.

(d) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) does not apply to the assessment or collection of any penalty imposed by this section.

(Added Pub. L. 93–406, title II, § 2002(f), Sept. 2, 1974, 88 Stat. 967; amended Pub. L. 96–222, title I, § 101(a)(10)(H), Apr. 1, 1980, 94 Stat. 203; Pub. L. 98–369, div. A, title I, § 147(b), July 18, 1984, 98 Stat. 687; Pub. L. 99–514, title XI, § 1102(d)(1), (2)(A), (B), Oct. 22, 1986, 100 Stat. 2416; Pub. L. 100–647, title I, § 1011(b)(4)(A), (B)(i), Nov. 10, 1988, 102 Stat. 3456, 3457; Pub. L. 104–188, title I, §§ 1421(b)(4)(B), 1455(d)(3), Aug. 20, 1996, 110 Stat. 1796, 1818; Pub. L. 104–191, title III, § 301(g), Aug. 21, 1996, 110 Stat. 2052; Pub. L. 105–34, title II, §§ 211(e)(2)(B), (C), 213(c), title XVI, §§ 1601(d)(1)(C)(ii), 1602(a)(4), Aug. 5, 1997, 111 Stat. 812, 816, 1087, 1094; Pub. L. 105–277, div. J, title IV, § 4006(c)(4), Oct. 21, 1998, 112 Stat. 2681–913; Pub. L. 106–554, § 1(a)(7) [title II, § 202(b)(2)(E)], Dec. 21, 2000, 114 Stat. 2763, 2763A–629.)

AMENDMENTS

2000—Subsec. (a)(2)(B). Pub. L. 106–554 substituted ''Archer MSAs'' for ''medical savings accounts''.

1998—Subsec. (a)(2)(C), (D). Pub. L. 105–277 substituted ''section'' for ''Section''.

1997—Pub. L. 105–34, § 211(e)(2)(C), substituted ''certain tax-favored'' for ''individual retirement'' in section catchline.

Subsec. (a). Pub. L. 105–34, § 1602(a)(4), inserted concluding provisions.

Subsec. (a)(2)(C). Pub. L. 105–34, § 211(e)(2)(B), added subpar. (C).

Subsec. (a)(2)(D). Pub. L. 105–34, § 213(c), added subpar. (D).

Subsec. (c)(2). Pub. L. 105–34, § 1601(d)(1)(C)(ii), inserted ''and issuer'' before ''penalties'' in heading and ''or issuer'' before ''who fails'' in introductory provisions.

1996—Subsec. (a). Pub. L. 104–191 inserted heading and amended text generally. Prior to amendment, text read as follows: ''The person required by subsection (i) or (*l*) of section 408 to file a report regarding an individual retirement account or individual retirement annuity at the time and in the manner required by such subsection shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause. This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(W).''

Pub. L. 104–188, § 1455(d)(3), inserted at end ''This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(W).''

Subsecs. (c), (d). Pub. L. 104–188, § 1421(b)(4)(B), added subsec. (c) and redesignated former subsec. (c) as (d).

1988—Pub. L. 100–647, § 1011(b)(4)(B)(i), substituted ''penalties relating to'' for ''overstatement of'' in section catchline.

Subsec. (b). Pub. L. 100–647, § 1011(b)(4)(A), substituted ''Penalties relating to'' for ''Overstatement of designated'' in heading and amended text generally. Prior to amendment, text read as follows: ''Any individual who—

''(1) is required to furnish information under section 408(*o*)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

''(2) overstates the amount of such contributions made for such taxable year,

shall pay a penalty of $100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause.''

1986—Pub. L. 99–514, § 1102(d)(2)(B), inserted ''; overstatement of designated nondeductible contributions'' in section catchline.

Subsec. (b). Pub. L. 99–514, § 1102(d)(1), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 99–514, § 1102(d)(1), (2)(A), redesignated former subsec. (b) as (c) and substituted ''this section'' for ''subsection (a)''.

1984—Subsec. (a). Pub. L. 98–369 substituted ''$50'' for ''$10''.

1980—Subsec. (a). Pub. L. 96–222 substituted ''subsection (i) or (*l*) of section 408 to file'' for ''section 408(i) to file'', and ''such subsection shall pay'' for ''section 408(i) shall pay''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 211(e)(2)(B), (C) of Pub. L. 105–34 effective Jan. 1, 1998, see section 211(f) of Pub. L. 105–34, set out as a note under section 529 of this title.

Amendment by section 213(c) of Pub. L. 105–34 applicable to taxable years beginning after Dec. 31, 1997, see section 213(f) of Pub. L. 105–34, set out as a note under section 26 of this title.

Amendment by section 1601(d)(1)(C)(ii) of Pub. L. 105–34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104–188, to which it relates, see section 1601(j) of Pub. L. 105–34, set out as a note under section 23 of this title.

Amendment by section 1602(a)(4) of Pub. L. 105–34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104–191, to which such amendment relates, see section 1602(i) of Pub. L. 105–34, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104–191 applicable to taxable years beginning after Dec. 31, 1996, see section 301(j) of Pub. L. 104–191, set out as a note under section 62 of this title.

Amendment by section 1421(b)(4)(B) of Pub. L. 104–188 applicable to taxable years beginning after Dec. 31, 1996, see section 1421(e) of Pub. L. 104–188, set out as a note under section 72 of this title.

Amendment by section 1455(d)(3) of Pub. L. 104–188 applicable to returns, reports, and other statements the due date for which (determined without regard to extensions) is after Dec. 31, 1996, see section 1455(e) of Pub. L. 104–188, set out as a note under section 408 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 OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to contributions and distributions for taxable years beginning after Dec. 31, 1986, see section 1102(g) of Pub. L. 99–514, set out as a note under section 219 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to failures occurring after July 18, 1984, see section 147(d)(2) of Pub. L. 98–369, set out as a note under section 219 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 101(b)(1)(F) of Pub. L. 96–222 provided that: ''The amendment made by subparagraph (I) of subsection (a)(10) [probably means subpar. (H) of subsec. (a)(10), which amended this section] shall apply with respect to failures occuring [sic] after the date of the enactment of this Act [Apr. 1, 1980].''

EFFECTIVE DATE

Section effective Jan. 1, 1975, see section 2002(i)(2) of Pub. L. 93–406, set out as a note under section 4973 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§ 1401–1465] of title I of Pub. L. 104–188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104–188, set out as a note under section 401 of this title.

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 sections 220, 408 of this title.

§ 6694. Understatement of taxpayer's liability by income tax return preparer

(a) Understatements due to unrealistic positions

If—

(1) any part of any understatement of liability with respect to any return or claim for re-

fund is due to a position for which there was not a realistic possibility of being sustained on its merits,

(2) any person who is an income tax return preparer with respect to such return or claim knew (or reasonably should have known) of such position, and

(3) such position was not disclosed as provided in section 6662(d)(2)(B)(ii) or was frivolous,

such person shall pay a penalty of $250 with respect to such return or claim unless it is shown that there is reasonable cause for the understatement and such person acted in good faith.

(b) Willful or reckless conduct

If any part of any understatement of liability with respect to any return or claim for refund is due—

(1) to a willful attempt in any manner to understate the liability for tax by a person who is an income tax return preparer with respect to such return or claim, or

(2) to any reckless or intentional disregard of rules or regulations by any such person,

such person shall pay a penalty of $1,000 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).

(c) Extension of period of collection where preparer pays 15 percent of penalty

(1) In general

If, within 30 days after the day on which notice and demand of any penalty under subsection (a) or (b) is made against any person who is an income tax return preparer, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court. Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).

(2) Preparer must bring suit in district court to determine his liability for penalty

If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under subsection (a) or (b) is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the income tax return preparer fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

(3) Suspension of running of period of limitations on collection

The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

(d) Abatement of penalty where taxpayer's liability not understated

If at any time there is a final administrative determination or a final judicial decision that there was no understatement of liability in the case of any return or claim for refund with respect to which a penalty under subsection (a) or (b) has been assessed, such assessment shall be abated, and if any portion of such penalty has been paid the amount so paid shall be refunded to the person who made such payment as an overpayment of tax without regard to any period of limitations which, but for this subsection, would apply to the making of such refund.

(e) Understatement of liability defined

For purposes of this section, the term ''understatement of liability'' means any understatement of the net amount payable with respect to any tax imposed by subtitle A or any overstatement of the net amount creditable or refundable with respect to any such tax. Except as otherwise provided in subsection (d), the determination of whether or not there is an understatement of liability shall be made without regard to any administrative or judicial action involving the taxpayer.

(f) Cross reference

For definition of income tax return preparer, see section 7701(a)(36).

(Added Pub. L. 94–455, title XII, § 1203(b)(1), Oct. 4, 1976, 90 Stat. 1689; amended Pub. L. 101–239, title VII, §§ 7732(a), 7737(a), Dec. 19, 1989, 103 Stat. 2402, 2404.)

CODIFICATION

Another section 6694, relating to failure to file information with respect to carryover basis property, which was added by Pub. L. 94–455, § 2005(d)(2), was renumbered section 6698 by Pub. L. 95–600, renumbered section 6698A by Pub. L. 96–222, and repealed by Pub. L. 96–223.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–239, § 7732(a), substituted ''Understatements due to unrealistic positions'' for ''Negligent or intentional disregard of rules and regulations'' in heading and amended text generally. Prior to amendment, text read as follows: ''If any part of any understatement of liability with respect to any return or claim for refund is due to the negligent or intentional disregard of rules and regulations by any person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of $100 with respect to such return or claim.''

Subsec. (b). Pub. L. 101–239, § 7732(a), substituted ''Willful or reckless conduct'' for ''Willful understatement of liability'' in heading and amended text generally. Prior to amendment, text read as follows: ''If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is an income tax return preparer

with respect to such return or claim, such person shall pay a penalty of $500 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).''

Subsec. (c)(1). Pub. L. 101–239, § 7737(a), inserted at end ''Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7732(b) of Pub. L. 101–239 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to documents prepared after December 31, 1989.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6503, 6511, 6696, 6701, 7407, 7421 of this title.

§ 6695. Other assessable penalties with respect to the preparation of income tax returns for other persons

(a) Failure to furnish copy to taxpayer

Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(a) with respect to such return or claim shall pay a penalty of $50 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000.

(b) Failure to sign return

Any person who is an income tax return preparer with respect to any return or claim for refund, who is required by regulations prescribed by the Secretary to sign such return or claim, and who fails to comply with such regulations with respect to such return or claim shall pay a penalty of $50 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000.

(c) Failure to furnish identifying number

Any person who is an income tax return preparer with respect to any return or claim for refund and who fails to comply with section 6109(a)(4) with respect to such return or claim shall pay a penalty of $50 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000.

(d) Failure to retain copy or list

Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(b) with respect to such return or claim shall pay a penalty of $50 for each such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $25,000.

(e) Failure to file correct information returns

Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of $50 for—

(1) each failure to file a return as required under such section, and

(2) each failure to set forth an item in the return as required under section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $25,000.

(f) Negotiation of check

Any person who is an income tax return preparer who endorses or otherwise negotiates (directly or through an agent) any check made in respect of the taxes imposed by subtitle A which is issued to a taxpayer (other than the income tax return preparer) shall pay a penalty of $500 with respect to each such check. The preceding sentence shall not apply with respect to the deposit by a bank (within the meaning of section 581) of the full amount of the check in the taxpayer's account in such bank for the benefit of the taxpayer.

(g) Failure to be diligent in determining eligibility for earned income credit

Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with due diligence requirements imposed by the Secretary by regulations with respect to determining eligibility for, or the amount of, the credit allowable by section 32 shall pay a penalty of $100 for each such failure.

(Added Pub. L. 94–455, title XII, § 1203(f), Oct. 4, 1976, 90 Stat. 1692; amended Pub. L. 95–600, title VII, § 701(cc)(1), Nov. 6, 1978, 92 Stat. 2923; Pub. L. 98–369, div. A, title I, § 179(b)(2), July 18, 1984, 98 Stat. 718; Pub. L. 99–44, § 1(b), May 24, 1985, 99 Stat. 77; Pub. L. 101–239, title VII, § 7733(a)–(d), Dec. 19, 1989, 103 Stat. 2402, 2403; Pub. L. 105–34, title X, § 1085(a)(2), Aug. 5, 1997, 111 Stat. 956.)

AMENDMENTS

1997—Subsec. (g). Pub. L. 105–34 added subsec. (g).

1989—Subsecs. (a) to (c). Pub. L. 101–239, § 7733(a)–(c), substituted ''$50'' for ''$25'' and inserted at end ''The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000.''

Subsec. (e). Pub. L. 101–239, § 7733(d), substituted ''returns'' for ''return'' in heading and amended text generally. Prior to amendment, text read as follows: ''Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of—

''(1) $100 for each failure to file a return as required under such section, and

''(2) $5 for each failure to set forth an item in the return as required under such section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $20,000.''

1985—Subsec. (b). Pub. L. 99–44 repealed Pub. L. 98–369, § 179(b)(2), which amended subsec. (b), and provided that the Internal Revenue Code of 1954 [now 1986]

[this title] shall be applied and administered as if section 179(b)(2) (and the amendments made by such section) had not been enacted. See 1984 Amendment note and Effective Date of 1985 Amendment note below.

1984—Subsec. (b). Pub. L. 98–369 amended subsec. (b) generally, substituting provisions dealing with failure to inform taxpayer of certain recordkeeping requirements of section 274(d) of this title or to sign returns, for provisions dealing with failure to sign returns. See 1985 Amendment note above.

1978—Subsec. (f). Pub. L. 95–600 inserted provision relating to deposits by a bank.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to taxable years beginning after Dec. 31, 1996, see section 1085(e)(1) of Pub. L. 105–34, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7733(e) of Pub. L. 101–239 provided that: ''The amendments made by this section [amending this section] shall apply to documents prepared after December 31, 1989.''

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–44 effective as if included in the amendments made by section 179(b) of Pub. L. 98–369, see section 6(a) of Pub. L. 99–44, set out as a note under section 274 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1984, see section 179(d)(2) of Pub. L. 98–369, set out as an Effective Date note under section 280F of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 701(cc)(3) of Pub. L. 95–600 provided that: ''The amendments made by this subsection [amending this section and section 7701 of this title] shall apply to documents prepared after December 31, 1976.''

REPEAL OF REGULATIONS COVERING SUBSTANTIATION BY ADEQUATE CONTEMPORANEOUS RECORDS

Regulations issued before May 24, 1985, to carry out the amendment of subsec. (b) of this section by section 179(b)(2) of Pub. L. 98–369 to have no force and effect, see section 1(c) of Pub. L. 99–44, set out as a note under section 274 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6504, 6511, 6696, 7407 of this title.

§ 6696. Rules applicable with respect to sections 6694 and 6695

(a) Penalties to be additional to any other penalties

The penalties provided by section 6694 and 6695 shall be in addition to any other penalties provided by law.

(b) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply with respect to the assessment or collection of the penalties provided by sections 6694 and 6695.

(c) Procedure for claiming refund

Any claim for credit or refund of any penalty paid under section 6694 or 6695 shall be filed in accordance with regulations prescribed by the Secretary.

(d) Periods of limitation

(1) Assessment

The amount of any penalty under section 6694(a) or under section 6695 shall be assessed within 3 years after the return or claim for refund with respect to which the penalty is assessed was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. In the case of any penalty under section 6694(b), the penalty may be assessed, or a proceeding in court for the collection of the penalty may be begun without assessment, at any time.

(2) Claim for refund

Except as provided in section 6694(d), any claim for refund of an overpayment of any penalty assessed under section 6694 or 6695 shall be filed within 3 years from the time the penalty was paid.

(e) Definitions

For purposes of sections 6694 and 6695—

(1) Return

The term ''return'' means any return of any tax imposed by subtitle A.

(2) Claim for refund

The term ''claim for refund'' means a claim for refund of, or credit against, any tax imposed by subtitle A.

(Added Pub. L. 94–455, title XII, § 1203(f), Oct. 4, 1976, 90 Stat. 1693.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6107, 6109, 6504, 6511 of this title.

§ 6697. Assessable penalties with respect to liability for tax of regulated investment companies

(a) Civil penalty

In addition to any other penalty provided by law, any regulated investment company whose tax liability for any taxable year is deemed to be increased pursuant to section 860(c)(1)(A) shall pay a penalty in an amount equal to the amount of the interest (for which such company is liable) which is attributable solely to such increase.

(b) 50-percent limitation

The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 860(a) for such taxable year.

(c) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 94–455, title XVI, § 1601(b)(1), Oct. 4, 1976, 90 Stat. 1745; amended Pub. L. 95–600, title III, § 362(b), Nov. 6, 1978, 92 Stat. 2851; Pub. L. 99–514, title VI, § 667(a), Oct. 22, 1986, 100 Stat. 2305.)

AMENDMENTS

1986—Pub. L. 99–514 substituted ''regulated investment companies'' for ''real estate investment entities'' in section catchline.

Subsec. (a). Pub. L. 99–514 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''In addition to any other penalty provided by law, any qualified investment entity (as defined in section 860(b)) whose tax liability for any taxable year is deemed to be increased pursuant to section 860(c)(1)(A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) shall pay a penalty in an amount equal to the amount of interest (for which such entity is liable) which is attributable solely to such increase.''

1978—Pub. L. 95–600 substituted ''qualified investment entities'' for ''real estate investment trusts'' in section catchline.

Subsec. (a). Pub. L. 95–600 substituted ''qualified investment entity (as defined in section 860(b))'' for ''real estate investment trust'', ''section 860(c)(1)(A)'' for ''section 859(b)(2)(A)'', and ''(for which such entity is liable) which'' for ''for which such trust is liable that''.

Subsec. (b). Pub. L. 95–600 substituted ''section 860(a)'' for ''section 859(a)''.

Subsec. (c). Pub. L. 95–600 reenacted subsec. (c) without change.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 669 of Pub. L. 99–514, set out as a note under section 856 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 applicable with respect to determinations (as defined in section 860(e) of this title) after Nov. 6, 1978, see section 362(e) of Pub. L. 95–600, set out as an Effective Date note under section 860 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 860 of this title.

§ 6698. Failure to file partnership return

(a) General rule

In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax), if any partnership required to file a return under section 6031 for any taxable year—

(1) fails to file such return at the time prescribed therefor (determined with regard to any extension of time for filing), or

(2) files a return which fails to show the information required under section 6031,

such partnership shall be liable for a penalty determined under subsection (b) for each month (or fraction thereof) during which such failure continues (but not to exceed 5 months), unless it is shown that such failure is due to reasonable cause.

(b) Amount per month

For purposes of subsection (a), the amount determined under this subsection for any month is the product of—

(1) $50, multiplied by

(2) the number of persons who were partners in the partnership during any part of the taxable year

(c) Assessment of penalty

The penalty imposed by subsection (a) shall be assessed against the partnership.

(d) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(Added Pub. L. 95–600, title II, § 211(a), Nov. 6, 1978, 92 Stat. 2817.)

CODIFICATION

Another section 6698, formerly section 6694, relating to failure to file information with respect to carryover basis property, which was added by Pub. L. 94–455, § 2005(d)(2), was renumbered section 6698 by Pub. L. 95–600, renumbered section 6698A by Pub. L. 96–222, and repealed by Pub. L. 96–223.

EFFECTIVE DATE

Section 211(c) of Pub. L. 95–600 provided that: ''The amendments made by this section [enacting this section] shall apply with respect to returns for taxable years beginning after December 31, 1978.''

[§ 6698A. Repealed. Pub. L. 96–223, title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299]

Section, added Pub. L. 94–455, title XX, § 2005(d)(2), Oct. 4, 1976, 90 Stat. 1878, § 6694; renumbered § 6698 and amended Pub. L. 95–600, title VII, § 702(r)(1)(A), (B), Nov. 6, 1978, 92 Stat. 2938; renumbered § 6698A, Pub. L. 96–222, title I, § 107(a)(2)(D), Apr. 1, 1980, 94 Stat. 223, related to failure of an executor to file information with respect to carryover basis property. Repeal was achieved by repealing section 2005(d)(2) of Pub. L. 94–455 and section 702(r)(1)(A), (B) of Pub. L. 95–600 and the amendments made by those sections.

EFFECTIVE DATE OF REPEAL AND REVIVAL OF PRIOR LAW

Repeal applicable in respect of decedents dying after Dec. 31, 1976, and, except for certain elections, this title to be applied and administered as if this section had not been enacted, see section 401(b), (e) of Pub. L. 96–223, set out as an Effective Date of 1980 Amendment and Revival of Prior Law note under section 1023 of this title.

[§ 6699. Repealed. Pub. L. 99–514, title XI, § 1171(b)(7)(A), Oct. 22, 1986, 100 Stat. 2513]

Section, added Pub. L. 95–600, title I, § 141(c)(1), Nov. 6, 1978, 92 Stat. 2794; amended Pub. L. 96–222, title I, § 101(a)(7)(L)(iii)(VI), (v)(IX), Apr. 1, 1980, 94 Stat. 200; Pub. L. 97–34, title III, § 331(c)(3), (4), Aug. 13, 1981, 95 Stat. 293, 294; Pub. L. 97–448, title I, § 103(g)(2)(B)–(D), Jan. 12, 1983, 96 Stat. 2379; Pub. L. 98–369, div. A, title IV, § 491(e)(9), July 18, 1984, 98 Stat. 853; Pub. L. 99–514, title XVIII, § 1847(b)(9), Oct. 22, 1986, 100 Stat. 2857, related to assessable penalties applicable to tax credit employee stock ownership plans.

EFFECTIVE DATE OF REPEAL

Repeal applicable to compensation paid or accrued after Dec. 31, 1986, in taxable years ending after such date, but this section to continue to apply with respect to credits under section 41 of this title attributable to compensation paid or accrued before Jan. 1, 1987 (or under section 38 of this title with respect to qualified investment before Jan. 1, 1983), see section 1171(c) of Pub. L. 99–514, set out as an Effective Date of 1986 Amendment note under section 38 of this title.

§ 6700. Promoting abusive tax shelters, etc.

(a) Imposition of penalty

Any person who—

(1)(A) organizes (or assists in the organization of)—

(i) a partnership or other entity,

(ii) any investment plan or arrangement, or

(iii) any other plan or arrangement, or

(B) participates (directly or indirectly) in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

(2) makes or furnishes or causes another person to make or furnish (in connection with such organization or sale)—

(A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows or has reason to known is false or fraudulent as to any material matter, or

(B) a gross valuation overstatement as to any material matter,

shall pay, with respect to each activity described in paragraph (1), a penalty equal to the $1,000 or, if the person establishes that it is lesser, 100 percent of the gross income derived (or to be derived) by such person from such activity. For purposes of the preceding sentence, activities described in paragraph (1)(A) with respect to each entity or arrangement shall be treated as a separate activity and participation in each sale described in paragraph (1)(B) shall be so treated.

(b) Rules relating to penalty for gross valuation overstatements

(1) Gross valuation overstatement defined

For purposes of this section, the term ''gross valuation overstatement'' means any statement as to the value of any property or services if—

(A) the value so stated exceeds 200 percent of the amount determined to be the correct valuation, and

(B) the value of such property or services is directly related to the amount of any deduction or credit allowable under chapter 1 to any participant.

(2) Authority to waive

The Secretary may waive all or any part of the penalty provided by subsection (a) with respect to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that such valuation was made in good faith.

(c) Penalty in addition to other penalties

The penalty imposed by this section shall be in addition to any other penalty provided by law.

(Added Pub. L. 97–248, title III, § 320(a), Sept. 3, 1982, 96 Stat. 611; amended Pub. L. 98–369, div. A, title I, § 143(a), July 18, 1984, 98 Stat. 682; Pub. L. 101–239, title VII, § 7734(a), Dec. 19, 1989, 103 Stat. 2403.)

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–239, § 7734(a)(3), added concluding provision and struck out former concluding provision which read as follows: ''shall pay a penalty equal to the greater of $1,000 or 20 percent of the gross income derived or to be derived by such person from such activity.''

Subsec. (a)(1)(B). Pub. L. 101–239, § 7734(a)(1), inserted ''(directly or indirectly)'' after ''participates''.

Subsec. (a)(2). Pub. L. 101–239, § 7734(a)(2), inserted ''or causes another person to make or furnish'' after ''makes or furnishes'' in introductory provisions.

1984—Subsec. (a). Pub. L. 98–369 substituted ''20 percent'' for ''10 percent''.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7734(b) of Pub. L. 101–239 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to activities after December 31, 1989.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 143(c) of Pub. L. 98–369 provided that: ''The amendments made by this section [amending this section and section 7408 of this title] shall take effect on the day after the date of the enactment of this Act [July 18, 1984].''

EFFECTIVE DATE

Section 320(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6701, 6703, 7408, 7422 of this title; title 28 section 1509.

§ 6701. Penalties for aiding and abetting understatement of tax liability

(a) Imposition of penalty

Any person—

(1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document,

(2) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws, and

(3) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person,

shall pay a penalty with respect to each such document in the amount determined under subsection (b).

(b) Amount of penalty

(1) In general

Except as provided in paragraph (2), the amount of the penalty imposed by subsection (a) shall be $1,000.

(2) Corporations

If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) shall be $10,000.

(3) Only 1 penalty per person per period

If any person is subject to a penalty under subsection (a) with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), such person shall not be subject to a penalty under subsection (a) with respect to any other document relating to such taxpayer for such taxable period (or event).

(c) Activities of subordinates

(1) In general

For purposes of subsection (a), the term ''procures'' includes—

(A) ordering (or otherwise causing) a subordinate to do an act, and

(B) knowing of, and not attempting to prevent, participation by a subordinate in an act.

(2) Subordinate

For purposes of paragraph (1), the term ''subordinate'' means any other person (whether or not a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

(d) Taxpayer not required to have knowledge

Subsection (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

(e) Certain actions not treated as aid or assistance

For purposes of subsection (a)(1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document by reason of such assistance.

(f) Penalty in addition to other penalties

(1) In general

Except as provided by paragraphs (2) and (3), the penalty imposed by this section shall be in addition to any other penalty provided by law.

(2) Coordination with return preparer penalties

No penalty shall be assessed under subsection (a) or (b) of section 6694 on any person with respect to any document for which a penalty is assessed on such person under subsection (a).

(3) Coordination with section 6700

No penalty shall be assessed under section 6700 on any person with respect to any document for which a penalty is assessed on such person under subsection (a).

(Added Pub. L. 97–248, title III, § 324(a), Sept. 3, 1982, 96 Stat. 615; amended Pub. L. 101–239, title VII, § 7735(a), (b), Dec. 19, 1989, 103 Stat. 2403.)

AMENDMENTS

1989—Subsec. (a)(1). Pub. L. 101–239, § 7735(a)(1), struck out ''in connection with any matter arising under the internal revenue laws'' after ''other document''.

Subsec. (a)(2). Pub. L. 101–239, § 7735(a)(2), inserted ''(or has reason to believe)'' after ''who knows''.

Subsec. (a)(3). Pub. L. 101–239, § 7735(a)(3), substituted ''would result'' for ''will result''.

Subsec. (f)(1). Pub. L. 101–239, § 7735(b)(2), substituted ''paragraphs (2) and (3)'' for ''paragraph (2)''.

Subsec. (f)(3). Pub. L. 101–239, § 7735(b)(1), added par. (3).

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7735(c) of Pub. L. 101–239 provided that: ''The amendments made by this section [amending this section] shall take effect on December 31, 1989.''

EFFECTIVE DATE

Section 324(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6703, 7408, 7422 of this title; title 28 section 1509; title 31 section 330.

§ 6702. Frivolous income tax return

(a) Civil penalty

If—

(1) any individual files what purports to be a return of the tax imposed by subtitle A but which—

(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

(2) the conduct referred to in paragraph (1) is due to—

(A) a position which is frivolous, or

(B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws,

then such individual shall pay a penalty of $500.

(b) Penalty in addition to other penalties

The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law.

(Added Pub. L. 97–248, title III, § 326(a), Sept. 3, 1982, 96 Stat. 617.)

EFFECTIVE DATE

Section 326(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [enacting this section] shall apply with respect to documents filed after the date of the enactment of this Act [Sept. 3, 1982].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6703 of this title.

§ 6703. Rules applicable to penalties under sections 6700, 6701, and 6702

(a) Burden of proof

In any proceeding involving the issue of whether or not any person is liable for a penalty under section 6700, 6701, or 6702, the burden of proof with respect to such issue shall be on the Secretary.

(b) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by sections 6700, 6701, and 6702.

(c) Extension of period of collection where person pays 15 percent of penalty

(1) In general

If, within 30 days after the day on which notice and demand of any penalty under section 6700 or 6701 is made against any person, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final res-

olution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court. Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).

(2) Person must bring suit in district court to determine his liability for penalty

If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under section 6700 or 6701 is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the person fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

(3) Suspension of running of period of limitations on collection

The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

(Added Pub. L. 97–248, title III, § 322(a), Sept. 3, 1982, 96 Stat. 612; amended Pub. L. 101–239, title VII, §§ 7736(a), 7737(a), Dec. 19, 1989, 103 Stat. 2404.)

AMENDMENTS

1989—Subsec. (c)(1). Pub. L. 101–239, § 7737(a), inserted at end ''Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of such penalty in a proceeding begun as provided in paragraph (2).''

Pub. L. 101–239, § 7736(a), substituted ''section 6700 or 6701'' for ''section 6700, 6701, or 6702''.

Subsec. (c)(2). Pub. L. 101–239, § 7736(a), substituted ''section 6700 or 6701'' for ''section 6700, 6701, or 6702''.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7736(b) of Pub. L. 101–239 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to returns filed after December 31, 1989.''

EFFECTIVE DATE

Section 322(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].''

§ 6704. Failure to keep records necessary to meet reporting requirements under section 6047(d)

(a) Liability for penalty

Any person who—

(1) has a duty to report or may have a duty to report any information under section 6047(d), and

(2) fails to keep such records as may be required by regulations prescribed under section 6047(d) for the purpose of providing the necessary data base for either current reporting or future reporting,

shall pay a penalty for each calendar year for which there is any failure to keep such records.

(b) Amount of penalty

(1) In general

The penalty of any person for any calendar year shall be $50, multiplied by the number of individuals with respect to whom such failure occurs in such year.

(2) Maximum amount

The penalty under this section of any person for any calendar year shall not exceed $50,000.

(c) Exceptions

(1) Reasonable cause

No penalty shall be imposed by this section on any person for any failure which is shown to be due to reasonable cause and not to willful neglect.

(2) Inability to correct previous failure

No penalty shall be imposed by this section on any failure by a person if such failure is attributable to a prior failure which has been penalized under this section and with respect to which the person has made all reasonable efforts to correct the failure.

(3) Pre-1983 failures

No penalty shall be imposed by this section on any person for any failure which is attributable to a failure occurring before January 1, 1983, if the person has made all reasonable efforts to correct such pre-1983 failure.

(Added Pub. L. 97–248, title III, § 334(c)(1), Sept. 3, 1982, 96 Stat. 627; amended Pub. L. 99–514, title XVIII, § 1848(e)(1), Oct. 22, 1986, 100 Stat. 2857.)

AMENDMENTS

1986—Pub. L. 99–514 substituted ''section 6047(d)'' for ''section 6047(e)'' in section catchline and in subsec. (a).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1985, see section 334(e)(3) of Pub. L. 97–248, set out as a note under section 3405 of this title.

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 6047 of this title.

§ 6705. Failure by broker to provide notice to payors

(a) In general

Any person required under section 3406(d)(2)(B) to provide notice to any payor who willfully fails to provide such notice to such payor shall pay a penalty of $500 for each such failure.

(b) Penalty in addition to other penalties

Any penalty imposed by this section shall be in addition to any other penalty provided by law.

(Added Pub. L. 98–67, title I, § 104(c)(1), Aug. 5, 1983, 97 Stat. 379.)

EFFECTIVE DATE

Section effective with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98–67, set out as an Effective Date of 1983 Amendment note under section 31 of this title.

§ 6706. Original issue discount information requirements

(a) Failure to show information on debt instrument

In the case of a failure to set forth on a debt instrument the information required to be set forth on such instrument under section 1275(c)(1), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the issuer shall pay a penalty of $50 for each instrument with respect to which such a failure exists.

(b) Failure to furnish information to Secretary

Any issuer who fails to furnish information required under section 1275(c)(2) with respect to any issue of debt instruments on the date prescribed therefor (determined with regard to any extension of time for filing) shall pay a penalty equal to 1 percent of the aggregate issue price of such issue, unless it is shown that such failure is due to reasonable cause and not willful neglect. The amount of the penalty imposed under the preceding sentence with respect to any issue of debt instruments shall not exceed $50,000 for such issue.

(c) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section.

(Added Pub. L. 98–369, div. A, title I, § 41(c)(1), July 18, 1984, 98 Stat. 555.)

EFFECTIVE DATE

Section effective on day 30 days after July 18, 1984, see section 44(h) of Pub. L. 98–369, set out as a note under section 1271 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1275 of this title.

§ 6707. Failure to furnish information regarding tax shelters

(a) Failure to register tax shelter

(1) Imposition of penalty

If a person who is required to register a tax shelter under section 6111(a)—

(A) fails to register such tax shelter on or before the date described in section 6111(a)(1), or

(B) files false or incomplete information with the Secretary with respect to such registration,

such person shall pay a penalty with respect to such registration in the amount determined under paragraph (2) or (3), as the case may be. No penalty shall be imposed under the preceding sentence with respect to any failure which is due to reasonable cause.

(2) Amount of penalty

Except as provided in paragraph (3), the penalty imposed under paragraph (1) with respect to any tax shelter shall be an amount equal to the greater of—

(A) 1 percent of the aggregate amount invested in such tax shelter, or

(B) $500.

(3) Confidential arrangements

(A) In general

In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

(i) 50 percent of the fees paid to all promoters of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

(ii) $10,000.

Clause (i) shall be applied by substituting ''75 percent'' for ''50 percent'' in the case of an intentional failure or act described in paragraph (1).

(B) Special rule for participants required to register shelter

In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter.

(b) Failure to furnish tax shelter identification number

(1) Sellers, etc.

Any person who fails to furnish the identification number of a tax shelter which such person is required to furnish under section 6111(b)(1) shall pay a penalty of $100 for each such failure.

(2) Failure to include number on return

Any person who fails to include an identification number on a return on which such number is required to be included under section 6111(b)(2) shall pay a penalty of $250 for each such failure, unless such failure is due to reasonable cause.

(Added Pub. L. 98–369, div. A, title I, § 141(b), July 18, 1984, 98 Stat. 680; amended Pub. L. 99–514, title XV, §§ 1532(a), 1533(a), Oct. 22, 1986, 100 Stat. 2750; Pub. L. 105–34, title X, § 1028(b), (d), Aug. 5, 1997, 111 Stat. 927, 928.)

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105–34, § 1028(d)(2), which directed the substitution of ''paragraph (2) or (3), as the case may be'' for ''paragraph (2)'' in subpar. (A) of par. (1), was executed by making the substitution in the concluding provisions of par. (1) to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 105–34, § 1028(d)(1), substituted ''Except as provided in paragraph (3), the penalty'' for ''The penalty''.

Subsec. (a)(3). Pub. L. 105–34, § 1028(b), added par. (3).

1986—Subsec. (a)(2). Pub. L. 99–514, § 1532(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The penalty imposed under paragraph (1) with respect to any tax shelter shall be an amount equal to the greater of—

''(A) $500, or

''(B) the lesser of (i) 1 percent of the aggregate amount invested in such tax shelter, or (ii) $10,000.

The $10,000 limitation in subparagraph (B) shall not apply where there is an intentional disregard of the requirements of section 6111(a).''

Subsec. (b)(2). Pub. L. 99–514, § 1533(a), substituted ''$250'' for ''$50''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to any tax shelter, as defined in section 6111(d) of this title, interests in which are offered to potential participants after Secretary of the Treasury prescribes guidance with respect to meeting requirements added by amendments made by Pub. L. 105–34, § 1028, see section 1028(e) of Pub. L. 105–34, set out as a note under section 6111 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1532(b) of Pub. L. 99–514 provided that: ''The amendment made by this section [amending this section] shall apply to failures with respect to tax shelters interests in which are first offered for sale after the date of the enactment of this Act [Oct. 22, 1986].''

Section 1533(b) of Pub. L. 99–514 provided that: ''The amendment made by this section [amending this section] shall apply to returns filed after the date of the enactment of this Act [Oct 22, 1986].''

EFFECTIVE DATE

Section applicable to tax shelters (within the meaning of section 6111 of this title), any interest in which is first sold to any investor after Aug. 31, 1984, see section 141(d) of Pub. L. 98–369, set out as a note under section 6111 of this title.

§ 6708. Failure to maintain lists of investors in potentially abusive tax shelters

(a) In general

Any person who fails to meet any requirement imposed by section 6112 shall pay a penalty of $50 for each person with respect to whom there is such a failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection for any calendar year shall not exceed $100,000.

(b) Penalty in addition to other penalties

The penalty imposed by this section shall be in addition to any other penalty provided by law.

(Added Pub. L. 98–369, div. A, title I, § 142(b), July 18, 1984, 98 Stat. 682; amended Pub. L. 99–514, title XV, § 1534(a), Oct. 22, 1986, 100 Stat. 2750.)

CODIFICATION

Another section 6708 was renumbered section 6709 of this title.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–514 substituted ''$100,000'' for ''$50,000''.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1534(b) of Pub. L. 99–514 provided that: ''The amendments made by this section [amending this section] shall apply to failures occurring or continuing after the date of the enactment of this Act [Oct. 22, 1986].''

EFFECTIVE DATE

Section applicable to any interest which is first sold to any investor after Aug. 31, 1984, see section 142(d) of Pub. L. 98–369, set out as a note under section 6112 of this title.

§ 6709. Penalties with respect to mortgage credit certificates

(a) Negligence

If—

(1) any person makes a material misstatement in any verified written statement made under penalties of perjury with respect to the issuance of a mortgage credit certificate, and

(2) such misstatement is due to the negligence of such person,

such person shall pay a penalty of $1,000 for each mortgage credit certificate with respect to which such a misstatement was made.

(b) Fraud

If a misstatement described in subsection (a)(1) is due to fraud on the part of the person making such misstatement, in addition to any criminal penalty, such person shall pay a penalty of $10,000 for each mortgage credit certificate with respect to which such a misstatement is made.

(c) Reports

Any person required by section 25(g) to file a report with the Secretary who fails to file the report with respect to any mortgage credit certificate at the time and in the manner required by the Secretary shall pay a penalty of $200 for such failure unless it is shown that such failure is due to reasonable cause and not to willful neglect. In the case of any report required under the second sentence of section 25(g), the aggregate amount of the penalty imposed by the preceding sentence shall not exceed $2,000.

(d) Mortgage credit certificate

The term ''mortgage credit certificate'' has the meaning given to such term by section 25(c).

(Added Pub. L. 98–369, div. A, title VI, § 612(d)(1), July 18, 1984, 98 Stat. 912, § 6708; renumbered § 6709, Pub. L. 99–514, title XVIII, § 1862(d)(2), Oct. 22, 1986, 100 Stat. 2884.)

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to

which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section applicable to interest paid or accrued after Dec. 31, 1984, on indebtedness incurred after Dec. 31, 1984, see section 612(g) of Pub. L. 98–369, set out as a note under section 25 of this title.

§ 6710. Failure to disclose that contributions are nondeductible

(a) Imposition of penalty

If there is a failure to meet the requirement of section 6113 with respect to a fundraising solicitation by (or on behalf of) an organization to which section 6113 applies, such organization shall pay a penalty of $1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed $10,000.

(b) Reasonable cause exception

No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

(c) $10,000 limitation not to apply where intentional disregard

If any failure to which subsection (a) applies is due to intentional disregard of the requirement of section 6113—

(1) the penalty under subsection (a) for the day on which such failure occurred shall be the greater of—

(A) $1,000, or

(B) 50 percent of the aggregate cost of the solicitations which occurred on such day and with respect to which there was such a failure,

(2) the $10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

(3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

(d) Day on which failure occurs

For purposes of this section, any failure to meet the requirement of section 6113 with respect to a solicitation—

(1) by television or radio, shall be treated as occurring when the solicitation was telecast or broadcast,

(2) by mail, shall be treated as occurring when the solicitation was mailed,

(3) not by mail but in written or printed form, shall be treated as occurring when the solicitation was distributed, or

(4) by telephone, shall be treated as occurring when the solicitation was made.

(Added Pub. L. 100–203, title X, § 10701(b), Dec. 22, 1987, 101 Stat. 1330–458.)

EFFECTIVE DATE

Section applicable to solicitations after Jan. 31, 1988, see section 10701(d) of Pub. L. 100–203, set out as a note under section 6113 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6711 of this title.

§ 6711. Failure by tax-exempt organization to disclose that certain information or service available from Federal Government

(a) Imposition of penalty

If—

(1) a tax-exempt organization offers to sell (or solicits money for) specific information or a routine service for any individual which could be readily obtained by such individual free of charge (or for a nominal charge) from an agency of the Federal Government,

(2) the tax-exempt organization, when making such offer or solicitation, fails to make an express statement (in a conspicuous and easily recognizable format) that the information or service can be so obtained, and

(3) such failure is due to intentional disregard of the requirements of this subsection,

such organization shall pay a penalty determined under subsection (b) for each day on which such a failure occurred.

(b) Amount of penalty

The penalty under subsection (a) for any day on which a failure referred to in such subsection occurred shall be the greater of—

(1) $1,000, or

(2) 50 percent of the aggregate cost of the offers and solicitations referred to in subsection (a)(1) which occurred on such day and with respect to which there was such a failure.

(c) Definitions

For purposes of this section—

(1) Tax-exempt organization

The term ''tax-exempt organization'' means any organization which—

(A) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), or

(B) is a political organization (as defined in section 527(e)).

(2) Day on which failure occurs

The day on which any failure referred to in subsection (a) occurs shall be determined under rules similar to the rules of section 6710(d).

(Added Pub. L. 100–203, title X, § 10705(a), Dec. 22, 1987, 101 Stat. 1330–463.)

EFFECTIVE DATE

Section 10705(c) of Pub. L. 100–203 provided that: ''The amendments made by this section [enacting this section] shall apply to offers and solicitations after January 31, 1988.''

§ 6712. Failure to disclose treaty-based return positions

(a) General rule

If a taxpayer fails to meet the requirements of section 6114, there is hereby imposed a penalty equal to $1,000 ($10,000 in the case of a C corporation) on each such failure.

(b) Authority to waive

The Secretary may waive all or any part of the penalty provided by this section on a showing by the taxpayer that there was reasonable cause for the failure and that the taxpayer acted in good faith.

(c) Penalty in addition to other penalties

The penalty imposed by this section shall be in addition to any other penalty imposed by law.

(Added Pub. L. 100–647, title I, § 1012(aa)(5)(B), Nov. 10, 1988, 102 Stat. 3532.)

CODIFICATION

Another section 6712 was renumbered section 6713 of this title.

EFFECTIVE DATE

Section applicable to taxable periods the due date for filing returns for which (without extension) occurs after Dec. 31, 1988, see section 1012(aa)(5)(D) of Pub. L. 100–647, set out as a note under section 6114 of this title.

§ 6713. Disclosure or use of information by preparers of returns

(a) Imposition of penalty

If any person who is engaged in the business of preparing, or providing services in connection with the preparation of, returns of tax imposed by chapter 1, or any person who for compensation prepares any such return for any other person, and who—

(1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or

(2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return,

shall pay a penalty of $250 for each such disclosure or use, but the total amount imposed under this subsection on such a person for any calendar year shall not exceed $10,000.

(b) Exceptions

The rules of section 7216(b) shall apply for purposes of this section.

(c) Deficiency procedures not to apply

Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section.

(Added Pub. L. 100–647, title VI, § 6242(a), Nov. 10, 1988, 102 Stat. 3749, § 6712; renumbered § 6713, Pub. L. 101–239, title VII, § 7816(v)(1), Dec. 19, 1989, 103 Stat. 2423.)

EFFECTIVE DATE

Section 6242(d) of Pub. L. 100–647 provided that: ''The amendments made by this section [enacting this section and amending section 7216 of this title] shall apply to disclosures or uses after December 31, 1988.''

§ 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions

(a) Imposition of penalty

If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of $10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed $5,000.

(b) Reasonable cause exception

No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

(Added Pub. L. 103–66, title XIII, § 13173(b), Aug. 10, 1993, 107 Stat. 456.)

CODIFICATION

Another section 6714 was renumbered section 6715 of this title.

EFFECTIVE DATE

Section applicable to quid pro quo contributions made on or after Jan. 1, 1994, see section 13173(d) of Pub. L. 103–66, set out as a note under section 6115 of this title.

§ 6715. Dyed fuel sold for use or used in taxable use, etc.

(a) Imposition of penalty

If—

(1) any dyed fuel is sold or held for sale by any person for any use which such person knows or has reason to know is not a nontaxable use of such fuel,

(2) any dyed fuel is held for use or used by any person for a use other than a nontaxable use and such person knew, or had reason to know, that such fuel was so dyed, or

(3) any person willfully alters, or attempts to alter, the strength or composition of any dye or marking done pursuant to section 4082 in any dyed fuel,

then such person shall pay a penalty in addition to the tax (if any).

(b) Amount of penalty

(1) In general

Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be the greater of—

(A) $1,000, or

(B) $10 for each gallon of the dyed fuel involved.

(2) Multiple violations

In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1)(A) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

(c) Definitions

For purposes of this section—

(1) Dyed fuel

The term ''dyed fuel'' means any dyed diesel fuel or kerosene, whether or not the fuel was dyed pursuant to section 4082.

(2) Nontaxable use

The term ''nontaxable use'' has the meaning given such term by section 4082(b).

(d) Joint and several liability of certain officers and employees

If a penalty is imposed under this section on any business entity, each officer, employee, or

agent of such entity who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

(Added Pub. L. 103–66, title XIII, § 13242(b)(1), Aug. 10, 1993, 107 Stat. 520, § 6714; renumbered § 6715, Pub. L. 104–188, title I, § 1703(n)(9)(A), Aug. 20, 1996, 110 Stat. 1877; amended Pub. L. 105–34, title X, § 1032(e)(11), Aug. 5, 1997, 111 Stat. 935.)

AMENDMENTS

1997—Subsec. (c)(1). Pub. L. 105–34 inserted ''or kerosene'' after ''diesel fuel''.

1996—Pub. L. 104–188 renumbered section 6714 of this title as this section.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105–34, as amended, set out as a note under section 4041 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103–66, set out as an Effective Date of 1993 Amendment note under section 4041 of this title.

PART II—FAILURE TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS

Sec.
6721. Failure to file correct information returns.
6722. Failure to furnish correct payee statements.
6723. Failure to comply with other information reporting requirements.
6724. Waiver; definitions and special rules.

AMENDMENTS

1989—Pub. L. 101–239, title VII, § 7711(a), Dec. 19, 1989, 103 Stat. 2388, substituted ''COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS'' for ''FILE CERTAIN INFORMATION RETURNS OR STATEMENTS'' in part heading and substituted ''correct'' for ''certain'' in items 6721 and 6722 and ''comply with other information reporting requirements'' for ''include correct information'' in item 6723.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 6050S of this title.

§ 6721. Failure to file correct information returns

(a) Imposition of penalty

(1) In general

In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of $50 for each return with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $250,000.

(2) Failures subject to penalty

For purposes of paragraph (1), the failures described in this paragraph are—

(A) any failure to file an information return with the Secretary on or before the required filing date, and

(B) any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

(b) Reduction where correction in specified period

(1) Correction within 30 days

If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

(A) the penalty imposed by subsection (a) shall be $15 in lieu of $50, and

(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed $75,000.

(2) Failures corrected on or before August 1

If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

(A) the penalty imposed by subsection (a) shall be $30 in lieu of $50, and

(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed $150,000.

(c) Exception for de minimis failures to include all required information

(1) In general

If—

(A) an information return is filed with the Secretary,

(B) there is a failure described in subsection (a)(2)(B) (determined after the application of section 6724(a)) with respect to such return, and

(C) such failure is corrected on or before August 1 of the calendar year in which the required filing date occurs,

for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

(2) Limitation

The number of information returns to which paragraph (1) applies for any calendar year shall not exceed the greater of—

(A) 10, or

(B) one-half of 1 percent of the total number of information returns required to be filed by the person during the calendar year.

(d) Lower limitations for persons with gross receipts of not more than $5,000,000

(1) In general

If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such taxable year—

(A) subsection (a)(1) shall be applied by substituting ''$100,000'' for ''$250,000'',

(B) subsection (b)(1)(B) shall be applied by substituting ''$25,000'' for ''$75,000'', and

(C) subsection (b)(2)(B) shall be applied by substituting ''$50,000'' for ''$150,000''.

(2) Gross receipts test

(A) In general

A person meets the gross receipts test of this paragraph for any calendar year if the average annual gross receipts of such person

for the most recent 3 taxable years ending before such calendar year do not exceed $5,000,000.

(B) Certain rules made applicable

For purposes of subparagraph (A), the rules of paragraphs (2) and (3) of section 448(c) shall apply.

(e) Penalty in case of intentional disregard

If 1 or more failures described in subsection (a)(2) are due to intentional disregard of the filing requirement (or the correct information reporting requirement), then, with respect to each such failure—

(1) subsections (b), (c), and (d) shall not apply,

(2) the penalty imposed under subsection (a) shall be $100, or, if greater—

(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050I, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported correctly,

(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported correctly, or

(C) in the case of a return required to be filed under section 6050I(a) with respect to any transaction (or related transactions), the greater of—

(i) $25,000, or

(ii) the amount of cash (within the meaning of section 6050I(d)) received in such transaction (or related transactions) to the extent the amount of such cash does not exceed $100,000, and

(3) in the case of any penalty determined under paragraph (2)—

(A) the $250,000 limitation under subsection (a) shall not apply, and

(B) such penalty shall not be taken into account in applying such limitation (or any similar limitation under subsection (b)) to penalties not determined under paragraph (2).

(Added Pub. L. 99–514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2732; amended Pub. L. 100–690, title VII, § 7601(a)(2)(A), Nov. 18, 1988, 102 Stat. 4503; Pub. L. 101–239, title VII, § 7711(a), Dec. 19, 1989, 103 Stat. 2388; Pub. L. 101–508, title XI, § 11318(b), Nov. 5, 1990, 104 Stat. 1388–459.)

AMENDMENTS

1990—Subsec. (e)(2). Pub. L. 101–508 inserted ''6050I,'' after ''6050H,'' and struck out ''or'' at end of subpar. (A), substituted ''or'' for ''and'' at end of subpar. (B), and added subpar. (C).

1989—Pub. L. 101–239 substituted ''correct'' for ''certain'' in section catchline and amended text generally, substituting subsecs. (a) to (e) for former subsec. (a) stating general rule and subsec. (b) relating to penalty in case of intentional disregard.

1988—Subsec. (b)(1)(A). Pub. L. 100–690 inserted ''(or, if greater, in the case of a return filed under section 6050I, 10 percent of the taxable income derived from the transaction)'' after ''reported''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable to amounts received after Nov. 5, 1990, see section 11318(e)(1) of Pub. L. 101–508, set out as a note under section 6050I of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7711(c) of Pub. L. 101–239 provided that: ''The amendments made by this section [amending this section and sections 6722 to 6724 and 7205 of this title and repealing sections 6017A, 6676, and 6687 of this title] shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 applicable to actions after Nov. 18, 1988, see section 7601(a)(3) of Pub. L. 100–690, set out as a note under section 6050I of this title.

EFFECTIVE DATE

Section 1501(e) of Pub. L. 99–514 provided that: ''The amendments made by this section [enacting this section and sections 6722 to 6724 of this title, amending sections 219, 6031, 6033 to 6034A, 6041, 6042 to 6045, 6047, 6049, 6050A to 6050C, 6050E to 6050I, 6050K, 6052, 6057, 6058, 6652, and 6676 of this title, and repealing section 6678 of this title] shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986, except that the amendments made by subsections (c)(2), (c)(3), and (c)(5) [amending sections 6042, 6044, and 6049 of this title] shall apply to returns the due [date] for which (determined without regard to extensions) is after the date of the enactment of this Act [Oct. 22, 1986].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1060, 6047, 6724 of this title.

§ 6722. Failure to furnish correct payee statements

(a) General rule

In the case of each failure described in subsection (b) by any person with respect to a payee statement, such person shall pay a penalty of $50 for each statement with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

(b) Failures subject to penalty

For purposes of subsection (a), the failures described in this subsection are—

(1) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and

(2) any failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information.

(c) Penalty in case of intentional disregard

If 1 or more failures to which subsection (a) applies are due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement), then, with respect to each failure—

(1) the penalty imposed under subsection (a) shall be $100, or, if greater—

(A) in the case of a payee statement other than a statement required under section 6045(b), 6041A(e) (in respect of a return required under section 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c), 10 percent of

the aggregate amount of the items required to be reported correctly, or

(B) in the case of a payee statement required under section 6045(b), 6050K(b), or 6050L(c), 5 percent of the aggregate amount of the items required to be reported correctly, and

(2) in the case of any penalty determined under paragraph (1)—

(A) the $100,000 limitation under subsection (a) shall not apply, and

(B) such penalty shall not be taken into account in applying such limitation to penalties not determined under paragraph (1).

(Added Pub. L. 99–514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2733; amended Pub. L. 101–239, title VII, § 7711(a), Dec. 19, 1989, 103 Stat. 2390.)

AMENDMENTS

1989—Pub. L. 101–239 substituted ''correct'' for ''certain'' in section catchline and amended text generally, substituting subsecs. (a) to (c) for former subsec. (a) stating general rule and subsec. (b) relating to failure to notify partnership of exchange of partnership interest.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7711(c) of Pub. L. 101–239, set out as a note under section 6721 of this title.

EFFECTIVE DATE

Section applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as a note under section 6721 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6047 of this title.

§ 6723. Failure to comply with other information reporting requirements

In the case of a failure by any person to comply with a specified information reporting requirement on or before the time prescribed therefor, such person shall pay a penalty of $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

(Added Pub. L. 99–514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2733; amended Pub. L. 101–239, title VII, § 7711(a), Dec. 19, 1989, 103 Stat. 2390.)

AMENDMENTS

1989—Pub. L. 101–239 substituted ''comply with other information reporting requirements'' for ''include correct information'' in section catchline and amended text generally, substituting a single par. for former subsec. (a) stating general rule, subsec. (b) relating to penalty in case of intentional disregard, and subsec. (c) relating to coordination with former section 6676 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7711(c) of Pub. L. 101–239, set out as a note under section 6721 of this title.

EFFECTIVE DATE

Section applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as a note under section 6721 of this title.

§ 6724. Waiver; definitions and special rules

(a) Reasonable cause waiver

No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

(b) Payment of penalty

Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

(c) Special rule for failure to meet magnetic media requirements

No penalty shall be imposed under section 6721 solely by reason of any failure to comply with the requirements of the regulations prescribed under section 6011(e)(2), except to the extent that such a failure occurs with respect to more than 250 information returns (more than 100 information returns in the case of a partnership having more than 100 partners).

(d) Definitions

For purposes of this part—

(1) Information return

The term ''information return'' means—

(A) any statement of the amount of payments to another person required by—

(i) section 6041(a) or (b) (relating to certain information at source),

(ii) section 6042(a)(1) (relating to payments of dividends),

(iii) section 6044(a)(1) (relating to payments of patronage dividends),

(iv) section 6049(a) (relating to payments of interest),

(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators),

(vi) section 6050N(a) (relating to payments of royalties),

(vii) section 6051(d) (relating to information returns with respect to income tax withheld),

(viii) section 6050R (relating to returns relating to certain purchases of fish), or

(ix) section 110(d) (relating to qualified lessee construction allowances for short-term leases),

(B) any return required by—

(i) section 6041A(a) or (b) (relating to returns of direct sellers),

(ii) section 6045(a) or (d) (relating to returns of brokers),

(iii) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),

(iv) section 6050I(a) or (g)(1) (relating to cash received in trade or business, etc.),

(v) section 6050J(a) (relating to foreclosures and abandonments of security),

(vi) section 6050K(a) (relating to exchanges of certain partnership interests),

(vii) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

(viii) section 6050P (relating to returns relating to the cancellation of indebtedness by certain financial entities),

(ix) section 6050Q (relating to certain long-term care benefits),

(x) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),

(xi) section 6052(a) (relating to reporting payment of wages in the form of group-life insurance),

(xii) section 6053(c)(1) (relating to reporting with respect to certain tips),

(xiii) subsection (b) or (e) of section 1060 (relating to reporting requirements of transferors and transferees in certain asset acquisitions),

(xiv) subparagraph (A) or (C) of subsection (c)(4) of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels),

(xv) section 4101(d) (relating to information reporting with respect to fuels taxes),

(xvi) subparagraph (C) of section 338(h)(10) (relating to information required to be furnished to the Secretary in case of elective recognition of gain or loss), or

(xvii) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts), and

(C) any statement of the amount of payments to another person required to be made to the Secretary under—

(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.).

Such term also includes any form, statement, or schedule required to be filed with the Secretary with respect to any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

(2) Payee statement

The term ''payee statement'' means any statement required to be furnished under—

(A) section 6031(b) or (c), 6034A, or 6037(b) (relating to statements furnished by certain pass-thru entities),

(B) section 6039(a) (relating to information required in connection with certain options),

(C) section 6041(d) (relating to information at source),

(D) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

(E) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

(F) section 6044(e) (relating to returns regarding payments of patronage dividends),

(G) section 6045(b) or (d) (relating to returns of brokers),

(H) section 6049(c) (relating to returns regarding payments of interest),

(I) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

(J) section 6050H(d) relating to returns relating to mortgage interest received in trade or business from individuals),

(K) section 6050I(e) or paragraph (4) or (5) of section 6050I(g) (relating to cash received in trade or business, etc.),

(L) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

(M) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

(N) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

(O) section 6050N(b) (relating to returns regarding payments of royalties),

(P) section 6050P(d) (relating to returns relating to the cancellation of indebtedness by certain financial entities),

(Q) section 6050Q(b) (relating to certain long-term care benefits),

(R) section 6050R(c) (relating to returns relating to certain purchases of fish),

(S) section 6051 (relating to receipts for employees),

(T) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

(U) section 6053(b) or (c) (relating to reports of tips),

(V) section 6048(b)(1)(B) (relating to foreign trust reporting requirements),

(W) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels),

(X) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person,

(Y) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person,

(Z) section 6050S(d) (relating to returns relating to qualified tuition and related expenses), or

(AA) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).

Such term also includes any form, statement, or schedule required to be furnished to the recipient of any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

(3) Specified information reporting requirement

The term ''specified information reporting requirement'' means—

(A) the notice required by section 6050K(c)(1) (relating to requirement that transferor notify partnership of exchange),

(B) any requirement contained in the regulations prescribed under section 6109 that a person—

(i) include his TIN on any return, statement, or other document (other than an information return or payee statement),

(ii) furnish his TIN to another person, or

(iii) include on any return, statement, or other document (other than an information return or payee statement) made with respect to another person the TIN of such person,

(C) any requirement contained in the regulations prescribed under section 215 that a person—

(i) furnish his TIN to another person, or

(ii) include on his return the TIN of another person, and

(D) any requirement under section 6109(h) that—

(i) a person include on his return the name, address, and TIN of another person, or

(ii) a person furnish his TIN to another person.

(4) Required filing date

The term ''required filing date'' means the date prescribed for filing an information return with the Secretary (determined with regard to any extension of time for filing).

(e) Special rule for certain partnership returns

If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return.

(Added Pub. L. 99–514, title XV, § 1501(a), Oct. 22, 1986, 100 Stat. 2734; amended Pub. L. 100–418, title I, § 1941(b)(2)(M), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100–647, title I, §§ 1006(h)(3)(A), 1015(a), title III, § 3001(b)(1), (2), Nov. 10, 1988, 102 Stat. 3410, 3568, 3614; Pub. L. 101–239, title VII, §§ 7711(a), 7811(c)(3), 7813(a), Dec. 19, 1989, 103 Stat. 2391, 2407, 2412; Pub. L. 101–508, title XI, §§ 11212(e)(1), 11323(b)(2), (c)(2), Nov. 5, 1990, 104 Stat. 1388–432, 1388–465; Pub. L. 102–486, title XIX, § 1933(b), Oct. 24, 1992, 106 Stat. 3031; Pub. L. 103–66, title XIII, § 13252(b), Aug. 10, 1993, 107 Stat. 532; Pub. L. 103–322, title II, § 20415(b)(1), (2), Sept. 13, 1994, 108 Stat. 1833; Pub. L. 104–188, title I, §§ 1116(b)(2)(A), (B), 1455(a), 1615(a)(2)(B), 1702(b)(1), (c)(2), 1704(j)(3), 1901(c)(1), Aug. 20, 1996, 110 Stat. 1764, 1817, 1853, 1868, 1869, 1881, 1908; Pub. L. 104–191, title III, § 323(b), Aug. 21, 1996, 110 Stat. 2062; Pub. L. 105–34, title II, § 201(c)(2), title XII, §§ 1213(b), 1223(b), title XVI, § 1602(d)(2)(A), Aug. 5, 1997, 111 Stat. 805, 1001, 1019, 1094; Pub. L. 105–206, title VI, §§ 6004(a)(3), 6010(*o*)(4)(B), (C), 6012(b)(5), (d), July 22, 1998, 112 Stat. 792, 816, 819; Pub. L. 106–554, § 1(a)(7) [title III, § 319(23)], Dec. 21, 2000, 114 Stat. 2763, 2763A–647.)

CODIFICATION

Amendments to subsec. (d)(2) of this section by section 1901(c)(1) of Pub. L. 104–188 were executed before amendments by sections 1116(b)(2)(B) and 1455(a)(2) of Pub. L. 104–188, to reflect the probable intent of Congress.

AMENDMENTS

2000—Subsec. (d)(1)(B)(xiv) to (xvii). Pub. L. 106–554, § 1(a)(7) [title III, § 319(23)(A)], added cls. (xiv) to (xvii) and struck out former cls. (xiv) to (xvii) which read as follows:

''(xiv) subparagraph (A) or (C) of subsection (c)(4) of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels),

''(xv) section 4101(d) (relating to information reporting with respect to fuels taxes),

''(xvi) subparagraph (C) of section 338(h)(10) (relating to information required to be furnished to the Secretary in case of elective recognition of gain or loss); or

''(xvii) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).''

Subsec. (d)(2)(AA). Pub. L. 106–554, § 1(a)(7) [title III, § 319(23)(B)], made a technical amendment to directory language of Pub. L. 105–206, § 6010(*o*)(4)(C). See 1998 Amendment note below.

1998—Subsec. (c). Pub. L. 105–206, § 6012(d), inserted before period at end ''(more than 100 information returns in the case of a partnership having more than 100 partners)''.

Subsec. (d)(1)(A). Pub. L. 105–206, § 6012(b)(5), made a technical amendment to directory language of Pub. L. 105–34, § 1213(b). See 1997 Amendment note below.

Subsec. (d)(1)(B)(x) to (xiv). Pub. L. 105–206, § 6004(a)(3), made a technical amendment to directory language of Pub. L. 105–34, § 201(c)(2)(A). See 1997 Amendment note below.

Subsec. (d)(1)(B)(xv). Pub. L. 105–206, § 6010(*o*)(4)(B), struck out ''or'' at end.

Pub. L. 105–206, § 6004(a)(3), made a technical amendment to directory language of Pub. L. 105–34, § 201(c)(2)(A). See 1997 Amendment note below.

Subsec. (d)(1)(B)(xvi). Pub. L. 105–206, § 6010(*o*)(4)(B), which directed the substitution of ''; or'' for period at end, was executed by making the substitution for '', and'' at end, to reflect the probable intent of Congress.

Pub. L. 105–206, § 6004(a)(3), made a technical amendment to directory language of Pub. L. 105–34, § 201(c)(2)(A). See 1997 Amendment note below.

Subsec. (d)(1)(B)(xvii). Pub. L. 105–206, § 6010(*o*)(4)(B), added cl. (xvii).

Subsec. (d)(2)(AA). Pub. L. 105–206, § 6010(*o*)(4)(C), as amended by Pub. L. 106–554, § 1(a)(7)[title III, § 319(23)(B)], added subpar. (AA).

1997—Subsec. (d)(1)(A)(ix). Pub. L. 105–34, § 1213(b), as amended by Pub. L. 105–206, § 6012(b)(5), added cl. (ix).

Subsec. (d)(1)(B)(x) to (xvi). Pub. L. 105–34, § 201(c)(2)(A), as amended by Pub. L. 105–206, § 6004(a)(3), added cl. (x) and redesignated former cls. (x) to (xv) as (xi) to (xvi), respectively.

Subsec. (d)(2)(R) to (Y). Pub. L. 105–34, § 1602(d)(2)(A), added subpars. (R) to (Y) and struck out former subpars. (R) to (X) which read as follows:

''(R) section 6051 (relating to receipts for employees),

''(S) section 6050R(c) (relating to returns relating to certain purchases of fish),

''(T) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

''(U) section 6053(b) or (c) (relating to reports of tips),

''(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels),

''(V) section 6048(b)(1)(B) (relating to foreign trust reporting requirements),

''(W) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

''(X) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.''

Subsec. (d)(2)(Z). Pub. L. 105–34, § 201(c)(2)(B), added subpar. (Z).

Subsec. (e). Pub. L. 105–34, § 1223(b), added subsec. (e).

1996—Subsec. (d)(1)(A)(viii). Pub. L. 104–188, § 1116(b)(2)(A), added cl. (viii).

Subsec. (d)(1)(B)(ix), (x). Pub. L. 104–191, § 323(b)(1), added cl. (ix) and redesignated former cl. (ix) as (x). Former cl. (x) redesignated (xi).

Subsec. (d)(1)(B)(xi). Pub. L. 104–191, §323(b)(1), redesignated cl. (x) as (xi). Former cl. (xi) redesignated (xii).

Pub. L. 104–188, §1702(b)(1), made technical amendment to directory language of Pub. L. 101–508, §11212(e)(1). See 1990 Amendment note below.

Subsec. (d)(1)(B)(xii). Pub. L. 104–191, §323(b)(1), redesignated cl. (xi) as (xii). Former cl. (xii) redesignated (xiii).

Pub. L. 104–188, §1702(c)(2)(A), struck out ''or'' at end.

Pub. L. 104–188, §1702(b)(1), made technical amendment to directory language of Pub. L. 101–508, §11212(e)(1). See 1990 Amendment note below.

Subsec. (d)(1)(B)(xiii). Pub. L. 104–191, §323(b)(1), redesignated cl. (xii) as (xiii). Former cl. (xiii) redesignated (xiv).

Pub. L. 104–188, §1702(c)(2)(B), substituted '', or'' for period at end.

Subsec. (d)(1)(B)(xiv), (xv). Pub. L. 104–191, §323(b)(1), redesignated cls. (xiii) and (xiv) as (xiv) and (xv), respectively.

Subsec. (d)(1)(C). Pub. L. 104–188, §1455(a)(1), which directed the amendment of par. (1) by inserting a new subpar. (C) after subpar. (B), was executed by making the insertion after subpar. (B)(xv), to reflect the probable intent of Congress.

Subsec. (d)(2)(Q). Pub. L. 104–191, §323(b)(2), added subpar. (Q). Former subpar. (Q) redesignated (R).

Subsec. (d)(2)(R). Pub. L. 104–191, §323(b)(2), redesignated subpar. (Q) as (R). Former subpar. (R) redesignated (S).

Pub. L. 104–188, §1116(b)(2)(B), added subpar. (R). Former subpar. (R) redesignated (S).

Subsec. (d)(2)(S). Pub. L. 104–191, §323(b)(2), redesignated subpar. (R) as (S). Former subpar. (S) redesignated (T).

Pub. L. 104–188, §1116(b)(2)(B), redesignated subpar. (R) as (S). Former subpar. (S) redesignated (T). See Codification note above.

Pub. L. 104–188, §1901(c)(1), struck out ''or'' at end. See Codification note above.

Subsec. (d)(2)(T). Pub. L. 104–191, §323(b)(2), redesignated subpar. (S) as (T). Former subpar. (T) redesignated (U).

Pub. L. 104–188, §1116(b)(2)(B), redesignated subpar. (S) as (T). Former subpar. (T) redesignated (U). See Codification note above.

Pub. L. 104–188, §1901(c)(1), substituted '', or'' for period at end. See Codification note above.

Subsec. (d)(2)(U). Pub. L. 104–191, §323(d)(1), redesignated subpar. (T), relating to section 6053(b) or (c), as (U).

Pub. L. 104–188, §1455(a)(2), struck out ''or'' at end. See Codification note above.

Pub. L. 104–188, §1116(b)(2)(B), redesignated subpar. (T) as (U). Former subpar. (U) redesignated (V). See Codification note above.

Pub. L. 104–188, §1901(c)(1), added subpar. (U). See Codification note above.

Subsec. (d)(2)(V). Pub. L. 104–188, §1455(a)(2), substituted a comma for period at end.

Pub. L. 104–188, §1116(b)(2)(B), redesignated subpar. (U) as (V).

Subsec. (d)(2)(W), (X). Pub. L. 104–188, §1455(a)(2), added subpars. (W) and (X).

Subsec. (d)(3)(C). Pub. L. 104–188, §1615(a)(2)(B), inserted ''and'' at end.

Subsec. (d)(3)(D). Pub. L. 104–188, §1615(a)(2)(B), redesignated subpar. (E) as (D) and struck out former subpar. (D) which read as follows: ''the requirement of section 6109(e) that a person include the TIN of any dependent on his return, and''.

Subsec. (d)(3)(E). Pub. L. 104–188, §1615(a)(2)(B), redesignated subpar. (E) as (D).

Pub. L. 104–188, §1704(j)(3), substituted ''section 6109(h)'' for ''section 6109(f)'' in introductory provisions.

1994—Subsec. (d)(1)(B)(iv). Pub. L. 103–322, §20415(b)(1), amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: ''section 6050I(a) (relating to cash received in trade or business),''.

Subsec. (d)(2)(K). Pub. L. 103–322, §20415(b)(2), amended subpar. (K) generally. Prior to amendment, subpar. (K) read as follows: ''section 6050I(e) (relating to returns relating to cash received in trade or business),''.

1993—Subsec. (d)(1)(B)(viii) to (xiv). Pub. L. 103–66, §13252(b)(1), which directed amendment of subsec. (d)(1)(B) by adding a new cl. (viii) after cl. (vii) and redesignating the following cls. accordingly, was executed by adding cl. (viii) and redesignating former cls. (viii), (ix), (x), (xi), (xii) (relating to section 4101(d)), and (xii) (relating to subpar. (C) of section 338(h)(10)) as (ix), (x), (xi), (xii), (xiii), and (xiv), respectively, to reflect the probable intent of Congress.

Subsec. (d)(2)(P) to (T). Pub. L. 103–66, §13252(b)(2), added subpar. (P) and redesignated former subpars. (P) through (S) as (Q) through (T), respectively.

1992—Subsec. (d)(3)(E). Pub. L. 102–486 added subpar. (E).

1990—Subsec. (d)(1)(B)(x). Pub. L. 101–508, §11323(b)(2), substituted ''subsection (b) or (e) of section 1060'' for ''section 1060(b)''.

Subsec. (d)(1)(B)(xi). Pub. L. 101–508, §11212(e)(1), as amended by Pub. L. 104–188, §1702(b)(1), struck out '', or subsection (e),'' after ''(c)(4)''.

Subsec. (d)(1)(B)(xii). Pub. L. 101–508, §11323(c)(2), added cl. (xii) relating to subpar. (C) of section 338(h)(10).

Pub. L. 101–508, §11212(e)(1), as amended by Pub. L. 104–188, §1702(b)(1), added cl. (xii) relating to section 4101(d).

1989—Pub. L. 101–239, §7711(a), amended section generally, substituting subsecs. (a) to (d) for former subsec. (a) relating to reasonable cause waivers, subsec. (b) relating to payment of penalty, subsec. (c) relating to special rules for failure to file interest and dividend returns or statements, and subsec. (d) relating to definitions.

Subsec. (d)(1)(B)(viii) to (xi). Pub. L. 101–239, §7811(c)(3), amended cls. (viii) to (xi) generally. Prior to amendment, cls. (viii) to (xi) read as follows:

''(viii) section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance),

''(ix) section 6053(c)(1) (relating to reporting with respect to certain tips), or

''(xi) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions).

''(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels).''

Subsec. (d)(2). Pub. L. 101–239, §7813(a), struck out ''or'' after ''insurance),'' in subpar. (Q), substituted ''tips), or'' for ''tips).'' in subpar. (R), and redesignated subpar. (U) as (S).

1988—Subsec. (d)(1)(B). Pub. L. 100–647, §3001(b)(1), which directed that ''or'' be struck out at end of cl. (ix), '', or'' be substituted for period at end of cl. (x), and cl. (xi) relating to section 4093 be added, was executed by striking out ''or'' at end of cl. (ix) and adding cl. (xi) in view of intervening amendments by section 1941(b)(2)(M)(i) of Pub. L. 100–418, and by section 1006(h)(3)(A) of Pub. L. 100–647.

Pub. L. 100–647, §1006(h)(3)(A), struck out ''or'' at end of cl. (ix), substituted '', or'' for period at end of cl. (x), and added cl. (xi) relating to section 1060.

Pub. L. 100–418, §1941(b)(2)(M)(i), redesignated cls. (ii) to (x) as (i) to (ix) and struck out former cl. (i) which read as follows: ''section 4997(a) (relating to information with respect to windfall profit tax on crude oil),''.

Subsec. (d)(2). Pub. L. 100–647, §3001(b)(2), which directed that ''or'' be struck out at end of subpar. (S), '', or'' be substituted for period at end of subpar. (T), and subpar. (U) be added, was executed by adding subpar. (U) in view of intervening amendment by section 1941(b)(2)(M)(ii) of Pub. L. 100–418.

Pub. L. 100–418, §1941(b)(2)(M)(ii), redesignated subpars. (B) to (J) as (A) to (I), respectively, and struck out former subpar. (A) which read as follows: ''section 4997(a) (relating to records and information; regulations),'' and redesignated subpars. (L) to (T) as (J) to (R), respectively, and struck out former subpar. (K)

which read as follows: ''section 6050C (relating to information regarding windfall profit tax on domestic crude oil),''.

Subsec. (d)(2)(B). Pub. L. 100–647, § 1015(a), substituted ''6031(b) or (c)'' for ''6031(b)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 201(c)(2) of Pub. L. 105–34 applicable to expenses paid after Dec. 31, 1997 (in taxable years ending after such date), for education furnished in academic periods beginning after such date, see section 201(f) of Pub. L. 105–34, set out as an Effective Date note under section 25A of this title.

Amendment by section 1213(b) of Pub. L. 105–34 applicable to leases entered into after Aug. 5, 1997, see section 1213(e) of Pub. L. 105–34, set out as an Effective Date note under section 110 of this title.

Amendment by section 1223(b) of Pub. L. 105–34 applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105–34, as amended, set out as a note under section 6011 of this title.

Amendment by section 1602(d)(2)(A) of Pub. L. 105–34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104–191, to which such amendment relates, see section 1602(i) of Pub. L. 105–34, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104–191 applicable to benefits paid after Dec. 31, 1996, see section 323(d) of Pub. L. 104–191, set out as an Effective Date note under section 6050Q of this title.

Amendment by section 1116(b)(2)(A), (B) of Pub. L. 104–188 applicable to payments made after Dec. 31, 1997, see section 1116(b)(3) of Pub. L. 104–188, set out as an Effective Date note under section 6050R of this title.

Amendment by section 1455(a) of Pub. L. 104–188 applicable to returns, reports, and other statements the due date for which (determined without regard to extensions) is after Dec. 31, 1996, see section 1455(e) of Pub. L. 104–188, set out as a note under section 408 of this title.

Amendment by section 1615(a)(2)(B) of Pub. L. 104–188 applicable with respect to returns the due date for which, without regard to extensions, is on or after the 30th day after Aug. 20, 1996, with special rule for 1995 and 1996, see section 1615(d) of Pub. L. 104–188, set out as a note under section 21 of this title.

Amendment by section 1702(b)(1), (c)(2) of Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

Amendment by section 1901(c)(1) of Pub. L. 104–188, to the extent related to section 6048(a) of this title, applicable to reportable events (as defined in such section) occurring after Aug. 20, 1996, to the extent related to section 6048(b) of this title, applicable to taxable years of United States persons beginning after Dec. 31, 1995, and to the extent related to section 6048(c) of this title, applicable to distributions received after Aug. 20, 1996, see section 1901(d) of Pub. L. 104–188, set out as a note under section 6048 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–322 effective on 60th day after date on which temporary regulations are prescribed under Pub. L. 103–322, § 20415(c), see section 20415(d) of Pub. L. 103–322, set out as a note under section 6050I of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 applicable, except as otherwise provided, to discharges of indebtedness after Dec. 31, 1993, see section 13252(d) of Pub. L. 103–66, set out as an Effective Date note under section 6050P of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–486 applicable to taxable years beginning after Dec. 31, 1992, see section 1933(c) of Pub. L. 102–486, set out as a note under section 6109 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11212(e)(1) of Pub. L. 101–508 effective Dec. 1, 1990, see section 11212(f)(2) of Pub. L. 101–508, set out as a note under section 4081 of this title.

Amendment by section 11323(b)(2), (c)(2) of Pub. L. 101–508 applicable to acquisitions after Oct. 9, 1990, but not applicable to any acquisition pursuant to a written binding contract in effect on Oct. 9, 1990, and at all times thereafter before such acquisition, see section 11323(d) of Pub. L. 101–508, set out as a note under section 338 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7711(a) of Pub. L. 101–239 applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7711(c) of Pub. L. 101–239, set out as a note under section 6721 of this title.

Amendment by sections 7811(c)(3) and 7813(a) of Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by sections 1006(h)(3)(A) and 1015(a) 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.

Amendment by section 3001(b)(1), (2) of Pub. L. 100–647 effective Jan. 1, 1989, see section 3001(c) of Pub. L. 100–647, set out as a note under section 4093 of this title.

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE

Section applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1501(e) of Pub. L. 99–514, set out as a note under section 6721 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§ 1401–1465] of title I of Pub. L. 104–188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104–188, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 6652, 6693, 6721, 7434 of this title.

Subchapter C—Procedural Requirements

Sec.
6751. Procedural requirements.

§ 6751. Procedural requirements

(a) Computation of penalty included in notice

The Secretary shall include with each notice of penalty under this title information with respect to the name of the penalty, the section of this title under which the penalty is imposed, and a computation of the penalty.

(b) Approval of assessment

(1) In general

No penalty under this title shall be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate.

(2) Exceptions

Paragraph (1) shall not apply to—

(A) any addition to tax under section 6651, 6654, or 6655; or

(B) any other penalty automatically calculated through electronic means.

(c) Penalties

For purposes of this section, the term ''penalty'' includes any addition to tax or any additional amount.

(Added Pub. L. 105–206, title III, § 3306(a), July 22, 1998, 112 Stat. 744.)

EFFECTIVE DATE

Pub. L. 105–206, title III, § 3306(c), July 22, 1998, 112 Stat. 744, as amended by Pub. L. 106–554, § 1(a)(7) [title III, § 302(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–632, provided that: ''The amendments made by this section [enacting this subchapter] shall apply to notices issued, and penalties assessed, after June 30, 2001. In the case of any notice of penalty issued after June 30, 2001, and before July 1, 2003, the requirements of section 6751(a) of the Internal Revenue Code of 1986 shall be treated as met if such notice contains a telephone number at which the taxpayer can request a copy of the taxpayer's assessment and payment history with respect to such penalty.''

CHAPTER 69—GENERAL PROVISIONS RELATING TO STAMPS

Sec.
6801. Authority for establishment, alteration, and distribution.
6802. Supply and distribution.
6803. Accounting and safeguarding.
6804. Attachment and cancellation.
6805. Redemption of stamps.
6806. Posting occupational tax stamps.[1]
6807. Stamping, marking, and branding seized goods.
6808. Special provisions relating to stamps.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 6422 of this title.

§ 6801. Authority for establishment, alteration, and distribution

(a) Establishment and alteration

The Secretary may establish, and from time to time alter, renew, replace, or change the form, style, character, material, and device of any stamp, mark, or label under any provision of the laws relating to internal revenue.

(b) Preparation and distribution of regulations, forms, stamps and dies

The Secretary shall prepare and distribute all the instructions, regulations, directions, forms, blanks, and stamps; and shall provide proper and sufficient adhesive stamps and other stamps or dies for expressing and denoting the several stamp taxes.

(Aug. 16, 1954, ch. 736, 68A Stat. 829; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94–569, § 2, Oct. 20, 1976, 90 Stat. 2699; Pub. L. 98–369, div. A, title IV, § 454(c)(13), July 18, 1984, 98 Stat. 822.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–369 struck out '', except that stamps required by or prescribed pursuant to the provisions of section 5205 or section 5235 may be prepared and distributed by persons authorized by the Secretary, under such controls for the protection of the revenue as shall be deemed necessary'' before the period at end.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

Subsec. (b). Pub. L. 94–455 and Pub. L. 94–569 struck out ''or his delegate'' after ''Secretary'' and provided that stamps required by or prescribed pursuant to the provisions of section 5205 or section 5235 may be prepared and distributed by persons authorized by the Secretary, under such controls for the protection of the revenue as shall be deemed necessary.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6804 of this title.

§ 6802. Supply and distribution

The Secretary shall furnish, without prepayment, to—

(1) Postmaster General

The Postmaster General a suitable quantity of adhesive stamps, coupons, tickets, or such other devices as may be prescribed by the Secretary pursuant to section 6302(b) or this chapter, to be distributed to, and kept on sale by, the various postmasters in the United States in all post offices of the first and second classes, and such post offices of the third and fourth classes as—

(A) are located in county seats, or

(B) are certified by the Secretary to the Postmaster General as necessary;

(2) Designated depositary of the United States

Any designated depositary of the United States a suitable quantity of adhesive stamps to be kept on sale by such designated depositary.

(Aug. 16, 1954, ch. 736, 68A Stat. 829; Pub. L. 89–44, title VI, § 601(d), June 21, 1965, 79 Stat. 154; Pub. L. 94–455, title XIX, § 1906(a)(36), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1829, 1834.)

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing and substituted in par.

[1] Section catchline amended by Pub. L. 90–618 without corresponding amendment of analysis.

(2) ''designated depositary.'' for ''designated depositary;''.

1965—Par. (1). Pub. L. 89–44, § 601(d)(1), struck out ''(other than the stamps on playing cards)'' after ''quantity of adhesive stamps''.

Par. (3). Pub. L. 89–44, § 601(d)(2), struck out par. (3) which related to supply and distribution of stamps to State agents.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89–44, set out as a note under section 6103 of this title.

TRANSFER OF FUNCTIONS

Office of Postmaster General of Post Office Department abolished and all functions, powers, and duties of Postmaster General transferred to United States Postal Service by Pub. L. 91–375, § 4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6803 of this title.

§ 6803. Accounting and safeguarding

(a) Bond

In cases coming within the provisions of paragraph (2) of section 6802, the Secretary may require a bond, with sufficient sureties, in a sum to be fixed by the Secretary, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of and for the payment monthly for all quantities or amounts sold or not remaining on hand.

(b) Regulations

The Secretary may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all adhesive stamps referred to in paragraph (2) of section 6802.

(Aug. 16, 1954, ch. 736, 68A Stat. 830; Pub. L. 92–310, title II, § 230(a), June 6, 1972, 86 Stat. 209; Pub. L. 94–455, title XIX, § 1906(a)(37), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1829, 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–455 redesignated subsec. (b)(1) as (a), substituted ''paragraph (2)'' for ''paragraph (2) or (3)'', and struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (b). Pub. L. 94–455 redesignated par. (2) as entire subsection, struck out ''or his delegate'' after ''Secretary'' and substituted ''paragraph (2)'' for ''paragraphs (2) and (3)''. Par. (1) redesignated subsec. (a).

1972—Subsec. (a). Pub. L. 92–310 repealed subsec. (a) which related to bonds, deposits of receipts, and accounts of postmasters, and which required the Postmaster General to transfer all receipts to the Treasury.

§ 6804. Attachment and cancellation

Except as otherwise expressly provided in this title, the stamps referred to in section 6801 shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as the Secretary may prescribe by rules or regulations.

(Aug. 16, 1954, ch. 736, 68A Stat. 830; 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''.

§ 6805. Redemption of stamps

(a) Authorization

The Secretary, subject to regulations prescribed by him, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of any internal revenue law, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use.

(b) Method and conditions of allowance

Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Secretary, or until satisfactory proof has been made showing the reason why the same cannot be returned; or, if so required by the Secretary, when the person presenting the same cannot satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid.

(c) Time for filing claims

No claim for the redemption of, or allowance for, stamps shall be allowed under this section unless presented within 3 years after the purchase of such stamps from the Government.

(d) Finality of decisions

The findings of fact in and the decision of the Secretary upon the merits of any claim presented under or authorized by this section shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

(Aug. 16, 1954, ch. 736, 68A Stat. 830; Pub. L. 85–859, title I, § 165(b), (c), Sept. 2, 1958, 72 Stat. 1313; 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.

1958—Subsec. (a). Pub. L. 85–859, § 165(b), struck out provisions which authorized the Secretary to make allowances for or redeem stamps which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected.

Subsec. (c). Pub. L. 85–859, § 165(c), inserted ''under this section'' after ''shall be allowed''.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–859 effective on first day of first calendar quarter which begins more than 60 days after Sept. 2, 1958, see section 1(c) of Pub. L. 85–859.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6040 of this title.

§ 6806. Occupational tax stamps

Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax (other than a special tax under

subchapter B of chapter 35, under subchapter B of chapter 36, or under subtitle E) shall place and keep conspicuously in his establishment or place of business all stamps denoting payment of such special tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 831; Pub. L. 89–44, title VI, § 601(e), June 21, 1965, 79 Stat. 155; Pub. L. 90–618, title II, § 204, Oct. 22, 1968, 82 Stat. 1235.)

REFERENCES IN TEXT

Subchapter B of chapter 36, referred to in text, was repealed by Pub. L. 95–600, title V, § 521(b), Nov. 6, 1978, 92 Stat. 2884.

AMENDMENTS

1968—Pub. L. 90–618 substituted ''Occupational tax stamps'' for ''Posting occupational tax stamps'' in section catchline, and substituted provisions that every person liable for a special tax (other than a special tax under subchapter B of chapter 35, under subchapter B of chapter 36, or under subtitle E of this title) conspicuously place and keep in his place of business all stamps denoting payment of such special tax for provisions that every person liable for a special tax conspicuously place and keep in his place or business all stamps denoting payment of said special tax, provisions that authorized the Secretary or his delegate to require that the stamps denoting the payment of the special tax imposed by section 4461 of this title be posted on or in each device so that it will be visible to any person operating the device, and provisions that every person liable for the special tax under section 4411 of this title place the stamp denoting payment of such special tax in a conspicuous place in his place of business, or, if he has no such place of business, to keep such stamp on his person.

1965—Subsec. (b). Pub. L. 89–44 struck out ''amusement and'' after ''Coin-operated'' in heading.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–618 effective Oct. 22, 1968, see section 207 of Pub. L. 90–618, set out as an Effective Date note under section 5801 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89–44, set out as a note under section 6103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7273 of this title.

§ 6807. Stamping, marking, and branding seized goods

If any article of manufacture or produce requiring brands, stamps, or marks of whatever kind to be placed thereon, is sold upon levy, forfeiture (except as provided in section 5688 with respect to distilled spirits), or other process provided by law, the same not having been branded, stamped, or marked, as required by law, the officer selling the same shall, upon sale thereof, fix or cause to be affixed the brands, stamps, or marks so required.

(Aug. 16, 1954, ch. 736, 68A Stat. 831.)

§ 6808. Special provisions relating to stamps

For special provisions on stamps relating to—

(1) Distilled spirits and fermented liquors, see chapter 51.

(2) Machine guns and short-barrelled firearms, see chapter 53.

(3) Tobacco, snuff, cigars and cigarettes, see chapter 52.

(Aug. 16, 1954, ch. 736, 68A Stat. 831; Pub. L. 88–36, title II, § 201(d), June 4, 1963, 77 Stat. 54; Pub. L. 89–44, title VI, § 601(f), June 21, 1965, 79 Stat. 155; Pub. L. 91–513, title III, § 1102(c), Oct. 27, 1970, 84 Stat. 1292; Pub. L. 93–490, § 3(b)(6), Oct. 26, 1974, 88 Stat. 1467; Pub. L. 94–455, title XIX, §§ 1904(b)(5)(B), (7)(A), (8)(B), (9)(A), 1952(n)(1), Oct. 4, 1976, 90 Stat. 1815, 1816, 1846.)

AMENDMENTS

1976—Par. (1). Pub. L. 94–455, § 1952(n)(1), redesignated par. (3) as (1).

Par. (2). Pub. L. 94–455, § 1952(n)(1), redesignated par. (6) as (2). Former par. (2), relating to cotton futures, with the included reference to subchapter D of chapter 39, was struck out.

Par. (3). Pub. L. 94–455, § 1952(n)(1), redesignated par. (11) as (3). Former par. (3) redesignated (1).

Par. (4). Pub. L. 94–455, § 1904(b)(5)(B), struck out par. (4) relating to documents and other instruments, with the included reference to chapter 34.

Par. (6). Pub. L. 94–455, § 1952(n)(1), redesignated par. (6) as (2).

Par. (7). Pub. L. 94–455, § 1904(b)(7)(A), struck out par. (7) relating to oleomargarine, with the included reference to subchapter F of chapter 38.

Par. (10). Pub. L. 94–455, § 1904(b)(9)(A), struck out par. (10) relating to process, renovated, or adulterated butter, with the included reference to subchapter C of chapter 39.

Par. (11). Pub. L. 94–455, § 1952(n)(1), redesignated par. (11) as (3).

Par. (12). Pub. L. 94–455, § 1904(b)(8)(B), struck out par. (12) relating to white phosphorous matches, with the included reference to subchapter B of chapter 39.

1974—Par. (5). Pub. L. 93–490 struck out par. (5) relating to filled cheese, with the included reference to subchapter C of chapter 39.

1970—Par. (8). Pub. L. 91–513 struck out par. (8) relating to opium, opium for smoking, opiates, coca leaves, and marihuana, with the included reference to subchapter A of chapter 39.

1965—Par. (1). Pub. L. 89–44 struck out par. (1) relating to capital stock.

Par. (9). Pub. L. 89–44 struck out par (9) relating to playing cards.

1963—Pars. (11) to (13). Pub. L. 88–36 redesignated pars. (12) and (13) as (11) and (12), respectively, and struck out former par. (11), which was a cross reference provision for silver bullion, to subchapter F of chapter 9.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1904(b)(5)(B), (7)(A), (8)(B), (9)(A) of Pub. L. 94–455 effective on first day of first month which begins more than ninety days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94–455, set out as a note under section 4041 of this title.

Amendment by section 1952(n)(1) of Pub. L. 94–455 effective on ninetieth day after Oct. 4, 1976, see section 1952(*o*) of Pub. L. 94–455, set out as an Effective Date note under section 15b of Title 7, Agriculture.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–490 applicable to filled cheese manufactured, imported, or sold after Oct. 26, 1974, see section 3(c) of Pub. L. 93–490, set out as an Effective Date of Repeal note under former sections 4831 to 4834 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.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89–44, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–36 applicable only with respect to transfers after June 4, 1963, see section 202 of Pub. L. 88–36.

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 section 171 of Title 21, Food and Drugs.

CHAPTER 70—JEOPARDY, RECEIVERSHIPS, ETC.

Subchapter		Sec.[1]
A.	Jeopardy	6851
B.	Receiverships, etc	6871

AMENDMENTS

1980—Pub. L. 96–589, § 6(g)(3)(C), (D), Dec. 24, 1980, 94 Stat. 3410, substituted ''JEOPARDY, RECEIVERSHIPS ETC.'' for ''JEOPARDY, BANKRUPTCY AND RECEIVERSHIPS'' in chapter heading, and ''Receiverships, etc.'' for ''Bankruptcy and receiverships'' in item for subchapter B.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6422, 6601, 7508 of this title.

Subchapter A—Jeopardy

Part	
I.	Termination of taxable year.
II.	Jeopardy assessments.
III.	Special rules with respect to certain cash.

AMENDMENTS

1982—Pub. L. 97–248, title III, § 330(b), Sept. 3, 1982, 96 Stat. 620, added item for part III.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6155, 6216, 6331 of this title.

PART I—TERMINATION OF TAXABLE YEAR

Sec.	
6851.	Termination assessments of income tax.
6852.	Termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations.

AMENDMENTS

1987—Pub. L. 100–203, title X, § 10713(b)(2)(H), Dec. 22, 1987, 101 Stat. 1330–470, added item 6852.

1976—Pub. L. 94–455, title XII, § 1204(c)(12), Oct. 4, 1976, 90 Stat. 1699, substituted ''assessments of income tax'' for ''of taxable year'' in item 6851.

§ 6851. Termination assessments of income tax

(a) Authority for making

(1) In general

If the Secretary finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act (including in the case of a corporation distributing all or a part of its assets in liquidation or otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings to collect the income tax for the current or the immediately preceding taxable year unless such proceeding be brought without delay, the Secretary shall immediately make a determination of tax for the current taxable year or for the preceding taxable year, or both, as the case may be, and notwithstanding any other provision of law, such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of the tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current taxable year or such preceding taxable year, or both, as the case may be, and shall cause notice of such determination and assessment to be given the taxpayer, together with a demand for immediate payment of such tax.

(2) Computation of tax

In the case of a current taxable year, the Secretary shall determine the tax for the period beginning on the first day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the taxpayer, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

(3) Treatment of amounts collected

Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of tax for such taxable year.

(4) This section inapplicable where section 6861 applies

This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the taxpayer's return for such taxable year (determined with regard to any extensions).

(b) Notice of deficiency

If an assessment of tax is made under the authority of subsection (a), the Secretary shall mail a notice under section 6212(a) for the taxpayer's full taxable year (determined without regard to any action taken under subsection (a)) with respect to which such assessment was made within 60 days after the later of (i) the due date of the taxpayer's return for such taxable year (determined with regard to any extensions), or (ii) the date such taxpayer files such return. Such deficiency may be in an amount greater or less than the amount assessed under subsection (a).

(c) Citizens

In the case of a citizen of the United States or of a possession of the United States about to depart from the United States, the Secretary may, at his discretion, waive any or all of the requirements placed on the taxpayer by this section.

[1] Section numbers editorially supplied.

(d) Departure of alien

Subject to such exceptions as may, by regulations, be prescribed by the Secretary—

(1) No alien shall depart from the United States unless he first procures from the Secretary a certificate that he has complied with all the obligations imposed upon him by the income tax laws.

(2) Payment of taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such taxes if, in the case of an alien about to depart from the United States, the Secretary determines that the collection of the tax will not be jeopardized by the departure of the alien.

(e) Sections 6861(f) and (g) to apply

The provisions of section 6861(f) (relating to collection of unpaid amounts) and 6861(g) (relating to abatement if jeopardy does not exist) shall apply with respect to any assessment made under subsection (a).

(f) Cross references

(1) For provisions permitting immediate levy in case of jeopardy, see section 6331(a).

(2) For provisions relating to the review of jeopardy, see section 7429.

(Aug. 16, 1954, ch. 736, 68A Stat. 833; Pub. L. 85–866, title I, § 87, Sept. 2, 1958, 72 Stat. 1665; Pub. L. 94–455, title XII, § 1204(b), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1696, 1834.)

AMENDMENTS

1976—Pub. L. 94–455, § 1204(b)(1), substituted ''assessments of income tax'' for ''of taxable year'' in section catchline.

Subsec. (a). Pub. L. 94–455, § 1204(b)(1), revised pars. (1) and (2) to provide that a termination assessment does not end the taxable year for any purpose other than the computation of the amount of tax to be assessed and collected and to set out the method for determining the tax for the current taxable year, and added pars. (3) and (4).

Subsec. (b). Pub. L. 94–455, § 1204(b)(1), substituted provisions for the mailing of a notice of deficiency for provisions for the reopening of taxable period.

Subsecs. (c), (d). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (e). Pub. L. 94–455, § 1204(b)(2), substituted provisions making section 6861(f) and (g) applicable with respect to assessments under subsec. (a).

Subsec. (f). Pub. L. 94–455, § 1204(b)(2), added subsec. (f).

1958—Subsec. (d). Pub. L. 85–866 designated existing provisions as par. (1), inserted opening provisions, and added par. (2).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1204(d) of Pub. L. 94–455, as amended by Pub. L. 94–528, § 2(a), Oct. 17, 1976, 90 Stat. 2483; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this section [enacting section 7429 of this title and amending this section and sections 443, 6091, 6211, 6213, 6863, 7103, and 7421 of this title] apply with respect to action taken under section 6851, 6861, or 6862 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] where the notice and demand takes place after February 28, 1977.''

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6015, 6211, 6231, 6234, 6852, 6863, 6867, 7429, 7508, 7611 of this title; title 5 section 5568; title 37 section 558.

§ 6852. Termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations

(a) Authority to make

(1) In general

If the Secretary finds that—

(A) a section 501(c)(3) organization has made political expenditures, and

(B) such expenditures constitute a flagrant violation of the prohibition against making political expenditures,

the Secretary shall immediately make a determination of any income tax payable by such organization for the current or immediately preceding taxable year, or both, and shall immediately make a determination of any tax payable under section 4955 by such organization or any manager thereof with respect to political expenditures during the current or preceding taxable year, or both. Notwithstanding any other provision of law, any such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current year or the preceding taxable year, or both, and shall cause notice of such determination and assessment to be given to the organization or any manager thereof, as the case may be, together with a demand for immediate payment of such tax.

(2) Computation of tax

In the case of a current taxable year, the Secretary shall determine the taxes for the period beginning on the 1st day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the organization, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

(3) Treatment of amounts collected

Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of income tax for such taxable year, or tax under section 4955 with respect to the expenditure, as the case may be.

(4) Section inapplicable to assessments after due date

This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the organization's return for such taxable year (determined with regard to any extensions).

(b) Definitions and special rules

(1) Definitions

For purposes of this section, the terms ''section 501(c)(3) organization'', ''political expenditure'', and ''organization manager'' have the respective meanings given to such terms by section 4955.

(2) Certain rules made applicable

The provisions of sections 6851(b), 6861(f), and 6861(g) shall apply with respect to any assessment made under subsection (a), except that determinations under section 6861(g) shall be made on the basis of whether the requirements of subsection (a)(1)(B) of this section are met in lieu of whether jeopardy exists.

(Added Pub. L. 100–203, title X, § 10713(b)(1), Dec. 22, 1987, 101 Stat. 1330–469.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6091, 6211, 6212, 6213, 6234, 6863, 7429, 7611 of this title.

PART II—JEOPARDY ASSESSMENTS

Sec.
6861. Jeopardy assessments of income, estate, gift, and certain excise taxes.
6862. Jeopardy assessment of taxes other than income, estate, gift, and certain excise taxes.
6863. Stay of collection of jeopardy assessments.
6864. Termination of extended period for payment in case of carryback.

AMENDMENTS

1974—Pub. L. 93–406, title II, § 1016(b)(5), Sept. 2, 1974, 88 Stat. 932, substituted ''gift, and certain excise taxes'' for ''and gift taxes'' in items 6861 and 6862.

§ 6861. Jeopardy assessments of income, estate, gift, and certain excise taxes

(a) Authority for making

If the Secretary believes that the assessment or collection of a deficiency, as defined in section 6211, will be jeopardized by delay, he shall, notwithstanding the provisions of section 6213(a), immediately assess such deficiency (together with all interest, additional amounts, and additions to the tax provided for by law), and notice and demand shall be made by the Secretary for the payment thereof.

(b) Deficiency letters

If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 6212(a), then the Secretary shall mail a notice under such subsection within 60 days after the making of the assessment.

(c) Amount assessable before decision of Tax Court

The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of section 6212(c) prohibiting the determination of additional deficiencies, and whether or not the taxpayer has theretofore filed a petition with the Tax Court. The Secretary may, at any time before the decision of the Tax Court is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Secretary shall notify the Tax Court of the amount of such assessment, or abatement, if the petition is filed with the Tax Court before the making of the assessment or is subsequently filed, and the Tax Court shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) Amount assessable after decision of Tax Court

If the jeopardy assessment is made after the decision of the Tax Court is rendered, such assessment may be made only in respect of the deficiency determined by the Tax Court in its decision.

(e) Expiration of right to assess

A jeopardy assessment may not be made after the decision of the Tax Court has become final or after the taxpayer has filed a petition for review of the decision of the Tax Court.

(f) Collection of unpaid amounts

When the petition has been filed with the Tax Court and when the amount which should have been assessed has been determined by a decision of the Tax Court which has become final, then any unpaid portion, the collection of which has been stayed by bond as provided in section 6863(b) shall be collected as part of the tax upon notice and demand from the Secretary, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 6402, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the Secretary.

(g) Abatement if jeopardy does not exist

The Secretary may abate the jeopardy assessment if he finds that jeopardy does not exist. Such abatement may not be made after a decision of the Tax Court in respect of the deficiency has been rendered or, if no petition is filed with the Tax Court, after the expiration of the period for filing such petition. The period of limitation on the making of assessments and levy or a proceeding in court for collection, in respect of any deficiency, shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until the expiration of the 10th day after the day on which such jeopardy assessment is abated.

(h) Cross references

(1) For the effect of the furnishing of security for payment, see section 6863.

(2) For provision permitting immediate levy in case of jeopardy, see section 6331(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 834; Pub. L. 93–406, title II, § 1016(a)(24), Sept. 2, 1974, 88 Stat. 931; 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.

1974—Pub. L. 93–406 substituted '', gift, and certain excise taxes'' for ''and gift taxes'' in section catchline.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub.

L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 534, 6015, 6212, 6213, 6231, 6234, 6656, 6852, 6863, 6867, 7429, 7611 of this title; title 5 section 5568; title 37 section 558.

§ 6862. Jeopardy assessment of taxes other than income, estate, gift, and certain excise taxes

(a) Immediate assessment

If the Secretary believes that the collection of any tax (other than income tax, estate tax, gift tax, and the excise taxes imposed by chapters 41, 42, 43, and 44) under any provision of the internal revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest, additional amounts, and additions to the tax provided for by law). Such tax, additions to the tax, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the Secretary for the payment thereof.

(b) Immediate levy

For provision permitting immediate levy in case of jeopardy, see section 6331(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 836; Pub. L. 93–406, title II, § 1016(a)(25), Sept. 2, 1974, 88 Stat. 931; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–222, title I, § 108(b)(1)(C), Apr. 1, 1980, 94 Stat. 226; Pub. L. 96–223, title I, § 101(f)(9), Apr. 2, 1980, 94 Stat. 253; Pub. L. 100–418, title I, § 1941(b)(2)(N), Aug. 23, 1988, 102 Stat. 1324.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–418 substituted ''and 44'' for ''44, and 45''.

1980—Subsec. (a). Pub. L. 96–223 which directed the substitution of ''the excise taxes imposed by chapters 41, 42, 43, 44, and 45'' for ''certain excise taxes'' was executed by inserting reference to chapter 45 in view of the amendment by Pub. L. 96–222.

Pub. L. 96–222 substituted ''the taxes imposed by chapters 41, 42, 43, and 44'' for ''certain excise taxes''.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1974—Pub. L. 93–406 substituted '', gift, and certain excise taxes'' for '', and gift taxes'' in section catchline and ''gift tax, and certain excise taxes)'' for ''and gift tax)'' in subsec. (a).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

Amendment by Pub. L. 96–222 effective as if included in the provisions of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95–227, see section 108(b)(4) of Pub. L. 96–222, set out as a note under section 192 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6656, 6863, 7429 of this title.

§ 6863. Stay of collection of jeopardy assessments

(a) Bond to stay collection

When an assessment has been made under section 6851, 6852,,[1] 6861 or 6862, the collection of the whole or any amount of such assessment may be stayed by filing with the Secretary, within such time as may be fixed by regulations prescribed by the Secretary, a bond in an amount equal to the amount as to which the stay is desired, conditioned upon the payment of the amount (together with interest thereon) the collection of which is stayed, at the time at which, but for the making of such assessment, such amount would be due. Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The taxpayer shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the taxpayer, be proportionately reduced. If any portion of such assessment is abated, the bond shall, at the request of the taxpayer, be proportionately reduced.

(b) Further conditions in case of income, estate, or gift taxes

In the case of taxes subject to the jurisdiction of the Tax Court—

(1) Prior to petition to Tax Court

If the bond is given before the taxpayer has filed his petition under section 6213(a), the bond shall contain a further condition that if a petition is not filed within the period provided in such section, then the amount, the collection of which is stayed by the bond, will be paid on notice and demand at any time after the expiration of such period, together with interest thereon from the date of the jeopardy notice and demand to the date of notice and demand under this paragraph.

(2) Effect of Tax Court decision

The bond shall be conditioned upon the payment of so much of such assessment (collection of which is stayed by the bond) as is not abated by a decision of the Tax Court which has become final. If the Tax Court determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Tax Court is rendered the bond shall, at the request of the taxpayer, be proportionately reduced.

[1] So in original.

(3) Stay of sale of seized property pending Tax Court decision

(A) General rule

Where, notwithstanding the provisions of section 6213(a), an assessment has been made under section 6851, 6852, or 6861, the property seized for the collection of the tax shall not be sold—

(i) before the expiration of the periods described in subsection (c)(1)(A) and (B),

(ii) before the issuance of the notice of deficiency described in section 6851(b) or 6861(b), and the expiration of the period provided in section 6213(a) for filing a petition with the Tax Court, and

(iii) if a petition is filed with the Tax Court (whether before or after the making of such assessment), before the expiration of the period during which the assessment of the deficiency would be prohibited if neither sections 6851(a), 6852(a), nor 6861(a) were applicable.

Clauses (ii) and (iii) shall not apply in the case of a termination assessment under section 6851 if the taxpayer does not file a return for the taxable year by the due date (determined with regard to any extensions).

(B) Exceptions

Such property may be sold if—

(i) the taxpayer consents to the sale,

(ii) the Secretary determines that the expenses of conservation and maintenance will greatly reduce the net proceeds, or

(iii) the property is of the type described in section 6336.

(C) Review by Tax Court

If, but for the application of subparagraph (B), a sale would be prohibited by subparagraph (A)(iii), then the Tax Court shall have jurisdiction to review the Secretary's determination under subparagraph (B) that the property may be sold. Such review may be commenced upon motion by either the Secretary or the taxpayer. An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court.

(c) Stay of sale of seized property pending district court determination under section 7429

(1) General rule

Where a jeopardy assessment has been made under section 6862(a), the property seized for the collection of the tax shall not be sold—

(A) if a civil action is commenced in accordance with section 7429(b), on or before the day on which the district court judgment in such action becomes final, or

(B) if subparagraph (A) does not apply, before the day after the expiration of the period provided in section 7429(a) for requesting an administrative review, and if such review is requested, before the day after the expiration of the period provided in section 7429(b), for commencing an action in the district court.

(2) Exceptions

With respect to any property described in paragraph (1), the exceptions provided by subsection (b)(3)(B) shall apply.

(Aug. 16, 1954, ch. 736, 68A Stat. 836; Pub. L. 94–455, title XII, §1204(c)(7)–(9), title XIX, §1906(a)(38), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1698, 1830, 1834; Pub. L. 100–203, title X, §10713(b)(2)(E), Dec. 22, 1987, 101 Stat. 1330–470; Pub. L. 100–647, title VI, §6245(a), Nov. 10, 1988, 102 Stat. 3750; Pub. L. 101–239, title VII, §7822(d)(2), Dec. 19, 1989, 103 Stat. 2425.)

AMENDMENTS

1989—Subsec. (b)(3)(A)(iii). Pub. L. 101–239 made technical correction to Pub. L. 100–203, §10713(b)(2)(E)(iii), see 1987 Amendment note below.

1988—Subsec. (b)(3)(C). Pub. L. 100–647 added subpar. (C).

1987—Subsec. (a). Pub. L. 100–203, §10713(b)(2)(E)(i), substituted ''6851, 6852,'' for ''6851''.

Subsec. (b)(3)(A). Pub. L. 100–203, §10713(b)(2)(E)(ii), substituted ''6851, 6852, or 6861'' for ''6851 or 6861''.

Subsec. (b)(3)(A)(iii). Pub. L. 100–203, §10713(b)(2)(E)(iii), as amended by Pub. L. 101–239, substituted ''6851(a), 6852(a), nor 6861(a)'' for ''6851(a) nor 6861(a)''.

1976—Subsec. (a). Pub. L. 94–455, §§1204(c)(7), 1906(b)(13)(A), inserted reference to section 6851, substituted ''an assessment'' for ''a jeopardy assessment'', struck out ''or his delegate'' after ''Secretary'', and substituted ''such assessment'' for ''the jeopardy assessment''.

Subsec. (b)(3)(A). Pub. L. 94–455, §1204(c)(8), substituted ''an assessment has been made under section 6851 or 6861,'' for ''a jeopardy assessment has been made under section 6861'' in provisions preceding cl. (i), added cl. (i), redesignated former cl. (i) as (ii) and substituted ''before the issuance of the notice of deficiency described in section 6851(b) or 6861(b), and the expiration of the period'' for ''if section 6861(b) is applicable, prior to the issuance of the notice of deficiency and the expiration of the time'', redesignated former cl. (ii) as (iii) and substituted ''assessment), before the expiration'' for ''jeopardy assessment under section 6861), prior to the expiration'' and ''if neither sections 6851(a) nor 6861(a) were applicable'' for ''if section 6861(a) were not applicable'', and inserted provisions following cl. (iii).

Subsec. (b)(3)(B)(ii). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (b)(3)(C). Pub. L. 94–455, §1906(a)(38), struck out subpar. (C) which had limited the applicability of subpars. (A) and (B) to jeopardy assessments made on or after Jan. 1, 1955, with respect to taxes imposed by this title, and with respect to taxes imposed by the Internal Revenue Code of 1939.

Subsec. (c). Pub. L. 94–455, §1204(c)(9), added subsec. (c).

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

Section 6245(b) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending this section] shall take effect on the 90th day after the date of the enactment of this Act [Nov. 10, 1988].''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1204(c)(7)–(9) of Pub. L. 94–455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94–455, as amended, set out as a note under section 6851 of this title.

Amendment by section 1906(a)(38), (b)(13)(A) of Pub. L. 94–455 effective on first day of first month which begins more than ninety days after Oct. 4, 1976, see sec-

tion 1906(d)(1) of Pub. L. 94–455, set out as a note under section 6013 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6861, 7103 of this title.

§ 6864. Termination of extended period for payment in case of carryback

For termination of extensions of time for payment of income tax granted to corporations expecting carrybacks in case of jeopardy, see section 6164(h).

(Aug. 16, 1954, ch. 736, 68A Stat. 837.)

PART III—SPECIAL RULES WITH RESPECT TO CERTAIN CASH

Sec.
6867. Presumptions where owner of large amount of cash is not identified.

§ 6867. Presumptions where owner of large amount of cash is not identified

(a) General rule

If the individual who is in physical possession of cash in excess of $10,000 does not claim such cash—

(1) as his, or

(2) as belonging to another person whose identity the Secretary can readily ascertain and who acknowledges ownership of such cash,

then, for purposes of sections 6851 and 6861, it shall be presumed that such cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay.

(b) Rules for assessing

In the case of any assessment resulting from the application of subsection (a)—

(1) the entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs,

(2) such income shall be treated as taxable at the highest rate of tax specified in section 1, and

(3) except as provided in subsection (c), the possessor of the cash shall be treated (solely with respect to such cash) as the taxpayer for purposes of chapters 63 and 64 and section 7429(a)(1).

(c) Effect of later substitution of true owner

If, after an assessment resulting from the application of subsection (a), such assessment is abated and replaced by an assessment against the owner of the cash, such later assessment shall be treated for purposes of all laws relating to lien, levy and collection as relating back to the date of the original assessment.

(d) Definitions

For purposes of this section—

(1) Cash

The term ''cash'' includes any cash equivalent.

(2) Cash equivalent

The term ''cash equivalent'' means—

(A) foreign currency,

(B) any bearer obligation, and

(C) any medium of exchange which—

(i) is of a type which has been frequently used in illegal activities, and

(ii) is specified as a cash equivalent for purposes of this part in regulations prescribed by the Secretary.

(3) Value of cash equivalent

Any cash equivalent shall be taken into account—

(A) in the case of a bearer obligation, at its face amount, and

(B) in the case of any other cash equivalent, at its fair market value.

(Added Pub. L. 97–248, title III, § 330(a), Sept. 3, 1982, 96 Stat. 619; amended Pub. L. 100–647, title I, § 1001(a)(1), Nov. 10, 1988, 102 Stat. 3349.)

AMENDMENTS

1988—Subsec. (b)(2). Pub. L. 100–647 substituted ''the highest rate of tax specified in section 1'' for ''a 50-percent rate''.

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 330(c) of Pub. L. 97–248 provided that: ''The amendments made by subsections (a) and (b) [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].''

Subchapter B—Receiverships, Etc.

Sec.
6871. Claims for income, estate, gift, and certain excise taxes in receivership proceedings, etc.
6872. Suspension of period on assessment.
6873. Unpaid claims.

AMENDMENTS

1980—Pub. L. 96–589, § 6(g)(3)(A), (B), Dec. 24, 1980, 94 Stat. 3410, substituted ''Receiverships, Etc.'' for ''Bankruptcy and Receiverships'' in subchapter heading, and ''gift, and certain excise taxes in receivership proceedings, etc.'' for ''and gift taxes in bankruptcy and receivership proceedings'' in item 6871.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6216, 6503, 7811 of this title.

§ 6871. Claims for income, estate, gift, and certain excise taxes in receivership proceedings, etc.

(a) Immediate assessment in receivership proceedings

On the appointment of a receiver for the taxpayer in any receivership proceeding before any court of the United States or of any State or of the District of Columbia, any deficiency (together with all interest, additional amounts, and additions to the tax provided by law) determined by the Secretary in respect of a tax imposed by subtitle A or B or by chapter 41, 42, 43, or 44 on such taxpayer may, despite the restrictions imposed by section 6213(a) on assessments, be immediately assessed if such deficiency has not theretofore been assessed in accordance with law.

(b) Immediate assessment with respect to certain title 11 cases

Any deficiency (together with all interest, additional amounts, and additions to the tax provided by law) determined by the Secretary in respect of a tax imposed by subtitle A or B or by chapter 41, 42, 43, or 44 on—

(1) the debtor's estate in a case under title 11 of the United States Code, or

(2) the debtor, but only if liability for such tax has become res judicata pursuant to a determination in a case under title 11 of the United States Code,

may, despite the restrictions imposed by section 6213(a) on assessments, be immediately assessed if such deficiency has not theretofore been assessed in accordance with law.

(c) Claim filed despite pendency of tax court proceedings

In the case of a tax imposed by subtitle A or B or by chapter 41, 42, 43, or 44—

(1) claims for the deficiency and for interest, additional amounts, and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the receivership proceeding (or the case under title 11 of the United States Code) is pending, despite the pendency of proceedings for the redetermination of the deficiency pursuant to a petition to the Tax Court; but

(2) in the case of a receivership proceeding, no petition for any such redetermination shall be filed with the Tax Court after the appointment of the receiver.

(Aug. 16, 1954, ch. 736, 68A Stat. 838; Pub. L. 85–866, title I, § 88, Sept. 2, 1958, 72 Stat. 1665; Pub. L. 94–455, title XIX, §§ 1906(b)(13)(A), (c)(1), Oct. 4, 1976, 90 Stat. 1834, 1835; Pub. L. 96–589, § 6(g)(1), Dec. 24, 1980, 94 Stat. 3409; Pub. L. 101–239, title VII, § 7841(d)(2), Dec. 19, 1989, 103 Stat. 2428.)

AMENDMENTS

1989—Pub. L. 101–239 substituted "or 44" for "44, or 45" in subsecs. (a), (b), and (c).

1980—Subsec. (a). Pub. L. 96–589 amended subsec. (a) generally, substituting reference to appointment of a receiver for the taxpayer in any receivership proceedings, for reference to adjudication of bankruptcy of a taxpayer in a liquidating proceeding, the filing or the approval of a petition of or the approval of a petition against any taxpayer in any other bankruptcy proceeding, or the appointment of a receiver for any taxpayer in any receivership proceeding, and inserted reference to chapters 41, 42, 43, 44, and 45.

Subsecs. (b), (c). Pub. L. 96–589 added subsec. (b), redesignated former subsec. (b) as (c), inserted reference to chapters 41, 42, 43, 44, and 45, and struck out reference to bankruptcy proceedings.

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

Pub. L. 94–455, § 1906(c)(1), struck out "or Territory" after "any State".

1958—Subsec. (a). Pub. L. 85–866, § 88(a), substituted "the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer" for "the approval of a petition of, or against, any taxpayer".

Subsec. (b). Pub. L. 85–866, § 88(b), substituted "the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer" for "approval of the petition".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 effective on first day of first month which begins more than ninety 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.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5568; title 37 section 558.

§ 6872. Suspension of period on assessment

If the regulations issued pursuant to section 6036 require the giving of notice by any fiduciary in any case under title 11 of the United States Code, or by a receiver in any other court proceeding, to the Secretary of his qualification as such, the running of the period of limitations on the making of assessments shall be suspended for the period from the date of the institution of the proceeding to a date 30 days after the date upon which the notice from the receiver or other fiduciary is received by the Secretary; but the suspension under this sentence shall in no case be for a period in excess of 2 years.

(Aug. 16, 1954, ch. 736, 68A Stat. 838; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–589, § 6 (i)(12), Dec. 24, 1980, 94 Stat. 3411.)

AMENDMENTS

1980—Pub. L. 96–589 substituted "any case under title 11 of the United States Code" for "any proceeding under the Bankruptcy Act".

1976—Pub. L. 94–455 struck out "or his delegate" after "Secretary" wherever appearing.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

§ 6873. Unpaid claims

(a) General rule

Any portion of a claim for taxes allowed in a receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the Secretary after the termination of such proceeding.

(b) Cross references

(1) For suspension of running of period of limitations on collection, see section 6503(b).

(2) For extension of time for payment, see section 6161(c).

(Aug. 16, 1954, ch. 736, 68A Stat. 838; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–589, § 6(g)(2), Dec. 24, 1980, 94 Stat. 3409.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–589 struck out reference to proceedings under the Bankruptcy Act.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

CHAPTER 71—TRANSFEREES AND FIDUCIARIES

Sec.
6901. Transferred assets.
6902. Provisions of special application to transferees.
6903. Notice of fiduciary relationship.
6904. Prohibition of injunctions.
6905. Discharge of executor from personal liability for decedent's income and gift taxes.

AMENDMENTS

1970—Pub. L. 91–614, title I, § 101(e)(2), Dec. 31, 1970, 84 Stat. 1837, added item 6905.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6216, 6503, 6504, 7421, 7508 of this title.

§ 6901. Transferred assets

(a) Method of collection

The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, paid, and collected in the same manner and subject to the same provisions and limitations as in the case of the taxes with respect to which the liabilities were incurred:

(1) Income, estate, and gift taxes

(A) Transferees

The liability, at law or in equity, of a transferee of property—

(i) of a taxpayer in the case of a tax imposed by subtitle A (relating to income taxes),

(ii) of a decedent in the case of a tax imposed by chapter 11 (relating to estate taxes). or

(iii) of a donor in the case of a tax imposed by chapter 12 (relating to gift taxes),

in respect of the tax imposed by subtitle A or B.

(B) Fiduciaries

The liability of a fiduciary under section 3713(b) of title 31, United States Code[1] in respect of the payment of any tax described in subparagraph (A) from the estate of the taxpayer, the decedent, or the donor, as the case may be.

(2) Other taxes

The liability, at law or in equity of a transferee of property of any person liable in respect of any tax imposed by this title (other than a tax imposed by subtitle A or B), but only if such liability arises on the liquidation of a partnership or corporation, or on a reorganization within the meaning of section 368(a).

(b) Liability

Any liability referred to in subsection (a) may be either as to the amount of tax shown on a return or as to any deficiency or underpayment of any tax.

(c) Period of limitations

The period of limitations for assessment of any such liability of a transferee or a fiduciary shall be as follows:

(1) Initial transferee

In the case of the liability of an initial transferee, within 1 year after the expiration of the period of limitation for assessment against the transferor;

(2) Transferee of transferee

In the case of the liability of a transferee of a transferee, within 1 year after the expiration of the period of limitation for assessment against the preceding transferee, but not more than 3 years after the expiration of the period of limitation for assessment against the initial transferor;

except that if, before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the initial transferor or the last preceding transferee, respectively, then the period of limitation for assessment of the liability of the transferee shall expire 1 year after the return of execution in the court proceeding.

(3) Fiduciary

In the case of the liability of a fiduciary, not later than 1 year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability arises, whichever is the later.

(d) Extension by agreement

(1) Extension of time for assessment

If before the expiration of the time prescribed in subsection (c) for the assessment of the liability, the Secretary and the transferee or fiduciary have both consented in writing to its assessment after such time, the liability may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. For the purpose of determining the period of limitation on credit or refund to the transferee or fiduciary of overpayments of tax made by such transferee or fiduciary or overpayments of tax made by the transferor of which the transferee or fiduciary is legally entitled to credit or refund, such agreement and any extension thereof shall be deemed an agreement and extension thereof referred to in section 6511(c).

(2) Extension of time for credit or refund

If the agreement is executed after the expiration of the period of limitation for assessment against the taxpayer with reference to whom the liability of such transferee or fidu-

[1] So in original. Probably should be followed by a comma.

ciary arises, then in applying the limitations under section 6511(c) on the amount of the credit or refund, the periods specified in section 6511(b)(2) shall be increased by the period from the date of such expiration to the date of the agreement.

(e) Period for assessment against transferor

For purposes of this section, if any person is deceased, or is a corporation which has terminated its existence, the period of limitation for assessment against such person shall be the period that would be in effect had death or termination of existence not occurred.

(f) Suspension of running of period of limitations

The running of the period of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing to the transferee or fiduciary of the notice provided for in section 6212 (relating to income, estate, and gift taxes), be suspended for the period during which the Secretary is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

(g) Address for notice of liability

In the absence of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, any notice of liability enforceable under this section required to be mailed to such person, shall, if mailed to the person subject to the liability at his last known address, be sufficient for purposes of this title, even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(h) Definition of transferee

As used in this section, the term ''transferee'' includes donee, heir, legatee, devisee, and distributee, and with respect to estate taxes, also includes any person who, under section 6324(a)(2), is personally liable for any part of such tax.

(i) Extension of time

For extensions of time by reason of armed service in a combat zone, see section 7508.

(Aug. 16, 1954, ch. 736, 68A Stat. 841; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–258, § 3(f)(10), Sept. 13, 1982, 96 Stat. 1065.)

AMENDMENTS

1982—Subsec. (a)(1)(B). Pub. L. 97–258 substituted ''section 3713(b) of title 31, United States Code'' for ''section 3467 of the Revised Statutes (31 U.S.C. 192)''.

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 6040 of this title.

§ 6902. Provisions of special application to transferees

(a) Burden of proof

In proceedings before the Tax Court the burden of proof shall be upon the Secretary to show that a petitioner is liable as a transferee of property of a taxpayer, but not to show that the taxpayer was liable for the tax.

(b) Evidence

Upon application to the Tax Court, a transferee of property of a taxpayer shall be entitled, under rules prescribed by the Tax Court, to a preliminary examination of books, papers, documents, correspondence, and other evidence of the taxpayer or a preceding transferee of the taxpayer's property, if the transferee making the application is a petitioner before the Tax Court for the redetermination of his liability in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer. Upon such application, the Tax Court may require by subpoena, ordered by the Tax Court or any division thereof and signed by a judge, the production of all such books, papers, documents, correspondence, and other evidence within the United States the production of which, in the opinion of the Tax Court or division thereof, is necessary to enable the transferee to ascertain the liability of the taxpayer or preceding transferee and will not result in undue hardship to the taxpayer or preceding transferee. Such examination shall be had at such time and place as may be designated in the subpoena.

(Aug. 16, 1954, ch. 736, 68A Stat. 843; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7454, 7465 of this title.

§ 6903. Notice of fiduciary relationship

(a) Rights and obligations of fiduciary

Upon notice to the Secretary that any person is acting for another person in a fiduciary capacity, such fiduciary shall assume the powers, rights, duties, and privileges of such other person in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected from the estate of such other person), until notice is given that the fiduciary capacity has terminated.

(b) Manner of notice

Notice under this section shall be given in accordance with regulations prescribed by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 843; 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 sections 6040, 6901, 7609 of this title.

§ 6904. Prohibition of injunctions

For prohibition of suits to restrain enforcement of liability of transferee, or fiduciary, see section 7421(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 843.)

§ 6905. Discharge of executor from personal liability for decedent's income and gift taxes

(a) Discharge of liability

In the case of liability of a decedent for taxes imposed by subtitle A or by chapter 12, if the executor makes written application (filed after the return with respect to such taxes is made and filed in such manner and such form as may be prescribed by regulations of the Secretary for release from personal liability for such taxes, the Secretary may notify the executor of the amount of such taxes. The executor, upon payment of the amount of which he is notified, after 9 months after receipt of the application if no notification is made by the Secretary before such date, shall be discharged from personal liability for any deficiency in such tax thereafter found to be due, and shall be entitled to a receipt or writing showing such discharge.

(b) Definition of executor

For purposes of this section, the term ''executor'' means the executor or administrator of the decedent appointed, qualified, and acting within the United States.

(c) Cross reference

For discharge of executor from personal liability for taxes imposed under chapter 11, see section 2204.

(Added Pub. L. 91–614, title I, § 101(e)(1), Dec. 31, 1970, 84 Stat. 1837; amended Pub. L. 91–614, title I, § 101(f), Dec. 31, 1970, 84 Stat. 1838; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1970—Subsec. (a). Pub. L. 91–614, § 101(f), substituted ''9 months'' for ''1 year''.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 101(f) of Pub. L. 91–614 provided that the amendment made by that section is effective with respect to the estates of decedents dying after Dec. 31, 1973.

EFFECTIVE DATE

Section effective with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91–614, set out as an Effective Date of 1970 Amendment note under section 2032 of this title.

CHAPTER 72—LICENSING AND REGISTRATION

Subchapter		Sec.[1]
A.	Licensing	7001
B.	Registration	7011

Subchapter A—Licensing

Sec.
7001. Collection of foreign items.

[1] Section numbers editorially supplied.

§ 7001. Collection of foreign items

(a) License

All persons undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Secretary and shall be subject to such regulations enabling the Government to obtain the information required under subtitle A (relating to income taxes) as the Secretary shall prescribe.

(b) Penalty for failure to obtain license

For penalty for failure to obtain the license provided for in this section, see section 7231.

(Aug. 16, 1954, ch. 736, 68A Stat. 845; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (a). 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 7231 of this title.

Subchapter B—Registration

Sec.
7011. Registration—persons paying a special tax.
7012. Cross references.

§ 7011. Registration—persons paying a special tax

(a) Requirement

Every person engaged in any trade or business on which a special tax is imposed by law shall register with the Secretary his name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.

(b) Registration in case of death or change of location

Any person exempted under the provisions of section 4905 from the payment of a special tax, shall register with the Secretary in accordance with regulations prescribed by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 845; 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 sections 5141, 7272 of this title.

§ 7012. Cross references

(1) For provisions relating to registration in connection with firearms, see sections 5802, 5841, and 5861.

(2) For special rules with respect to registration by persons engaged in receiving wagers, see section 4412.

(3) For provisions relating to registration in relation to the taxes on gasoline and diesel fuel, see section 4101.

(4) For penalty for failure to register, see section 7272.

(5) For other penalties for failure to register with respect to wagering, see section 7262.

(Aug. 16, 1954, ch. 736, 68A Stat. 846; Pub. L. 85–475, § 4(b)(7), June 30, 1958, 72 Stat. 260; Pub. L. 89–44, title VI, § 601(g), June 21, 1965, 79 Stat. 155; Pub. L. 91–513, title III, § 1102(d), Oct. 27, 1970, 84 Stat. 1292; Pub. L. 94–455, title XIX, §§ 1904(b)(8)(C), 1906(a)(39), Oct. 4, 1976, 90 Stat. 1816, 1830; Pub. L. 104–188, title I, § 1702(b)(4), Aug. 20, 1996, 110 Stat. 1868.)

AMENDMENTS

1996—Par. (3). Pub. L. 104–188, § 1702(b)(4)(A), substituted ''taxes on gasoline and diesel fuel'' for ''production or importation of gasoline''.

Pars. (4) to (6). Pub. L. 104–188, § 1702(b)(4)(B), redesignated pars. (5) and (6) as (4) and (5), respectively, and struck out former par. (4) which read as follows: ''For provisions relating to registration in relation to the manufacture or production of lubricating oils, see section 4101.''

1976—Pub. L. 94–455 revised section generally, striking out cross reference to section 4804(d) relating to registration in relation to manufacture of white phosphorus matches and substituted reference to section 5861 for reference to section 5854 in cross reference covering registration in connection with firearms.

1970—Subsecs. (a), (b). Pub. L. 91–513 struck out subsecs. (a) and (b) which related to narcotic drugs and marihuana, respectively, and which had made reference to sections 4722 and 4753, respectively.

1965—Subsec. (d). Pub. L. 89–44 struck out subsec. (d) relating to manufacture of playing cards.

1958—Subsecs. (i), (j). Pub. L. 85–475, redesignated subsec. (j) as (i) and struck out former subsec. (i) which referred to section 4273.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 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.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89–44, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85–475, see section 4(c) of Pub. L. 85–475, set out as a note under section 6415 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 section 171 of Title 21, Food and Drugs.

CHAPTER 73—BONDS

Sec.
7101. Form of bonds.
7102. Single bond in lieu of multiple bonds.
7103. Cross references—Other provisions for bonds.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7851 of this title.

§ 7101. Form of bonds

Whenever, pursuant to the provisions of this title (other than section 7485), or rules or regulations prescribed under authority of this title, a person is required to furnish a bond or security—

(1) General rule

Such bond or security shall be in such form and with such surety or sureties as may be prescribed by regulations issued by the Secretary.

(2) United States bonds and notes in lieu of surety bonds

The person required to furnish such bond or security may, in lieu thereof, deposit bonds or notes of the United States as provided in section 9303 of title 31, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 847; Pub. L. 92–310, title II, § 230(b), June 6, 1972, 86 Stat. 209; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–258, § 3(f)(11), Sept. 13, 1982, 96 Stat. 1065.)

AMENDMENTS

1982—Par. (2). Pub. L. 97–258 substituted ''section 9303 of title 31, United States Code'' for ''6 U.S.C. 15''.

1976—Par. (2). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1972—Pub. L. 92–310 struck out reference to section 6803(a)(1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7324 of this title.

§ 7102. Single bond in lieu of multiple bonds

In any case in which two or more bonds are required or authorized, the Secretary may provide for the acceptance of a single bond complying with the requirements for which the several bonds are required or authorized.

(Aug. 16, 1954, ch. 736, 68A Stat. 847; 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''.

§ 7103. Cross references—Other provisions for bonds

(a) Extensions of time

(1) For bond where time to pay tax or deficiency has been extended, see section 6165.

(2) For bond to stay collection of a jeopardy assessment, see section 6863.

(3) For bond to stay assessment and collection prior to review of a Tax Court decision, see section 7485.

(4) For a bond to stay collection of a penalty assessed under section 6672, see section 6672(b).

(5) For bond in case of an election to postpone payment of estate tax where the value of a reversionary or remainder interest is included in the gross estate, see section 6165.

(b) Release of lien or seized property

(1) For the release of the lien provided for in section 6325 by furnishing the Secretary a bond, see section 6325(a)(2).

(2) For bond to obtain release of perishable goods which have been seized under forfeiture proceeding, see section 7324(3).

(3) For bond to release perishable goods under levy, see section 6336.

(4) For bond executed by claimant of seized goods valued at $100,000 or less, see section 7325(3).

(c) Miscellaneous

(1) For bond as a condition precedent to the allowance of the credit for accrued foreign taxes, see section 905(c).

(2) For bonds relating to alcohol and tobacco taxes, see generally subtitle E.

(Aug. 16, 1954, ch. 736, 68A Stat. 847; Pub. L. 89–44, title VIII, § 802(b)(3), June 21, 1965, 79 Stat. 159; Pub. L. 91–513, title III, § 1102(e), Oct. 27, 1970, 84 Stat. 1292; Pub. L. 92–310, title II, § 230(c), June 6, 1972, 86 Stat. 209; Pub. L. 93–490, § 3(b)(7), Oct. 26, 1974, 88 Stat. 1467; Pub. L. 94–455, title XII, § 1204(c)(10), title XIX, § 1906(a)(40), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1699, 1830, 1834; Pub. L. 95–628, § 9(b)(2), Nov. 10, 1978, 92 Stat. 3633; Pub. L. 99–514, title XV, § 1566(c), Oct. 22, 1986, 100 Stat. 2763.)

AMENDMENTS

1986—Subsec. (b)(4). Pub. L. 99–514 substituted ''$100,000'' for ''$1,000''.

1978—Subsec. (a)(4). Pub. L. 95–628 added par. (4).

1976—Subsec. (a)(4). Pub. L. 94–455, § 1204(c)(10), struck out par. (4) which made reference to section 6851(e) as covering the furnishing of bond where a taxable years is closed by the Secretary or his delegate.

Subsec. (b)(1). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (d). Pub. L. 94–455, § 1906(a)(40), struck out subsec. (d) which made cross references to provisions covering bonds required with respect to articles taxable under chapter B of chapter 37 processed for exportation without payment of tax, oleomargarine removed from the place of manufacture for exportation to a foreign country, and the manufacture of oleomargarine, process, renovated, or adulterated butter, and white phosphorus matches.

1974—Subsec. (d)(3)(C). Pub. L. 93–490 struck out subpar. (C) relating to manufacturers of filled cheese and which made reference to section 4833(c).

1972—Subsec. (e). Pub. L. 92–310 repealed subsec. (e) which contained cross references for personnel bonds.

1970—Subsec. (d)(3)(D). Pub. L. 91–513 struck out subpar. (D) which related to the manufacturer of opium suitable for smoking and which made reference to section 4713(b).

1965—Subsec. (d)(3)(F). Pub. L. 89–44 struck out subpar. (F) relating to producers and importers of gasoline and manufacturers and producers of lubricating oils.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective Oct. 22, 1986, see section 1566(e) of Pub. L. 99–514, set out as a note under section 7325 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–628 applicable with respect to penalties assessed more than 60 days after Nov. 10, 1978, see section 9(c) of Pub. L. 95–628, set out as a note under section 6672 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1204(c)(10) of Pub. L. 94–455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94–455, as amended, set out as a note under section 6851 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–490 applicable to filled cheese manufactured, imported, or sold after Oct. 26, 1974, see section 3(c) of Pub. L. 93–490, set out as an Effective Date of Repeal note under section 4831 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.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable with respect to articles sold on or after July 1, 1965, see section 802(d)(1) of Pub. L. 89–44, set out as a note under section 4082 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 section 171 of Title 21, Food and Drugs.

CHAPTER 74—CLOSING AGREEMENTS AND COMPROMISES

Sec.
7121. Closing agreements.
7122. Compromises.
7123. Appeals dispute resolution procedures.
7124. Cross references.

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3465(a)(2), July 22, 1998, 112 Stat. 768, added items 7123 and 7124 and struck out former item 7123 ''Cross references''.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 514, 7851 of this title.

§ 7121. Closing agreements

(a) Authorization

The Secretary is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

(b) Finality

If such agreement is approved by the Secretary (within such time as may be stated in such agreement, or later agreed to) such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee, or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not

be annulled, modified, set aside, or disregarded.

(Aug. 16, 1954, ch. 736, 68A Stat. 849; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 547, 860, 1313, 6013, 6015, 6103, 7123, 7206 of this title.

§ 7122. Compromises

(a) Authorization

The Secretary may compromise any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense; and the Attorney General or his delegate may compromise any such case after reference to the Department of Justice for prosecution or defense.

(b) Record

Whenever a compromise is made by the Secretary in any case, there shall be placed on file in the office of the Secretary the opinion of the General Counsel for the Department of the Treasury or his delegate, with his reasons therefor, with a statement of—

(1) The amount of tax assessed,

(2) The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

Notwithstanding the foregoing provisions of this subsection, no such opinion shall be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty) is less than $50,000. However, such compromise shall be subject to continuing quality review by the Secretary.

(c) Standards for evaluation of offers

(1) In general

The Secretary shall prescribe guidelines for officers and employees of the Internal Revenue Service to determine whether an offer-in-compromise is adequate and should be accepted to resolve a dispute.

(2) Allowances for basic living expenses

(A) In general

In prescribing guidelines under paragraph (1), the Secretary shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.

(B) Use of schedules

The guidelines shall provide that officers and employees of the Internal Revenue Service shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the schedules published under subparagraph (A) is appropriate and shall not use the schedules to the extent such use would result in the taxpayer not having adequate means to provide for basic living expenses.

(3) Special rules relating to treatment of offers

The guidelines under paragraph (1) shall provide that—

(A) an officer or employee of the Internal Revenue Service shall not reject an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer; and

(B) in the case of an offer-in-compromise which relates only to issues of liability of the taxpayer—

(i) such offer shall not be rejected solely because the Secretary is unable to locate the taxpayer's return or return information for verification of such liability; and

(ii) the taxpayer shall not be required to provide a financial statement.

(d) Administrative review

The Secretary shall establish procedures—

(1) for an independent administrative review of any rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under this section or section 6159 before such rejection is communicated to the taxpayer; and

(2) which allow a taxpayer to appeal any rejection of such offer or agreement to the Internal Revenue Service Office of Appeals.

(Aug. 16, 1954, ch. 736, 68A Stat. 849; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 104–168, title V, § 503(a), July 30, 1996, 110 Stat. 1461; Pub. L. 105–206, title III, § 3462(a), (c)(1), July 22, 1998, 112 Stat. 764, 766.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–206, § 3462(a), added subsec. (c).

Subsec. (d). Pub. L. 105–206, § 3462(c)(1), added subsec. (d).

1996—Subsec. (b). Pub. L. 104–168 substituted ''$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.'' for ''$500.''

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 applicable to proposed offers-in-compromise and installment agreements submitted after July 22, 1998, see section 3462(e)(1) of Pub. L. 105–206, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 503(b) of Pub. L. 104–168 provided that: ''The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 30, 1996].''

PREPARATION OF STATEMENT RELATING TO OFFERS-IN-COMPROMISE

Pub. L. 105–206, title III, § 3462(d), July 22, 1998, 112 Stat. 766, provided that: ''The Secretary of the Treasury shall prepare a statement which sets forth in simple, nontechnical terms the rights of a taxpayer and the obligations of the Internal Revenue Service relating to offers-in-compromise. Such statement shall—

''(1) advise taxpayers who have entered into a compromise of the advantages of promptly notifying the

Internal Revenue Service of any change of address or marital status;

''(2) provide notice to taxpayers that in the case of a compromise terminated due to the actions of one spouse or former spouse, the Internal Revenue Service will, upon application, reinstate such compromise with the spouse or former spouse who remains in compliance with such compromise; and

''(3) provide notice to the taxpayer that the taxpayer may appeal the rejection of an offer-in-compromise to the Internal Revenue Service Office of Appeals.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 63, 473, 1311, 6013, 6015, 6103, 6159, 6325, 6331, 6511, 6521, 7123, 7206, 7809 of this title.

§ 7123. Appeals dispute resolution procedures

(a) Early referral to appeals procedures

The Secretary shall prescribe procedures by which any taxpayer may request early referral of 1 or more unresolved issues from the examination or collection division to the Internal Revenue Service Office of Appeals.

(b) Alternative dispute resolution procedures

(1) Mediation

The Secretary shall prescribe procedures under which a taxpayer or the Internal Revenue Service Office of Appeals may request non-binding mediation on any issue unresolved at the conclusion of—

(A) appeals procedures; or

(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

(2) Arbitration

The Secretary shall establish a pilot program under which a taxpayer and the Internal Revenue Service Office of Appeals may jointly request binding arbitration on any issue unresolved at the conclusion of—

(A) appeals procedures; or

(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

(Added Pub. L. 105–206, title III, § 3465(a)(1), July 22, 1998, 112 Stat. 768.)

PRIOR PROVISIONS

A prior section 7123 was renumbered section 7124 of this title.

§ 7124. Cross references

For criminal penalties for concealment of property, false statement, or falsifying and destroying records, in connection with any closing agreement, compromise, or offer of compromise, see section 7206.

(Aug. 16, 1954, ch. 736, 68A Stat. 850, § 7123; Pub. L. 97–258, § 3(f)(12), Sept. 13, 1982, 96 Stat. 1065; renumbered § 7124, Pub. L. 105–206, title III, § 3465(a)(1), July 22, 1998, 112 Stat. 767.)

AMENDMENTS

1998—Pub. L. 105–206 renumbered section 7123 of this title as this section.

1982—Subsec. (a). Pub. L. 97–258, § 3(f)(12)(A), struck out heading ''Criminal penalties''.

Subsec. (b). Pub. L. 97–258, § 3(f)(12)(B), struck out subsec. (b) which set forth cross reference to R.S. 3469 (31 U.S.C. 194) relating to compromises after judgment.

CHAPTER 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

Subchapter		Sec.[1]
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Subchapter A—Crimes

Part

I. General provisions.

II. Penalties applicable to certain taxes.

PART I—GENERAL PROVISIONS

Sec.

7201. Attempt to evade or defeat tax.

7202. Willful failure to collect or pay over tax.

7203. Willful failure to file return, supply information, or pay tax.

7204. Fraudulent statement or failure to make statement to employees.

7205. Fraudulent withholding exemption certificate or failure to supply information.

7206. Fraud and false statements.

7207. Fraudulent returns, statements, or other documents.

7208. Offenses relating to stamps.

7209. Unauthorized use or sale of stamps.

7210. Failure to obey summons.

7211. False statements to purchasers or lessees relating to tax.

7212. Attempts to interfere with administration of internal revenue laws.

7213. Unauthorized disclosure of information.

7213A. Unauthorized inspection of returns or return information.

7214. Offenses by officers and employees of the United States.

7215. Offenses with respect to collected taxes.

7216. Disclosure or use of information by preparers of returns.

7217. Prohibition on executive branch influence over taxpayer audits and other investigations.

AMENDMENTS

1998—Pub. L. 105–206, title I, § 1105(b), July 22, 1998, 112 Stat. 711, added item 7217.

1997—Pub. L. 105–35, § 2(b)(2), Aug. 5, 1997, 111 Stat. 1105, added item 7213A.

1982—Pub. L. 97–248, title III, § 357(b)(2), Sept. 3, 1982, 96 Stat. 646, struck out item 7217 ''Civil damages for unauthorized disclosure of returns and return information''.

1976—Pub. L. 94–455, title XII, § 1202(e)(2), Oct. 4, 1976, 90 Stat. 1687, added item 7217.

1971—Pub. L. 92–178, title III, § 316(b), Dec. 10, 1971, 85 Stat. 529, added item 7216.

1958—Pub. L. 85–321, § 3(b), Feb. 11, 1958, 72 Stat. 6, added item 7215.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6420, 6421, 6427, 7851 of this title; title 48 sections 1421i, 1612.

§ 7201. Attempt to evade or defeat tax

Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $100,000 ($500,000 in

[1] Section numbers editorially supplied.

the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.

(Aug. 16, 1954, ch. 736, 68A Stat. 851; Pub. L. 97–248, title III, § 329(a), Sept. 3, 1982, 96 Stat. 618.)

AMENDMENTS

1982—Pub. L. 97–248 substituted ''$100,000 ($500,000 in the case of a corporation)'' for ''$10,000''.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 329(e) of Pub. L. 97–248 provided that: ''The amendments made by this section [amending this section and sections 7203, 7206, and 7207 of this title] shall apply to offenses committed after the date of the enactment of this Act [Sept. 3, 1982].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5684, 7501 of this title; title 7 section 12a; title 8 section 1101; title 18 sections 1956, 3237.

§ 7202. Willful failure to collect or pay over tax

Any person required under this title to collect, account for, and pay over any tax imposed by this title who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

(Aug. 16, 1954, ch. 736, 68A Stat. 851.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7501 of this title.

§ 7203. Willful failure to file return, supply information, or pay tax

Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $25,000 ($100,000 in the case of a corporation), or imprisoned not more than 1 year, or both, together with the costs of prosecution. In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under section 6654 or 6655 with respect to such failure. In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting ''felony'' for ''misdemeanor'' and ''5 years'' for ''1 year''.

(Aug. 16, 1954, ch. 736, 68A Stat. 851; Pub. L. 90–364, title I, § 103(e)(5), June 28, 1968, 82 Stat. 264; Pub. L. 97–248, title III, §§ 327, 329(b), Sept. 3, 1982, 96 Stat. 617, 618; Pub. L. 98–369, div. A, title IV, § 412(b)(9), July 18, 1984, 98 Stat. 792; Pub. L. 100–690, title VII, § 7601(a)(2)(B), Nov. 18, 1988, 102 Stat. 4504; Pub. L. 101–647, title XXXIII, § 3303(a), Nov. 29, 1990, 104 Stat. 4918.)

AMENDMENTS

1990—Pub. L. 101–647 substituted ''substituting 'felony' for 'misdemeanor' and'' for ''substituting''.

1988—Pub. L. 100–690 inserted at end ''In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting '5 years' for '1 year'.''

1984—Pub. L. 98–369 struck out ''(other than a return required under the authority of section 6015)'' after ''to make a return''.

1982—Pub. L. 97–248, § 329(b), substituted ''$25,000 ($100,000 in the case of a corporation)'' for ''$10,000''.

Pub. L. 97–248, § 327, inserted last sentence providing that, in the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under section 6654 or 6655 with respect to such failure.

1968—Pub. L. 90–364 struck out reference to section 6016.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3303(c) of Pub. L. 101–647 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to actions, and failures to act, occurring after the date of the enactment of this Act [Nov. 29, 1990].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 applicable to actions after Nov. 18, 1988, see section 7601(a)(3) of Pub. L. 100–690, set out as a note under section 6050I of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98–369, set out as a note under section 6654 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 329(b) of Pub. L. 97–248 applicable to offenses committed after Sept. 3, 1982, see section 329(e) of Pub. L. 97–248, set out as a note under section 7201 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–364 applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90–364, see section 103(f) of Pub. L. 90–364, set out as a note under section 243 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5684, 6038, 6038A, 6046A, 6686, 6698 of this title; title 7 section 12a; title 18 section 3237.

§ 7204. Fraudulent statement or failure to make statement to employees

In lieu of any other penalty provided by law (except the penalty provided by section 6674) any person required under the provisions of section 6051 to furnish a statement who willfully furnishes a false or fraudulent statement or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051, or regulations prescribed thereunder, shall, for each such offense, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 852.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6051, 6674 of this title; title 7 section 12a.

§ 7205. Fraudulent withholding exemption certificate or failure to supply information

(a) Withholding on wages

Any individual required to supply information to his employer under section 3402 who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under section 3402, shall, in addition to any other penalty provided by law, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both.

(b) Backup withholding on interest and dividends

If any individual willfully makes a false certification under paragraph (1) or (2)(C) of section 3406(d), then such individual shall, in addition to any other penalty provided by law, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 852; Pub. L. 89–368, title I, § 101(e)(5), Mar. 15, 1966, 80 Stat. 62; Pub. L. 97–34, title VII, § 721(b), Aug. 13, 1981, 95 Stat. 341; Pub. L. 97–248, title III, §§ 306(b), 308(a), Sept. 3, 1982, 96 Stat. 588, 591; Pub. L. 98–67, title I, §§ 102(a), 107(b), Aug. 5, 1983, 97 Stat. 369, 382; Pub. L. 98–369, div. A, title I, § 159(a), July 18, 1984, 98 Stat. 696; Pub. L. 101–239, title VII, § 7711(b)(2), Dec. 19, 1989, 103 Stat. 2393.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101–239 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''If any individual willfully makes—

''(1) any false certification or affirmation on any statement required by a payor in order to meet the due diligence requirements of section 6676(b), or

''(2) a false certification under paragraph (1) or (2)(C) of section 3406(d),

then such individual shall, in addition to any other penalty provided by law, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both.''

1984—Pub. L. 98–369 in subsecs. (a) and (b) substituted ''in addition to'' for ''in lieu of'' and struck out reference to penalty under section 6682 after ''penalty provided by law''.

1983—Pub. L. 98–67 designated existing provisions as subsec. (a), added subsec. (b), and repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

1982—Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, this section is amended by designating the existing provisions as subsec. (a) with a heading of ''Withholding on wages'', and by adding a new subsec. (b). Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted. Subsec. (b), referred to above, read as follows:

''(b) Withholding of interest and dividends

''Any person who—

''(1) willfully files an exemption certificate with any payor under section 3452(f)(1)(A), which is known by him to be fraudulent or to be false as to any material matter, or

''(2) is required to furnish notice under section 3452(f)(1)(B), and willfully fails to furnish such notice in the manner and at the time required pursuant to section 3452(f)(1)(B) or the regulations prescribed thereunder,

shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than $500, or imprisoned not more than 1 year, or both.''

1981—Pub. L. 97–34 substituted ''$1,000'' for ''$500''.

1966—Pub. L. 89–368 substituted ''section 3402'' and ''any other penalty provided by law (except the penalty provided by section 6682)'' for ''section 3402(f)'' and ''any penalty otherwise provided'' respectively.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to returns and statements the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7711(c) of Pub. L. 101–239, set out as a note under section 6721 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 159(b) of Pub. L. 98–369 provided that: ''The amendments made by this section [amending this section] shall apply to actions and failures to act occurring after the date of the enactment of this Act [July 18, 1984].''

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 107(b) of Pub. L. 98–67 effective Aug. 5, 1983, see section 110(c) of Pub. L. 98–67, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to acts and failures to act after Dec. 31, 1981, see section 721(d) of Pub. L. 97–34, set out as a note under section 6682 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3406 of this title; title 7 section 12a.

§ 7206. Fraud and false statements

Any person who—

(1) Declaration under penalties of perjury

Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or

(2) Aid or assistance

Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document; or

(3) Fraudulent bonds, permits, and entries

Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal revenue laws, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently exe-

cuted, or advises, aids in, or connives at such execution thereof; or

(4) Removal or concealment with intent to defraud

Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title; or

(5) Compromises and closing agreements

In connection with any compromise under section 7122, or offer of such compromise, or in connection with any closing agreement under section 7121, or offer to enter into any such agreement, willfully—

(A) Concealment of property

Conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or

(B) Withholding, falsifying, and destroying records

Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax;

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $100,000 ($500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.

(Aug. 16, 1954, ch. 736, 68A Stat. 852; Pub. L. 97–248, title III, § 329(c), Sept. 3, 1982, 96 Stat. 618.)

AMENDMENTS

1982—Pub. L. 97–248 substituted ''$100,000 ($500,000 in the case of a corporation)'' for ''$5,000''.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to offenses committed after Sept. 3, 1982, see section 329(e) of Pub. L. 97–248, set out as a note under section 7201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6013, 6531, 7124 of this title; title 7 section 12a; title 18 sections 1956, 3237.

§ 7207. Fraudulent returns, statements, or other documents

Any person who willfully delivers or discloses to the Secretary any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than $10,000 ($50,000 in the case of a corporation), or imprisoned not more than 1 year, or both. Any person required pursuant to subsection (b) of section 6047 or pursuant to subsection (d) of section 6104 to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than $10,000 ($50,000 in the case of a corporation), or imprisoned not more than 1 year, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 853; Pub. L. 87–792, § 7(m)(3), Oct. 10, 1962, 76 Stat. 831; Pub. L. 91–172, title I, § 101(e)(5), Dec. 30, 1969, 83 Stat. 524; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–603, § 1(d)(5), Dec. 28, 1980, 94 Stat. 3505; Pub. L. 97–248, title III, § 329(d), Sept. 3, 1982, 96 Stat. 619; Pub. L. 98–369, div. A, title IV, § 491(d)(51), July 18, 1984, 98 Stat. 852; Pub. L. 100–203, title X, § 10704(c), Dec. 22, 1987, 101 Stat. 1330–463; Pub. L. 105–277, div. J, title I, § 1004(b)(2)(E), Oct. 21, 1998, 112 Stat. 2681–890.)

AMENDMENTS

1998—Pub. L. 105–277 struck out ''or (e)'' after ''subsection (d)''.

1987—Pub. L. 100–203 inserted reference to subsec. (e) of section 6104.

1984—Pub. L. 98–369 struck out ''or (c)'' after ''subsection (b)''.

1982—Pub. L. 97–248 substituted ''$10,000 ($50,000 in the case of a corporation)'' for ''$1,000'' wherever appearing.

1980—Pub. L. 96–603 substituted ''subsection (b) or (c) of section 6047 or pursuant to subsection (d) of section 6104'' for ''sections 6047(b) or (c), 6056, or 6104(d)''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1969—Pub. L. 91–172 substituted ''sections 6047(b) or (c), 6056, or 6104(d)'' for ''section 6047(b) or (c)''.

1962—Pub. L. 87–792 inserted sentence providing that any person required pursuant to section 6047(b) or (c) to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 applicable to requests made after the later of Dec. 31, 1998, or the 60th day after the Secretary of the Treasury first issues the regulations referred to in section 6104(d)(4) of this title, see section 1004(b)(3) of Pub. L. 105–277, set out as a note under section 6104 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to returns for years beginning after Dec. 31, 1986, and on and after Dec. 22, 1987, in case of applications submitted after July 15, 1987, or on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987, see section 10704(d) of Pub. L. 100–203, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98–369, set out as a note under section 62 of title title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to offenses committed after Sept. 3, 1982, see section 329(e) of Pub. L. 97–248, set out as a note under section 7201 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–603 applicable to taxable years beginning after Dec. 31, 1980, see section 1(f) of Pub. L. 96–603, set out as a note under section 6033 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–792 applicable to taxable years beginning after Dec. 31, 1962, see section 8 of Pub. L. 87–792, set out as a note under section 22 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6013, 6531, 6685, 7303 of this title; title 7 section 12a.

§ 7208. Offenses relating to stamps

Any person who—

(1) Counterfeiting

With intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed under authority of this title for the collection or payment of any tax imposed by this title, or sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such stamp, coupon, ticket, book, or other device; or

(2) Mutilation or removal

Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title; or

(3) Use of mutilated, insufficient, or counterfeited stamps

Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title,

(A) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or

(B) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or

(C) any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article; or

(4) Reuse of stamps

(A) Preparation for reuse

Willfully removes, or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has already been used; or

(B) Trafficking

Knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same; or

(C) Possession

Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article; or

(5) Emptied stamped packages

Commits the offense described in section 7271 (relating to disposal and receipt of stamped packages) with intent to defraud the revenue, or to defraud any person;

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 853.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7303 of this title.

§ 7209. Unauthorized use or sale of stamps

Any person who buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this title or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device prescribed by the Secretary under this title for the collection or payment of any tax imposed by this title, shall, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 6 months, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 854; 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''.

§ 7210. Failure to obey summons

Any person who, being duly summoned to appear to testify, or to appear and produce books, accounts, records, memoranda, or other papers, as required under sections 6420(e)(2), 6421(g)(2), 6427(j)(2), 7602, 7603, and 7604(b), neglects to appear or to produce such books, accounts, records, memoranda, or other papers, shall, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with costs of prosecution.

(Aug. 16, 1954, ch. 736, 68A Stat. 854; Apr. 2, 1956, ch. 160, § 4(h), 70 Stat. 91; June 29, 1956, ch. 462, title II, § 208(d)(3), 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. 94–530, § 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.)

AMENDMENTS

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)''.

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

1965—Pub. L. 89–44 inserted reference to section 6424(d)(2) of this title.

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

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7604 of this title.

§ 7211. False statements to purchasers or lessees relating to tax

Whoever in connection with the sale or lease, or offer for sale or lease, of any article, or for the purpose of making such sale or lease, makes any statement, written or oral—

(1) intended or calculated to lead any person to believe that any part of the price at which such article is sold or leased, or offered for sale or lease, consists of a tax imposed under the authority of the United States, or

(2) ascribing a particular part of such price to a tax imposed under the authority of the United States,

knowing that such statement is false or that the tax is not so great as the portion of such price ascribed to such tax, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $1,000, or by imprisonment for not more than 1 year, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 854.)

§ 7212. Attempts to interfere with administration of internal revenue laws

(a) Corrupt or forcible interference

Whoever corruptly or by force or threats of force (including any threatening letter or communication) endeavors to intimidate or impede any officer or employee of the United States acting in an official capacity under this title, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or endeavors to obstruct or impede, the due administration of this title, shall, upon conviction thereof, be fined not more than $5,000, or imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person convicted thereof shall be fined not more than $3,000, or imprisoned not more than 1 year, or both. The term ''threats of force'', as used in this subsection, means threats of bodily harm to the officer or employee of the United States or to a member of his family.

(b) Forcible rescue of seized property

Any person who forcibly rescues or causes to be rescued any property after it shall have been seized under this title, or shall attempt or endeavor so to do, shall, excepting in cases otherwise provided for, for every such offense, be fined not more than $500, or not more than double the value of the property so rescued, whichever is the greater, or be imprisoned not more than 2 years.

(Aug. 16, 1954, ch. 736, 68A Stat. 855.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6531, 7601 of this title.

§ 7213. Unauthorized disclosure of information

(a) Returns and return information

(1) Federal employees and other persons

It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former offi-

cer or employee, willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

(2) State and other employees

It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (i)(3)(B)(i), (*l*)(6), (7), (8), (9), (10), (12), (15), or (16) or (m)(2), (4), (5), (6), or (7) of section 6103. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(3) Other persons

It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in a manner unauthorized by this title thereafter willfully to print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(4) Solicitation

It shall be unlawful for any person willfully to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(5) Shareholders

It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e)(1)(D)(iii) willfully to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not to exceed $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(b) Disclosure of operations of manufacturer or producer

Any officer or employee of the United States who divulges or makes known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution; and the offender shall be dismissed from office or discharged from employment.

(c) Disclosures by certain delegates of Secretary

All provisions of law relating to the disclosure of information, and all provisions of law relating to penalties for unauthorized disclosure of information, which are applicable in respect of any function under this title when performed by an officer or employee of the Treasury Department are likewise applicable in respect of such function when performed by any person who is a ''delegate'' within the meaning of section 7701(a)(12)(B).

(d) Disclosure of software

Any person who willfully divulges or makes known software (as defined in section 7612(d)(1)) to any person in violation of section 7612 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

(e) Cross references

(1) Penalties for disclosure of information by preparers of returns

For penalty for disclosure or use of information by preparers of returns, see section 7216.

(2) Penalties for disclosure of confidential information

For penalties for disclosure of confidential information by any officer or employee of the United States or any department or agency thereof, see 18 U.S.C. 1905.

(Aug. 16, 1954, ch. 736, 68A Stat. 855; Pub. L. 85–866, title I, § 90(c), Sept. 2, 1958, 72 Stat. 1666; Pub. L. 86–778, title I, § 103(s), Sept. 13, 1960, 74 Stat. 940; Pub. L. 94–455, title XII, § 1202(d), (h)(3), Oct. 4, 1976, 90 Stat. 1686, 1688; Pub. L. 95–600, title VII, § 701(bb)(1)(C), (6), Nov. 6, 1978, 92 Stat. 2922, 2923; Pub. L. 96–249, title I, § 127(a)(2)(D), May 26, 1980, 94 Stat. 366; Pub. L. 96–265, title IV, § 408(a)(2)(D), June 9, 1980, 94 Stat. 468, as amended Pub. L. 96–611, § 11(a)(2)(B)(iv), Dec. 28, 1980, 94 Stat. 3574; Pub. L. 96–499, title III, § 302(b), Dec. 5, 1980, 94 Stat. 2604; Pub. L. 96–611, § 11(a)(4)(A), Dec. 28, 1980, 94 Stat. 3574; Pub. L. 97–248, title III, § 356(b)(2), Sept. 3, 1982, 96 Stat. 645; Pub. L. 97–365, § 8(c)(2), Oct. 25, 1982, 96 Stat. 1754; Pub. L. 98–369, div. A, title IV, § 453(b)(4), div. B, title VI, § 2653(b)(4), July 18, 1984, 98 Stat. 820, 1156; Pub. L. 98–378, § 21(f)(5), Aug. 16, 1984, 98 Stat. 1326; Pub. L. 100–485, title VII, § 701(b)(2)(C), Oct. 13, 1988, 102 Stat. 2426; Pub. L. 100–647, title VIII, § 8008(c)(2)(B), Nov. 10, 1988, 102 Stat. 3787; Pub. L. 101–239, title VI, § 6202(a)(1)(C), Dec. 19, 1989, 103 Stat. 2228; Pub. L. 101–508, title V, § 5111(b)(3), Nov. 5, 1990, 104 Stat. 1388–273; Pub. L. 104–168, title XII, § 1206(b)(5), July 30, 1996, 110 Stat. 1473; Pub. L. 105–33, title XI, § 11024(b)(8), Aug. 5, 1997, 111 Stat. 722; Pub. L. 105–35, § 2(b)(1), Aug. 5, 1997, 111 Stat. 1104; Pub. L. 105–206, title III, § 3413(b), July 22, 1998, 112 Stat. 754.)

AMENDMENTS

1998—Subsecs. (d), (e). Pub. L. 105–206 added subsec. (d) and redesignated former subsec. (d) as (e).

1997—Subsec. (a)(2). Pub. L. 105–35 inserted ''(5),'' after ''(m)(2), (4),''.

Pub. L. 105–33 substituted ''(15), or (16)'' for ''or (15),''.

1996—Subsec. (a)(2). Pub. L. 104–168 substituted ''(12), or (15)'' for ''or (12)''.

1990—Subsec. (a)(2). Pub. L. 101–508 substituted ''(6), or (7)'' for ''or (6)''.

1989—Subsec. (a)(2). Pub. L. 101–239 substituted ''(10), or (12)'' for ''or (10)''.

1988—Subsec. (a)(2). Pub. L. 100–647 substituted ''(m)(2), (4), or (6)'' for ''(m)(2) or (4)''.

Pub. L. 100–485 substituted ''(9), or (10)'' for ''(9), (10), or (11)''.

1984—Subsec. (a)(2). Pub. L. 98–378 substituted ''(10), or (11)'' for ''or (10)''.

Pub. L. 98–369, § 2653(b)(4), substituted ''(9), or (10)'' for ''or (9)''.

Pub. L. 98–369, § 453(b)(4), substituted ''(7), (8), or (9)'' for ''(7), or (8)''.

1982—Subsec. (a)(2). Pub. L. 97–365 substituted ''(m)(2) or (4)'' for ''(m)(4)''.

Pub. L. 97–248 inserted ''(i)(3)(B)(i),'' after ''under subsection (d),''.

1980—Subsec. (a)(2). Pub. L. 96–611, § 11(a)(4)(A), substituted ''(*l*)(6), (7), or (8)'' for ''(*l*)(6) or (7)''.

Pub. L. 96–499 substituted ''person (not described in paragraph (1))'' for ''officer, employee, or agent, or former officer, employee, or agent, of any State (as defined in section 6103(b)(5)), any local child support enforcement agency, any educational institution, or any State food stamp agency (as defined in section 6103(*l*)(7)(C)'' and ''(m)(4) of section 6103'' for ''(m)(4)(B) of section 6103''.

Pub. L. 96–265, § 408(a)(2)(D), as amended by Pub. L. 96–611, § 11(a)(2)(B)(iv), substituted ''subsection (d), (*l*)(6), (7), or (8), or (m)(4)(B)'' for ''subsection (d), (*l*)(6) or (7), or (m)(4)(B)''.

Pub. L. 96–249 substituted ''any educational institution, or any State food stamp agency (as defined in section 6103(*l*)(7)(C))'' for ''or any educational institution'' and ''subsection (d), (*l*)(6) or (7), or (m)(4)(B)'' for ''subsection (d), (*l*)(6), or (m)(4)(B)''.

1978—Subsec. (a)(1). Pub. L. 95–600, § 701(bb)(6)(A), inserted ''willfully'' before ''to disclose''.

Subsec. (a)(2). Pub. L. 95–600, § 701(bb)(1)(C), (6)(A), inserted provision relating to educational institutions, inserted ''willfully'' before ''to disclose'', and substituted ''subsection (d), (*l*)(6), or (m)(4)(B) of section 6103'' for ''section 6103(d) or (*l*)(6)''.

Subsec. (a)(3). Pub. L. 95–600, § 701(bb)(6)(B), substituted ''thereafter willfully to'' for ''to thereafter''.

Subsec. (a)(4). Pub. L. 95–600, § 701(bb)(6)(C), inserted ''willfully'' before ''to offer''.

Subsec. (a)(5). Pub. L. 95–600, § 701(bb)(6)(A), inserted ''willfully'' before ''to disclose''.

1976—Subsec. (a). Pub. L. 94–455, § 1202(d), added pars. (3) and (4), redesignated former par. (3) as (5), and in pars. (1), (2), and (5) raised from a misdemeanor to a felony any criminal violation of the disclosure rules, increased from $1,000 to $5,000 and from one year imprisonment to five years imprisonment the maximum criminal penalties for an unauthorized disclosure of a return or return information, extended the criminal penalties to apply to unauthorized disclosures of any return or return information and not merely income returns and other financial information appearing on income returns, and extended the criminal penalties to apply to former Federal and State officers and to officers and employees of contractors having access to returns and return information in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programming, maintenance, etc., of equipment.

Subsec. (c). Pub. L. 94–455, § 1202(d), redesignated subsec. (d) as (c). Former subsec. (c), covering offenses relating to the reproduction of documents, was struck out.

Subsecs. (d), (e). Pub. L. 94–455, § 1202(d), (h)(3), redesignated subsec. (e) as (d) and, in par. (1) of subsec. (d) as so redesignated, substituted a cross reference to section 7216 as covering penalties for disclosure or use of information by preparers of returns for a cross reference to section 6106 as covering special provisions applicable to returns of tax under chapter 23 (relating to Federal Unemployment Tax). Former subsec. (d) redesignated (c).

1960—Subsecs. (d), (e). Pub. L. 86–778 added subsec. (d) and redesignated former subsec. (d) as (e).

1958—Subsecs. (c), (d). Pub. L. 85–866 added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1997 AMENDMENTS

Section 2(c) of Pub. L. 105–35 provided that: ''The amendments made by this section [enacting section 7213A of this title and amending this section] shall apply to violations occurring on and after the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105–33, see section 11721 of Pub. L. 105–33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–378 applicable with respect to refunds payable under section 6402 of this title after Dec. 31, 1985, see section 21(g) of Pub. L. 98–378, set out as a note under section 6103 of this title.

Amendment by section 453(b)(4) of Pub. L. 98–369 effective on the first day of the first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

Amendment by section 2653(b)(4) of Pub. L. 98–369 applicable to refunds payable under section 6402 of this title after Dec. 31, 1985, see section 2653(c) of Pub. L. 98–369, as amended, set out as a note under section 6402 of this title.

EFFECTIVE DATE OF 1982 AMENDMENTS

Amendment by Pub. L. 97–365 effective Oct. 25, 1982, see section 8(d) of Pub. L. 97–365, set out as a note under section 6103 of this title.

Amendment by Pub. L. 97–248 effective on the day after Sept. 3, 1982, see section 356(c) of Pub. L. 97–248, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 11(a)(4)(B) of Pub. L. 96–611 provided that: ''The amendment made by subparagraph (A) [amending this section] shall take effect on December 5, 1980.''

Amendment by Pub. L. 96–499 effective Dec. 5, 1980, see section 302(c) of Pub. L. 96–499, set out as a note under section 6103 of this title.

Amendment by Pub. L. 96–265, as amended by section 11(a)(2)(B)(iv) of Pub. L. 96–611, effective June 9, 1980, see section 11(a)(3) of Pub. L. 96–611 and section 408(a)(3) of Pub. L. 96–265, set out as notes under section 6103 of this title.

Amendment by Pub. L. 96–249 effective May 26, 1980, see section 127(a)(3) of Pub. L. 96–249, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 effective Jan. 1, 1977, see section 701(bb)(8) of Pub. L. 95–600, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94–455, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–778 effective Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86–778, set out as a note under section 402 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98–369

For provisions that nothing in amendments by section 2653 of Pub. L. 98–369 be construed as exempting debts of corporations or any other category of persons from application of such amendments, with such amendments to extend to all Federal agencies (as defined in such amendments), see section 9402(b) of Pub. L. 98–369, set out as a note under section 6402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6105, 6109, 7213A, 7431, 7513 of this title; title 5 section 3111; title 42 sections 405, 1320b–11.

§ 7213A. Unauthorized inspection of returns or return information

(a) Prohibitions

(1) Federal employees and other persons

It shall be unlawful for—

(A) any officer or employee of the United States, or

(B) any person described in section 6103(n) or an officer or employee of any such person,

willfully to inspect, except as authorized in this title, any return or return information.

(2) State and other employees

It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

(b) Penalty

(1) In general

Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

(2) Federal officers or employees

An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

(c) Definitions

For purposes of this section, the terms ''inspect'', ''return'', and ''return information'' have the respective meanings given such terms by section 6103(b).

(Added Pub. L. 105–35, § 2(a), Aug. 5, 1997, 111 Stat. 1104.)

EFFECTIVE DATE

Section applicable to violations occurring on and after Aug. 5, 1997, see section 2(c) of Pub. L. 105–35, set out as an Effective Date of 1997 Amendment note under section 7213 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6105, 7431 of this title.

§ 7214. Offenses by officers and employees of the United States

(a) Unlawful acts of revenue officers or agents

Any officer or employee of the United States acting in connection with any revenue law of the United States—

(1) who is guilty of any extortion or willful oppression under color of law; or

(2) who knowingly demands other or greater sums than are authorized by law, or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty; or

(3) who with intent to defeat the application of any provision of this title fails to perform any of the duties of his office or employment; or

(4) who conspires or colludes with any other person to defraud the United States; or

(5) who knowingly makes opportunity for any person to defraud the United States; or

(6) who does or omits to do any act with intent to enable any other person to defraud the United States; or

(7) who makes or signs any fraudulent entry in any book, or makes or signs any fraudulent certificate, return, or statement; or

(8) who, having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law, fails to report, in writing, such knowledge or information to the Secretary; or

(9) who demands, or accepts, or attempts to collect, directly or indirectly as payment or gift, or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do;

shall be dismissed from office or discharged from employment and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both. The court may in its discretion award out of the fine so imposed an amount, not in excess of one-half thereof, for the use of the informer, if any, who shall be ascertained by the judgment of the court. The court also shall render judgment against the said officer or employee for the amount of damages sustained in favor of the party injured, to be collected by execution.

(b) Interest of internal revenue officer or employee in tobacco or liquor production

Any internal revenue officer or employee interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigarettes, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and each such officer or employee so interested in any such manufacture or production, rectification, or redistillation or production of fer-

mented liquors shall be fined not more than $5,000.

(c) Cross reference

For penalty on collecting or disbursing officers trading in public funds or debts of property, see 18 U.S.C. 1901.

(Aug. 16, 1954, ch. 736, 68A Stat. 856; Pub. L. 85–859, title II, § 204(5), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (a)(8). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1958—Subsec. (c). Pub. L. 85–859 struck out a cross reference that related to penalty imposed for unlawfully removing or permitting to be removed distilled spirits from a bonded warehouse.

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 Effective Date note under section 5001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6531 of this title.

§ 7215. Offenses with respect to collected taxes

(a) Penalty

Any person who fails to comply with any provision of section 7512(b) shall, in addition to any other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than one year, or both, together with the costs of prosecution.

(b) Exceptions

This section shall not apply—

(1) to any person, if such person shows that there was reasonable doubt as to (A) whether the law required collection of tax, or (B) who was required by law to collect tax, and

(2) to any person, if such person shows that the failure to comply with the provisions of section 7512(b) was due to circumstances beyond his control.

For purposes of paragraph (2), a lack of funds existing immediately after the payment of wages (whether or not created by the payment of such wages) shall not be considered to be circumstances beyond the control of a person.

(Added Pub. L. 85–321, § 2, Feb. 11, 1958, 72 Stat. 6; amended Pub. L. 97–248, title III, §§ 307(a)(15), 308(a), Sept. 3, 1982, 96 Stat. 590, 591; Pub. L. 98–67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369.)

AMENDMENTS

1983—Subsec. (b). Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

1982—Subsec. (b). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, last sentence of subsec. (b) is amended to read as follows: ''For purposes of paragraph (2), a lack of funds existing immediately after the payment of wages or amounts subject to withholding under subchapter B of chapter 24 (whether or not created by the payment of such wages or amounts) shall not be considered to be circumstances beyond the control of a person.'' Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

§ 7216. Disclosure or use of information by preparers of returns

(a) General rule

Any person who is engaged in the business of preparing, or providing services in connection with the preparation of, returns of the tax imposed by chapter 1, or any person who for compensation prepares any such return for any other person, and who knowingly or recklessly—

(1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or

(2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return,

shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.

(b) Exceptions

(1) Disclosure

Subsection (a) shall not apply to a disclosure of information if such disclosure is made—

(A) pursuant to any other provision of this title, or

(B) pursuant to an order of a court.

(2) Use

Subsection (a) shall not apply to the use of information in the preparation of, or in connection with the preparation of, State and local tax returns and declarations of estimated tax of the person to whom the information relates.

(3) Regulations

Subsection (a) shall not apply to a disclosure or use of information which is permitted by regulations prescribed by the Secretary under this section. Such regulations shall permit (subject to such conditions as such regulations shall provide) the disclosure or use of information for quality or peer reviews.

(Added Pub. L. 92–178, title III, § 316(a), Dec. 10, 1971, 85 Stat. 529; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. A, title IV, § 412(b)(10), July 18, 1984, 98 Stat. 792; Pub. L. 100–647, title VI, § 6242(b), Nov. 10, 1988, 102 Stat. 3749; Pub. L. 101–239, title VII, § 7739(a), Dec. 19, 1989, 103 Stat. 2404.)

AMENDMENTS

1989—Subsec. (b)(3). Pub. L. 101–239 inserted at end ''Such regulations shall permit (subject to such conditions as such regulations shall provide) the disclosure or use of information for quality or peer reviews.''

1988—Subsec. (a). Pub. L. 100–647 substituted ''and who knowingly or recklessly'' for ''and who''.

1984—Subsec. (a). Pub. L. 98–369 struck out from introductory text ''or declarations or amended declarations of estimated tax under section 6015,'' after ''chapter 1,'' and struck out ''or declaration'' after ''such return'' in three places.

1976—Subsec. (b)(3). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7739(b) of Pub. L. 101–239 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 19, 1989].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 applicable to disclosures or uses after Dec. 31, 1988, see section 6242(d) of Pub. L. 100–647, set out as an Effective Date note under section 6712 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98–369, set out as a note under section 6654 of this title.

EFFECTIVE DATE

Section 316(c) of Pub. L. 92–178 provided that: ''The amendments made by this section [enacting this section] shall take effect on the first day of the first month which begins after the date of the enactment of this Act [Dec. 10, 1971].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6713, 7213 of this title.

§ 7217. Prohibition on executive branch influence over taxpayer audits and other investigations

(a) Prohibition

It shall be unlawful for any applicable person to request, directly or indirectly, any officer or employee of the Internal Revenue Service to conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.

(b) Reporting requirement

Any officer or employee of the Internal Revenue Service receiving any request prohibited by subsection (a) shall report the receipt of such request to the Treasury Inspector General for Tax Administration.

(c) Exceptions

Subsection (a) shall not apply to any written request made—

(1) to an applicable person by or on behalf of the taxpayer and forwarded by such applicable person to the Internal Revenue Service;

(2) by an applicable person for disclosure of return or return information under section 6103 if such request is made in accordance with the requirements of such section; or

(3) by the Secretary of the Treasury as a consequence of the implementation of a change in tax policy.

(d) Penalty

Any person who willfully violates subsection (a) or fails to report under subsection (b) shall be punished upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(e) Applicable person

For purposes of this section, the term ''applicable person'' means—

(1) the President, the Vice President, any employee of the executive office of the President, and any employee of the executive office of the Vice President; and

(2) any individual (other than the Attorney General of the United States) serving in a position specified in section 5312 of title 5, United States Code.

(Added Pub. L. 105–206, title I, § 1105(a), July 22, 1998, 112 Stat. 711.)

PRIOR PROVISIONS

A prior section 7217, added Pub. L. 94–455, title XII, § 1202(e)(1), Oct. 4, 1976, 90 Stat. 1687; amended Pub. L. 95–600, title VII, § 701(bb)(7), Nov. 6, 1978, 92 Stat. 2923, related to civil damages for unauthorized disclosure of returns and return information, prior to repeal by Pub. L. 97–248, title III, § 357(b)(1), (c), Sept. 3, 1982, 96 Stat. 646, applicable with respect to disclosures made after Sept. 3, 1982.

EFFECTIVE DATE

Pub. L. 105–206, title I, § 1105(c), July 22, 1998, 112 Stat. 711, provided that: ''The amendments made by this section [enacting this section] shall apply to requests made after the date of the enactment of this Act [July 22, 1998].''

PART II—PENALTIES APPLICABLE TO CERTAIN TAXES

Sec.
7231. Failure to obtain license for collection of foreign items.
7232. Failure to register under section 4101, false representations of registration status, etc.
[7233 to 7241. Repealed.]

AMENDMENTS

1997—Pub. L. 105–34, title X, § 1032(e)(12)(C), Aug. 5, 1997, 111 Stat. 935, added item 7232 and struck out former item 7232 ''Failure to register, or false statement by manufacturer or producer of gasoline, diesel fuel, or aviation fuel''.

1996—Pub. L. 104–188, title I, § 1704(t)(20)(B), Aug. 20, 1996, 110 Stat. 1888, struck out ''lubricating oil,'' after ''gasoline,'' in item 7232.

1990—Pub. L. 101–508, title XI, § 11801(c)(22)(D)(ii), Nov. 5, 1990, 104 Stat. 1388–528, struck out item 7240 ''Officials investing or speculating in sugar''.

1988—Pub. L. 100–647, title III, § 3001(b)(3)(C), Nov. 10, 1988, 102 Stat. 3615, substituted '', lubricating oil, diesel fuel, or aviation fuel'' for ''or lubricating oil'' in item 7232.

Pub. L. 100–418, title I, § 1941(b)(3)(F), Aug. 23, 1988, 102 Stat. 1324, struck out item 7241 ''Willful failure to furnish certain information regarding windfall profit tax on domestic crude oil''.

1980—Pub. L. 96–223, title I, § 101(e)(2), Apr. 2, 1980, 94 Stat. 252, added item 7241.

1976—Pub. L. 94–455, title XIX, §§ 1904(b)(7)(B)(ii), (8)(D)(ii), (9)(B)(ii), (10)(F)(ii), 1952(n)(2)(B), Oct. 4, 1976, 90 Stat. 1815, 1816, 1818, 1846, struck out items 7233 ''Failure to pay, or attempt to evade payment of, tax on cotton futures, and other violations'', 7234 ''Violation of laws relating to oleomargarine or adulterated butter operations'', 7235 ''Violation of laws relating to adulterated butter and process or renovated butter'', 7239 ''Violations of laws relating to white phosphorus matches'', and 7241 ''Penalty for fraudulent equalization tax certificates''.

1974—Pub. L. 93–490, § 3(b)(2), Oct. 26, 1974, 88 Stat. 1467, struck out item 7236 ''Violation of laws relating to filled cheese''.

1970—Pub. L. 91–513, title III, § 1101(b)(4)(B), Oct. 27, 1970, 84 Stat. 1292, struck out items 7237 ''Violation of laws relating to narcotic drugs and to marihuana'' and 7238 ''Violation of laws relating to opium for smoking''.

1965—Pub. L. 89–44, title VIII, § 802(b)(6), June 21, 1965, 79 Stat. 159, struck out ''or give bond'' after ''Failure to register'' in item 7232.

1964—Pub. L. 88–563, § 6(c)(2), Sept. 2, 1964, 78 Stat. 847, inserted item 7241.

§ 7231. Failure to obtain license for collection of foreign items

Any person required by section 7001 (relating to collection of certain foreign items) to obtain a license who knowingly undertakes to collect the payments described in section 7001 without having obtained a license therefor, or without complying with regulations prescribed under section 7001, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 1 year, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 857.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7001 of this title.

§ 7232. Failure to register under section 4101, false representations of registration status, etc.

Every person who fails to register as required by section 4101, or who in connection with any purchase of any taxable fuel (as defined in section 4083) or aviation fuel falsely represents himself to be registered as provided by section 4101, or who willfully makes any false statement in an application for registration under section 4101, shall, upon conviction thereof, be fined not more than $5,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

(Aug. 16, 1954, ch. 736, 68A Stat. 858; Pub. L. 89–44, title VIII, § 802(b)(4), June 21, 1965, 79 Stat. 159; Pub. L. 100–647, title III, § 3001(b)(3)(A), (B), Nov. 10, 1988, 102 Stat. 3614; Pub. L. 104–188, title I, § 1704(t)(20)(A), Aug. 20, 1996, 110 Stat. 1888; Pub. L. 105–34, title X, § 1032(e)(12)(A), (B), Aug. 5, 1997, 111 Stat. 935; Pub. L. 105–206, title VI, § 6010(h)(2), July 22, 1998, 112 Stat. 815.)

AMENDMENTS

1998—Pub. L. 105–206 provided that amendment made by section 1032(e)(12)(A) of Pub. L. 105–34 shall be applied as if ''gasoline, diesel fuel,'' were the material proposed to be stricken. See 1997 Amendment note below.

1997—Pub. L. 105–34, § 1032(e)(12)(B), amended section catchline generally. Prior to amendment, catchline read as follows: ''Failure to register, or false statement by manufacturer or producer of gasoline, diesel fuel, or aviation fuel''.

Pub. L. 105–34, § 1032(e)(12)(A), which directed the substitution of ''any taxable fuel (as defined in section 4083)'' for ''gasoline, lubricating oil, diesel fuel'', was executed by making the substitution for ''gasoline, diesel fuel,'' to reflect the probable intent of Congress. See 1998 Amendment note above.

1996—Pub. L. 104–188 struck out ''lubricating oil,'' after ''gasoline,'' in section catchline and text.

1988—Pub. L. 100–647 substituted '', lubricating oil, diesel fuel, or aviation fuel'' for ''or lubricating oil'' in section catchline and in text.

1965—Pub. L. 89–44 struck out ''or give bond'' after ''Failure to register'' in section catchline and ''or give bond'' after ''register'' and ''and bonded'' after ''registered'' in text.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective July 1, 1998, see section 1032(f)(1) of Pub. L. 105–34, as amended, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 effective Jan. 1, 1989, see section 3001(c) of Pub. L. 100–647, set out as a note under section 4093 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable with respect to articles sold on or after July 1, 1965, see section 802(d)(1) of Pub. L. 89–44, set out as a note under section 4082 of this title.

[§ 7233. Repealed. Pub. L. 94–455, title XIX, § 1952(n)(2)(A), Oct. 4, 1976, 90 Stat. 1846]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 858, related to failure to pay, or attempt to evade payment of, tax on cotton futures, and other violations.

EFFECTIVE DATE OF REPEAL

Repeal effective on 90th day after Oct. 4, 1976, see section 1952(*o*) of Pub. L. 94–455, set out as an Effective Date note under section 15b of Title 7, Agriculture.

[§ 7234. Repealed. Pub. L. 94–455, title XIX, § 1904(b)(7)(B)(i), Oct. 4, 1976, 90 Stat. 1815]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 858, related to false branding, selling, or packing of oleomargarine, removal or defacement of stamps, marks, or brands on packages of oleomargarine or adulterated butter, failure of wholesale dealers to keep or permit inspection of books, or to render returns, and offenses involving imported oleomargarine or adulterated butter.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

[§ 7235. Repealed. Pub. L. 94–455, title XIX, § 1904(b)(9)(B)(i), Oct. 4, 1976, 90 Stat. 1816]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 859, related to the false branding, sale, packing, or stamping of adulterated butter, the failure of wholesale dealers to keep or permit inspection of books or to render returns, the failure to comply with provisions relating to the manufacture, storage, and marking of process or renovated butter, fraud by manufacturers, and the failure to pay the special tax on dealers in adulterated butter.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

[§ 7236. Repealed. Pub. L. 93–490, § 3(b)(1), Oct. 26, 1974, 88 Stat. 1466]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 860, set out acts and penalties for violations of laws relating to filled cheese.

EFFECTIVE DATE OF REPEAL

Repeal applicable to filled cheese manufactured, imported, or sold after Oct. 26, 1974, see section 3(c) of

Pub. L. 93–490, set out as a note under sections 4831 to 4834 of this title.

[§§ 7237, 7238. Repealed. Pub. L. 91–513, title III, § 1101(b)(4)(A), Oct. 27, 1970, 84 Stat. 1292]

Section 7237, acts Aug. 16, 1954, ch. 736, 68A Stat. 860; Jan. 20, 1955, ch. 1, 69 Stat. 3; July 18, 1956, ch. 629, title I, § 103, 70 Stat. 568; Nov. 8, 1966, Pub. L. 89–793, title V, § 501, 80 Stat. 1449, set out acts constituting violations relating to narcotic drugs and marihuana. See section 801 et seq. of Title 21, Food and Drugs.

Section 7238, act Aug. 16, 1954, ch. 736, 68A Stat. 861, set the penalty for the violation of provisions of this title relating to opium for smoking.

EFFECTIVE DATE OF REPEAL

Repeal 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 repeal of these sections by section 1101 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 section 171 of Title 21, Food and Drugs.

[§ 7239. Repealed. Pub. L. 94–455, title XIX, § 1904(b)(8)(D)(i), Oct. 4, 1976, 90 Stat. 1816]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 861, related to violations regarding the selling of unstamped white phosphorus matches and the use of insufficient stamps.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

[§ 7240. Repealed. Pub. L. 101–508, title XI, § 11801(c)(22)(D)(i), Nov. 5, 1990, 104 Stat. 1388–528]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 861; Oct. 4, 1976, Pub. L. 94–455, title XIX, § 1904(b)(6)(A), 90 Stat. 1815, set forth penalties for persons who invested or speculated in sugar while acting in any official capacity in the administration of former chapter 37 of this title.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

[§ 7241. Repealed. Pub. L. 100–418, title I, § 1941(b)(1), Aug. 23, 1988, 102 Stat. 1323]

Section, added Pub. L. 96–223, title I, § 101(e)(1), Apr. 2, 1980, 94 Stat. 252, prescribed penalty for willful failure to furnish certain information regarding windfall profit tax on domestic crude oil.

A prior section 7241, Pub. L. 88–563, § 6(b), Sept. 2, 1964, 78 Stat. 847, which related to penalty for fraudulent equalization tax certificates, was repealed by Pub. L. 94–455, title XIX, § 1904(b)(10)(F)(i), (iii), Oct. 4, 1976, 90 Stat. 1818, effective with respect to statements and certificates executed after June 30, 1974.

EFFECTIVE DATE OF REPEAL

Repeal applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as an Effective Date of 1988 Amendment note under section 164 of this title.

Subchapter B—Other Offenses

Sec.
7261. Representation that retailers' excise tax is excluded from price of article.
7262. Violation of occupational tax laws relating to wagering—failure to pay special tax.
[7263 to 7267. Repealed.]
7268. Possession with intent to sell in fraud of law or to evade tax.
7269. Failure to produce records.
7270. Insurance policies.
7271. Penalties for offenses relating to stamps.
7272. Penalty for failure to register.
7273. Penalties for offenses relating to special taxes.
[7274. Repealed.]
7275. Penalty for offenses relating to certain airline tickets and advertising.

AMENDMENTS

1976—Pub. L. 94–455, title XIX, §§ 1904(b)(7)(C)(ii), (8)(E)(ii), (9)(C)(ii), 1952(n)(3)(B), Oct. 4, 1976, 90 Stat. 1815, 1816, 1846, struck out items 7263 ''Penalties relating to cotton futures'', 7264 ''Offenses relating to renovated or adulterated butter'', 7265 ''Other offenses relating to oleomargarine or adulterated butter operations'', 7267 ''Offenses relating to white phosphorus matches'', and 7274 ''Penalty for offenses relating to white phosphorus matches''.

1974—Pub. L. 93–490, § 3(b)(4), Oct. 26, 1974, 88 Stat. 1467, struck out item 7266 ''Offenses relating to filled cheese''.

1970—Pub. L. 91–258, title II, § 203(c)(2), May 21, 1970, 84 Stat. 239, added item 7275.

1965—Pub. L. 89–44, title VI, § 601(i), June 21, 1965, 79 Stat. 155, struck out item 7275 ''Failure to print correct price on tickets''.

§ 7261. Representation that retailers' excise tax is excluded from price of article

Whoever, in connection with the sale or lease, or offer for sale or lease, of any article taxable under chapter 31, makes any statement, written or oral, in advertisement or otherwise, intended or calculated to lead any person to believe that the price of the article does not include the tax imposed by chapter 31, shall on conviction thereof be fined not more than $1,000.

(Aug. 16, 1954, ch. 736, 68A Stat. 862.)

§ 7262. Violation of occupational tax laws relating to wagering—failure to pay special tax

Any person who does any act which makes him liable for special tax under subchapter B of chapter 35 without having paid such tax, shall, besides being liable to the payment of the tax, be fined not less than $1,000 and not more than $5,000.

(Aug. 16, 1954, ch. 736, 68A Stat. 862.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7012 of this title.

[§ 7263. Repealed. Pub. L. 94–455, title XIX, § 1952(n)(3)(A), Oct. 4, 1976, 90 Stat. 1846]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 862, provided penalties for violations related to cotton futures.

EFFECTIVE DATE OF REPEAL

Repeal effective on 90th day after Oct. 4, 1976, see section 1952(o) of Pub. L. 94–455, set out as an Effective Date note under section 15b of Title 7, Agriculture.

[§ 7264. Repealed. Pub. L. 94–455, title XIX, § 1904(b)(9)(C)(i), Oct. 4, 1976, 90 Stat. 1816]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 863, provided the penalty for offenses relating to renovated or adulterated butter.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

[§ 7265. Repealed. Pub. L. 94–455, title XIX, § 1904(b)(7)(C)(i), Oct. 4, 1976, 90 Stat. 1815]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 863, provided penalties for offenses relating to oleomargarine or adulterated butter operations.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

[§ 7266. Repealed. Pub. L. 93–490, § 3(b)(3), Oct. 26, 1974, 88 Stat. 1467]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 863, set out offenses and penalties relating to filled cheese.

EFFECTIVE DATE OF REPEAL

Repeal applicable to filled cheese manufactured, imported, or sold after Oct. 26, 1974, see section 3(c) of Pub. L. 93–490, set out as a note under sections 4831 to 4834 of this title.

[§ 7267. Repealed. Pub. L. 94–455, title XIX, § 1904(b)(8)(E)(i), Oct. 4, 1976, 90 Stat. 1816]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 864, provided penalties for offenses relating to white phosphorus matches.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

§ 7268. Possession with intent to sell in fraud of law or to evade tax

Every person who shall have in his custody or possession any goods, wares, merchandise, articles, or objects on which taxes are imposed by law, for the purpose of selling the same in fraud of the internal revenue laws, or with design to avoid payment of the taxes imposed thereon, shall be liable to a penalty of $500 or not less than double the amount of taxes fraudulently attempted to be evaded.

(Aug. 16, 1954, ch. 736, 68A Stat. 865.)

§ 7269. Failure to produce records

Whoever fails to comply with any duty imposed upon him by section 6018, 6036 (in the case of an executor), or 6075(a), or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, or, having in his possession or control any property comprised in the gross estate of the decedent, fails to exhibit the same upon request to the Secretary who desires to examine the same in the performance of his duties under chapter 11 (relating to estate taxes), shall be liable to a penalty of not exceeding $500, to be recovered, with costs of suit, in a civil action in the name of the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 865; 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''.

§ 7270. Insurance policies

Any person who fails to comply with the requirements of section 4374 (relating to liability for tax on policies issued by foreign insurers), with intent to evade the tax shall, in addition to other penalties provided therefor, pay a fine of double the amount of the tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 865; Pub. L. 94–455, title XIX, § 1904(b)(5)(A), Oct. 4, 1976, 90 Stat. 1815.)

AMENDMENTS

1976—Pub. L. 94–455 substituted ''liability for tax on policies issued by foreign insurers'' for ''the affixing of stamps on insurance policies, etc.''.

EFFECTIVE DATE OF 1976 AMENDMENT

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 1904(d) of Pub. L. 94–455, set out as a note under section 4041 of this title.

§ 7271. Penalties for offenses relating to stamps

Any person who with respect to any tax payable by stamps—

(1) Failure to attach or cancel stamps, etc.

Fails to comply with rules or regulations prescribed pursuant to section 6804 (relating to attachment, cancellation, etc., of stamps), unless such failure is shown to be due to reasonable cause and not willful neglect; or

(2) Instruments

Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid; or

(3) Disposal and receipt of stamped packages

In the case of any container which is stamped, branded, or marked (whether or not under authority of law) in such manner as to show that the provisions of the internal revenue laws with respect to the contents or intended contents thereof have been complied with, and which is empty or contains any contents other than contents therein when the container was lawfully stamped, branded, or marked—

(A) Transfers or receives (whether by sale, gift, or otherwise) such container knowing it

to be empty or to contain such other contents; or

(B) Stamps, brands, or marks such container, or otherwise produces such as stamped, branded, or marked container, knowing it to be empty or to contain such other contents;

shall be liable for each such offense to a penalty of $50.

(Aug. 16, 1954, ch. 736, 68A Stat. 865; Pub. L. 94–455, title XIX, § 1906(a)(41), Oct. 4, 1976, 90 Stat. 1830.)

AMENDMENTS

1976—Pars. (2) to (4). Pub. L. 94–455 redesignated pars. (3) and (4) as (2) and (3), respectively. Former par. (2), which related to persons who manufactured or imported and sold, or offered for sale, or caused to be manufactured or imported and sold, or offered for sale, any playing card, package, or other article without the full amount of tax being paid, was struck out.

EFFECTIVE DATE OF 1976 AMENDMENT

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 REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7208, 7303 of this title.

§ 7272. Penalty for failure to register

(a) In general

Any person (other than persons required to register under subtitle E, or persons engaging in a trade or business on which a special tax is imposed by such subtitle) who fails to register with the Secretary as required by this title or by regulations issued thereunder shall be liable to a penalty of $50.

(b) Cross references

For provisions relating to persons required by this title to register, see sections 4101, 4412, and 7011.

(Aug. 16, 1954, ch. 736, 68A Stat. 866; Pub. L. 85–475, § 4(b)(8), June 30, 1958, 72 Stat. 260; Pub. L. 85–859, title II, § 204(6), (7), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 89–44, title VI, § 601(h), June 21, 1965, 79 Stat. 155; Pub. L. 94–455, title XIX, §§ 1904(b)(8)(F), 1906(a)(42), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1816, 1830, 1834.)

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, §§ 1904(b)(8)(F), 1906(a)(42), struck out ''4722, 4753, 4804(d),'' after ''4412,''.

1965—Subsec. (b). Pub. L. 89–44 struck out ''4455,'' after ''4412,''.

1958—Subsec. (a). Pub. L. 85–859, § 204(6), excluded persons required to register under subtitle E and persons engaging in a trade or business on which a special tax is imposed by such subtitle.

Subsec. (b). Pub. L. 85–859, § 204(7), struck out references to sections 5802 and 5841 of this title.

Subsec. (b). Pub. L. 85–475 struck out reference to section 4273.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1904(b)(8)(F) of Pub. L. 94–455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94–455, set out as a note under section 4041 of this title.

Amendment by section 1906(a)(42), (b)(13)(A) of 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.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89–44, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

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.

For effective date of amendment by Pub. L. 85–475, see section 4(c) of Pub. L. 85–475, set out as a note under section 6415 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7012 of this title.

§ 7273. Penalties for offenses relating to special taxes

Any person who shall fail to place and keep stamps denoting the payment of the special tax as provided in section 6806 shall be liable to a penalty (not less than $10) equal to the special tax for which his business rendered him liable, unless such failure is shown to be due to reasonable cause. If such failure to comply with section 6806 is through willful neglect or refusal, then the penalty shall be double the amount above prescribed.

(Aug. 16, 1954, ch. 736, 68A Stat. 866; Pub. L. 90–618, title II, § 205, Oct. 22, 1968, 82 Stat. 1235.)

AMENDMENTS

1968—Pub. L. 90–618 redesignated former subsec. (a) as existing provisions, struck out heading ''General rule'', all references to subsecs. (a) or (b) of section 6806 of this title, provision that nothing in this subsec. affects the liability of any person doing any act, etc., upon which a special tax is imposed for such special tax, and struck out subsec. (b) setting forth penalties for the failure to comply with the provisions of section 6806(c) of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–618 effective Oct. 22, 1968, see section 207 of Pub. L. 90–618, set out as an Effective Date note under section 5801 of this title.

[§ 7274. Repealed. Pub. L. 94–455, title XIX, § 1904(b)(8)(E)(i), Oct. 4, 1976, 90 Stat. 1816]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 866, provided penalties for offenses relating to white phosphorus matches.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1904(d) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 4041 of this title.

§ 7275. Penalty for offenses relating to certain airline tickets and advertising

(a) Tickets

In the case of transportation by air all of which is taxable transportation (as defined in

section 4262), the ticket for such transportation shall show the total of—

(1) the amount paid for such transportation, and

(2) the taxes imposed by subsections (a) and (b) of section 4261.

(b) Advertising

In the case of transportation by air all of which is taxable transportation (as defined in section 4262) or would be taxable transportation if section 4262 did not include subsection (b) thereof, any advertising made by or on behalf of any person furnishing such transportation (or offering to arrange such transportation) which states the cost of such transportation shall—

(1) state such cost as the total of (A) the amount to be paid for such transportation, and (B) the taxes imposed by sections 4261(a), (b), and (c), and

(2) if any such advertising states separately the amount to be paid for such transportation or the amount of such taxes, shall state such total at least as prominently as the more prominently stated of the amount to be paid for such transportation or the amount of such taxes and shall describe such taxes substantially as: ''user taxes to pay for airport construction and airway safety and operations.''

(c) Penalty

Any person who violates any provision of subsection (a) or (b) is, for each violation, guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $100.

(Added Pub. L. 91–258, title II, § 203(c)(1), May 21, 1970, 84 Stat. 239; amended Pub. L. 91–680, § 3, Jan. 12, 1971, 84 Stat. 2064; Pub. L. 97–248, title II, § 281A(b)(1), Sept. 3, 1982, 96 Stat. 567.)

PRIOR PROVISIONS

A prior section 7275, act Aug. 16, 1954, ch. 736, 68 Stat. 866, related to cross references, prior to repeal by Pub. L. 89–44, title VI, § 601(i), June 21, 1965, 79 Stat. 155.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–248 redesignated former par. (1) as pars. (1) and (2) and struck out former par. (2) which provided that a ticket for transportation, if it showed amounts paid with respect to any segment of such transportation, had to comply with former par. (1) with respect to such segments as well as with respect to the sum of the segments.

1971—Subsec. (a)(1). Pub. L. 91–680, § 3(a)(1), inserted ''and'' after ''and (b),''.

Subsec. (a)(2), (3). Pub. L. 91–680, § 3(a)(2), (3), redesignated par. (3) as (2), and struck out reference to par. (2). Former par. (2), which prohibited airline tickets from separately stating the amount paid for the air transportation and the amount paid for taxes, was struck out.

Subsec. (b)(1). Pub. L. 91–680, § 3(b), struck out ''only'' after ''state such cost''.

Subsec. (b)(2). Pub. L. 91–680, § 3(b), substituted provisions authorizing advertising to separately state in the prescribed manner the amount paid for the air transportation and the amount paid for taxes, for provisions prohibiting advertising from separately stating the amount paid for the air transportation and the amount paid for taxes.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 281A(b)(2) of Pub. L. 97–248, as amended by Pub. L. 98–369, div. A, title VII, § 714(b), July 18, 1984, 98 Stat. 961, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to transportation beginning after the date of the enactment of this Act [Sept. 3, 1982].''

EFFECTIVE DATE OF 1971 AMENDMENT

Section 4 of Pub. L. 91–680 provided that: ''The amendments made by the third section of this Act [amending this section] shall apply to transportation beginning after June 30, 1970.''

EFFECTIVE DATE

Section applicable to transportation beginning after June 30, 1970, see section 211(b) of Pub. L. 91–258, set out as Effective Date of 1970 Amendment note under section 4041 of this title.

Subchapter C—Forfeitures

Part
I. Property subject to forfeiture.
II. Provisions common to forfeitures.

PART I—PROPERTY SUBJECT TO FORFEITURE

Sec.
7301. Property subject to tax.
7302. Property used in violation of internal revenue laws.
7303. Other property subject to forfeiture.
7304. Penalty for fraudulently claiming drawback.

§ 7301. Property subject to tax

(a) Taxable articles

Any property on which, or for or in respect whereof, any tax is imposed by this title which shall be found in the possession or custody or within the control of any person, for the purpose of being sold or removed by him in fraud of the internal revenue laws, or with design to avoid payment of such tax, or which is removed, deposited, or concealed, with intent to defraud the United States of such tax or any part thereof, may be seized, and shall be forfeited to the United States.

(b) Raw materials

All property found in the possession of any person intending to manufacture the same into property of a kind subject to tax for the purpose of selling such taxable property in fraud of the internal revenue laws, or with design to evade the payment of such tax, may also be seized, and shall be forfeited to the United States.

(c) Equipment

All property whatsoever, in the place or building, or any yard or enclosure, where the property described in subsection (a) or (b) is found, or which is intended to be used in the making of property described in subsection (a), with intent to defraud the United States of tax or any part thereof, on the property described in subsection (a) may also be seized, and shall be forfeited to the United States.

(d) Packages

All property used as a container for, or which shall have contained, property described in subsection (a) or (b) may also be seized, and shall be forfeited to the United States.

(e) Conveyances

Any property (including aircraft, vehicles, vessels, or draft animals) used to transport or for

the deposit or concealment of property described in subsection (a) or (b), or any property used to transport or for the deposit or concealment of property which is intended to be used in the making or packaging of property described in subsection (a), may also be seized, and shall be forfeited to the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 867; Pub. L. 85–859, title II, § 204(8), Sept. 2, 1958, 72 Stat. 1429.)

AMENDMENTS

1958—Subsec. (e). Pub. L. 85–859 included property used to transport or for the deposit or concealment of property which is intended to be used in the making or packaging of property described in subsec. (a).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7324 of this title; title 31 section 9703.

§ 7302. Property used in violation of internal revenue laws

It shall be unlawful to have or possess any property intended for use in violating the provisions of the internal revenue laws, or regulations prescribed under such laws, or which has been so used, and no property rights shall exist in any such property. A search warrant may issue as provided in chapter 205 of title 18 of the United States Code and the Federal Rules of Criminal Procedure for the seizure of such property. Nothing in this section shall in any manner limit or affect any criminal or forfeiture provision of the internal revenue laws, or of any other law. The seizure and forfeiture of any property under the provisions of this section and the disposition of such property subsequent to seizure and forfeiture, or the disposition of the proceeds from the sale of such property, shall be in accordance with existing laws or those hereafter in existence relating to seizures, forfeitures, and disposition of property or proceeds, for violation of the internal revenue laws.

(Aug. 16, 1954, ch. 736, 68A Stat. 867.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in text, are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5117, 5686, 5763, 7324, 7613 of this title; title 31 section 9703.

§ 7303. Other property subject to forfeiture

There may be seized and forfeited to the United States the following:

(1) Counterfeit stamps

Every stamp involved in the offense described in section 7208 (relating to counterfeit, reused, cancelled, etc., stamps), and the vellum, parchment, document, paper, package, or article upon which such stamp was placed or impressed in connection with such offense.

(2) False stamping of packages

Any container involved in the offense described in section 7271 (relating to disposal of stamped packages), and of the contents of such container.

(3) Fraudulent bonds, permits, and entries

All property to which any false or fraudulent instrument involved in the offense described in section 7207 relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 868; Pub. L. 85–881, § 1(c), Sept. 2, 1958, 72 Stat. 1704; Pub. L. 93–490, § 3(b)(5), Oct. 26, 1974, 88 Stat. 1467; Pub. L. 94–455, title XIX, § 1904(b)(8)(G), (9)(D), Oct. 4, 1976, 90 Stat. 1816.)

AMENDMENTS

1976—Par. (2). Pub. L. 94–455, § 1904(b)(9)(D), redesignated par. (7) as (2). Former par. (2), which related to oleomargarine or filled cheese adjudged to contain deleterious ingredients, was repealed. See 1958 Amendment note below.

Par. (3). Pub. L. 94–455, § 1904(b)(9)(D), redesignated par. (8) as (3). Former par. (3), relating to offenses by manufacturers or importers of or wholesale dealers in oleomargarine or adulterated butter, was struck out.

Par. (4). Pub. L. 94–455, § 1904(b)(9)(D), struck out par. (4) which related to the purchase or receipt of adulterated butter.

Par. (5). Pub. L. 94–455, § 1904(b)(9)(D), struck out par. (5) which related to packages of oleomargarine found without required stamps or marks.

Par. (6). Pub. L. 94–455, § 1904(b)(8)(G), struck out par. (6) which related to white phosphorus matches.

Pars. (7), (8). Pub. L. 94–455, § 1904(b)(9)(D), redesignated pars. (7) and (8) as (2) and (3), respectively.

1974—Par. (4). Pub. L. 93–490 substituted provisions relating to purchase or receipt of adulterated butter and payment of tax under section 4821 of this title for provisions relating to purchase or receipt of filled cheese or adulterated butter and payment of tax under section 4821 or 4841 of this title.

Par. (5). Pub. L. 93–490 substituted provisions relating to packages of oleomargarine subject to tax under subchapter F of chapter 38 of this title for provisions relating to oleomargarine or filled cheese subject to tax under subchapter F of chapter 38 or part II of subchapter C of chapter 39 of this title.

1958—Pub. L. 85–881 repealed par. (2) which related to oleomargarine or filled cheese adjudged to contain deleterious ingredients.

EFFECTIVE DATE OF 1976 AMENDMENT

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 1904(d) of Pub. L. 94–455, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–490 applicable to filled cheese manufactured, imported, or sold after Oct. 26, 1974, see section 3(c) of Pub. L. 93–490, set out as an Effective Date of Repeal note under sections 4831 to 4834 of this title.

§ 7304. Penalty for fraudulently claiming drawback

Whenever any person fraudulently claims or seeks to obtain an allowance of drawback on goods, wares, or merchandise on which no internal tax shall have been paid, or fraudulently claims any greater allowance of drawback than the tax actually paid, he shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of $500, at the election of the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 869; 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''.

PART II—PROVISIONS COMMON TO FORFEITURES

Sec.
7321. Authority to seize property subject to forfeiture.
7322. Delivery of seized personal property to United States marshal.
7323. Judicial action to enforce forfeiture.
7324. Special disposition of perishable goods.
7325. Personal property valued at $100,000 or less.
7326. Disposal of forfeited or abandoned property in special cases.
7327. Customs laws applicable.
7328. Cross references.

AMENDMENTS

1986—Pub. L. 99–514, title XV, §1566(d), Oct. 22, 1986, 100 Stat. 2763, substituted ''$100,000'' for ''$2,500'' in item 7325.

1976—Pub. L. 94–455, title XIX, §1904(b)(8)(H)(ii), Oct. 4, 1976, 90 Stat. 1816, struck out item 7328 ''Confiscation of matches exported'' and redesignated item 7329 as 7328.

1958—Pub. L. 85–859, title II, §204(11), Sept. 2, 1958, 72 Stat. 1429, substituted ''$2,500'' for ''$1,000'' in item 7325.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 31 section 5111.

§ 7321. Authority to seize property subject to forfeiture

Any property subject to forfeiture to the United States under any provision of this title may be seized by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 869; 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''.

§ 7322. Delivery of seized personal property to United States marshal

Any forfeitable property which may be seized under the provisions of this title may, at the option of the Secretary, be delivered to the United States marshal of the district, and remain in the care and custody and under the control of such marshal, pending disposal thereof as provided by law.

(Aug. 16, 1954, ch. 736, 68A Stat. 869; 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''.

§ 7323. Judicial action to enforce forfeiture

(a) Nature and venue

The proceedings to enforce such forfeitures shall be in the nature of a proceeding in rem in the United States District Court for the district where such seizure is made.

(b) Service of process when property has been returned under bond

In case bond as provided in section 7324(3) shall have been executed and the property returned before seizure thereof by virtue of process in the proceedings in rem authorized in subsection (a) of this section, the marshal shall give notice of pendency of proceedings in court to the parties executing said bond, by personal service or publication, and in such manner and form as the court may direct, and the court shall thereupon have jurisdiction of said matter and parties in the same manner as if such property had been seized by virtue of the process aforesaid.

(c) Cost of seizure taxable

The cost of seizure made before process issues shall be taxable by the court.

(Aug. 16, 1954, ch. 736, 68A Stat. 869.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7324 of this title.

§ 7324. Special disposition of perishable goods

When any property which is seized under the provisions of section 7301 or section 7302 is liable to perish or become greatly reduced in price or value by keeping, or when it cannot be kept without great expense—

(1) Application for examination

The owner thereof, or the United States marshal of the district, may apply to the Secretary to examine it; and

(2) Appraisal

If, in the opinion of the Secretary, it shall be necessary that such property should be sold to prevent such waste or expense, the Secretary shall appraise the same; and thereupon

(3) Return to owner under bond

The owner shall have such property returned to him upon giving bond in an amount equal to such appraised value to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the Secretary, the United States marshal, or otherwise, as may be ordered and directed by the court, which bond shall be filed by the Secretary with the United States attorney for the district in which the proceedings in rem authorized in section 7323 may be commenced.

(4) Sale in absence of bond

(A) Order to sell

If such owner shall neglect or refuse to give such bond, the Secretary shall issue to any Treasury officer or employee or to the United States marshal an order to sell the same.

(B) Manner of sale

Such Treasury officer or employee or the marshal shall as soon as practicable make public sale of such property in accordance with such regulations as may be prescribed by the Secretary.

(C) Disposition of proceeds

The proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court to abide its final order, decree, or judgment.

(5) Form of bond and sureties

For provisions relating to form and sureties on bonds, see section 7101.

(Aug. 16, 1954, ch. 736, 68A Stat. 870; Pub. L. 85–859, title II, § 204(9), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 85–866, title I, § 78, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pars. (1) to (4). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1958—Par. (3). Pub. L. 85–866 struck out ''district'' before ''attorney''.

Pub. L. 85–859 included property seized under section 7302 of this title.

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7103, 7323 of this title.

§ 7325. Personal property valued at $100,000 or less

In all cases of seizure of any goods, wares, or merchandise as being subject to forfeiture under any provision of this title which, in the opinion of the Secretary, are of the appraised value of $100,000 or less, the Secretary shall, except in cases otherwise provided, proceed as follows:

(1) List and appraisement

The Secretary shall cause a list containing a particular description of the goods, wares, or merchandise seized to be prepared in duplicate, and an appraisement thereof to be made by three sworn appraisers, to be selected by the Secretary who shall be respectable and disinterested citizens of the United States residing within the internal revenue district wherein the seizure was made. Such list and appraisement shall be properly attested by the Secretary and such appraisers. Each appraiser shall be allowed for his services such compensation as the Secretary shall by regulations prescribe, to be paid in the manner similar to that provided for other necessary charges incurred in collecting internal revenue.

(2) Notice of seizure

If such goods are found by such appraisers to be of the value of $100,000 or less, the Secretary shall publish a notice for 3 weeks, in some newspaper of the district where the seizure was made, describing the articles and stating the time, place, and cause of their seizure, and requiring any person claiming them to appear and make such claim within 30 days from the date of the first publication of such notice.

(3) Execution of bond by claimant

Any person claiming the goods, wares, or merchandise so seized, within the time specified in the notice, may file with the Secretary a claim, stating his interest in the articles seized, and may execute a bond to the United States in the penal sum of $2,500, conditioned that, in case of condemnation of the articles so seized, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation; and upon the delivery of such bond to the Secretary, he shall transmit the same, with the duplicate list or description of the goods seized, to the United States attorney for the district, and such attorney shall proceed thereon in the ordinary manner prescribed by law.

(4) Sale in absence of bond

If no claim is interposed and no bond is given within the time above specified, the Secretary shall give reasonable notice of the sale of the goods, wares, or merchandise by publication, and, at the time and place specified in the notice, shall, unless otherwise provided by law, sell the articles so seized at public auction, or upon competitive bids, in accordance with such regulations as may be prescribed by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 870; Pub. L. 85–859, title II, § 204(10), (12), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 85–866, title I, § 78, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99–514, title XV, § 1566(a), (b), Oct. 22, 1986, 100 Stat. 2763.)

AMENDMENTS

1986—Pub. L. 99–514 substituted ''$100,000'' for ''$2,500'' in section catchline, introductory provisions, and par. (2), and substituted ''$2,500'' for ''$250'' in par. (3).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1958—Pub. L. 85–866 struck out ''district'' before ''attorney'' in par. (3).

Pub. L. 85–859 substituted ''$2,500'' for ''$1,000'' in section catchline, opening par., and par. (2), and inserted '', unless otherwise provided by law,'' before ''sell the articles'' in par. (4).

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1566(e) of Pub. L. 99–514 provided that: ''The amendments made by this section [amending this section and section 7103 of this title] shall take effect on the date of the enactment of this Act [Oct. 22, 1986].''

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment by Pub. L. 85–866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7103 of this title.

§ 7326. Disposal of forfeited or abandoned property in special cases

(a) Coin-operated gaming devices

Any coin-operated gaming device as defined in section 4462[1] upon which a tax is imposed by sec-

[1] See References in Text note below.

tion 4461[1] and which has been forfeited under any provision of this title shall be destroyed, or otherwise disposed of, in such manner as may be prescribed by the Secretary.

(b) Firearms

For provisions relating to disposal of forfeited firearms, see section 5872(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 871; Pub. L. 85–859, title II, § 204(13), Sept. 2, 1958, 72 Stat. 1429; Pub. L. 89–44, title VI, § 601(j), June 21, 1965, 79 Stat. 155; Pub. L. 91–513, title III, § 1102(f), Oct. 27, 1970, 84 Stat. 1292; Pub. L. 94–455, title XIX, §§ 1906(a)(43), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1830, 1834.)

REFERENCES IN TEXT

Sections 4461 and 4462, referred to in subsec. (a), were repealed by Pub. L. 95–600, title V, § 521(b), Nov. 6, 1978, 92 Stat. 2884.

AMENDMENTS

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

Subsecs. (b), (c). Pub. L. 94–455, § 1906(a)(43), redesignated subsec. (c) as (b) and in subsec. (b) as so redesignated substituted ''section 5872(b)'' for ''section 5862(b)''. Former subsec. (b), relating to narcotic drugs, was repealed. See 1970 Amendment note below.

1970—Subsec. (b). Pub. L. 91–513 struck out subsec. (b) which related to narcotic drugs and which made reference to sections 4714, 4733, and 4745(d) of this title.

1965—Subsec. (a). Pub. L. 89–44 substituted ''section 4462'' for ''section 4462(a)(2)''.

1958—Subsec. (a). Pub. L. 85–859 added subsec. (a).

Subsecs. (b), (c). Pub. L. 85–859 redesignated former pars. (1) and (2) as subsecs. (b) and (c), respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

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.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–513 effective 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 1965 AMENDMENT

Amendment by Pub. L. 89–44 to take effect in a manner consistent with effective date of change of tax provision to which related, see section 701(e) of Pub. L. 89–44, set out as a note under section 6103 of this title.

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 note under sections 171 to 174 of Title 21, Food and Drugs.

§ 7327. Customs laws applicable

The provisions of law applicable to the remission or mitigation by the Secretary of forfeitures under the customs laws shall apply to forfeitures incurred or alleged to have been incurred under the internal revenue laws.

(Aug. 16, 1954, ch. 736, 68A Stat. 871; 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''.

§ 7328. Cross references

(1) For the issuance of certificates of probable cause relieving officers making seizures of responsibility for damages, see 28 U. S. C. 2465.

(2) For provisions relating to forfeitures generally in connection with alcohol taxes, see chapter 51.

(3) For provisions relating to forfeitures generally in connection with tobacco taxes, see chapter 52.

(4) For provisions relating to forfeitures generally in connection with taxes on certain firearms, see chapter 53.

(Aug. 16, 1954, ch. 736, 68A Stat. 871, § 7329; renumbered § 7328, Pub. L. 94–455, title XIX, § 1904(b)(8)(H)(i), Oct. 4, 1976, 90 Stat. 1816.)

PRIOR PROVISIONS

A prior section 7328, act Aug. 16, 1954, ch. 736, 68A Stat. 871, provided for confiscation of white phosphorus matches exported or attempted to be exported, prior to repeal by Pub. L. 94–455, § 1904(b)(8)(H)(i).

A prior section 7329 was renumbered section 7328 of this title.

Subchapter D—Miscellaneous Penalty and Forfeiture Provisions

Sec.
7341. Penalty for sales to evade tax.
7342. Penalty for refusal to permit entry or examination.
7343. Definition of term ''person''.
7344. Extended application of penalties relating to officers of the Treasury Department.

§ 7341. Penalty for sales to evade tax

(a) Nonenforceability of contract

Whenever any person who is liable to pay any tax imposed by this title upon, for, or in respect of, any property sells or causes or allows the same to be sold before such tax is paid, with intent to avoid such tax, or in fraud of the internal revenue laws, any debt contracted in such sale, and any security given therefor, unless the same shall have been bona fide transferred to an innocent holder, shall be void, and the collection thereof shall not be enforced in any court.

(b) Forfeiture of sum paid on contract

If such property has been paid for, in whole or in part, the sum so paid shall be deemed forfeited.

(c) Moiety

Any person who shall sue for the sum so paid (in an action of debt) shall recover from the seller the amount so paid, one-half to his own use and the other half to the use of the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 872.)

§ 7342. Penalty for refusal to permit entry or examination

Any owner of any building or place, or person having the agency or superintendence of the

same, who refuses to admit any officer or employee of the Treasury Department acting under the authority of section 7606 (relating to entry of premises for examination of taxable articles) or refuses to permit him to examine such article or articles, shall, for every such refusal, forfeit $500.

(Aug. 16, 1954, ch. 736, 68A Stat. 872.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4083, 7606 of this title.

§ 7343. Definition of term "person"

The term ''person'' as used in this chapter includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(Aug. 16, 1954, ch. 736, 68A Stat. 872.)

§ 7344. Extended application of penalties relating to officers of the Treasury Department

All provisions of law imposing fines, penalties, or other punishment for offenses committed by an internal revenue officer or other officer of the Department of the Treasury, or under any agency or office thereof, shall apply to all persons whomsoever, employed, appointed, or acting under the authority of any internal revenue law, or any revenue provision of any law of the United States, when such persons are designated or acting as officers or employees in connection with such law, or are persons having the custody or disposition of any public money.

(Aug. 16, 1954, ch. 736, 68A Stat. 872.)

CHAPTER 76—JUDICIAL PROCEEDINGS

Subchapter		Sec.[1]
A.	Civil actions by the United States	7401
B.	Proceedings by Taxpayers and Third Parties	7421
C.	The Tax Court	7441
D.	Court review of Tax Court decisions	7481
E.	Burden of proof	7491

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3001(b), July 22, 1998, 112 Stat. 727, added item for subchapter E.

1976—Pub. L. 94–455, title XIX, § 1952(n)(4)(B), Oct. 4, 1976, 90 Stat. 1846, struck out item for subchapter E ''Miscellaneous provisions''.

1966—Pub. L. 89–719, title I, § 110(d)(3), Nov. 2, 1966, 80 Stat. 1145, substituted ''Taxpayers and Third Parties'' for ''taxpayers'' in item for subchapter B.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7851 of this title.

Subchapter A—Civil Actions by the United States

Sec.
7401. Authorization.
7402. Jurisdiction of district courts.
7403. Action to enforce lien or to subject property to payment of tax.
7404. Authority to bring civil action for estate taxes.
7405. Action for recovery of erroneous refunds.
7406. Disposition of judgments and moneys recovered.
7407. Action to enjoin income tax return preparers.
7408. Action to enjoin promoters of abusive tax shelters, etc.
7409. Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.
7410. Cross references.

AMENDMENTS

1987—Pub. L. 100–203, title X, § 10713(a)(2), Dec. 22, 1987, 101 Stat. 1330–469, added item 7409 and redesignated former item 7409 as 7410.

1982—Pub. L. 97–248, title III, § 321(b), Sept. 3, 1982, 96 Stat. 612, added item 7408 and redesignated former item 7408 as 7409.

1976—Pub. L. 94–455, title XII, § 1203(i)(4), Oct. 4, 1976, 90 Stat. 1695, added item 7407 and redesignated former item 7407 as 7408.

§ 7401. Authorization

No civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Secretary authorizes or sanctions the proceedings and the Attorney General or his delegate directs that the action be commenced.

(Aug. 16, 1954, ch. 736, 68A Stat. 873; 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''.

§ 7402. Jurisdiction of district courts

(a) To issue orders, processes, and judgments

The district courts of the United States at the instance of the United States shall have such jurisdiction to make and issue in civil actions, writs and orders of injunction, and of *ne exeat republica*, orders appointing receivers, and such other orders and processes, and to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such laws.

(b) To enforce summons

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

(c) For damages to United States officers or employees

Any officer or employee of the United States acting under authority of this title, or any person acting under or by authority of any such officer or employee, receiving any injury to his person or property in the discharge of his duty shall be entitled to maintain an action for damages therefor, in the district court of the United States, in the district wherein the party doing the injury may reside or shall be found.

[1] Section numbers editorially supplied.

[(d) Repealed. Pub. L. 92–310, title II, § 230(d), June 6, 1972, 86 Stat. 209]

(e) To quiet title

The United States district courts shall have jurisdiction of any action brought by the United States to quiet title to property if the title claimed by the United States to such property was derived from enforcement of a lien under this title.

(f) General jurisdiction

For general jurisdiction of the district courts of the United States in civil actions involving internal revenue, see section 1340 of title 28 of the United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 873; Pub. L. 89–719, title I, § 107(a), Nov. 2, 1966, 80 Stat. 1140; Pub. L. 93–310, title II, § 230(d), June 6, 1972, 86 Stat. 209.)

AMENDMENTS

1972—Subsec. (d). Pub. L. 92–310 repealed subsec. (d) which granted district courts jurisdiction of actions brought on official bonds.

1966—Subsecs. (e), (f). Pub. L. 89–719 added subsec. (e) and redesignated former subsec. (e) as (f).

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7407, 7408, 7409, 7604 of this title.

§ 7403. Action to enforce lien or to subject property to payment of tax

(a) Filing

In any case where there has been a refusal or neglect to pay any tax, or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney General or his delegate, at the request of the Secretary, may direct a civil action to be filed in a district court of the United States to enforce the lien of the United States under this title with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which he has any right, title, or interest, to the payment of such tax or liability. For purposes of the preceding sentence, any acceleration of payment under section 6166(g) shall be treated as a neglect to pay tax.

(b) Parties

All persons having liens upon or claiming any interest in the property involved in such action shall be made parties thereto.

(c) Adjudication and decree

The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property, and, in all cases where a claim or interest of the United States therein is established, may decree a sale of such property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States. If the property is sold to satisfy a first lien held by the United States, the United States may bid at the sale such sum, not exceeding the amount of such lien with expenses of sale, as the Secretary directs.

(d) Receivership

In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the Secretary during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

(Aug. 16, 1954, ch. 736, 68A Stat. 874; Pub. L. 89–719, title I, § 107(b), Nov. 2, 1966, 80 Stat. 1140; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), title XX, § 2004(f)(2), Oct. 4, 1976, 90 Stat. 1834, 1872; Pub. L. 97–34, title IV, § 422(e)(8), Aug. 13, 1981, 95 Stat. 316.)

AMENDMENTS

1981—Subsec. (a). Pub. L. 97–34 struck out ''or 6166A(h)'' after ''section 6166(g)''.

1976—Subsec. (a). Pub. L. 94–455, §§ 1906(b)(13)(A), 2004(f)(2), struck out ''or his delegate'' after ''Secretary'' and inserted provisions relating to the acceleration of payment under section 6166(g) or 6166A(h).

Subsecs. (c), (d). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1966—Subsec. (c). Pub. L. 89–719 inserted sentence permitting the United States, if the property is sold to satisfy a first lien held by the United States, to bid at the sale such sum, not more than the amount of such lien with expenses of sale, as the Secretary or his delegate directs.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97–34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

§ 7404. Authority to bring civil action for estate taxes

If the estate tax imposed by chapter 11 is not paid on or before the due date thereof, the Secretary shall proceed to collect the tax under the provisions of general law; or appropriate proceedings in the name of the United States may be commenced in any court of the United States having jurisdiction to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto. This section insofar as it applies to the collection of a deficiency shall be subject to the provisions of sections 6213 and 6601.

(Aug. 16, 1954, ch. 736, 68A Stat. 874; 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''.

§ 7405. Action for recovery of erroneous refunds

(a) Refunds after limitation period

Any portion of a tax imposed by this title, refund of which is erroneously made, within the meaning of section 6514, may be recovered by civil action brought in the name of the United States.

(b) Refunds otherwise erroneous

Any portion of a tax imposed by this title which has been erroneously refunded (if such refund would not be considered as erroneous under section 6514) may be recovered by civil action brought in the name of the United States.

(c) Interest

For provision relating to interest on erroneous refunds, see section 6602.

(d) Periods of limitation

For periods of limitations on actions under this section, see section 6532(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 874.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6514, 6532, 6602 of this title.

§ 7406. Disposition of judgments and moneys recovered

All judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties shall be paid to the Secretary as collections of internal revenue taxes.

(Aug. 16, 1954, ch. 736, 68A Stat. 875; 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''.

§ 7407. Action to enjoin income tax return preparers

(a) Authority to seek injunction

A civil action in the name of the United States to enjoin any person who is an income tax return preparer from further engaging in any conduct described in subsection (b) or from further action as an income tax return preparer may be commenced at the request of the Secretary. Any action under this section shall be brought in the District Court of the United States for the district in which the income tax preparer resides or has his principal place of business or in which the taxpayer with respect to whose income tax return the action is brought resides. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such income tax preparer or any taxpayer.

(b) Adjudication and decrees

In any action under subsection (a), if the court finds—

(1) that an income tax return preparer has—

(A) engaged in any conduct subject to penalty under section 6694 or 6695, or subject to any criminal penalty provided by this title,

(B) misrepresented his eligibility to practice before the Internal Revenue Service, or otherwise misrepresented his experience or education as an income tax return preparer,

(C) guaranteed the payment of any tax refund or the allowance of any tax credit, or

(D) engaged in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws, and

(2) that injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin such person from further engaging in such conduct. If the court finds that an income tax return preparer has continually or repeatedly engaged in any conduct described in subparagraphs (A) through (D) of this subsection and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, the court may enjoin such person from acting as an income tax return preparer.

(Added Pub. L. 94–455, title XII, § 1203(g), Oct. 4, 1976, 90 Stat. 1693; amended Pub. L. 101–239, title VII, § 7738(a), (b), Dec. 19, 1989, 103 Stat. 2404.)

PRIOR PROVISIONS

A prior section 7407 was renumbered section 7410 of this title.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–239, § 7738(b), substituted ''A civil'' for ''Except as provided in subsection (c), a civil''.

Subsec. (c). Pub. L. 101–239, § 7738(a), struck out subsec. (c) relating to bonds to stay injunctions.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7738(c) of Pub. L. 101–239 provided that: ''The amendments made by this section [amending this section] shall apply to actions commenced after December 31, 1989.''

EFFECTIVE DATE

Section applicable to documents prepared after Dec. 31, 1976, see section 1203(j) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 7701 of this title.

§ 7408. Action to enjoin promoters of abusive tax shelters, etc.

(a) Authority to seek injunction

A civil action in the name of the United States to enjoin any person from further engaging in conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.) or section 6701 (relating to penalties for aiding and abetting understatement of tax liability) may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such

person resides, has his principal place of business, or has engaged in conduct subject to penalty under section 6700 or section 6701. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

(b) Adjudication and decree

In any action under subsection (a), if the court finds—

(1) that the person has engaged in any conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.) or section 6701 (relating to penalties for aiding and abetting understatement of tax liability), and

(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under section 6700 or section 6701.

(c) Citizens and residents outside the United States

If any citizen or resident of the United States does not reside in, and does not have his principal place of business in, any United States judicial district, such citizen or resident shall be treated for purposes of this section as residing in the District of Columbia.

(Added Pub. L. 97–248, title III, § 321(a), Sept. 3, 1982, 96 Stat. 612; amended Pub. L. 98–369, div. A, title I, § 143(b), July 18, 1984, 98 Stat. 682.)

PRIOR PROVISIONS

A prior section 7408 was renumbered section 7410 of this title.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–369, § 143(b)(1), (2), inserted ''or section 6701 (relating to penalties for aiding and abetting understatement of tax liability)'' and inserted reference to section 6701 at end of second sentence.

Subsec. (b). Pub. L. 98–369, § 143(b)(1), (3), inserted ''or section 6701 (relating to penalties for aiding and abetting understatement of tax liability),'' in par. (1) and inserted reference to section 6701 at end.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective on day after July 18, 1984, see section 143(c) of Pub. L. 98–369, set out as a note under section 6700 of this title.

EFFECTIVE DATE

Section 321(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [enacting this section] shall take effect on the day after the date of the enactment of this Act [Sept. 3, 1982].''

§ 7409. Action to enjoin flagrant political expenditures of section 501(c)(3) organizations

(a) Authority to seek injunction

(1) In general

If the requirements of paragraph (2) are met, a civil action in the name of the United States may be commenced at the request of the Secretary to enjoin any section 501(c)(3) organization from further making political expenditures and for such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3). Any action under this section shall be brought in the district court of the United States for the district in which such organization has its principal place of business or for any district in which it has made political expenditures. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such organization.

(2) Requirements

An action may be brought under subsection (a) only if—

(A) the Internal Revenue Service has notified the organization of its intention to seek an injunction under this section if the making of political expenditures does not immediately cease, and

(B) the Commissioner of Internal Revenue has personally determined that—

(i) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

(ii) injunctive relief is appropriate to prevent future political expenditures.

(b) Adjudication and decree

In any action under subsection (a), if the court finds on the basis of clear and convincing evidence that—

(1) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

(2) injunctive relief is appropriate to prevent future political expenditures,

the court may enjoin such organization from making political expenditures and may grant such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3).

(c) Definitions

For purposes of this section, the terms ''section 501(c)(3) organization'' and ''political expenditures'' have the respective meanings given to such terms by section 4955.

(Added Pub. L. 100–203, title X, § 10713(a)(1), Dec. 22, 1987, 101 Stat. 1330–468.)

PRIOR PROVISIONS

A prior section 7409 was renumbered section 7410 of this title.

§ 7410. Cross references

(1) For provisions for collecting taxes in general, see chapter 64.

(2) For venue in a civil action for the collection of any tax, see section 1396 of Title 28 of the United States Code.

(3) For venue of a proceeding for the recovery of any fine, penalty, or forfeiture, see section 1395 of Title 28 of the United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 875, § 7407; renumbered § 7408, Pub. L. 94–455, title XII,

§ 1203(g), Oct. 4, 1976, 90 Stat. 1693; renumbered § 7409, Pub. L. 97–248, title III, § 321(a), Sept. 3, 1982, 96 Stat. 612; renumbered § 7410, Pub. L. 100–203, title X, § 10713(a)(1), Dec. 22, 1987, 101 Stat. 1330–468.)

Subchapter B—Proceedings by Taxpayers and Third Parties

Sec.
7421. Prohibition of suits to restrain assessment or collection.
7422. Civil actions for refund.
7423. Repayments to officers or employees.
7424. Intervention.
7425. Discharge of liens.
7426. Civil actions by persons other than taxpayers.
7427. Income tax return preparers.
7428. Declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.
7429. Review of jeopardy levy or assessment procedures.
7430. Awarding of costs and certain fees.
7431. Civil damages for unauthorized inspection or disclosure of returns and return information.
7432. Civil damages for failure to release lien.
7433. Civil damages for certain unauthorized collection actions.
7434. Civil damages for fraudulent filing of information returns.
7435. Civil damages for unauthorized enticement of information disclosure.
7436. Proceedings for determination of employment status.
7437. Cross references.

AMENDMENTS

1997—Pub. L. 105–35, § 3(d)(5), Aug. 5, 1997, 111 Stat. 1106, inserted ''inspection or'' before ''disclosure'' in item 7431.

Pub. L. 105–34, title XIV, § 1454(b)(4), Aug. 5, 1997, 111 Stat. 1057, added items 7436 and 7437 and struck out former item 7436 ''Cross references''.

1996—Pub. L. 104–168, title VI, § 601(b), title XII, § 1203(b), July 30, 1996, 110 Stat. 1462, 1471, added items 7434 and 7435 and redesignated former item 7434 as 7436.

1988—Pub. L. 100–647, title VI, §§ 6237(e)(4), 6239(c), 6240(b), 6241(c), Nov. 10, 1988, 102 Stat. 3743, 3746–3748, inserted ''levy or'' after ''jeopardy'' in item 7429, struck out ''court'' after ''Awarding of'' in item 7430, added items 7432 and 7433, and redesignated former item 7432 as 7434.

1982—Pub. L. 97–248, title II, § 292(d)(1), title III, § 357(b)(3), Sept. 3, 1982, 96 Stat. 574, 646, added items 7430 and 7431 and redesignated former item 7430 as 7432.

1976—Pub. L. 94–455, title XII, §§ 1203(b)(2)(B), 1204(c)(13), title XIII, § 1306(b)(6), Oct. 4, 1976, 90 Stat. 1690, 1699, 1719, added items 7427 to 7429 and redesignated former item 7427 as 7430.

1966—Pub. L. 89–719, title I, § 110(d)(1), (2), Nov. 2, 1966, 80 Stat. 1145, inserted ''and Third Parties'' in subchapter heading, substituted ''Intervention'' for ''Civil action to clear title to property'' in item 7424, added items 7425 and 7426, and redesignated former item 7425 as 7427.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6103 of this title.

§ 7421. Prohibition of suits to restrain assessment or collection

(a) Tax

Except as provided in sections 6015(e), 6212(a) and (c), 6213(a), 6225(b), 6246(b), 6330(e)(1), 6331(i), 6672(c), 6694(c), and 7426(a) and (b)(1), 7429(b), and 7436, no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed.

(b) Liability of transferee or fiduciary

No suit shall be maintained in any court for the purpose of restraining the assessment or collection (pursuant to the provisions of chapter 71) of—

(1) the amount of the liability, at law or in equity, of a transferee of property of a taxpayer in respect of any internal revenue tax, or

(2) the amount of the liability of a fiduciary under section 3713(b) of title 31, United States Code[1] in respect of any such tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 876; Pub. L. 89–719, title I, § 110(c), Nov. 2, 1966, 80 Stat. 1144; Pub. L. 94–455, title XII, § 1204(c)(11), Oct. 4, 1976, 90 Stat. 1699; Pub. L. 95–628, § 9(b)(1), Nov. 10, 1978, 92 Stat. 3633; Pub. L. 97–258, § 3(f)(13), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 105–34, title XII, §§ 1222(b)(1), 1239(e)(3), title XIV, § 1454(b)(2), Aug. 5, 1997, 111 Stat. 1019, 1028, 1057; Pub. L. 105–206, title III, § 3201(e)(3), July 22, 1998, 112 Stat. 740; Pub. L. 105–277, div. J, title IV, § 4002(c)(1), (f), Oct. 21, 1998, 112 Stat. 2681–906, 2681–907; Pub. L. 106–554, § 1(a)(7) [title III, §§ 313(b)(2)(B), 319(24)], Dec. 21, 2000, 114 Stat. 2763, 2763A–642, 2763A–647.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–554 inserted ''6330(e)(1),'' after ''6246(b),'' and substituted ''6672(c)'' for ''6672(b)''.

1998—Subsec. (a). Pub. L. 105–277 substituted ''6015(e)'' for ''6015(d)'' and inserted ''6331(i),'' after ''6246(b),''.

Pub. L. 105–206 inserted ''6015(d),'' after ''sections''.

1997—Subsec. (a). Pub. L. 105–34, § 1454(b)(2), substituted ''7429(b), and 7436'' for ''and 7429(b)''.

Pub. L. 105–34, § 1239(e)(3), inserted ''6225(b),'' after ''6213(a),''.

Pub. L. 105–34, § 1222(b)(1), inserted ''6246(b),'' after ''6213(a),''.

1982—Subsec. (b)(2). Pub. L. 97–258 substituted ''section 3713(b) of title 31, United States Code'' for ''section 3467 of the Revised Statutes (31 U.S.C. 192)''.

1978—Subsec. (a). Pub. L. 95–628 inserted references to sections 6672(b) and 6694(c).

1976—Subsec. (a). Pub. L. 94–455 substituted ''7426(a) and (b)(1), and 7429(b)'' for ''and 7426(a) and (b)(1)''.

1966—Subsec. (a). Pub. L. 89–719 inserted reference to section 7426(a), (b)(1), and ''by any person, whether or not such person is the person against whom such tax was assessed''.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–277 effective as if included in the provision of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, to which such amendment relates, see section 4002(k) of Pub. L. 105–277, set out as a note under section 1 of this title.

Amendment by Pub. L. 105–206 applicable to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date, see section 3201(g)(1) of Pub. L. 105–206, set out as a note under section 6015 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1222(b)(1) of Pub. L. 105–34 applicable to partnership taxable years beginning after

[1] So in original. Probably should be followed by a comma.

Dec. 31, 1997, see section 1226 of Pub. L. 105–34, as amended, set out as a note under section 6011 of this title.

Amendment by section 1239(e)(3) of Pub. L. 105–34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1239(f) of Pub. L. 105–34, set out as a note under section 6225 of this title.

Amendment by section 1454(b)(2) of Pub. L. 105–34, effective Aug. 5, 1997, see section 1454(c) of Pub. L. 105–34, set out as a note under section 6511 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–628 applicable with respect to penalties assessed more than 60 days after Nov. 10, 1978, see section 9(c) of Pub. L. 95–628, set out as a note under section 6672 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 applicable with respect to action taken under section 6851, 6861, or 6862 of this title where notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94–455, as amended, set out as a note under section 6851 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

PROHIBITION ON REQUESTS TO TAXPAYERS TO GIVE UP RIGHTS TO BRING ACTIONS

Pub. L. 105–206, title III, § 3468, July 22, 1998, 112 Stat. 770, provided that:

''(a) PROHIBITION.—No officer or employee of the United States may request a taxpayer to waive the taxpayer's right to bring a civil action against the United States or any officer or employee of the United States for any action taken in connection with the internal revenue laws.

''(b) EXCEPTIONS.—Subsection (a) shall not apply in any case where—

''(1) a taxpayer waives the right described in subsection (a) knowingly and voluntarily; or

''(2) the request by the officer or employee is made in person and the taxpayer's attorney or other federally authorized tax practitioner (within the meaning of section 7525(a)(3)(A) of the Internal Revenue Code of 1986) is present, or the request is made in writing to the taxpayer's attorney or other representative.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4961, 6015, 6207, 6213, 6246, 6330, 6331, 6672, 6694, 6703, 6904 of this title.

§ 7422. Civil actions for refund

(a) No suit prior to filing claim for refund

No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Secretary, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof.

(b) Protest or duress

Such suit or proceeding may be maintained whether or not such tax, penalty, or sum has been paid under protest or duress.

(c) Suits against collection officer a bar

A suit against any officer or employee of the United States (or former officer or employee) or his personal representative for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected shall be treated as if the United States had been a party to such suit in applying the doctrine of res judicata in all suits in respect of any internal revenue tax, and in all proceedings in the Tax Court and on review of decisions of the Tax Court.

(d) Credit treated as payment

The credit of an overpayment of any tax in satisfaction of any tax liability shall, for the purpose of any suit for refund of such tax liability so satisfied, be deemed to be a payment in respect of such tax liability at the time such credit is allowed.

(e) Stay of proceedings

If the Secretary prior to the hearing of a suit brought by a taxpayer in a district court or the United States Court of Federal Claims for the recovery of any income tax, estate tax, gift tax, or tax imposed by chapter 41, 42, 43, or 44 (or any penalty relating to such taxes) mails to the taxpayer a notice that a deficiency has been determined in respect of the tax which is the subject matter of taxpayer's suit, the proceedings in taxpayer's suit shall be stayed during the period of time in which the taxpayer may file a petition with the Tax Court for a redetermination of the asserted deficiency, and for 60 days thereafter. If the taxpayer files a petition with the Tax Court, the district court or the United States Court of Federal Claims, as the case may be, shall lose jurisdiction of taxpayer's suit to whatever extent jurisdiction is acquired by the Tax Court of the subject matter of taxpayer's suit for refund. If the taxpayer does not file a petition with the Tax Court for a redetermination of the asserted deficiency, the United States may counterclaim in the taxpayer's suit, or intervene in the event of a suit as described in subsection (c) (relating to suits against officers or employees of the United States), within the period of the stay of proceedings notwithstanding that the time for such pleading may have otherwise expired. The taxpayer shall have the burden of proof with respect to the issues raised by such counterclaim or intervention of the United States except as to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax. This subsection shall not apply to a suit by a taxpayer which, prior to the date of enactment of this title, is commenced, instituted, or pending in a district court or the United States Court of Federal Claims for the recovery of any income tax, estate tax, or gift tax (or any penalty relating to such taxes).

(f) Limitation on right of action for refund

(1) General rule

A suit or proceeding referred to in subsection (a) may be maintained only against the United States and not against any officer or employee of the United States (or former officer or employee) or his personal representative. Such suit or proceeding may be main-

tained against the United States notwithstanding the provisions of section 2502 of title 28 of the United States Code (relating to aliens' privilege to sue) and notwithstanding the provisions of section 1502 of such title 28 (relating to certain treaty cases).

(2) Misjoinder and change of venue

If a suit or proceeding brought in a United States district court against an officer or employee of the United States (or former officer or employee) or his personal representative is improperly brought solely by virtue of paragraph (1), the court shall order, upon such terms as are just, that the pleadings be amended to substitute the United States as a party for such officer or employee as of the time such action commenced, upon proper service of process on the United States. Such suit or proceeding shall upon request by the United States be transferred to the district or division where it should have been brought if such action initially had been brought against the United States.

(g) Special rules for certain excise taxes imposed by chapter 42 or 43

(1) Right to bring actions

(A) In general

With respect to any taxable event, payment of the full amount of the first tier tax shall constitute sufficient payment in order to maintain an action under this section with respect to the second tier tax.

(B) Definitions

For purposes of subparagraph (A), the terms ''taxable event'', ''first tier tax'', and ''second tier tax'' have the respective meanings given to such terms by section 4963.

(2) Limitation on suit for refund

No suit may be maintained under this section for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4955, 4958, 4971, or 4975 with respect to any act (or failure to act) giving rise to liability for tax under such sections, unless no other suit has been maintained for credit or refund of, and no petition has been filed in the Tax Court with respect to a deficiency in, any other tax imposed by such sections with respect to such act (or failure to act).

(3) Final determination of issues

For purposes of this section, any suit for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4955, 4958, 4971, or 4975 with respect to any act (or failure to act) giving rise to liability for tax under such sections, shall constitute a suit to determine all questions with respect to any other tax imposed with respect to such act (or failure to act) under such sections, and failure by the parties to such suit to bring any such question before the Court shall constitute a bar to such question.

(h) Special rule for actions with respect to partnership items

No action may be brought for a refund attributable to partnership items (as defined in section 6231(a)(3)) except as provided in section 6228(b) or section 6230(c).

(i) Special rule for actions with respect to tax shelter promoter and understatement penalties

No action or proceeding may be brought in the United States Court of Federal Claims for any refund or credit of a penalty imposed by section 6700 (relating to penalty for promoting abusive tax shelters, etc.) or section 6701 (relating to penalties for aiding and abetting understatement of tax liability).

(j) Special rule for actions with respect to estates for which an election under section 6166 is made

(1) In general

The district courts of the United States and the United States Court of Federal Claims shall not fail to have jurisdiction over any action brought by the representative of an estate to which this subsection applies to determine the correct amount of the estate tax liability of such estate (or for any refund with respect thereto) solely because the full amount of such liability has not been paid by reason of an election under section 6166 with respect to such estate.

(2) Estates to which subsection applies

This subsection shall apply to any estate if, as of the date the action is filed—

(A) no portion of the installments payable under section 6166 have been accelerated;

(B) all such installments the due date for which is on or before the date the action is filed have been paid;

(C) there is no case pending in the Tax Court with respect to the tax imposed by section 2001 on the estate and, if a notice of deficiency under section 6212 with respect to such tax has been issued, the time for filing a petition with the Tax Court with respect to such notice has expired; and

(D) no proceeding for declaratory judgment under section 7479 is pending.

(3) Prohibition on collection of disallowed liability

If the court redetermines under paragraph (1) the estate tax liability of an estate, no part of such liability which is disallowed by a decision of such court which has become final may be collected by the Secretary, and amounts paid in excess of the installments determined by the court as currently due and payable shall be refunded.

(k) Cross references

(1) For provisions relating generally to claims for refund or credit, see chapter 65 (relating to abatements, credit, and refund) and chapter 66 (relating to limitations).

(2) For duty of United States attorneys to defend suits, see section 507 of Title 28 of the United States Code.

(3) For jurisdiction of United States district courts, see section 1346 of Title 28 of the United States Code.

(4) For payment by the Treasury of judgments against internal revenue officers or employees, upon certificate of probable cause, see section 2006 of Title 28 of the United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 876; Pub. L. 85–866, title I, § 78, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 89–713, § 3(a), Nov. 2, 1966, 80 Stat. 1108; Pub. L. 91–172, title I, § 101(i), (j)(56), Dec. 30, 1969, 83 Stat. 525, 532; Pub. L. 92–178, title III, § 309(a), Dec. 10, 1971, 85 Stat. 525; Pub. L. 93–406, title II, § 1016(a)(26), Sept. 2, 1974, 88 Stat. 931; Pub. L. 94–455, title XIII, § 1307(d)(2)(F)(viii), title XVI, § 1605(b)(11), title XIX, § 1906(a)(44), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1728, 1755, 1830, 1834; Pub. L. 96–222, title I, § 108(b)(1)(D)–(F), Apr. 1, 1980, 94 Stat. 226; Pub. L. 96–223, title I, § 101(f)(1)(J), Apr. 2, 1980, 94 Stat. 252; Pub. L. 96–596, § 2(c)(2), Dec. 24, 1980, 94 Stat. 3474; Pub. L. 97–164, title I, § 151, Apr. 2, 1982, 96 Stat. 46; Pub. L. 97–248, title IV, § 402(c)(11), Sept. 3, 1982, 96 Stat. 668; Pub. L. 98–369, div. A, title VII, § 714(g)(1), (p)(2)(H), July 18, 1984, 98 Stat. 961, 965; Pub. L. 99–514, title XVIII, § 1899A(58), Oct. 22, 1986, 100 Stat. 2961; Pub. L. 100–203, title X, § 10712(c)(5), Dec. 22, 1987, 101 Stat. 1330–467; Pub. L. 100–418, title I, § 1941(b)(2)(B)(x), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 104–168, title XIII, § 1311(c)(4), July 30, 1996, 110 Stat. 1478; Pub. L. 105–206, title III, § 3104(a), July 22, 1998, 112 Stat. 731.)

REFERENCES IN TEXT

The date of enactment of this title, referred to in subsec. (e), is Aug. 16, 1954.

AMENDMENTS

1998—Subsecs. (j), (k). Pub. L. 105–206 added subsec. (j) and redesignated former subsec. (j) as (k).

1996—Subsec. (g)(2), (3). Pub. L. 104–168 inserted ''4958,'' after ''4955,''.

1992—Subsecs. (e), (i). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' wherever appearing.

1988—Subsec. (e). Pub. L. 100–418 substituted ''or 44'' for ''44, or 45''.

1987—Subsec. (g)(2), (3). Pub. L. 100–203 inserted ''4955,'' after ''4952,''.

1986—Subsec. (g)(1)(B). Pub. L. 99–514 substituted ''section 4963'' for ''section 4962''.

1984—Subsec. (h). Pub. L. 98–369, § 714(p)(2)(H), substituted ''section 6231(a)(3)'' for ''section 6131(a)(3)''.

Subsecs. (i), (j). Pub. L. 98–369, § 714(g)(1), added subsec. (i) and redesignated former subsec. (i) as (j).

1982—Subsec. (e). Pub. L. 97–164 substituted ''United States Claims Court'' for ''Court of Claims'' wherever appearing.

Subsecs. (h), (i). Pub. L. 97–248 added subsec. (h) and redesignated former subsec. (h) as (i).

1980—Subsec. (e). Pub. L. 96–223 inserted reference to chapter 45.

Subsec. (g). Pub. L. 96–596 substituted in par. (1) provision authorizing, with respect to any taxable event, payment of the full amount of the first tier tax as constituting sufficient payment in order to maintain an action under this section with respect to the second tier tax and defining the terms ''taxable event'', ''first tier tax'', and ''second tier tax'' as having the respective meanings given to such terms by section 4962 of this title for provision authorizing, with respect to any act or failure to act giving rise to liability under sections 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975 of this title, payment of the full amount of tax imposed under specified subsections of those sections as constituting sufficient payment in order to maintain an action under this section with respect to such act or failure to act.

Pub. L. 96–222 substituted in pars. (1) to (3) ''4944, 4945, 4951, 4952'' for ''4944, 4945'' and in par. (1) ''section 4945(a) (relating to initial taxes on taxable expenditures), section 4951(a) (relating to initial taxes on self dealing), 4952(a) (relating to initial taxes on taxable expenditures)'' for ''section 4945(a) (relating to initial taxes on taxable expenditures)'' and ''section 4945(b) (relating to additional taxes on taxable expenditures), section 4951(b) (relating to additional taxes on self-dealing), 4952(b) (relating to additional taxes on taxable expenditures)'' for ''section 4945(b) (relating to additional taxes on taxable expenditures)''.

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

Subsec. (c). Pub. L. 94–455, § 1906(a)(44), struck out ''instituted after June 15, 1942,'' after ''res judicata in all suits'' and ''where the petition to the Tax Court was filed after such date'' after ''decisions of the Tax Court''.

Subsec. (e). Pub. L. 94–455, §§ 1307(d)(2)(F)(viii), 1605(b)(11), 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' and substituted ''chapter 41, 42,'' for ''chapter 42'' and ''43, or 44'' for ''or 43''.

1974—Subsec. (e). Pub. L. 93–406, § 1016(a)(26)(A), substituted ''chapter 42 or 43'' for ''chapter 42''.

Subsec. (g). Pub. L. 93–406, § 1016(a)(26)(B)–(F), substituted ''chapter 42 or 43'' for ''chapter 42'' in heading, substituted ''4945, 4971, or 4975'' for ''or 4945'', ''section 4945(a) (relating to initial taxes on taxable expenditures), 4971(a) (relating to initial tax on failure to meet minimum funding standard), 4975(a) (relating to initial tax on prohibited transactions)'' for ''section 4945(a) (relating to initial taxes on taxable expenditures)'', and ''section 4945(b) (relating to additional taxes on taxable expenditures), section 4971(b) (relating to additional tax on failure to meet minimum funding standard), or section 4975(b) (relating to additional tax on prohibited transactions)'' for ''or section 4945(b) (relating to additional taxes on taxable expenditures)'' in par. (1), and substituted ''4945, 4971, or 4975'' for ''or 4945'' in pars. (2) and (3).

1971—Subsec. (f)(1). Pub. L. 92–178 authorized maintenance of suit or proceeding against the United States notwithstanding provisions of section 1502 of Title 28 (relating to certain treaty cases).

1969—Subsec. (e). Pub. L. 91–172, § 101(j)(56), inserted reference to chapter 42 taxes.

Subsecs. (g), (h). Pub. L. 91–172, § 101(i), added subsec. (g) and redesignated former subsec. (g) as (h).

1966—Subsecs. (f), (g). Pub. L. 89–713 added subsec. (f) and redesignated former subsec. (f) as (g).

1958—Subsec. (f)(2). Pub. L. 85–866 struck out ''district'' before ''attorneys''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3104(c), July 22, 1998, 112 Stat. 732, provided that: ''The amendments made by this section [amending this section and section 7479 of this title] shall apply to any claim for refund filed after the date of the enactment of this Act [July 22, 1998].''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to excess benefit transactions occurring on or after Sept. 14, 1995 and not applicable to any benefit arising from a transaction pursuant to any written contract which was binding on Sept. 13, 1995, and at all times thereafter before such transaction occurred, see section 1311(d)(1), (2) of Pub. L. 104–168, set out as a note under section 4955 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100–203, set out as an Effective Date note under section 4955 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 714(g)(1) of Pub. L. 98–369 applicable to any claim for refund or credit filed after July 18, 1984, see section 714(g)(4) of Pub. L. 98–369, set out as an Effective Date note under section 1509 of Title 28, Judiciary and Judicial Procedure.

Amendment by section 714(p)(2)(H) 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.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENTS

For effective date of amendment by Pub. L. 96–596 with respect to any first tier tax and to any second tier tax, see section 2(d) of Pub. L. 96–596, set out as an Effective Date note under section 4961 of this title.

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

Amendment by Pub. L. 96–222 effective as if included in the provisions of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95–227, see section 108(b)(4) of Pub. L. 96–222, set out as a note under section 192 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(F)(viii) of Pub. L. 94–455 effective on and after Oct. 4, 1976, see section 1307(e)(6) of Pub. L. 94–455, set out as a note under section 501 of this title.

For effective date of amendment by section 1605(b)(11) of Pub. L. 94–455, see section 1608(d) of Pub. L. 94–455, set out as a note under section 856 of this title.

Amendment by section 1906(a)(44), (b)(13)(A) of 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.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, and in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 309(b) of Pub. L. 92–178 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to suits or proceedings which are instituted after January 30, 1967.''

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3(d) of Pub. L. 89–713 provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 2502 of Title 28, Judiciary and Judicial Procedure] shall apply to suits brought against officers, employees, or personal representatives referred to therein which are instituted 90 days or more after the date of the enactment of this Act [Nov. 2, 1966]. The amendment made by subsection (c) [amending section 7482 of this title] shall apply to all decisions of the Tax Court entered after the date of enactment of this Act.''

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 as effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85–866, set out as a note under section 165 of this title.

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 sections 4961, 6228, 6234, 6532, 7426 of this title; title 28 section 2502.

§ 7423. Repayments to officers or employees

The Secretary, subject to regulations prescribed by the Secretary, is authorized to repay—

(1) Collections recovered

To any officer or employee of the United States the full amount of such sums of money as may be recovered against him in any court, for any internal revenue taxes collected by him, with the cost and expense of suit; also

(2) Damages and costs

All damages and costs recovered against any officer or employee of the United States in any suit brought against him by reason of anything done in the due performance of his official duty under this title.

(Aug. 16, 1954, ch. 736, 68A Stat. 877; 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'' in provisions preceding par. (1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 3111.

§ 7424. Intervention

If the United States is not a party to a civil action or suit, the United States may intervene in such action or suit to assert any lien arising under this title on the property which is the subject of such action or suit. The provisions of section 2410 of title 28 of the United States Code

(except subsection (b)) and of section 1444 of title 28 of the United States Code shall apply in any case in which the United States intervenes as if the United States had originally been named a defendant in such action or suit. In any case in which the application of the United States to intervene is denied, the adjudication in such civil action or suit shall have no effect upon such lien.

(Aug. 16, 1954, ch. 736, 68A Stat. 877; Pub. L. 89–719, title I, § 108, Nov. 2, 1966, 80 Stat. 1140.)

AMENDMENTS

1966—Pub. L. 89–719 substituted ''Intervention'' for ''Civil action to clear title to property'' in section catchline and substituted provisions, set out in a single paragraph, granting the government authority to intervene in a court proceeding to assert any lien arising under this title on property which is the subject of a civil action or suit to which the government is not a party with the same procedural rules to apply as where the government is initially joined properly as a party and with the proceedings to have no effect on the government's lien if the application to intervene is denied, for provisions, formerly set out in three subsections, setting out a procedure by which a person having a lien upon or interest in property referred to in section 7403 could file a civil action to clear title to the property and obtain an adjudication of the matter involved in the same manner as in the case of a civil action filed under section 7403.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when the title or lien of the United States arose or when the lien or interest of another person was acquired, with certain exceptions, see section 114(a) to (c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

CIVIL ACTIONS TO CLEAR TITLE TO PROPERTY COMMENCED BEFORE NOV. 2, 1966

Section 114(d) of Pub. L. 89–719 provided that civil actions commenced before Nov. 2, 1966, to clear title to property pursuant to this section as in effect before Nov. 2, 1966, were to be determined in accord with this section as in effect before Nov. 2, 1966.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 2409a.

§ 7425. Discharge of liens

(a) Judicial proceedings

If the United States is not joined as a party, a judgment in any civil action or suit described in subsection (a) of section 2410 of title 28 of the United States Code, or a judicial sale pursuant to such a judgment, with respect to property on which the United States has or claims a lien under the provisions of this title—

(1) shall be made subject to and without disturbing the lien of the United States, if notice of such lien has been filed in the place provided by law for such filing at the time such action or suit is commenced, or

(2) shall have the same effect with respect to the discharge or divestment of such lien of the United States as may be provided with respect to such matters by the local law of the place where such property is situated, if no notice of such lien has been filed in the place provided by law for such filing at the time such action or suit is commenced or if the law makes no provision for such filing.

If a judicial sale of property pursuant to a judgment in any civil action or suit to which the United States is not a party discharges a lien of the United States arising under the provisions of this title, the United States may claim, with the same priority as its lien had against the property sold, the proceeds (exclusive of costs) of such sale at any time before the distribution of such proceeds is ordered.

(b) Other sales

Notwithstanding subsection (a) sale of property on which the United States has or claims a lien, or a title derived from enforcement of a lien, under the provisions of this title, made pursuant to an instrument creating a lien on such property, pursuant to a confession of judgment on the obligation secured by such an instrument, or pursuant to a nonjudicial sale under a statutory lien on such property—

(1) shall, except as otherwise provided, be made subject to and without disturbing such lien or title, if notice of such lien was filed or such title recorded in the place provided by law for such filing or recording more than 30 days before such sale and the United States is not given notice of such sale in the manner prescribed in subsection (c)(1); or

(2) shall have the same effect with respect to the discharge or divestment of such lien or such title of the United States, as may be provided with respect to such matters by the local law of the place where such property is situated, if—

(A) notice of such lien or such title was not filed or recorded in the place provided by law for such filing more than 30 days before such sale,

(B) the law makes no provision for such filing, or

(C) notice of such sale is given in the manner prescribed in subsection (c)(1).

(c) Special rules

(1) Notice of sale

Notice of a sale to which subsection (b) applies shall be given (in accordance with regulations prescribed by the Secretary) in writing, by registered or certified mail or by personal service, not less than 25 days prior to such sale, to the Secretary.

(2) Consent to sale

Notwithstanding the notice requirement of subsection (b)(2)(C), a sale described in subsection (b) of property shall discharge or divest such property of the lien or title of the United States if the United States consents to the sale of such property free of such lien or title.

(3) Sale of perishable goods

Notwithstanding the notice requirement of subsection (b)(2)(C), a sale described in subsection (b) of property liable to perish or become greatly reduced in price or value by keeping, or which cannot be kept without great expense, shall discharge or divest such property of the lien or title of the United States if notice of such sale is given (in accordance with regulations prescribed by the Secretary) in writing, by registered or cer-

tified mail or by personal service, to the Secretary before such sale. The proceeds (exclusive of costs) of such sale shall be held as a fund subject to the liens and claims of the United States, in the same manner and with the same priority as such liens and claims had with respect to the property sold, for not less than 30 days after the date of such sale.

(4) Forfeitures of land sales contracts

For purposes of subsection (b), a sale of property includes any forfeiture of a land sales contract.

(d) Redemption by United States

(1) Right to redeem

In the case of a sale of real property to which subsection (b) applies to satisfy a lien prior to that of the United States, the Secretary may redeem such property within the period of 120 days from the date of such sale or the period allowable for redemption under local law, whichever is longer.

(2) Amount to be paid

In any case in which the United States redeems real property pursuant to paragraph (1), the amount to be paid for such property shall be the amount prescribed by subsection (d) of section 2410 of title 28 of the United States Code.

(3) Certificate of redemption

(A) In general

In any case in which real property is redeemed by the United States pursuant to this subsection, the Secretary shall apply to the officer designated by local law, if any, for the documents necessary to evidence the fact of redemption and to record title to such property in the name of the United States. If no such officer is designated by local law or if such officer fails to issue such documents, the Secretary shall execute a certificate of redemption therefor.

(B) Filing

The Secretary shall, without delay, cause such documents or certificate to be duly recorded in the proper registry of deeds. If the State in which the real property redeemed by the United States is situated has not by law designated an office in which such certificate may be recorded, the Secretary shall file such certificate in the office of the clerk of the United States district court for the judicial district in which such property is situated.

(C) Effect

A certificate of redemption executed by the Secretary shall constitute prima facie evidence of the regularity of such redemption and shall, when recorded, transfer to the United States all the rights, title, and interest in and to such property acquired by the person from whom the United States redeems such property by virtue of the sale of such property.

(Added Pub. L. 89–719, title I, § 109, Nov. 2, 1966, 80 Stat. 1141; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99–514, title XV, § 1572(a), Oct. 22, 1986, 100 Stat. 2765.)

PRIOR PROVISIONS

A prior section 7425 was renumbered 7434 of this title.

AMENDMENTS

1986—Subsec. (c)(4). Pub. L. 99–514 added par. (4).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1572(b) of Pub. L. 99–514 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to forfeitures after the 30th day after the date of the enactment of this Act [Oct. 22, 1986].''

EFFECTIVE DATE

Section applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as an Effective Date of 1966 Amendment note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7810 of this title; title 28 section 2409a.

§ 7426. Civil actions by persons other than taxpayers

(a) Actions permitted

(1) Wrongful levy

If a levy has been made on property or property has been sold pursuant to a levy, and any person (other than the person against whom is assessed the tax out of which such levy arose) who claims an interest in or lien on such property and that such property was wrongfully levied upon may bring a civil action against the United States in a district court of the United States. Such action may be brought without regard to whether such property has been surrendered to or sold by the Secretary.

(2) Surplus proceed

If property has been sold pursuant to a levy, any person (other than the person against whom is assessed the tax out of which such levy arose) who claims an interest in or lien on such property junior to that of the United States and to be legally entitled to the surplus proceeds of such sale may bring a civil action against the United States in a district court of the United States.

(3) Substituted sale proceeds

If property has been sold pursuant to an agreement described in section 6325(b)(3) (relating to substitution of proceeds of sale), any person who claims to be legally entitled to all or any part of the amount held as a fund pursuant to such agreement may bring a civil action against the United States in a district court of the United States.

(4) Substitution of value

If a certificate of discharge is issued to any person under section 6325(b)(4) with respect to any property, such person may, within 120 days after the day on which such certificate is issued, bring a civil action against the United States in a district court of the United States

for a determination of whether the value of the interest of the United States (if any) in such property is less than the value determined by the Secretary. No other action may be brought by such person for such a determination.

(b) Adjudication

The district court shall have jurisdiction to grant only such of the following forms of relief as may be appropriate in the circumstances:

(1) Injunction

If a levy or sale would irreparably injure rights in property which the court determines to be superior to rights of the United States in such property, the court may grant an injunction to prohibit the enforcement of such levy or to prohibit such sale.

(2) Recovery of property

If the court determines that such property has been wrongfully levied upon, the court may—

(A) order the return of specific property if the United States is in possession of such property;

(B) grant a judgment for the amount of money levied upon; or

(C) if such property was sold, grant a judgment for an amount not exceeding the greater of—

(i) the amount received by the United States from the sale of such property, or

(ii) the fair market value of such property immediately before the levy.

For the purposes of subparagraph (C), if the property was declared purchased by the United States at a sale pursuant to section 6335(e) (relating to manner and conditions of sale), the United States shall be treated as having received an amount equal to the minimum price determined pursuant to such section or (if larger) the amount received by the United States from the resale of such property.

(3) Surplus proceeds

If the court determines that the interest or lien of any party to an action under this section was transferred to the proceeds of a sale of such property, the court may grant a judgment in an amount equal to all or any part of the amount of the surplus proceeds of such sale.

(4) Substituted sale proceeds

If the court determines that a party has an interest in or lien on the amount held as a fund pursuant to an agreement described in section 6325(b)(3) (relating to substitution of proceeds of sale), the court may grant a judgment in an amount equal to all or any part of the amount of such fund.

(5) Substitution of value

If the court determines that the Secretary's determination of the value of the interest of the United States in the property for purposes of section 6325(b)(4) exceeds the actual value of such interest, the court shall grant a judgment ordering a refund of the amount deposited, and a release of the bond, to the extent that the aggregate of the amounts thereof exceeds such value determined by the court.

(c) Validity of assessment

For purposes of an adjudication under this section, the assessment of tax upon which the interest or lien of the United States is based shall be conclusively presumed to be valid.

(d) Limitation on rights of action

No action may be maintained against any officer or employee of the United States (or former officer or employee) or his personal representative with respect to any acts for which an action could be maintained under this section.

(e) Substitution of United States as party

If an action, which could be brought against the United States under this section, is improperly brought against any officer or employee of the United States (or former officer or employee) or his personal representative, the court shall order, upon such terms as are just, that the pleadings be amended to substitute the United States as a party for such officer or employee as of the time such action was commenced upon proper service of process on the United States.

(f) Provision inapplicable

The provisions of section 7422(a) (relating to prohibition of suit prior to filing claim for refund) shall not apply to actions under this section.

(g) Interest

Interest shall be allowed at the overpayment rate established under section 6621—

(1) In the case of a judgment pursuant to subsection (b)(2)(B), from the date the Secretary receives the money wrongfully levied upon to the date of payment of such judgment;

(2) in the case of a judgment pursuant to subsection (b)(2)(C), from the date of the sale of the property wrongfully levied upon to the date of payment of such judgment; and

(3) in the case of a judgment pursuant to subsection (b)(5) which orders a refund of any amount, from the date the Secretary received such amount to the date of payment of such judgment.

(h) Recovery of damages permitted in certain cases

(1) In general

Notwithstanding subsection (b), if, in any action brought under this section, there is a finding that any officer or employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregarded any provision of this title the defendant shall be liable to the plaintiff in an amount equal to the lesser of $1,000,000 ($100,000 in the case of negligence) or the sum of—

(A) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional or negligent disregard of any provision of this title by the officer or employee (reduced by any amount of such damages awarded under subsection (b)); and

(B) the costs of the action.

(2) Requirement that administrative remedies be exhausted; mitigation; period

The rules of section 7433(d) shall apply for purposes of this subsection.

(3) Payment authority

Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

(i) Cross reference

For period of limitation, see section 6532(c).

(Added Pub. L. 89–719, title I, § 110(a), Nov. 2, 1966, 80 Stat. 1142; amended Pub. L. 93–625, § 7(a)(2)(E), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title III, § 350(a), Sept. 3, 1982, 96 Stat. 639; Pub. L. 99–514, title XV, § 1511(c)(16), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 105–206, title III, §§ 3102(b), 3106(b)(1), (2), July 22, 1998, 112 Stat. 730, 733.)

AMENDMENTS

1998—Subsec. (a)(4). Pub. L. 105–206, § 3106(b)(1), added par. (4).

Subsec. (b)(5). Pub. L. 105–206, § 3106(b)(2)(A), added par. (5).

Subsec. (g)(3). Pub. L. 105–206, § 3106(b)(2)(B), added par. (3).

Subsecs. (h), (i). Pub. L. 105–206, § 3102(b), added subsec. (h) and redesignated former subsec. (h) as (i).

1986—Subsec. (g). Pub. L. 99–514 substituted ''the overpayment rate established under section 6621'' for ''an annual rate established under section 6621''.

1982—Subsec. (b)(2)(C). Pub. L. 97–248 inserted ''if such property was sold,'' before ''grant a judgment'' and ''the greater of—'' after ''not exceeding'', redesignated remaining provisions as cl. (i), and added cl. (ii).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1975—Subsec. (g). Pub. L. 93–625 substituted ''an annual rate established under section 6621'' for ''the rate of 6 percent per annum''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3102(d), July 22, 1998, 112 Stat. 731, provided that: ''The amendments made by this section [amending this section and section 7433 of this title] shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act [July 22, 1998].''

Amendment by section 3106(b)(1), (2) of Pub. L. 105–206 effective July 22, 1998, see section 3106(c) of Pub. L. 105–206, set out as a note under section 6325 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99–514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 350(b) of Pub. L. 97–248 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to levies made after December 31, 1982.''

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93–625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE

Section applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, except in a case in which a lien or title derived from enforcement of a lien held by United States has been enforced by a civil action or suit which has become final by judgment, sale, or agreement before Nov. 2, 1966, or in a case in which section would impair a priority held by any person other than United States holding a lien or interest prior to Nov. 2, 1966, operate to increase liability of such person, or shorten time of bringing suit with respect to transactions occurring before Nov. 2, 1966, see section 114(a)–(c) of Pub. L. 89–719, set out as Effective Date of 1966 Amendments note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6325, 6503, 6532, 7421 of this title; title 28 sections 1346, 2409a.

§ 7427. Income tax return preparers

In any proceeding involving the issue of whether or not an income tax return preparer has willfully attempted in any manner to understate the liability for tax (within the meaning of section 6694(b)), the burden of proof in respect to such issue shall be upon the Secretary.

(Added Pub. L. 94–455, title XII, § 1203(b)(2)(A), Oct. 4, 1976, 90 Stat. 1690.)

PRIOR PROVISIONS

A prior section 7427 was renumbered 7437 of this title.

§ 7428. Declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.

(a) Creation of remedy

In a case of actual controversy involving—

(1) a determination by the Secretary—

(A) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c)(3) which is exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

(B) with respect to the initial classification or continuing classification of an organization as a private foundation (as defined in section 509(a)), or

(C) with respect to the initial classification or continuing classification of an organization as a private operating foundation (as defined in section 4942(j)(3)), or

(2) a failure by the Secretary to make a determination with respect to an issue referred to in paragraph (1),

upon the filing of an appropriate pleading, the United States Tax Court, the United States Court of Federal Claims, or the district court of the United States for the District of Columbia may make a declaration with respect to such initial qualification or continuing qualification or with respect to such initial classification or continuing classification. Any such declaration shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Court of Federal Claims, as the case may be, and shall be reviewable as such. For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification.

(b) Limitations

(1) Petitioner

A pleading may be filed under this section only by the organization the qualification or classification of which is at issue.

(2) Exhaustion of administrative remedies

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Federal Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service. An organization requesting the determination of an issue referred to in subsection (a)(1) shall be deemed to have exhausted its administrative remedies with respect to a failure by the Secretary to make a determination with respect to such issue at the expiration of 270 days after the date on which the request for such determination was made if the organization has taken, in a timely manner, all reasonable steps to secure such determination.

(3) Time for bringing action

If the Secretary sends by certified or registered mail notice of his determination with respect to an issue referred to in subsection (a)(1) to the organization referred to in paragraph (1), no proceeding may be initiated under this section by such organization unless the pleading is filed before the 91st day after the date of such mailing.

(c) Validation of certain contributions made during pendency of proceedings

(1) In general

If—

(A) the issue referred to in subsection (a)(1) involves the revocation of a determination that the organization is described in section 170(c)(2),

(B) a proceeding under this section is initiated within the time provided by subsection (b)(3), and

(C) either—

(i) a decision of the Tax Court has become final (within the meaning of section 7481), or

(ii) a judgment of the district court of the United States for the District of Columbia has been entered, or

(iii) a judgment of the Court of Federal Claims, has been entered,

and such decision or judgment, as the case may be, determines that the organization was not described in section 170(c)(2),

then, notwithstanding such decision or judgment, such organization shall be treated as having been described in section 170(c)(2) for purposes of section 170 for the period beginning on the date on which the notice of the revocation was published and ending on the date on which the court first determined in such proceeding that the organization was not described in section 170(c)(2).

(2) Limitation

Paragraph (1) shall apply only—

(A) with respect to individuals, and only to the extent that the aggregate of the contributions made by any individual to or for the use of the organization during the period specified in paragraph (1) does not exceed $1,000 (for this purpose treating a husband and wife as one contributor), and

(B) with respect to organizations described in section 170(c)(2) which are exempt from tax under section 501(a) (for this purpose excluding any such organization with respect to which there is pending a proceeding to revoke the determination under section 170(c)(2)).

(3) Exception

This subsection shall not apply to any individual who was responsible, in whole or in part, for the activities (or failures to act) on the part of the organization which were the basis for the revocation.

(d) Subpoena power for district court for District of Columbia

In any action brought under this section in the district court of the United States for the District of Columbia, a subpoena requiring the attendance of a witness at a trial or hearing may be served at any place in the United States.

(Added Pub. L. 94–455, title XIII, § 1306(a), Oct. 4, 1976, 90 Stat. 1717; amended Pub. L. 95–600, title VII, § 701(dd)(2), Nov. 6, 1978, 92 Stat. 2924; Pub. L. 97–164, title I, § 152, Apr. 2, 1982, 96 Stat. 46; Pub. L. 98–369, div. A, title X, § 1033(b), July 18, 1984, 98 Stat. 1039; Pub. L. 102–572, title IX, § 902(b), Oct. 29, 1992, 106 Stat. 4516.)

PRIOR PROVISIONS

A prior section 7428 was renumbered 7437 of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' and ''Court of Federal Claims'' for ''Claims Court'' in concluding provisions.

Subsecs. (b)(2), (c)(1)(C)(iii). Pub. L. 102–572, § 902(b)(2), substituted ''Court of Federal Claims'' for ''Claims Court''.

1984—Subsec. (d). Pub. L. 98–369 added subsec. (d).

1982—Subsecs. (a), (b)(2), (c)(1)(C)(iii). Pub. L. 97–164 substituted ''Claims Court'' for ''Court of Claims''.

1978—Subsec. (a). Pub. L. 95–600 inserted provision relating to change in qualification or classification.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 effective as if included in this section at the time section was added to this

title, see section 701(dd)(3) of Pub. L. 95–600, set out as a note under section 7476 of this title.

EFFECTIVE DATE

Section 1306(c) of Pub. L. 94–455 provided that: ''The amendments made by this section [enacting this section and amending sections 7451, 7459, 7470, and 7482 of this title, enacting section 1507 of Title 28, Judiciary and Judicial Procedure, and amending sections 1346 and 2201 of Title 28] shall apply with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after the date of the enactment of this Act [Oct. 4, 1976] but only with respect to determinations (or requests for determinations) made after January 1, 1976.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7451, 7459, 7482, 7611 of this title; title 28 sections 1346, 1507, 2201.

§ 7429. Review of jeopardy levy or assessment procedures

(a) Administrative review

(1) Administrative review

(A) Prior approval required

No assessment may be made under section 6851(a), 6852(a), 6861(a), or 6862, and no levy may be made under section 6331(a) less than 30 days after notice and demand for payment is made, unless the Chief Counsel for the Internal Revenue Service (or such Counsel's delegate) personally approves (in writing) such assessment or levy.

(B) Information to taxpayer

Within 5 days after the day on which such an assessment or levy is made, the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relied in making such assessment or levy.

(2) Request for review

Within 30 days after the day on which the taxpayer is furnished the written statement described in paragraph (1), or within 30 days after the last day of the period within which such statement is required to be furnished, the taxpayer may request the Secretary to review the action taken.

(3) Redetermination by Secretary

After a request for review is made under paragraph (2), the Secretary shall determine—

(A) whether or not—

(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances.

(b) Judicial review

(1) Proceedings permitted

Within 90 days after the earlier of—

(A) the day the Secretary notifies the taxpayer of the Secretary's determination described in subsection (a)(3), or

(B) the 16th day after the request described in subsection (a)(2) was made,

the taxpayer may bring a civil action against the United States for a determination under this subsection in the court with jurisdiction determined under paragraph (2).

(2) Jurisdiction for determination

(A) In general

Except as provided in subparagraph (B), the district courts of the United States shall have exclusive jurisdiction over any civil action for a determination under this subsection.

(B) Tax Court

If a petition for a redetermination of a deficiency under section 6213(a) has been timely filed with the Tax Court before the making of an assessment or levy that is subject to the review procedures of this section, and 1 or more of the taxes and taxable periods before the Tax Court because of such petition is also included in the written statement that is provided to the taxpayer under subsection (a), then the Tax Court also shall have jurisdiction over any civil action for a determination under this subsection with respect to all the taxes and taxable periods included in such written statement.

(3) Determination by court

Within 20 days after a proceeding is commenced under paragraph (1), the court shall determine—

(A) whether or not—

(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances.

If the court determines that proper service was not made on the United States or on the Secretary, as may be appropriate, within 5 days after the date of the commencement of the proceeding, then the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States or on the Secretary, as may be appropriate.

(4) Order of court

If the court determines that the making of such levy is unreasonable, that the making of such assessment is unreasonable, or that the amount assessed or demanded is inappropriate, then the court may order the Secretary to release such levy, to abate such assessment, to redetermine (in whole or in part) the amount assessed or demanded, or to take such other action as the court finds appropriate.

(c) Extension of 20-day period where taxpayer so requests

If the taxpayer requests an extension of the 20-day period set forth in subsection (b)(2) and establishes reasonable grounds why such extension should be granted, the court may grant an extension of not more than 40 additional days.

(d) Computation of days

For purposes of this section, Saturday, Sunday, or a legal holiday in the District of Columbia shall not be counted as the last day of any period.

(e) Venue

(1) District court

A civil action in a district court under subsection (b) shall be commenced only in the judicial district described in section 1402(a)(1) or (2) of title 28, United States Code.

(2) Transfer of actions

If a civil action is filed under subsection (b) with the Tax Court and such court finds that there is want of jurisdiction because of the jurisdiction provisions of subsection (b)(2), then the Tax Court shall, if such court determines it is in the interest of justice, transfer the civil action to the district court in which the action could have been brought at the time such action was filed. Any civil action so transferred shall proceed as if such action had been filed in the district court to which such action is transferred on the date on which such action was actually filed in the Tax Court from which such action is transferred.

(f) Finality of determination

Any determination made by a court under this section shall be final and conclusive and shall not be reviewed by any other court.

(g) Burden of proof

(1) Reasonableness of levy, termination, or jeopardy assessment

In a proceeding under subsection (b) involving the issue of whether the making of a levy described in subsection (a)(1) or the making of an assessment under section 6851, 6852, 6861, or 6862 is reasonable under the circumstances, the burden of proof in respect to such issue shall be upon the Secretary.

(2) Reasonableness of amount of assessment

In a proceeding under subsection (b) involving the issue of whether an amount assessed or demanded as a result of action taken under section 6851, 6852, 6861, or 6862 is appropriate under the circumstances, the Secretary shall provide a written statement which contains any information with respect to which his determination of the amount assessed was based, but the burden of proof in respect of such issue shall be upon the taxpayer.

(Added Pub. L. 94–455, title XII, § 1204(a), Oct. 4, 1976, 90 Stat. 1695; amended Pub. L. 98–369, div. A, title IV, § 446(a), July 18, 1984, 98 Stat. 817; Pub. L. 100–203, title X, § 10713(b)(2)(F), Dec. 22, 1987, 101 Stat. 1330–470; Pub. L. 100–647, title VI, § 6237(a)–(e)(3), Nov. 10, 1988, 102 Stat. 3741–3743; Pub. L. 105–206, title III, § 3434(a), July 22, 1998, 112 Stat. 760.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–206 substituted ''Administrative review'' for ''Information to taxpayer'' in heading and amended text of par. (1) generally. Prior to amendment, text read as follows: ''Within 5 days after the day on which an assessment is made under section 6851(a), 6852(a), 6861(a), or 6862, or levy is made under section 6331(a) less than 30 days after notice and demand for payment is made under section 6331(a), the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relies in making such assessment or levy.''

1988—Pub. L. 100–647, § 6237(e)(3), inserted ''levy or'' after ''jeopardy'' in section catchline.

Subsec. (a)(1). Pub. L. 100–647, § 6237(a), inserted ''or levy is made under section 6331(a) less than 30 days after notice and demand for payment is made under section 6331(a),'' after ''6862,'' and ''or levy'' after ''such assessment''.

Subsec. (a)(3). Pub. L. 100–647, § 6237(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''After a request for review is made under paragraph (2), the Secretary shall determine whether or not—

''(A) the making of the assessment under section 6851, 6852, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

''(B) the amount so assessed or demanded as a result of the action taken under section 6851, 6852, 6861, or 6862 is appropriate under the circumstances.''

Subsec. (b). Pub. L. 100–647, § 6237(c), amended subsec. (b) generally, substituting provisions of pars. (1) to (4) for provisions of former pars. (1) to (3) relating to actions permitted, determination by district court, and order of district court.

Subsec. (c). Pub. L. 100–647, § 6237(e)(1), struck out ''district'' before ''court''.

Subsec. (e). Pub. L. 100–647, § 6237(d), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''A civil action under subsection (b) shall be commenced only in the judicial district described in section 1402(a)(1) or (2) of title 28, United States Code.''

Subsec. (f). Pub. L. 100–647, § 6237(e)(1), struck out ''district'' after ''made by a''.

Subsec. (g)(1). Pub. L. 100–647, § 6237(e)(2), in heading substituted ''levy, termination,'' for ''termination'' and in text substituted ''a proceeding'' for ''an action'' and inserted ''the making of a levy described in subsection (a)(1) or'' after ''whether''.

Subsec. (g)(2). Pub. L. 100–647, § 6237(e)(2)(C), substituted ''a proceeding'' for ''an action''.

1987—Subsec. (a)(1). Pub. L. 100–203, § 10713(b)(2)(F)(i), substituted ''6851(a), 6852(a)'' for ''6851(a),''.

Subsecs. (a)(3)(A), (B), (b)(2)(A), (B), (g)(1), (2). Pub. L. 100–203, § 10713(b)(2)(F)(ii), substituted ''6851, 6852,'' for ''6851,'' wherever appearing.

1984—Subsec. (b)(2). Pub. L. 98–369 inserted provision that if the court determines that proper service was not made on the United States within 5 days after the date of the commencement of the action, the running of the 20-day period shall not begin before the day on which proper service was made on the United States.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, § 3434(b), July 22, 1998, 112 Stat. 760, provided that: ''The amendment made by this section [amending this section] shall apply to taxes assessed and levies made after the date of the enactment of this Act [July 22, 1998].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6237(f) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending this section] shall apply to jeopardy levies issued and assessments made on or after July 1, 1989.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 446(b) of Pub. L. 98–369 provided that: ''The amendment made by subsection (a) [amending this sec-

tion] shall apply to actions commenced after the date of the enactment of this Act [July 18, 1984].''

EFFECTIVE DATE

Section applicable with respect to action taken under section 6851, 6861, or 6862 of this title where notice and demand takes place after Feb. 28, 1977, see section 1204(d) of Pub. L. 94–455, as amended, set out as a note under section 6851 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6851, 6863, 6867 of this title; title 28 section 1346.

§ 7430. Awarding of costs and certain fees

(a) In general

In any administrative or court proceeding which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, the prevailing party may be awarded a judgment or a settlement for—

(1) reasonable administrative costs incurred in connection with such administrative proceeding within the Internal Revenue Service, and

(2) reasonable litigation costs incurred in connection with such court proceeding.

(b) Limitations

(1) Requirement that administrative remedies be exhausted

A judgment for reasonable litigation costs shall not be awarded under subsection (a) in any court proceeding unless the court determines that the prevailing party has exhausted the administrative remedies available to such party within the Internal Revenue Service. Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence.

(2) Only costs allocable to the United States

An award under subsection (a) shall be made only for reasonable litigation and administrative costs which are allocable to the United States and not to any other party.

(3) Costs denied where party prevailing protracts proceedings

No award for reasonable litigation and administrative costs may be made under subsection (a) with respect to any portion of the administrative or court proceeding during which the prevailing party has unreasonably protracted such proceeding.

(4) Period for applying to IRS for administrative costs

An award may be made under subsection (a) by the Internal Revenue Service for reasonable administrative costs only if the prevailing party files an application with the Internal Revenue Service for such costs before the 91st day after the date on which the final decision of the Internal Revenue Service as to the determination of the tax, interest, or penalty is mailed to such party.

(c) Definitions

For purposes of this section—

(1) Reasonable litigation costs

The term ''reasonable litigation costs'' includes—

(A) reasonable court costs, and

(B) based upon prevailing market rates for the kind or quality of services furnished—

(i) the reasonable expenses of expert witnesses in connection with a court proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States,

(ii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

(iii) reasonable fees paid or incurred for the services of attorneys in connection with the court proceeding, except that such fees shall not be in excess of $125 per hour unless the court determines that a special factor, such as the limited availability of qualified attorneys for such proceeding, the difficulty of the issues presented in the case, or the local availability of tax expertise, justifies a higher rate.

In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting ''calendar year 1995'' for ''calendar year 1992'' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.

(2) Reasonable administrative costs

The term ''reasonable administrative costs'' means—

(A) any administrative fees or similar charges imposed by the Internal Revenue Service, and

(B) expenses, costs, and fees described in paragraph (1)(B), except that any determination made by the court under clause (ii) or (iii) thereof shall be made by the Internal Revenue Service in cases where the determination under paragraph (4)(C) of the awarding of reasonable administrative costs is made by the Internal Revenue Service.

Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals; (ii) the date of the notice of deficiency; or (iii) the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.

(3) Attorneys' fees

(A) In general

For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to prac-

tice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

(B) Pro bono services

The court may award reasonable attorneys' fees under subsection (a) in excess of the attorneys' fees paid or incurred if such fees are less than the reasonable attorneys' fees because an individual is representing the prevailing party for no fee or for a fee which (taking into account all the facts and circumstances) is no more than a nominal fee. This subparagraph shall apply only if such award is paid to such individual or such individual's employer.

(4) Prevailing party

(A) In general

The term ''prevailing party'' means any party in any proceeding to which subsection (a) applies (other than the United States or any creditor of the taxpayer involved)—

(i) which—

(I) has substantially prevailed with respect to the amount in controversy, or

(II) has substantially prevailed with respect to the most significant issue or set of issues presented, and

(ii) which meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) except to the extent differing procedures are established by rule of court and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect).

(B) Exception if United States establishes that its position was substantially justified

(i) General rule

A party shall not be treated as the prevailing party in a proceeding to which subsection (a) applies if the United States establishes that the position of the United States in the proceeding was substantially justified.

(ii) Presumption of no justification if Internal Revenue Service did not follow certain published guidance

For purposes of clause (i), the position of the United States shall be presumed not to be substantially justified if the Internal Revenue Service did not follow its applicable published guidance in the administrative proceeding. Such presumption may be rebutted.

(iii) Effect of losing on substantially similar issues

In determining for purposes of clause (i) whether the position of the United States was substantially justified, the court shall take into account whether the United States has lost in courts of appeal for other circuits on substantially similar issues.

(iv) Applicable published guidance

For purposes of clause (ii), the term ''applicable published guidance'' means—

(I) regulations, revenue rulings, revenue procedures, information releases, notices, and announcements, and

(II) any of the following which are issued to the taxpayer: private letter rulings, technical advice memoranda, and determination letters.

(C) Determination as to prevailing party

Any determination under this paragraph as to whether a party is a prevailing party shall be made by agreement of the parties or—

(i) in the case where the final determination with respect to the tax, interest, or penalty is made at the administrative level, by the Internal Revenue Service, or

(ii) in the case where such final determination is made by a court, the court.

(D) Special rules for applying net worth requirement

In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(ii) of this paragraph—

(i) the net worth limitation in clause (i) of such section shall apply to—

(I) an estate but shall be determined as of the date of the decedent's death, and

(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

(ii) individuals filing a joint return shall be treated as separate individuals for purposes of clause (i) of such section.

(E) Special rules where judgment less than taxpayer's offer

(i) In general

A party to a court proceeding meeting the requirements of subparagraph (A)(ii) shall be treated as the prevailing party if the liability of the taxpayer pursuant to the judgment in the proceeding (determined without regard to interest) is equal to or less than the liability of the taxpayer which would have been so determined if the United States had accepted a qualified offer of the party under subsection (g).

(ii) Exceptions

This subparagraph shall not apply to—

(I) any judgment issued pursuant to a settlement; or

(II) any proceeding in which the amount of tax liability is not in issue, including any declaratory judgment proceeding, any proceeding to enforce or quash any summons issued pursuant to this title, and any action to restrain disclosure under section 6110(f).

(iii) Special rules

If this subparagraph applies to any court proceeding—

(I) the determination under clause (i) shall be made by reference to the last qualified offer made with respect to the tax liability at issue in the proceeding; and

(II) reasonable administrative and litigation costs shall only include costs in-

curred on and after the date of such offer.

(iv) Coordination

This subparagraph shall not apply to a party which is a prevailing party under any other provision of this paragraph.

(5) Administrative proceedings

The term ''administrative proceeding'' means any procedure or other action before the Internal Revenue Service.

(6) Court proceedings

The term ''court proceeding'' means any civil action brought in a court of the United States (including the Tax Court and the United States Court of Federal Claims).

(7) Position of United States

The term ''position of the United States'' means—

(A) the position taken by the United States in a judicial proceeding to which subsection (a) applies, and

(B) the position taken in an administrative proceeding to which subsection (a) applies as of the earlier of—

(i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, or

(ii) the date of the notice of deficiency.

(d) Special rules for payment of costs

(1) Reasonable administrative costs

An award for reasonable administrative costs shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

(2) Reasonable litigation costs

An award for reasonable litigation costs shall be payable in the case of the Tax Court in the same manner as such an award by a district court.

(e) Multiple actions

For purposes of this section, in the case of—

(1) multiple actions which could have been joined or consolidated, or

(2) a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single court proceeding in the same court,

such actions or cases shall be treated as 1 court proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated.

(f) Right of appeal

(1) Court proceedings

An order granting or denying (in whole or in part) an award for reasonable litigation or administrative costs under subsection (a) in a court proceeding, may be incorporated as a part of the decision or judgment in the court proceeding and shall be subject to appeal in the same manner as the decision or judgment.

(2) Administrative proceedings

A decision granting or denying (in whole or in part) an award for reasonable administrative costs under subsection (a) by the Internal Revenue Service shall be subject to the filing of a petition for review with the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute). If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing.

(3) Appeal of Tax Court decision

An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(g) Qualified offer

For purposes of subsection (c)(4)—

(1) In general

The term ''qualified offer'' means a written offer which—

(A) is made by the taxpayer to the United States during the qualified offer period;

(B) specifies the offered amount of the taxpayer's liability (determined without regard to interest);

(C) is designated at the time it is made as a qualified offer for purposes of this section; and

(D) remains open during the period beginning on the date it is made and ending on the earliest of the date the offer is rejected, the date the trial begins, or the 90th day after the date the offer is made.

(2) Qualified offer period

For purposes of this subsection, the term ''qualified offer period'' means the period—

(A) beginning on the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, and

(B) ending on the date which is 30 days before the date the case is first set for trial.

(Added Pub. L. 97–248, title II, § 292(a), Sept. 3, 1982, 96 Stat. 572; amended Pub. L. 98–369, div. A, title VII, § 714(c), July 18, 1984, 98 Stat. 961; Pub. L. 99–514, title XV, § 1551(a)–(g), Oct. 22, 1986, 100 Stat. 2752, 2753; Pub. L. 100–647, title I, § 1015(i), title VI, § 6239(a), Nov. 10, 1988, 102 Stat. 3571, 3743; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 104–168, title VII, §§ 701(a)–(c)(2), 702(a), 703(a), 704(a), July 30, 1996, 110 Stat. 1463, 1464; Pub. L. 105–34, title XII, § 1285(a)–(c), title XIV, § 1453(a), Aug. 5, 1997, 111 Stat. 1038, 1055; Pub. L. 105–206, title III, § 3101(a)–(e), title VI, §§ 6012(h), 6014(e), July 22, 1998, 112 Stat. 727, 728, 819, 820; Pub. L. 106–554, § 1(a)(7) [title III, § 319(25)], Dec. 21, 2000, 114 Stat. 2763, 2763A–647.)

ADJUSTMENT OF HOURLY LIMIT ON ATTORNEY FEES AWARDED FOR CALENDAR YEAR 2001

For adjustment of the hourly limit on attorney fees awarded under this section for cal-

endar year 2001, see section 3.26 of Revenue Procedure 2001–13, set out as a note under section 1 of this title.

PRIOR PROVISIONS

A prior section 7430 was renumbered section 7437 of this title.

AMENDMENTS

2000—Subsec. (c)(3). Pub. L. 106–554, §1(a)(7) [title III, §319(25)(A)], substituted ''Attorneys'' for ''Attorneys'' in heading.

Subsec. (c)(3)(B). Pub. L. 106–554, §1(a)(7) [title III, §319(25)(B)], substituted ''attorneys' fees'' for ''attorneys fees'' wherever appearing.

1998—Subsec. (b)(4), (5). Pub. L. 105–206, §6012(h), redesignated par. (5) as (4).

Subsec. (c)(1)(B)(iii). Pub. L. 105–206, §3101(a), substituted ''$125'' for ''$110'' and inserted ''the difficulty of the issues presented in the case, or the local availability of tax expertise,'' before ''justifies a higher rate''.

Subsec. (c)(2). Pub. L. 105–206, §3101(b), added concluding provisions and struck out former concluding provisions which read as follows: ''Such term shall only include costs incurred on or after the earlier of (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, or (ii) the date of the notice of deficiency.''

Subsec. (c)(3). Pub. L. 105–206, §3101(c), substituted ''attorneys'' for ''attorney's'' in heading and amended text of par. (3) generally. Prior to amendment, text read as follows: ''For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.''

Subsec. (c)(4)(B)(iii), (iv). Pub. L. 105–206, §3101(d), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (c)(4)(D). Pub. L. 105–206, §6014(e), substituted ''subparagraph (A)(ii)'' for ''subparagraph (A)(iii)'' in introductory provisions.

Subsec. (c)(4)(E). Pub. L. 105–206, §3101(e)(1), added subpar. (E).

Subsec. (g). Pub. L. 105–206, §3101(e)(2), added subsec. (g).

1997—Subsec. (b)(5). Pub. L. 105–34, §1285(b), added par. (5).

Subsec. (c)(4)(D). Pub. L. 105–34, §1453(a), added subpar. (D).

Subsec. (f)(2). Pub. L. 105–34, §1285(c), substituted ''the filing of a petition for review with'' for ''appeal to'' and inserted at end ''If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing.''

Subsec. (f)(3). Pub. L. 105–34, §1285(a), added par. (3).

1996—Subsec. (b)(1). Pub. L. 104–168, §703(a), inserted at end ''Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence.''

Subsec. (b)(3), (4). Pub. L. 104–168, §704(a), redesignated par. (4) as (3) and struck out former par. (3) which read as follows:

''(3) EXCLUSION OF DECLARATORY JUDGMENT PROCEEDINGS.—

''(A) IN GENERAL.—No award for reasonable litigation costs may be made under subsection (a) with respect to any declaratory judgment proceeding.

''(B) EXCEPTION FOR SECTION 501(C)(3) DETERMINATION REVOCATION PROCEEDINGS.—Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in section 501(c)(3).''

Subsec. (c)(1). Pub. L. 104–168, §702(a)(3), inserted closing provisions ''In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.''

Subsec. (c)(1)(B)(iii). Pub. L. 104–168, §702(a)(1), (2), substituted ''$110'' for ''$75'' and struck out ''an increase in the cost of living or'' before ''a special factor,''.

Subsec. (c)(2)(B). Pub. L. 104–168, §701(c)(1), substituted ''paragraph (4)(C)'' for ''paragraph (4)(B)''.

Subsec. (c)(4)(A). Pub. L. 104–168, §701(a), redesignated cls. (ii) and (iii) as (i) and (ii), respectively, and struck out former cl. (i) which read as follows: ''which establishes that the position of the United States in the proceeding was not substantially justified,''.

Subsec. (c)(4)(B). Pub. L. 104–168, §701(b), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (c)(4)(C). Pub. L. 104–168, §701(c)(2), substituted ''Any determination under this paragraph'' for ''Any determination under subparagraph (A)''.

Pub. L. 104–168, §701(b), redesignated subpar. (B) as (C).

1992—Subsec. (c)(6). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1988—Pub. L. 100–647, §6239(a), substituted ''costs'' for ''court costs'' in section catchline and amended text generally, revising and restating provisions so as to include costs and fees in administrative proceedings.

Subsec. (c)(2)(A)(iii). Pub. L. 100–647, §1015(i), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''meets the requirements of section 504(b)(1)(B) of title 5, United States Code (as in effect on the date of the enactment of the Tax Reform Act of 1986 and applied by taking into account the commencement of the proceeding described in subsection (a) in lieu of the initiation of the adjudication referred to in such section).''

1986—Subsec. (a). Pub. L. 99–514, §1551(f), inserted ''(payable in the case of the Tax Court in the same manner as such an award by a district court)'' in concluding provisions.

Subsec. (b). Pub. L. 99–514, §1551(a), (b), redesignated pars. (2) to (4) as (1) to (3), respectively, added par. (4), and struck out former par. (1), maximum dollar amount, which read as follows: ''The amount of reasonable litigation costs which may be awarded under subsection (a) with respect to any prevailing party in any civil proceeding shall not exceed $25,000.''

Subsec. (c)(1)(A). Pub. L. 99–514, §1551(c), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''The term 'reasonable litigation costs' includes—

''(i) reasonable court costs,

''(ii) the reasonable expenses of expert witnesses in connection with the civil proceeding,

''(iii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

''(iv) reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding.''

Subsec. (c)(2)(A). Pub. L. 99–514, §1551(d), substituted ''was not substantially justified'' for ''was unreasonable'' in cl. (i), and added cl. (iii).

Subsec. (c)(4). Pub. L. 99–514, §1551(e), added par. (4).

Subsec. (f). Pub. L. 99–514, §1551(g), struck out subsec. (f), termination, which read as follows: ''This section shall not apply to any proceeding commenced after December 31, 1985.''

1984—Subsec. (a)(2). Pub. L. 98–369 inserted reference to United States Claims Court.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, §3101(g), July 22, 1998, 112 Stat. 729, provided that: ''The amendments made by

this section [amending this section and section 7431 of this title] shall apply to costs incurred (and, in the case of the amendment made by subsection (c) [amending this section], services performed) more than 180 days after the date of the enactment of this Act [July 22, 1998].''

Amendment by sections 6012(h) and 6014(e) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1285(d) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section] shall apply to civil actions or proceedings commenced after the date of the enactment of this Act [Aug. 5, 1997].''

Section 1453(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall apply to proceedings commenced after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 701(a)–(c)(2) of Pub. L. 104–168 applicable in case of proceedings commenced after July 30, 1996, see section 701(d) of Pub. L. 104–168, set out as a note under section 6404 of this title.

Section 702(b) of Pub. L. 104–168 provided that: ''The amendment made by this section [amending this section] shall apply in the case of proceedings commenced after the date of the enactment of this Act [July 30, 1996].''

Section 703(b) of Pub. L. 104–168 provided that: ''The amendment made by this section [amending this section] shall apply in the case of proceedings commenced after the date of the enactment of this Act [July 30, 1996].''

Section 704(b) of Pub. L. 104–168 provided that: ''The amendment made by this section [amending this section] shall apply in the case of proceedings commenced after the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1015(i) 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.

Section 6239(d) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending this section and section 504 of Title 5, Government Organization and Employees] shall apply to proceedings commencing after the date of the enactment of this Act [Nov. 10, 1988].''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1551(h) of Pub. L. 99–514 provided that:

''(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to amounts paid after September 30, 1986, in civil actions or proceedings, commenced after December 31, 1985.

''(2) SUBSECTION (f).—The amendment made by subsection (f) [amending this section] shall take effect as if included in the amendments made by section 292 of the Tax Equity and Fiscal Responsibility Act of 1982 [see Effective Date note below].

''(3) APPLICABILITY OF AMENDMENTS TO CERTAIN PRIOR CASES.—The amendments made by this section shall apply to any case commenced after December 31, 1985, and finally disposed of before the date of the enactment of this Act [Oct. 22, 1986], except that in any such case, the 30-day period referred to in section 2412(d)(1)(B) of title 28, United States Code, or Rule 231 of the Tax Court [26 App. U.S.C. Rule 231], as the case may be, shall be deemed to commence on the date of the enactment of this Act [Oct. 22, 1986].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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.

EFFECTIVE DATE

Section 292(e) of Pub. L. 97–248, as amended by Pub. L. 98–369, div. A, title I, § 160, July 18, 1984, 98 Stat. 696, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting this section and amending section 6673 of this title and section 2412 of Title 28, Judiciary and Judicial Procedure] shall apply to civil actions or proceedings commenced after February 28, 1983.

''(2) PENALTY.—The amendments made by subsections (b) and (d)(2) [amending section 6673 of this title] shall apply to any action or proceeding in the United States Tax Court which—

''(A) is commenced after December 31, 1982, or

''(B) is pending in the United States Tax Court on the day which is 120 days after the date of the enactment of the Tax Reform Act of 1984 [July 18, 1984].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6404, 6512, 6656, 7431, 7433, 7436, 7491, 7611 of this title; title 5 section 504; title 28 section 2412.

§ 7431. Civil damages for unauthorized inspection or disclosure of returns and return information

(a) In general

(1) Inspection or disclosure by employee of United States

If any officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

(2) Inspection or disclosure by a person who is not an employee of United States

If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

(b) Exceptions

No liability shall arise under this section with respect to any inspection or disclosure—

(1) which results from a good faith, but erroneous, interpretation of section 6103, or

(2) which is requested by the taxpayer.

(c) Damages

In any action brought under subsection (a), upon a finding of liability on the part of the de-

fendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

(1) the greater of—

(A) $1,000 for each act of unauthorized inspection or disclosure of a return or return information with respect to which such defendant is found liable, or

(B) the sum of—

(i) the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus

(ii) in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence, punitive damages, plus

(2) the costs of the action, plus

(3) in the case of a plaintiff which is described in section 7430(c)(4)(A)(ii), reasonable attorneys fees, except that if the defendant is the United States, reasonable attorneys fees may be awarded only if the plaintiff is the prevailing party (as determined under section 7430(c)(4)).

(d) Period for bringing action

Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized inspection or disclosure.

(e) Notification of unlawful inspection and disclosure

If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

(1) paragraph (1) or (2) of section 7213(a),

(2) section 7213A(a), or

(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.

(f) Definitions

For purposes of this section, the terms ''inspect'', ''inspection'', ''return'', and ''return information'' have the respective meanings given such terms by section 6103(b).

(g) Extension to information obtained under section 3406

For purposes of this section—

(1) any information obtained under section 3406 (including information with respect to any payee certification failure under subsection (d) thereof) shall be treated as return information, and

(2) any inspection or use of such information other than for purposes of meeting any requirement under section 3406 or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103 shall be treated as a violation of section 6103.

For purposes of subsection (b), the reference to section 6103 shall be treated as including a reference to section 3406.

(h) Special rule for information obtained under section 6103(k)(9)

For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).

(Added Pub. L. 97–248, title III, § 357(a), Sept. 3, 1982, 96 Stat. 645; amended Pub. L. 98–67, title I, § 104(b), Aug. 5, 1983, 97 Stat. 379; Pub. L. 105–34, title XII, § 1205(c)(2), Aug. 5, 1997, 111 Stat. 998; Pub. L. 105–35, § 3(a)–(d)(4), (6), Aug. 5, 1997, 111 Stat. 1105, 1106; Pub. L. 105–206, title III, § 3101(f), title VI, § 6012(b)(3), July 22, 1998, 112 Stat. 729, 819.)

PRIOR PROVISIONS

A prior section 7431 was renumbered section 7437 of this title.

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105–206, § 3101(f), substituted '', plus'' for the period at end.

Subsec. (c)(3). Pub. L. 105–206, § 3101(f), added par. (3).

Subsecs. (g), (h). Pub. L. 105–206, § 6012(b)(3), redesignated subsec. (g), relating to special rule for information obtained under section 6103(k)(8), as (h), and substituted ''(9)'' for ''(8)'' in heading.

1997—Pub. L. 105–35, § 3(d)(4), inserted ''inspection or'' before ''disclosure'' in section catchline.

Subsec. (a)(1), (2). Pub. L. 105–35, § 3(a)(1), (2), substituted ''Inspection or disclosure'' for ''Disclosure'' in headings and ''inspects or discloses'' for ''discloses'' in text.

Subsec. (b). Pub. L. 105–35, § 3(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103.''

Subsec. (c)(1). Pub. L. 105–35, § 3(d)(1), (2), inserted ''inspection or'' before ''disclosure'' in subpars. (A) and (B)(i) and substituted ''willful inspection or disclosure or an inspection or disclosure'' for ''willful disclosure or a disclosure'' in subpar. (B)(ii).

Subsec. (d). Pub. L. 105–35, § 3(d)(1), inserted ''inspection or'' before ''disclosure''.

Subsec. (e). Pub. L. 105–35, § 3(b), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105–35, § 3(b), (d)(3), redesignated subsec. (e) as (f) and amended it generally. Prior to amendment, subsec. (f) read as follows:

''(f) RETURN; RETURN INFORMATION.—For purposes of this section, the terms 'return' and 'return information' have the respective meanings given such terms in section 6103(b).''

Subsec. (g). Pub. L. 105–35, § 3(b), (d)(6), redesignated subsec. (f) as (g) and substituted ''any inspection or use'' for ''any use'' in par. (2).

Pub. L. 105–34, § 1205(c)(2), added subsec. (g) relating to special rule for information obtained under section 6103(k)(8).

1983—Subsec. (f). Pub. L. 98–67 added subsec. (f).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 3101(f) of Pub. L. 105–206 applicable to costs incurred more than 180 days after July 22, 1998, see section 3101(g) of Pub. L. 105–206, set out as a note under section 7430 of this title.

Amendment by section 6012(b)(3) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Section 3(e) of Pub. L. 105–35 provided that: ''The amendments made by this section [amending this section] shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by Pub. L. 105–34 effective on the day 9 months after Aug. 5, 1997, see section 1205(d) of Pub. L. 105–34, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–67 effective Aug. 5, 1983, see section 110(c) of Pub. L. 98–67, set out as a note under section 31 of this title.

EFFECTIVE DATE

Section 357(c) of Pub. L. 97–248 provided that: ''The amendments made by this section [enacting this section and repealing section 7217 of this title] shall apply with respect to disclosures made after the date of enactment of this Act [Sept. 3, 1982].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3406, 6105, 6311 of this title; title 5 section 3111.

§ 7432. Civil damages for failure to release lien

(a) In general

If any officer or employee of the Internal Revenue Service knowingly, or by reason of negligence, fails to release a lien under section 6325 on property of the taxpayer, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

(b) Damages

In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

(1) actual, direct economic damages sustained by the plaintiff which, but for the actions of the defendant, would not have been sustained, plus

(2) the costs of the action.

(c) Payment authority

Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

(d) Limitations

(1) Requirement that administrative remedies be exhausted

A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

(2) Mitigation of damages

The amount of damages awarded under subsection (b)(1) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

(3) Period for bringing action

Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the right of action accrues.

(e) Notice of failure to release lien

The Secretary shall by regulation prescribe reasonable procedures for a taxpayer to notify the Secretary of the failure to release a lien under section 6325 on property of the taxpayer.

(Added Pub. L. 100–647, title VI, § 6240(a), Nov. 10, 1988, 102 Stat. 3746.)

PRIOR PROVISIONS

A prior section 7432 was renumbered 7437 of this title.

EFFECTIVE DATE

Section 6240(c) of Pub. L. 100–647 provided that: ''The amendments made by this section [enacting this section] shall apply to notices provided by the taxpayer of the failure to release a lien, and damages arising, after December 31, 1988.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7433 of this title.

§ 7433. Civil damages for certain unauthorized collection actions

(a) In general

If, in connection with any collection of Federal tax with respect to a taxpayer, any officer or employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregards any provision of this title, or any regulation promulgated under this title, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Except as provided in section 7432, such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

(b) Damages

In any action brought under subsection (a) or petition filed under subsection (e), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $1,000,000 ($100,000, in the case of negligence) or the sum of—

(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional or negligent actions of the officer or employee, and

(2) the costs of the action.

(c) Payment authority

Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

(d) Limitations

(1) Requirement that administrative remedies be exhausted

A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

(2) Mitigation of damages

The amount of damages awarded under subsection (b)(1) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

(3) Period for bringing action

Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the right of action accrues.

(e) Actions for violations of certain bankruptcy procedures

(1) In general

If, in connection with any collection of Federal tax with respect to a taxpayer, any officer

or employee of the Internal Revenue Service willfully violates any provision of section 362 (relating to automatic stay) or 524 (relating to effect of discharge) of title 11, United States Code (or any successor provision), or any regulation promulgated under such provision, such taxpayer may petition the bankruptcy court to recover damages against the United States.

(2) Remedy to be exclusive

(A) In general

Except as provided in subparagraph (B), notwithstanding section 105 of such title 11, such petition shall be the exclusive remedy for recovering damages resulting from such actions.

(B) Certain other actions permitted

Subparagraph (A) shall not apply to an action under section 362(h) of such title 11 for a violation of a stay provided by section 362 of such title; except that—

(i) administrative and litigation costs in connection with such an action may only be awarded under section 7430; and

(ii) administrative costs may be awarded only if incurred on or after the date that the bankruptcy petition is filed.

(Added Pub. L. 100–647, title VI, § 6241(a), Nov. 10, 1988, 102 Stat. 3747; amended Pub. L. 104–168, title VIII, §§ 801(a), 802(a), July 30, 1996, 110 Stat. 1465; Pub. L. 105–206, title III, § 3102(a), (c), July 22, 1998, 112 Stat. 730.)

PRIOR PROVISIONS

A prior section 7433 was renumbered 7437 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–206, § 3102(a)(1)(A), inserted ‘‘, or by reason of negligence,’’ after ‘‘recklessly or intentionally’’.

Subsec. (b). Pub. L. 105–206, § 3102(a)(1)(B)(i), (c)(2), in introductory provisions, inserted ‘‘or petition filed under subsection (e)’’ after ‘‘subsection (a)’’ and inserted ‘‘($100,000, in the case of negligence)’’ after ‘‘$1,000,000’’.

Subsec. (b)(1). Pub. L. 105–206, § 3102(a)(1)(B)(ii), inserted ‘‘or negligent’’ after ‘‘reckless or intentional’’.

Subsec. (d)(1). Pub. L. 105–206, § 3102(a)(2), substituted ‘‘Requirement that administrative remedies be exhausted’’ for ‘‘Award for damages may be reduced if administrative remedies not exhausted’’ in heading and amended text of par. (1) generally. Prior to amendment, text read as follows: ‘‘The amount of damages awarded under subsection (b) may be reduced if the court determines that the plaintiff has not exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.’’

Subsec. (e). Pub. L. 105–206, § 3102(c)(1), added subsec. (e).

1996—Subsec. (b). Pub. L. 104–168, § 801(a), substituted ‘‘$1,000,000’’ for ‘‘$100,000’’.

Subsec. (d)(1). Pub. L. 104–168, § 802(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

‘‘(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.’’

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 applicable to actions of officers or employees of Internal Revenue Service after July 22, 1998, see section 3102(d) of Pub. L. 105–206, set out as a note under section 7426 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 801(b) of Pub. L. 104–168 provided that: ‘‘The amendment made by subsection (a) [amending this section] shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act [July 30, 1996].’’

Section 802(b) of Pub. L. 104–168 provided that: ‘‘The amendment made by this section [amending this section] shall apply in the case of proceedings commenced after the date of the enactment of this Act [July 30, 1996].’’

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6304, 6335, 6673, 7426 of this title.

§ 7434. Civil damages for fraudulent filing of information returns

(a) In general

If any person willfully files a fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

(b) Damages

In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing),

(2) the costs of the action, and

(3) in the court's discretion, reasonable attorneys' fees.

(c) Period for bringing action

Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within the later of—

(1) 6 years after the date of the filing of the fraudulent information return, or

(2) 1 year after the date such fraudulent information return would have been discovered by exercise of reasonable care.

(d) Copy of complaint filed with IRS

Any person bringing an action under subsection (a) shall provide a copy of the complaint to the Internal Revenue Service upon the filing of such complaint with the court.

(e) Finding of court to include correct amount of payment

The decision of the court awarding damages in an action brought under subsection (a) shall include a finding of the correct amount which should have been reported in the information return.

(f) Information return

For purposes of this section, the term ‘‘information return’’ means any statement described in section 6724(d)(1)(A).

(Added Pub. L. 104–168, title VI, § 601(a), July 30, 1996, 110 Stat. 1462; amended Pub. L. 105–206, title VI, § 6023(29), July 22, 1998, 112 Stat. 826.)

PRIOR PROVISIONS

A prior section 7434 was renumbered 7437 of this title.

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–206 substituted ''attorneys' fees'' for ''attorneys fees''.

EFFECTIVE DATE

Section 601(c) of Pub. L. 104–168 provided that: ''The amendments made by this section [enacting this section and renumbering former section 7434 as 7435 of this title] shall apply to fraudulent information returns filed after the date of the enactment of this Act [July 30, 1996].''

§ 7435. Civil damages for unauthorized enticement of information disclosure

(a) In general

If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer's tax liability, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

(b) Damages

In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $500,000 or the sum of—

(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the information disclosure, and

(2) the costs of the action.

Damages shall not include the taxpayer's liability for any civil or criminal penalties, or other losses attributable to incarceration or the imposition of other criminal sanctions.

(c) Payment authority

Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

(d) Period for bringing action

Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the actions creating such liability would have been discovered by exercise of reasonable care.

(e) Mandatory stay

Upon a certification by the Commissioner or the Commissioner's delegate that there is an ongoing investigation or prosecution of the taxpayer, the district court before which an action under this section is pending shall stay all proceedings with respect to such action pending the conclusion of the investigation or prosecution.

(f) Crime-fraud exception

Subsection (a) shall not apply to information conveyed to an attorney, certified public accountant, or enrolled agent for the purpose of perpetrating a fraud or crime.

(Added Pub. L. 104–168, title XII, § 1203(a), July 30, 1996, 110 Stat. 1470.)

PRIOR PROVISIONS

A prior section 7435 was renumbered 7437 of this title.

EFFECTIVE DATE

Section 1203(c) of Pub. L. 104–168 provided that: ''The amendments made by this section [enacting this section and renumbering former section 7435 as 7436 of this title] shall apply to actions after the date of the enactment of this Act [July 30, 1996].''

§ 7436. Proceedings for determination of employment status

(a) Creation of remedy

If, in connection with an audit of any person, there is an actual controversy involving a determination by the Secretary as part of an examination that—

(1) one or more individuals performing services for such person are employees of such person for purposes of subtitle C, or

(2) such person is not entitled to the treatment under subsection (a) of section 530 of the Revenue Act of 1978 with respect to such an individual,

upon the filing of an appropriate pleading, the Tax Court may determine whether such a determination by the Secretary is correct and the proper amount of employment tax under such determination. Any such redetermination by the Tax Court shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

(b) Limitations

(1) Petitioner

A pleading may be filed under this section only by the person for whom the services are performed.

(2) Time for filing action

If the Secretary sends by certified or registered mail notice to the petitioner of a determination by the Secretary described in subsection (a), no proceeding may be initiated under this section with respect to such determination unless the pleading is filed before the 91st day after the date of such mailing.

(3) No adverse inference from treatment while action is pending

If, during the pendency of any proceeding brought under this section, the petitioner changes his treatment for employment tax purposes of any individual whose employment status as an employee is involved in such proceeding (or of any individual holding a substantially similar position) to treatment as an employee, such change shall not be taken into account in the Tax Court's determination under this section.

(c) Small case procedures

(1) In general

At the option of the petitioner, concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings under this

section may (notwithstanding the provisions of section 7453) be conducted subject to the rules of evidence, practice, and procedure applicable under section 7463 if the amount of employment taxes placed in dispute is $50,000 or less for each calendar quarter involved.

(2) Finality of decisions

A decision entered in any proceeding conducted under this subsection shall not be reviewed in any other court and shall not be treated as a precedent for any other case not involving the same petitioner and the same determinations.

(3) Certain rules to apply

Rules similar to the rules of the last sentence of subsection (a), and subsections (c), (d), and (e), of section 7463 shall apply to proceedings conducted under this subsection.

(d) Special rules

(1) Restrictions on assessment and collection pending action, etc.

The principles of subsections (a), (b), (c), (d), and (f) of section 6213, section 6214(a), section 6215, section 6503(a), section 6512, and section 7481 shall apply to proceedings brought under this section in the same manner as if the Secretary's determination described in subsection (a) were a notice of deficiency.

(2) Awarding of costs and certain fees

Section 7430 shall apply to proceedings brought under this section.

(e) Employment tax

The term ''employment tax'' means any tax imposed by subtitle C.

(Added Pub. L. 105–34, title XIV, §1454(a), Aug. 5, 1997, 111 Stat. 1055; amended Pub. L. 105–206, title III, §3103(b)(1), July 22, 1998, 112 Stat. 731; Pub. L. 106–554, §1(a)(7) [title III, §314(f)], Dec. 21, 2000, 114 Stat. 2763, 2763A–643.)

REFERENCES IN TEXT

Section 530 of the Revenue Act of 1978, referred to in subsec. (a)(2), is section 530 of Pub. L. 95–600, which is set out as a note under section 3401 of this title.

PRIOR PROVISIONS

A prior section 7436 was renumbered section 7437 of this title.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–554 inserted ''and the proper amount of employment tax under such determination'' before period at end of first sentence.

1998—Subsec. (c)(1). Pub. L. 105–206 substituted ''$50,000'' for ''$10,000''.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–554 effective as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 1(a)(7) [title III, §314(g)] of Pub. L. 106–554, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title III, §3103(c), July 22, 1998, 112 Stat. 731, provided that: ''The amendments made by this section [amending this section and sections 7443A and 7463 of this title] shall apply to proceedings commenced after the date of the enactment of this Act [July 22, 1998].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6511, 7421, 7453, 7481 of this title.

§ 7437. Cross references

(1) For determination of amount of any tax, additions to tax, etc., in title 11 cases, see section 505 of title 11 of the United States Code.

(2) For exclusion of tax liability from discharge in cases under title 11 of the United States Code, see section 523 of such title 11.

(3) For recognition of tax liens in cases under title 11 of the United States Code, see sections 545 and 724 of such title 11.

(4) For collection of taxes in connection with plans for individuals with regular income in cases under title 11 of the United States Code, see section 1328 of such title 11.

(5) For provisions permitting the United States to be made party defendant in a proceeding in a State court for the foreclosure of a lien upon real estate where the United States may have claim upon the premises involved, see section 2410 of Title 28 of the United States Code.

(6) For priority of lien of the United States in case of insolvency, see section 3713(a) of title 31, United States Code.

(7) For interest on judgments for overpayments, see section 2411(a) of Title 28 of the United States Code.

(8) For review of a Tax Court decision, see section 7482.

(9) For statute prohibiting suits to replevy property taken under revenue laws, see section 2463 of Title 28 of the United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 878, §7425; renumbered §7427, Pub. L. 89–719, title I, §109, Nov. 2, 1966, 80 Stat. 1141; renumbered §7428, and amended Pub. L. 94–455, title XII, §1203(b)(2)(A), title XIX, §1906(a)(45), Oct. 4, 1976, 90 Stat. 1690, 1830; renumbered §7430, Pub. L. 94–455, title XIII, §1306(a), Oct. 4, 1976, 90 Stat. 1717; Pub. L. 96–589, §6(d)(1), (i)(13), Dec. 24, 1980, 94 Stat. 3408, 3411; renumbered §7431, Pub. L. 97–248, title II, §292(a), Sept. 3, 1982, 96 Stat. 572; renumbered §7432, Pub. L. 97–248, title III, §357(a), Sept. 3, 1982, 96 Stat. 645; Pub. L. 97–258, §3(f)(14), Sept. 13, 1982, 96 Stat. 1065; renumbered §7434, Pub. L. 100–647, title VI, §§6240(a), 6241(a), Nov. 10, 1988, 102 Stat. 3746, 3747; renumbered §7435, Pub. L. 104–168, title VI, §601(a), July 30, 1996, 110 Stat. 1462; renumbered §7436, Pub. L. 104–168, title XII, §1203(a), July 30, 1996, 110 Stat. 1470; renumbered §7437, Pub. L. 105–34, title XIV, §1454(a), Aug. 5, 1997, 111 Stat. 1055.)

AMENDMENTS

1982—Par. (6). Pub. L. 97–258 substituted ''section 3713(a) of title 31, United States Code'' for ''R.S. 3466 (31 U.S.C. 191)''. Notwithstanding the directory language that amendment be made to section 7430, the amendment was executed to this section to reflect the probable intent of Congress and the intervening renumbering of section 7430 as 7432 by Pub. L. 97–248.

1980—Par. (1). Pub. L. 96–589, §6(d)(1), added par. (1). Former par. (1), which provided cross reference to former section 35 of title 11 for exclusion of tax liability from discharge in bankruptcy, was struck out.

Par. (2). Pub. L. 96–589, §6(d)(1), (i)(13), added par. (2). Former par. (2), which provided cross reference to former section 93 of title 11 for limit on amount allowed in bankruptcy proceedings on debts owing to the United States, was struck out.

Par. (3). Pub. L. 96–589, §6(d)(1), (i)(13), added par. (3). Former par. (3), which provided cross reference to

former section 107 of title 11 for recognition of tax liens in proceedings under the Bankruptcy Act, was struck out.

Par. (4). Pub. L. 96–589, § 6(d)(1), (i)(13), added par. (4). Former par. (4), which provided for cross reference to former section 1080 of title 11 for collection of taxes in connection with wage earners' plans in bankruptcy courts, was struck out.

1976—Par. (1). Pub. L. 94–455, § 1906(a)(45)(A), struck out "52 Stat. 851;" before "11 U.S.C. 35".

Par. (2). Pub. L. 94–455, § 1906(a)(45)(B), struck out "52 Stat. 867;" before "11 U.S.C. 93".

Par. (3). Pub. L. 94–455, § 1906(a)(45)(C), struck out "52 Stat. 876–877;" before "11 U.S.C. 107".

Par. (4). Pub. L. 94–455, § 1906(a)(45)(D), struck out "52 Stat. 938;" before "11 U.S.C. 1080".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

Subchapter C—The Tax Court

Part
I. Organization and jurisdiction.
II. Procedure.
III. Miscellaneous provisions.
IV. Declaratory judgments.

AMENDMENTS

1976—Pub. L. 94–455, title X, § 1042(d)(2)(F), Oct. 4, 1976, 90 Stat. 1639, struck out in item relating to part IV "relating to qualification of certain retirement plans" after "Declaratory judgments".

1974—Pub. L. 93–406, title II, § 1041(c), Sept. 2, 1974, 88 Stat. 951, inserted item relating to part IV.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 6215, 6406 of this title.

PART I—ORGANIZATION AND JURISDICTION

Sec.
7441. Status.
7442. Jurisdiction.
7443. Membership.
7443A. Special trial judges.
7444. Organization.
7445. Offices.
7446. Times and places of sessions.
7447. Retirement.
7448. Annuities of surviving spouses and dependent children.[1]

AMENDMENTS

1986—Pub. L. 99–514, title XV, § 1556(b)(3), Oct. 22, 1986, 100 Stat. 2755, added item 7443A.

1976—Pub. L. 94–455, title XIX, § 1906(b)(10), Oct. 4, 1976, 90 Stat. 1834, substituted "Annuities of surviving spouses and dependent children" for "Annuities to widows and dependent children of judges" in item 7448.

1961—Pub. L. 87–370, § 2, Oct. 4, 1961, 75 Stat. 801, added item 7448.

§ 7441. Status

There is hereby established, under article I of the Constitution of the United States, a court of record to be known as the United States Tax Court. The members of the Tax Court shall be the chief judge and the judges of the Tax Court.

(Aug. 16, 1954, ch. 736, 68A Stat. 879; Pub. L. 91–172, title IX, § 951, Dec. 30, 1969, 83 Stat. 730.)

[1] So in original. Does not conform to section catchline.

AMENDMENTS

1969—Pub. L. 91–172 substituted provisions establishing Tax Court as a Constitutional court, and enumerating the members that comprise its bench, for provisions continuing the Board of Tax Appeals, known as the Tax Court, as an independent agency in the Executive Branch of Government and enumerating the members that comprise its bench.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 962(a) of Pub. L. 91–172 provided that: "The amendments made by sections 951, 953, 954(c) and (e), 955, 956, 958, and 960(c), (d), (e), (g), and (j) [amending this section and sections 7443, 7447, 7448, 7456, 7471, and 7701 of this title] shall take effect on the date of enactment of this Act [Dec. 30, 1969]."

REPORT ON INVENTORY OF CASES IN TAX COURT

Pub. L. 99–514, title XV, § 1552(c), Oct. 22, 1986, 100 Stat. 2753, provided that: "The Secretary of the Treasury or his delegate and the Tax Court shall each prepare a report for 1987 and for each 2-calendar year period thereafter on the inventory of cases in the Tax Court and the measures to close cases more efficiently. Such reports shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate."

CONTINUATION OF STATUS

Section 961 of Pub. L. 91–172 provided that: "The United States Tax Court established under the amendment made by section 951 [amending this section] is a continuation of the Tax Court of the United States as it existed prior to the date of enactment of this Act [Dec. 30, 1969], the judges of the Tax Court of the United States immediately prior to the date of enactment of this Act [Dec. 30, 1969] shall become the judges of the United States Tax Court upon the enactment of this Act, and no loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Tax Court of the United States before the date of enactment of this Act [Dec. 30, 1969] shall result from the enactment of this Act."

§ 7442. Jurisdiction

The Tax Court and its divisions shall have such jurisdiction as is conferred on them by this title, by chapters 1, 2, 3, and 4 of the Internal Revenue Code of 1939, by title II and title III of the Revenue Act of 1926 (44 Stat. 10–87), or by laws enacted subsequent to February 26, 1926.

(Aug. 16, 1954, ch. 736, 68A Stat. 879.)

REFERENCES IN TEXT

Chapters 1, 2, 3, and 4 of the Internal Revenue Code of 1939, referred to in text, were comprised of sections 1 to 482, 500 to 706, 800 to 939, and 1000 to 1031 of former Title 26, Internal Revenue Code. Chapters 1 and 2 of the Internal Revenue Code of 1939 were repealed by section 7851(a)(1)(A) of this title, and chapters 3 and 4 of the Internal Revenue Code of 1939 were repealed by section 7851(a)(2)(A) of this title. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title. See also section 7851(e) of this title for provision that references in the 1986 Code to a provision of the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

The Revenue Act of 1926, referred to in text, is act Feb. 26, 1926, ch. 27, 44 Stat. 9. For complete classification of this Act to the Code, see Tables.

§ 7443. Membership

(a) Number

The Tax Court shall be composed of 19 members.

(b) Appointment

Judges of the Tax Court shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office.

(c) Salary

(1) Each judge shall receive salary at the same rate and in the same installments as judges of the district courts of the United States.

(2) For rate of salary and frequency of installment see section 135, title 28, United States Code, and section 5505, title 5, United States Code.

(d) Expenses for travel and subsistence

Judges of the Tax Court shall receive necessary traveling expenses, and expenses actually incurred for subsistence while traveling on duty and away from their designated stations, subject to the same limitations in amount as are now or may hereafter be applicable to the United States Court of International Trade.

(e) Term of office

The term of office of any judge of the Tax Court shall expire 15 years after he takes office.

(f) Removal from office

Judges of the Tax Court may be removed by the President, after notice and opportunity for public hearing, for inefficiency, neglect of duty, or malfeasance in office, but for no other cause.

(g) Disbarment of removed judges

A judge of the Tax Court removed from office in accordance with subsection (f) shall not be permitted at any time to practice before the Tax Court.

(Aug. 16, 1954, ch. 736, 68A Stat. 879; Mar. 2, 1955, ch. 9, § 1(h), 69 Stat. 10; Pub. L. 88–426, title IV, § 403(i), Aug. 14, 1964, 78 Stat. 434; Pub. L. 91–172, title IX, §§ 952, 953, Dec. 30, 1969, 83 Stat. 730; Pub. L. 96–417, title VI, § 601(10), Oct. 10, 1980, 94 Stat. 1744; Pub. L. 96–439, § 1(a), (b), Oct. 13, 1980, 94 Stat. 1878.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–439, § 1(a), increased number of judges from 16 to 19.

Subsec. (b). Pub. L. 96–439, § 1(b), struck out age limitation that no one could be appointed a member of the Tax Court unless appointed before attaining age 65.

Subsec. (d). Pub. L. 96–417 substituted ''Court of International Trade'' for ''Customs Court''.

1969—Subsec. (b). Pub. L. 91–172, § 952(a), provided that an individual may not be appointed a judge of the Tax Court after reaching age 65.

Subsec. (c). Pub. L. 91–172, § 953, substituted provisions fixing salary of Tax Court judges at the same rate and same installments as District Court judges, for provisions that each judge of the Tax Court receive a salary of $30,000 per annum, to be paid in monthly installments.

Subsec. (e). Pub. L. 91–172, § 952(b), substituted provisions that a term in office of any Tax Court judge would expire 15 years after he takes office, for provisions that a term in office of any Tax Court judge would expire 12 years after the expiration of the term for which his predecessor was appointed, and any judge appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed would be appointed only for the unexpired term of his predecessor.

1964—Subsec. (c). Pub. L. 88–426 increased salary of judges from $22,500 to $30,000.

1955—Subsec. (c). Act Mar. 2, 1955, increased salary of judges from $15,000 to $22,500.

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 1(c) of Pub. L. 96–439 provided that: ''The amendments made by this section [amending this section] shall take effect on February 1, 1981.''

Amendment by Pub. L. 96–417 effective, except as otherwise provided, Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96–417, as amended, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 962(b), (c) of Pub. L. 91–172 provided that:

''(b) The amendment made by section 952(a) [amending this section] shall apply to judges appointed after the date of enactment of this Act [Dec. 30, 1969].

''(c) The amendment made by section 952(b) [amending this section] shall take effect on the date of enactment of this Act [Dec. 30, 1969], except that—

''(1) the term of office being served by a judge of the Tax Court on that date shall expire on the date it would have expired under the law in effect on the date preceding the date of enactment of this Act [Dec. 30, 1969]; and

''(2) a judge of the Tax Court on the date of enactment of this Act [Dec. 30, 1969] may be reappointed in the same manner as a judge of the Tax Court hereafter appointed.''

Amendment by section 953 of Pub. L. 91–172 to take effect on Dec. 30, 1969, see section 962(a) of Pub. L. 91–172, set out as a note under section 7441 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Mar. 2, 1955, effective Mar. 1, 1955, see section 5 of act Mar. 2, 1955, set out as a note under section 31 of Title 2, The Congress.

SALARY INCREASES

1987—Salaries of judges increased to $89,500 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1977—Salaries of judges increased to $54,500 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2.

1969—Salaries of judges increased to $40,000 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2.

CERTIFICATION BY JUDGE OF TRAVEL EXPENSES

Provisions authorizing the travel expenses of the judges of the United States Tax Court to be paid upon the written certificate of the judge were contained in the following appropriation acts:

Pub. L. 106–554, § 1(a)(3) [title IV], Dec. 21, 2000, 114 Stat. 2763, 2763A–150.

Pub. L. 106–58, title IV, Sept. 29, 1999, 113 Stat. 463.

Pub. L. 105–277, div. A, § 101(h) [title IV], Oct. 21, 1998, 112 Stat. 2681–480, 2681–510.

Pub. L. 105–61, title IV, Oct. 10, 1997, 111 Stat. 1304.

Pub. L. 104–208, div. A, title I, § 101(f) [title IV], Sept. 30, 1996, 110 Stat. 3009–314, 3009–344.

Pub. L. 104–52, title IV, Nov. 19, 1995, 109 Stat. 491.

Pub. L. 103–329, title IV, Sept. 30, 1994, 108 Stat. 2408.

Pub. L. 103–123, title IV, Oct. 28, 1993, 107 Stat. 1251.

Pub. L. 102–393, title IV, Oct. 6, 1992, 106 Stat. 1757.

Pub. L. 102–141, title IV, Oct. 28, 1991, 105 Stat. 862.

Pub. L. 101–509, title IV, Nov. 5, 1990, 104 Stat. 1422.
Pub. L. 101–136, title IV, Nov. 3, 1989, 103 Stat. 811.
Pub. L. 100–440, title IV, Sept. 22, 1988, 102 Stat. 1746.
Pub. L. 100–202, § 101(m) [title IV], Dec. 22, 1987, 101 Stat. 1329–390, 1329–414.
Pub. L. 99–500, § 101(m) [title IV], Oct. 18, 1986, 100 Stat. 1783–308, 1783–323, and Pub. L. 99–591, § 101(m) [title IV], Oct. 30, 1986, 100 Stat. 3341–308, 3341–323.
Pub. L. 99–190, title I, § 101(h) [H.R. 3036, title IV], Dec. 19, 1985, 99 Stat. 1291.
Pub. L. 98–473, title I, § 101(j) [H.R. 5798, title IV], Oct. 12, 1984, 98 Stat. 1963.
Pub. L. 98–151, § 101(f) [H.R. 4139, title IV], Nov. 14, 1983, 97 Stat. 973.
Pub. L. 97–377, title I, § 101(a) [incorporating H.R. 4121, title IV, for FY 1982], Dec. 21, 1982, 96 Stat. 1830.
Pub. L. 97–92, § 101(a) [H.R. 4121, title IV], Dec. 15, 1981, 95 Stat. 1183.
Pub. L. 96–536, § 101(a) [incorporating Pub. L. 96–74, title IV], Dec. 16, 1980, 94 Stat. 3166.
Pub. L. 96–74, title IV, Sept. 29, 1979, 93 Stat. 572.
Pub. L. 95–429, title IV, Oct. 10, 1978, 92 Stat. 1013.
Pub. L. 95–81, title IV, July 31, 1977, 91 Stat. 352.
Pub. L. 94–363, title IV, July 14, 1976, 90 Stat. 975.
Pub. L. 94–91, title IV, Aug. 9, 1975, 89 Stat. 456.
Pub. L. 93–381, title IV, Aug. 21, 1974, 88 Stat. 629.
Pub. L. 93–143, title IV, Oct. 30, 1973, 87 Stat. 522.
Pub. L. 92–351, title IV, July 13, 1972, 86 Stat. 485.
Pub. L. 92–49, title IV, July 9, 1971, 85 Stat. 120.
Pub. L. 91–422, title IV, Sept. 26, 1970, 84 Stat. 878.
Pub. L. 91–74, title IV, Sept. 29, 1969, 83 Stat. 123.
Pub. L. 90–350, title IV, June 19, 1968, 82 Stat. 196.
Pub. L. 90–47, title IV, July 7, 1967, 81 Stat. 118.
Pub. L. 89–474, title IV, June 29, 1966, 80 Stat. 228.
Pub. L. 89–57, title IV, June 30, 1965, 79 Stat. 203.
Pub. L. 88–392, title IV, Aug. 1, 1964, 78 Stat. 375.
Pub. L. 88–39, title IV, June 13, 1963, 77 Stat. 65.
Pub. L. 87–575, title V, Aug. 6, 1962, 76 Stat. 317.
Pub. L. 87–159, title III, Aug. 21, 1961, 75 Stat. 398.
Pub. L. 86–561, title III, June 30, 1960, 74 Stat. 288.
Pub. L. 86–39, title III, June 11, 1959, 73 Stat. 70.
Pub. L. 85–354, title III, Mar. 28, 1958, 72 Stat. 66.
Pub. L. 85–37, title III, May 27, 1957, 71 Stat. 41.
Apr. 2, 1956, ch. 161, title III, 70 Stat. 98.
June 1, 1955, ch. 113, title III, 69 Stat. 78.

EXECUTIVE ORDER NO. 12064

Ex. Ord. No. 12064, June 5, 1978, 43 F.R. 24661, which established the United States Tax Court Nominating Commission and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12305, May 5, 1981, 46 F.R. 25421, set out as a note under section 14 of the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7443A, 7447, 7448 of this title.

§ 7443A. Special trial judges

(a) Appointment

The chief judge may, from time to time, appoint special trial judges who shall proceed under such rules and regulations as may be promulgated by the Tax Court.

(b) Proceedings which may be assigned to special trial judges

The chief judge may assign—

(1) any declaratory judgment proceeding,

(2) any proceeding under section 7463,

(3) any proceeding where neither the amount of the deficiency placed in dispute (within the meaning of section 7463) nor the amount of any claimed overpayment exceeds $50,000,

(4) any proceeding under section 6320 or 6330, and

(5) any other proceeding which the chief judge may designate,

to be heard by the special trial judges of the court.

(c) Authority to make court decision

The court may authorize a special trial judge to make the decision of the court with respect to any proceeding described in paragraph (1), (2), (3), or (4) of subsection (b), subject to such conditions and review as the court may provide.

(d) Salary

Each special trial judge shall receive salary—

(1) at a rate equal to 90 percent of the rate for judges of the Tax Court, and

(2) in the same installments as such judges.

(e) Expenses for travel and subsistence

Subsection (d) of section 7443 shall apply to special trial judges subject to such rules and regulations as may be promulgated by the Tax Court.

(Added Pub. L. 99–514, title XV, § 1556(a), Oct. 22, 1986, 100 Stat. 2754; amended Pub. L. 105–206, title III, §§ 3103(b)(1), 3401(c), July 22, 1998, 112 Stat. 731, 749; Pub. L. 105–277, div. J, title IV, § 4002(e), Oct. 21, 1998, 112 Stat. 2681–907.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–206, § 3103(b)(1), substituted "$50,000" for "$10,000".

Subsec. (b)(4), (5). Pub. L. 105–206, § 3401(c)(1), as amended by Pub. L. 105–277, § 4002(e)(1), added par. (4) and redesignated former par. (4) as (5).

Subsec. (c). Pub. L. 105–206, § 3401(c)(2), as amended by Pub. L. 105–277, § 4002(e)(2), substituted "(3), or (4)" for "or (3)".

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–277 effective as if included in the provision of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, to which such amendment relates, see section 4002(k) of Pub. L. 105–277, set out as a note under section 1 of this title.

Amendment by section 3103 of Pub. L. 105–206 applicable to proceedings commenced after July 22, 1998, see section 3103(c) of Pub. L. 105–206, set out as a note under section 7436 of this title.

Amendment by section 3401 of Pub. L. 105–206 applicable to collection actions initiated after the date which is 180 days after July 22, 1998, see section 3401(d) of Pub. L. 105–206, set out as an Effective Date note under section 6320 of this title.

EFFECTIVE DATE

Section 1556(c) of Pub. L. 99–514 provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and amending sections 7456 and 7471 of this title] shall take effect on the date of the enactment of this Act [Oct. 22, 1986].

"(2) SALARY.—Subsection (d) of section 7443A of the Internal Revenue Code of 1954 [now 1986] (as added by this section) shall take effect on the 1st day of the 1st month beginning after the date of the enactment of this Act [Oct. 22, 1986].

"(3) NEW APPOINTMENTS NOT REQUIRED.—Nothing in the amendments made by this section shall be construed to require the reappointment of any individual serving as a special trial judge of the Tax Court on the day before the date of the enactment of this Act [Oct. 22, 1986]."

INCONSISTENCIES WITH PRESIDENTIAL SALARY RECOMMENDATIONS

Pub. L. 100–647, title I, § 1015(j), Nov. 10, 1988, 102 Stat. 3571, provided that: "To the extent the salary recom-

mendations submitted by the President on January 5, 1987, are inconsistent with the provisions of section 7443A(d)(1) of the 1986 Code, such recommendations shall not be effective for any period.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7471 of this title.

§ 7444. Organization

(a) Seal

The Tax Court shall have a seal which shall be judicially noticed.

(b) Designation of chief judge

The Tax Court shall at least biennially designate a judge to act as chief judge.

(c) Divisions

The chief judge may from time to time divide the Tax Court into divisions of one or more judges, assign the judges of the Tax Court thereto, and in case of a division of more than one judge, designate the chief thereof. If a division, as a result of a vacancy or the absence or inability of a judge assigned thereto to serve thereon, is composed of less than the number of judges designated for the division, the chief judge may assign other judges to the division or direct the division to proceed with the transaction of business without awaiting any additional assignment of judges thereto.

(d) Quorum

A majority of the judges of the Tax Court or of any division thereof shall constitute a quorum for the transaction of the business of the Tax Court or of the division, respectively. A vacancy in the Tax Court or in any division thereof shall not impair the powers nor affect the duties of the Tax Court or division nor of the remaining judges of the Tax Court or division, respectively.

(Aug. 16, 1954, ch. 736, 68A Stat. 880.)

§ 7445. Offices

The principal office of the Tax Court shall be in the District of Columbia, but the Tax Court or any of its divisions may sit at any place within the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 880.)

§ 7446. Times and places of sessions

The times and places of the sessions of the Tax Court and of its divisions shall be prescribed by the chief judge with a view to securing reasonable opportunity to taxpayers to appear before the Tax Court or any of its divisions, with as little inconvenience and expense to taxpayers as is practicable.

(Aug. 16, 1954, ch. 736, 68A Stat. 880.)

§ 7447. Retirement

(a) Definitions

For purposes of this section—

(1) The term ''Tax Court'' means the United States Tax Court.

(2) The term ''judge'' means the chief judge or a judge of the Tax Court; but such term does not include any individual performing judicial duties pursuant to subsection (c).

(3) In any determination of length of service as judge there shall be included all periods (whether or not consecutive) during which an individual served as judge, as judge of the Tax Court of the United States, or as a member of the Board of Tax Appeals.

(b) Retirement

(1) Any judge shall retire upon attaining the age of 70.

(2) Any judge who meets the age and service requirements set forth in the following table may retire:

The judge has attained age:	And the years of service as a judge are at least:
65	15
66	14
67	13
68	12
69	11
70	10.

(3) Any judge who is not reappointed following the expiration of the term of his office may retire upon the completion of such term, if (A) he has served as a judge of the Tax Court for 15 years or more and (B) not earlier than 9 months preceding the date of the expiration of the term of his office and not later than 6 months preceding such date, he advised the President in writing that he was willing to accept reappointment to the Tax Court.

(4) Any judge who becomes permanently disabled from performing his duties shall retire.

Section 8335(a) of title 5 of the United States Code (relating to automatic separation from the service) shall not apply in respect of judges. Any judge who retires shall be designated ''senior judge''.

(c) Recalling of retired judges

At or after his retirement, any individual who has elected to receive retired pay under subsection (d) may be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of him for any period or periods specified by the chief judge; except that in the case of any such individual—

(1) the aggregate of such periods in any one calendar year shall not (without his consent) exceed 90 calendar days; and

(2) he shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a judge of the Tax Court; but any such individual shall not be counted as a judge of the Tax Court for purposes of section 7443(a). Any individual who is performing judicial duties pursuant to this subsection shall be paid the same compensation (in lieu of retired pay) and allowances for travel and other expenses as a judge.

(d) Retired pay

Any individual who—

(1) retires under paragraph (1), (2), or (3) of subsection (b) and elects under subsection (e) to receive retired pay under this subsection shall receive retired pay during any period at a rate which bears the same ratio to the rate of the salary payable to a judge during such period as the number of years he has served as judge bears to 10; except that the rate of such retired pay shall not be more than the rate of such salary for such period; or

(2) retires under paragraph (4) of subsection (b) and elects under subsection (e) to receive retired pay under this subsection shall receive retired pay during any period at a rate—

(A) equal to the rate of the salary payable to a judge during such period if before he retired he had served as a judge not less than 10 years; or

(B) one-half of the rate of the salary payable to a judge during such period if before he retired he had served as a judge less than 10 years.

Such retired pay shall begin to accrue on the day following the day on which his salary as judge ceases to accrue, and shall continue to accrue during the remainder of his life. Retired pay under this subsection shall be paid in the same manner as the salary of a judge. In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, that portion of the aggregate number of years he has served as a judge which is a fractional part of 1 year shall be eliminated if it is less than 6 months, or shall be counted as a full year if it is 6 months or more. In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, any period during which such individual performs services under subsection (c) on a substantially full-time basis shall be treated as a period during which he has served as a judge.

(e) Election to receive retired pay

Any judge may elect to receive retired pay under subsection (d). Such an election—

(1) may be made only while an individual is a judge (except that in the case of an individual who fails to be reappointed as judge at the expiration of a term of office, it may be made at any time before the day after the day on which his successor takes office);

(2) once made, shall be irrevocable;

(3) in the case of any judge other than the chief judge, shall be made by filing notice thereof in writing with the chief judge; and

(4) in the case of the chief judge, shall be made by filing notice thereof in writing with the Office of Personnel Management.

The chief judge shall transmit to the Office of Personnel Management a copy of each notice filed with him under this subsection.

(f) Retired pay affected in certain cases

In the case of an individual for whom an election to receive retired pay under subsection (d) is in effect—

(1) 1-year forfeiture for failure to perform judicial duties

If such individual during any calendar year fails to perform judicial duties required of him by subsection (c), such individual shall forfeit all rights to retired pay under subsection (d) for the 1-year period which begins on the 1st day on which he so fails to perform such duties.

(2) Permanent forfeiture of retired pay where certain non-Government services performed

If such individual performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for his client, his employer, or any of his employer's clients, such individual shall forfeit all rights to retired pay under subsection (d) for all periods beginning on or after the 1st day on which he engages in any such activity. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

(3) Suspension of retired pay during period of compensated Government service

If such individual accepts compensation for civil office or employment under the Government of the United States (other than the performance of judicial duties pursuant to subsection (c)), such individual shall forfeit all rights to retired pay under subsection (d) for the period for which such compensation is received.

(4) Forfeitures of retired pay under paragraphs (1) and (2) not to apply where individual elects to freeze amount of retired pay

(A) In general

If any individual makes an election under this paragraph—

(i) paragraphs (1) and (2) (and subsection (c)) shall not apply to such individual beginning on the date such election takes effect, and

(ii) the retired pay under subsection (d) payable to such individual for periods beginning on or after the date such election takes effect shall be equal to the retired pay to which such individual would be entitled without regard to this clause at the time of such election.

(B) Election

An election under this paragraph—

(i) may be made by an individual only if such individual meets the age and service requirements for retirement under paragraph (2) of subsection (b),

(ii) may be made only during the period during which the individual may make an election to receive retired pay or while the individual is receiving retired pay, and

(iii) shall be made in the same manner as the election to receive retired pay.

Such an election, once it takes effect, shall be irrevocable.

(C) When election takes effect

Any election under this paragraph shall take effect on the 1st day of the 1st month following the month in which the election is made.

(g) Coordination with civil service retirement

(1) General rule

Except as otherwise provided in this subsection, the provisions of the civil service retirement laws (including the provisions relating to the deduction and withholding of amounts from basic pay, salary, and compensation) shall apply in respect of service as a judge (together with other service as an officer or employee to whom such civil service retirement laws apply) as if this section had not been enacted.

(2) Effect of electing retired pay

In the case of any individual who has filed an election to receive retired pay under subsection (d)—

(A) no annuity or other payment shall be payable to any person under the civil service retirement laws with respect to any service performed by such individual (whether performed before or after such election is filed and whether performed as judge or otherwise);

(B) no deduction for purposes of the Civil Service Retirement and Disability Fund shall be made from retired pay payable to him under subsection (d) or from any other salary, pay, or compensation payable to him, for any period beginning after the day on which such election is filed; and

(C) such individual shall be paid the lump-sum credit computed under section 8331(8) of title 5 of the United States Code upon making application therefor with the Office of Personnel Management.

(h) Retirement for disability

(1) Any judge who becomes permanently disabled from performing his duties shall certify to the President his disability in writing. If the chief judge retires for disability, his retirement shall not take effect until concurred in by the President. If any other judge retires for disability, he shall furnish to the President a certificate of disability signed by the chief judge.

(2) Whenever any judge who becomes permanently disabled from performing his duties does not retire and the President finds that such judge is unable to discharge efficiently all the duties of his office by reason of permanent mental or physical disability and that the appointment of an additional judge is necessary for the efficient dispatch of business, the President shall declare such judge to be retired.

(i) Revocation of election to receive retired pay

(1) In general

Notwithstanding subsection (e)(2), an individual who has filed an election to receive retired pay under subsection (d) may revoke such election at any time before the first day on which retired pay (or compensation under subsection (c) in lieu of retired pay) would (but for such revocation) begin to accrue with respect to such individual.

(2) Manner of revoking

Any revocation under this subsection shall be made by filing a notice thereof in writing with the Civil Service Commission. The Civil Service Commission shall transmit to the chief judge a copy of each notice filed under this subsection.

(3) Effect of revocation

In the case of any revocation under this subsection—

(A) for purposes of this section, the individual shall be treated as not having filed an election to receive retired pay under subsection (d),

(B) for purposes of section 7448—

(i) the individual shall be treated as not having filed an election under section 7448(b), and

(ii) section 7448(g) shall not apply, and the amount credited to such individual's account (together with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to such individual,

(C) no credit shall be allowed for any service as a judge of the Tax Court unless with respect to such service either there has been deducted and withheld the amount required by the civil service retirement laws or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest,

(D) the Tax Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (e), and

(E) if subparagraph (D) is complied with, service on the Tax Court shall be treated as service with respect to which deductions and contributions had been made during the period of service.

(Aug. 16, 1954, ch. 736, 68A Stat. 880; Pub. L. 89–354, § 1, Feb. 2, 1966, 80 Stat. 5; Pub. L. 91–172, title IX, §§ 954, 960(c), (d), Dec. 30, 1969, 83 Stat. 730, 734; Pub. L. 92–41, § 4(a), July 1, 1971, 85 Stat. 99; Pub. L. 95–472, § 1, Oct. 17, 1978, 92 Stat. 1332; Pub. L. 97–362, title I, § 106(d), Oct. 25, 1982, 96 Stat. 1730; Pub. L. 99–514, title XV, § 1557(a), (b), (d), Oct. 22, 1986, 100 Stat. 2756, 2757; Pub. L. 100–647, title I, § 1015(k)(1), Nov. 10, 1988, 102 Stat. 3571.)

REFERENCES IN TEXT

The civil service retirement laws, referred to in subsecs. (g)(2)(A) and (i)(3)(C), are classified generally to subchapter III (§ 8331 et seq.) of chapter 83 of Title 5, Government Organization and Employees.

The Civil Service Retirement and Disability Fund, referred to in subsecs. (g)(2)(B) and (i)(3)(C), (D), is provided for in section 8348 of Title 5.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–647 inserted at end "In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, any period during which such individual performs services under subsection (c) on a substantially full-time basis shall be treated as a period during which he has served as a judge."

1986—Subsec. (a)(2), (3), (5). Pub. L. 99–514, § 1557(d)(1), redesignated pars. (3) and (5) as (2) and (3), respectively,

and struck out former par. (2) which read as follows: ''The term 'Civil Service Commission' means the United States Civil Service Commission.''

Subsec. (b)(2). Pub. L. 99–514, § 1557(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Any judge who has attained the age of 65 may retire any time after serving as judge for 15 years or more.''

Subsec. (e). Pub. L. 99–514, § 1557(d)(2), substituted ''Office of Personnel Management'' for ''Civil Service Commission'' in par. (4) and in last sentence.

Subsec. (f). Pub. L. 99–514, § 1557(b), amended subsec. (f) generally. Prior to amendment, subsec. (f), individuals receiving retired pay to be available for recall, read as follows: ''Any individual who has elected to receive retired pay under subsection (d) who thereafter—

''(1) accepts civil office or employment under the Government of the United States (other than the performance of judicial duties pursuant to subsection (c)); or

''(2) performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation or in the field of the renegotiation of Federal contracts for his client, his employer, or any of his employer's clients,

shall forfeit all rights to retired pay under subsection (d) for all periods beginning on or after the first day on which he accepts such office or employment or engages in any activity described in paragraph (2). Any individual who has elected to receive retired pay under subsection (d) who thereafter during any calendar year fails to perform judicial duties required of him by subsection (c) shall forfeit all rights to retired pay under subsection (d) for the 1-year period which begins on the first day on which he so fails to perform such duties.''

Subsec. (g)(2)(C). Pub. L. 99–514, § 1557(d)(3), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

1982—Subsec. (b). Pub. L. 97–362 inserted provision that any judge who retires shall be designated ''senior judge''.

1978—Subsec. (i). Pub. L. 95–472 added subsec. (i).

1971—Subsec. (c). Pub. L. 92–41 substituted ''At or after his retirement, any individual who has elected to receive'' for ''Any individual who is receiving''.

1969—Subsec. (a)(4). Pub. L. 91–172, § 954(e)(1), struck out par. (4) which defined the term ''Civil Service Retirement Act''.

Subsec. (a)(1). Pub. L. 91–172, § 960(c), substituted ''United States Tax Court'' for ''Tax Court of the United States''.

Subsec. (a)(5). Pub. L. 91–172, § 960(d), inserted reference to service as a judge of the Tax Court of the United States.

Subsec. (b). Pub. L. 91–172, § 954(a), substituted provisions authorizing retirement at age 70, or age 65 after serving 15 years, or when any judge has become permanently disabled, authorizing any judge not reappointed who has served 15 years or more to retire under enumerated condition, and rendering section 8335(a) of title 5 not applicable to judges, for provisions authorizing retirement after a judge has served 18 years, requiring anyone who served as a judge for 10 years or more and attained the age of 70 years to retire no later than the close of the third month beginning after the month in which he attained 70 years or the month completing the tenth year of service or August 1953, and rendering section 2(a) of the Civil Service Retirement Act not applicable to judges.

Subsec. (d). Pub. L. 91–172, § 954(b), substituted provisions specifying methods of computation of retirement pay under subsec. (b) of this section so as to conform such provisions to subsec. (b) (relating to conditions for retiring), for provisions specifying methods of computation for retirement pay under former subsec. (b) of this section (relating to conditions for retiring).

Subsec. (g)(1). Pub. L. 91–172, § 954(e)(2), substituted ''civil service retirement laws'' and ''such civil service retirement laws apply'' for ''Civil Service Retirement Act'' and ''such Act applies'', respectively.

Subsec. (g)(2). Pub. L. 91–172, § 954(c), substituted provisions that any individual electing to receive retirement pay under subsec. (d) of this section is not to receive any payment under the civil service retirement laws, and no deduction is to be made for the Civil Service Retirement and Disability Fund, and a lump-sum credit computed under section 8331(8) of Title 5 is to be paid, for provisions which enumerated the effects and conditions of electing retirement pay under former subsec. (d) of this section.

Subsec. (g)(3). Pub. L. 91–172, § 954(c), struck out par. (3) which enumerated the conditions and effects of waiving civil service benefits in lieu of retirement pay under former subsec. (d) of this section.

Subsec. (g)(4). Pub. L. 91–172, § 954(c), struck out par. (4) which provided that the fourth and sixth paragraphs of section 6 of the Civil Service Retirement Act would be applicable to retirement pay accruing under subsec. (d) of this section.

Subsec. (h). Pub. L. 91–172, § 954(d), added subsec. (h).

1966—Subsec. (d). Pub. L. 89–354 substituted ''during any period at a rate which bears the same ratio to the rate of the salary payable to a judge during such period'' for ''at a rate which bears the same ratio to the rate of the salary payable to him as judge at the time he ceases to be a judge'' and ''the rate of such salary for such period'' for ''the rate of such salary'' wherever appearing.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(k)(2) of Pub. L. 100–647 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply for purposes of determining the amount of retired pay for months beginning after the date of the enactment of this Act [Nov. 10, 1988] regardless of when the services under section 7447(c) of the 1986 Code were performed.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1557(e) of Pub. L. 99–514 provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and section 7448 of this title] shall take effect on the date of the enactment of this Act [Oct. 22, 1986].

''(2) FORFEITURE OF RETIRED PAY.—The amendments made by this section shall not apply to any individual who, before the date of the enactment of this Act [Oct. 22, 1986], forfeited his rights to retired pay under section 7447(d) of the Internal Revenue Code of 1954 [now 1986] by reason of the 1st sentence of section 7447(f) of such Code (as in effect on the day before such date).''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2(a) of Pub. L. 95–472 provided that: ''The amendment made by the first section of this Act [amending this section] shall apply with respect to revocations made after the date of the enactment of this Act [Oct. 17, 1978].''

EFFECTIVE DATE OF 1971 AMENDMENT

Section 4(c)(1) of Pub. L. 92–41, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendment made by subsection (a) [amending this section] shall be effective as if included in the Internal Revenue Code of 1986 [formerly I.R.C. 1954] on the date of its enactment [July 1, 1971]. Provisions having the same effect as such amendment shall be treated as having been included in the Internal Revenue Code of 1939 [section 1106(c)] effective on and after August 7, 1953.''

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by sections 954(c), (e) and 960(c), (d) of Pub. L. 91–172 effective Dec. 30, 1969, see section 962(a) of Pub. L. 91–172, set out as a note under section 7441 of this title.

Section 962(d) of Pub. L. 91–172, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by subsections (a), (b), and (d) of section 954 [amending this section] shall apply to—

''(1) all judges of the Tax Court retiring on or after the date of enactment of this Act [Dec. 30, 1969], and

''(2) all individuals performing judicial duties pursuant to section 7447(c) or receiving retired pay pursuant to section 7447(d) on the day preceding the date of enactment of this Act [Dec. 30, 1969].

Any individual who has served as a judge of the Tax Court for 18 years or more by the end of one year after the date of the enactment of this Act [Dec. 30, 1969] may retire in accordance with the provisions of section 7447 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] as in effect on the day preceding the date of the enactment of this Act. Any individual who is a judge of the Tax Court on the date of the enactment of this Act may retire under the provisions of section 7447 of such Code upon the completion of the term of his office, if he is not reappointed as a judge of the Tax Court and gives notice to the President within the time prescribed by section 7447(b) of such Code (or if his term expires within 6 months after the date of enactment of this Act, gives notice to the President before the expiration of 3 months after the date of enactment of this Act), and shall receive retired pay at a rate which bears the same ratio to the rate of the salary payable to a judge as the number of years he has served as a judge of the Tax Court bears to 15; except that the rate of such retired pay shall not exceed the rate of the salary of a judge of the Tax Court. For purposes of the preceding sentence the years of service as a judge of the Tax Court shall be determined in the manner set forth in section 7447(d) of such Code.''

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2 of Pub. L. 89–354, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by the first section of this Act [amending this section and section 1106 of I.R.C. 1939] shall apply with respect to retired pay accruing under section 1106 of the Internal Revenue Code of 1939 or section 7447 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] on or after the first day of the first calendar month which begins after the date of enactment of this Act [Feb. 2, 1966].''

TRANSFER OF FUNCTIONS

Functions vested by statute in United States Civil Service Commission or Chairman thereof transferred to Director of Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

REDEPOSITING FUNDS IN CIVIL SERVICE RETIREMENT AND DISABILITY FUND; CREDITABLE SERVICE

Section 2(b) of Pub. L. 95–472, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Any individual who elects to revoke under section 7447(i) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] within one year after the date of enactment of this Act [Oct. 17, 1978] shall be treated as having the requisite current service for purposes of redepositing funds in the Civil Service Retirement and Disability Fund and for purposes of reviving creditable service under subchapter III of chapter 83 of title 5 of the United States Code.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7448 of this title; title 28 sections 178, 377.

§ 7448. Annuities to surviving spouses and dependent children of judges

(a) Definitions

For purposes of this section—

(1) The term ''Tax Court'' means the United States Tax Court.

(2) The term ''judge'' means the chief judge or a judge of the Tax Court, including any individual receiving retired pay (or compensation in lieu of retired pay) under section 7447 or under section 1106 of the Internal Revenue Code of 1939 whether or not performing judicial duties pursuant to section 7447(c) or pursuant to section 1106(d) of the Internal Revenue Code of 1939.

(3) The term ''chief judge'' means the chief judge of the Tax Court.

(4) The term ''judge's salary'' means the salary of a judge received under section 7443(c), retired pay received under section 7447(d), and compensation (in lieu of retired pay) received under section 7447(c).

(5) The term ''survivors annuity fund'' means the Tax Court judges survivors annuity fund established by this section.

(6) The term ''surviving spouse'' means a surviving spouse of an individual, who either (A) shall have been married to such individual for at least 2 years immediately preceding his death or (B) is a parent of issue by such marriage, and who has not remarried.

(7) The term ''dependent child'' means an unmarried child, including a dependent stepchild or an adopted child, who is under the age of 18 years or who because of physical or mental disability is incapable of self-support.

(b) Election

Any judge may by written election filed while he is a judge (except that in the case of an individual who is not reappointed following expiration of his term of office, it may be made at any time before the day after the day on which his successor takes office) bring himself within the purview of this section. In the case of any judge other than the chief judge the election shall be filed with the chief judge; in the case of the chief judge the election shall be filed as prescribed by the Tax Court.

(c) Survivors annuity fund

(1) Salary deductions

There shall be deducted and withheld from the salary of each judge electing under subsection (b) a sum equal to 3.5 percent of such judge's salary. The amounts so deducted and withheld from such judge's salary shall, in accordance with such procedure as may be prescribed by the Comptroller General of the United States, be deposited in the Treasury of the United States to the credit of a fund to be known as the ''Tax Court judges survivors annuity fund'' and said fund is appropriated for the payment of annuities, refunds, and allowances as provided by this section. Each judge electing under subsection (b) shall be deemed thereby to consent and agree to the deductions from his salary as provided in this subsection, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all judicial services rendered by such judge during the period covered by such payment, except the right to the benefits to which he or his survivors shall be entitled under the provisions of this section.

(2) Appropriations where unfunded liability

(A) In general

Not later than the close of each fiscal year, there shall be deposited in the Treasury of the United States to the credit of the survivors annuity fund, in accordance with such procedures as may be prescribed by the Comptroller General of the United States, amounts required to reduce to zero the unfunded liability (if any) of such fund. Subject to appropriation Acts, such deposits shall be taken from sums available for such fiscal year for the payment of amounts described in subsection (a)(4), and shall immediately become an integrated part of such fund.

(B) Exception

The amount required by subparagraph (A) to be deposited in any fiscal year shall not exceed an amount equal to 11 percent of the aggregate amounts described in subsection (a)(4) paid during such fiscal year.

(C) Unfunded liability defined

For purposes of subparagraph (A), the term ''unfunded liability'' means the amount estimated by the Secretary to be equal to the excess (as of the close of the fiscal year involved) of—

(i) the present value of all benefits payable from the survivors annuity fund (determined on an annual basis in accordance with section 9503 of title 31, United States Code), over

(ii) the sum of—

(I) the present values of future deductions under subsection (c) and future deposits under subsection (d), plus

(II) the balance in such fund as of the close of such fiscal year.

(D) Amounts not credited to individual accounts

Amounts appropriated pursuant to this paragraph shall not be credited to the account of any individual for purposes of subsection (g).

(d) Deposits in survivors annuity fund

Each judge electing under subsection (b) shall deposit, with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year, to the credit of the survivors annuity fund, a sum equal to 3.5 percent of his judge's salary and of his basic salary, pay, or compensation for service as a Senator, Representative, Delegate, or Resident Commissioner in Congress, and for any other civilian service within the purview of section 8332 of title 5 of the United States Code. Each such judge may elect to make such deposits in installments during the continuance of his service as a judge in such amount and under such conditions as may be determined in each instance by the chief judge. Notwithstanding the failure of a judge to make such deposit, credit shall be allowed for the service rendered, but the annuity of the surviving spouse of such judge shall be reduced by an amount equal to 10 percent of the amount of such deposit, computed as of the date of the death of such judge, unless such surviving spouse shall elect to eliminate such service entirely from credit under subsection (n), except that no deposit shall be required from a judge for any year with respect to which deductions from his salary were actually made under the civil service retirement laws and no deposit shall be required for any honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

(e) Investment of survivors annuity fund

The Secretary of the Treasury shall invest from time to time, in interest-bearing securities of the United States or Federal farm loan bonds, such portions of the survivors annuity fund as in his judgment may not be immediately required for the payment of the annuities, refunds, and allowances as provided in this section. The income derived from such investments shall constitute a part of said fund for the purpose of paying annuities and of carrying out the provisions of subsections (g), (h), and (j).

(f) Crediting of deposits

The amount deposited by or deducted and withheld from the salary of each judge electing to bring himself within the purview of this section for credit to the survivors annuity fund shall be credited to an individual account of such judge.

(g) Termination

If the service of any judge electing under subsection (b) terminates other than pursuant to the provisions of section 7447 or other than pursuant to section 1106 of the Internal Revenue Code of 1939 or if any judge ceases to be married after making the election under subsection (b) and revokes (in a writing filed as provided in subsection (b)) such election, the amount credited to his individual account, together with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year, to the date of his relinquishment of office, shall be returned to him. For the purpose of this section, the service of any judge electing under subsection (b) who is not reappointed following expiration of his term but who, at the time of such expiration, is eligible for and elects to receive retired pay under section 7447 shall be deemed to have terminated pursuant to said section.

(h) Entitlement to annuity

In case any judge electing under subsection (b) shall die while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made—

(1) if such judge is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m); or

(2) if such judge is survived by a surviving spouse and a dependent child or children,

there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

(A) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

(B) 20 percent of such average annual salary, divided by the number of such children; or

(3) if such judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

(A) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

(B) 40 percent of such average annual salary, divided by the number of such children.

The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55. The annuity payable to a child under this subsection shall be terminable upon (A) his attaining the age of 18 years, (B) his marriage, or (C) his death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability his annuity shall be terminable only upon death, marriage, or recovery from such disability. In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (3) of this subsection. In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

(i) Determination of dependency and disability

Questions of dependency and disability arising under this section shall be determined by the chief judge subject to review only by the Tax Court, the decision of which shall be final and conclusive. The chief judge may order or direct at any time such medical or other examinations as he shall deem necessary to determine the facts relative to the nature and degree of disability of any dependent child who is an annuitant or applicant for annuity under this section, and may suspend or deny any such annuity for failure to submit to any examination so ordered or directed.

(j) Payments in certain cases

(1) In any case in which—

(A) a judge electing under subsection (b) shall die while in office (whether in regular active service or retired from such service under section 7447), before having rendered 5 years of civilian service computed as prescribed in subsection (n), or after having rendered 5 years of such civilian service but without a survivor or survivors entitled to annuity benefits provided by subsection (h), or

(B) the right of all persons entitled to annuity under subsection (h) based on the service of such judge shall terminate before a valid claim therefor shall have been established,

the total amount credited to the individual account of such judge, with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year, to the date of the death of such judge, shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence, and such payment shall be a bar to recovery by any other person:

(i) to the beneficiary or beneficiaries whom the judge may have designated by a writing filed prior to his death with the chief judge, except that in the case of the chief judge such designation shall be by a writing filed by him, prior to his death, as prescribed by the Tax Court;

(ii) if there be no such beneficiary, to the surviving spouse of such judge;

(iii) if none of the above, to the child or children of such judge and the descendents of any deceased children by representation;

(iv) if none of the above, to the parents of such judge or the survivor of them;

(v) if none of the above, to the duly appointed executor or administrator of the estate of such judge; and

(vi) if none of the above, to such other next of kin of such judge as may be determined by the chief judge to be entitled under the laws of the domicile of such judge at the time of his death.

Determination as to the surviving spouse, child, or parent of a judge for the purposes of this paragraph shall be made by the chief judge without regard to the definitions in subsections (a)(6) and (7).

(2) In any case in which the annuities of all persons entitled to annuity based upon the service of a judge shall terminate before the aggregate amount of annuity paid equals the total amount credited to the individual account of such judge, with interest at 4 percent per annum to December 31, 1947, and 3 percent per annum thereafter, compounded on December 31 of each year, to the date of the death of such judge, the difference shall be paid, upon establishment of a valid claim therefor, in the order of precedence prescribed in paragraph (1).

(3) Any accrued annuity remaining unpaid upon the termination (other than by death) of the annuity of any person based upon the service of a judge shall be paid to such person. Any accrued annuity remaining unpaid upon the death of any person receiving annuity based upon the service of a judge shall be paid, upon the establishment of a valid claim therefor, in the following order of precedence:

(A) to the duly appointed executor or administrator of the estate of such person;

(B) if there is no such executor or administrator payment may be made, after the expiration of thirty days from the date of the death of such person, to such individual or individuals as may appear in the judgment of the

chief judge to be legally entitled thereto, and such payment shall be a bar to recovery by any other individual.

(k) Payments to persons under legal disability

Where any payment under this section is to be made to a minor, or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of such claimant or is otherwise legally vested with the care of the claimant or his estate. Where no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the State of residence of the claimant, the chief judge shall determine the person who is otherwise legally vested with the care of the claimant or his estate.

(*l*) Method of payment of annuities

Annuities granted under the terms of this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued. None of the moneys mentioned in this section shall be assignable, either in law or in equity, or subject to execution, levy, attachment, garnishment, or other legal process.

(m) Computation of annuities

The annuity of the surviving spouse of a judge electing under subsection (b) shall be an amount equal to the sum of 1.5 percent of the average annual salary (whether judge's salary or compensation for other allowable service) received by such judge for judicial service (including periods in which he received retired pay under section 7447(d)) or for any other prior allowable service during the period of 3 consecutive years in which he received the largest such average annual salary, multiplied by the sum of his years of such judicial service, his years of prior allowable service as a Senator, Representative, Delegate, or Resident Commissioner in Congress, his years of prior allowable service performed as a member of the Armed Forces of the United States, and his years, not exceeding 15, of prior allowable service performed as a congressional employee (as defined in section 2107 of title 5 of the United States Code,[1] and (2) three-fourths of 1 percent of such average annual salary multiplied by his years of any other prior allowable service, except that such annuity shall not exceed an amount equal to 50 percent of such average annual salary, nor be less than an amount equal to 25 percent of such average annual salary, and shall be further reduced in accordance with subsection (d) (if applicable). In determining the period of 3 consecutive years referred to in the preceding sentence, there may not be taken into account any period for which an election under section 7447(f)(4) is in effect.

(n) Includible service

Subject to the provisions of subsection (d), the years of service of a judge which are allowable as the basis for calculating the amount of the annuity of his surviving spouse shall include his years of service as a member of the United States Board of Tax Appeals, as a judge of the Tax Court of the United States, and as a judge of the Tax Court, his years of service as a Senator, Representative, Delegate, or Resident Commissioner in Congress, his years of active service as a member of the Armed Forces of the United States not exceeding 5 years in the aggregate and not including any such service for which credit is allowed for the purposes of retirement or retired pay under any other provision of law, and his years of any other civilian service within the purview of section 8332 of title 5 of the United States Code.

(*o*) Simultaneous entitlement

Nothing contained in this section shall be construed to prevent a surviving spouse eligible therefor from simultaneously receiving an annuity under this section and any annuity to which such spouse would otherwise be entitled under any other law without regard to this section, but in computing such other annuity service used in the computation of such spouse's annuity under this section shall not be credited.

(p) Estimates of expenditures

The chief judge shall submit to the President annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the survivors annuity fund, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law. The chief judge shall cause periodic examinations of the survivors annuity fund to be made by an actuary, who may be an actuary employed by another department of the Government temporarily assigned for the purpose, and whose findings and recommendations shall be transmitted by the chief judge to the Tax Court.

(q) Transitional provision

In the case of a judge who dies within 6 months after the date of enactment of this section after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), but without having made an election as provided in subsection (b), an annuity shall be paid to his surviving spouse and surviving dependents as is provided in this section, as if such judge had elected on the day of his death to bring himself within the purview of this section but had not made the deposit provided for by subsection (d). An annuity shall be payable under this section computed upon the basis of the actual length of service as a judge and other allowable service of the judge and subject to the reduction required by subsection (d) even though no deposit has been made, as required by subsection (h) with respect to any of such service.

(r) Waiver of civil service benefits

Any judge electing under subsection (b) shall, at the time of such election, waive all benefits under the civil service retirement laws. Such a waiver shall be made in the same manner and shall have the same force and effect as an election filed under section 7447(e).

[1] So in original. A closing parenthesis probably should precede the comma.

(s) Increases attributable to increased pay

Whenever the salary of a judge under section 7443(c) is increased, each annuity payable from the survivors annuity fund which is based, in whole or in part, upon a deceased judge having rendered some portion of his or her final 18 months of service as a judge of the Tax Court, shall also be increased. The amount of the increase in such an annuity shall be determined by multiplying the amount of the annuity, on the date on which the increase in salary becomes effective, by 3 percent for each full 5 percent by which such salary has been increased.

(t) Authorization of appropriation

Funds necessary to carry out the provisions of this section may be appropriated out of any money in the Treasury not otherwise appropriated.

(Added Pub. L. 87–370, § 1, Oct. 4, 1961, 75 Stat. 796; amended Pub. L. 91–172, title IX, §§ 955, 960(c), (e), Dec. 30, 1969, 83 Stat. 732, 734; Pub. L. 92–41, § 4(b), July 1, 1971, 85 Stat. 99; Pub. L. 94–455, title XIX, § 1906(a)(46), Oct. 4, 1976, 90 Stat. 1830; Pub. L. 97–362, title I, § 105(a), (b), Oct. 25, 1982, 96 Stat. 1729; Pub. L. 98–216, § 3(c)(1), Feb. 14, 1984, 98 Stat. 6; Pub. L. 98–369, div. A, title IV, § 462(a), July 18, 1984, 98 Stat. 824; Pub. L. 99–514, title XV, §§ 1557(c), 1559(a)–(c), Oct. 22, 1986, 100 Stat. 2757–2760.)

REFERENCES IN TEXT

Section 1106 of the Internal Revenue Code of 1939, referred to in subsecs. (a)(2) and (g), was classified to section 1106 of former Title 26, Internal Revenue Code. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title. See, also, section 7851(e) of this title for provision that references in the 1986 Code to a provision of the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

The civil service retirement laws, referred to in subsecs. (d), (h), and (r), are contained in subchapter III (§ 8331 et seq.) of chapter 83 of Title 5, Government Organization and Employees.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–514, § 1559(a)(1)(A), (2)(A), substituted ''Survivors annuity fund'' for ''Salary deductions'' in heading, inserted par. (1) designation and heading ''Salary deductions'' before existing text, realigned margin of text and substituted ''3.5 percent'' for ''3 percent'', and added par. (2).

Subsec. (d). Pub. L. 99–514, § 1559(a)(1)(B), substituted ''3.5 percent'' for second reference to ''3 percent''.

Subsec. (g). Pub. L. 99–514, § 1559(c), struck out ''of service'' after ''Termination'' in heading and inserted ''or if any judge ceases to be married after making the election under subsection (b) and revokes (in a writing filed as provided in subsection (b)) such election'' in text.

Subsec. (h). Pub. L. 99–514, § 1559(a)(2)(B), substituted ''subsection (c)(1)'' for ''subsection (c)'' in introductory provisions.

Pub. L. 99–514, § 1559(b)(1)(B), substituted ''or such surviving spouse's remarriage before attaining age 55'' for ''or remarriage'' in second sentence.

Subsec. (h)(2). Pub. L. 99–514, § 1559(b)(2)(A), substituted ''the lesser of—

''(A) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

''(B) 20 percent of such average annual salary, divided by the number of such children; or'' for ''one-half the amount of the annuity of such surviving spouse, but not to exceed $4,644 per year divided by the number of such children or $1,548 per year, whichever is lesser; or''.

Subsec. (h)(3). Pub. L. 99–514, § 1559(b)(2)(B), substituted ''the lesser of—

''(A) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

''(B) 40 percent of such average annual salary, divided by the number of such children'' for ''the amount of the annuity to which such surviving spouse would have been entitled under paragraph (2) of this subsection had such spouse survived, but not to exceed $5,580 per year divided by the number of such children or $1,860 per year, whichever is lesser''.

Subsec. (m). Pub. L. 99–514, § 1559(b)(1)(A), substituted ''1.5 percent'' for ''1¼ percent'' and ''except that such annuity shall not exceed an amount equal to 50 percent of such average annual salary, nor be less than an amount equal to 25 percent of such average annual salary, and shall be further reduced in accordance with subsection (d) (if applicable)'' for ''but such annuity shall not exceed 40 percent of such average annual salary and shall be further reduced in accordance with subsection (d), if applicable''.

Pub. L. 99–514, § 1557(c), inserted last sentence.

1984—Subsec. (h)(2). Pub. L. 98–369, § 462(a)(1), substituted ''$4,644'' for ''$900'' and ''$1,548'' for ''$360''.

Subsec. (h)(3). Pub. L. 98–369, § 462(a)(2), substituted ''$5,580 per year divided by the number of such children or $1,860 per year, whichever is lesser'' for ''$480 per year''.

Subsec. (p). Pub. L. 98–216 substituted ''President'' for ''Bureau of the Budget''.

1982—Subsec. (m). Pub. L. 97–362, § 105(a), substituted ''3 consecutive years'' for ''5 consecutive years'', and ''40 percent'' for ''37½ percent''.

Subsecs. (s), (t). Pub. L. 97–362, § 105(b), added subsec. (s) and redesignated former subsec. (s) as (t).

1976—Pub. L. 94–455, § 1906(a)(46)(F), substituted ''surviving spouses'' for ''widows'' in section catchline.

Subsec. (a)(6). Pub. L. 94–455, § 1906(a)(46)(A), substituted ''The term 'surviving spouse' means a surviving spouse of'' for ''The term 'widow' means a surviving wife of'' and ''a parent of issue'' for ''the mother of issue''.

Subsec. (d). Pub. L. 94–455, § 1906(a)(46)(E), substituted ''surviving spouse'' for ''widow'' wherever appearing.

Subsec. (h). Pub. L. 94–455, § 1906(a)(46)(B), (C), substituted ''a surviving spouse'' for ''a widow'', ''such surviving spouse'' for ''such widow'', ''surviving spouse's'' for ''widow's'', ''surviving spouse'' for ''surviving widow or widower'', ''such spouse'' for ''she'' and ''surviving such spouse'' for ''surviving her''.

Subsecs. (j), (m), (n). Pub. L. 94–455, § 1906(a)(46)(E), substituted ''surviving spouse'' for ''widow'' wherever appearing.

Subsec. (*o*). Pub. L. 94–455, § 1906(a)(46)(C), (D), (E), substituted ''surviving spouse'' for ''widow'', ''such spouse'' for ''she'' and ''such spouse's'' for ''her''.

Subsec. (q). Pub. L. 94–455, § 1906(a)(46)(E), substituted ''surviving spouse'' for ''widow''.

1971—Subsec. (m). Pub. L. 92–41 inserted ''(whether judge's salary or compensation for other allowable service)'' and ''(including periods in which he received retired pay under section 7447(d))'' after ''average annual salary'' and ''judicial service'', respectively, and substituted ''or for any other prior allowable service during the period of 5 consecutive years in which he received the largest such average annual salary, multiplied by the sum of his years of such judicial service'' for ''and any other prior allowable service during the last 5 years of such service prior to his death, or prior to his receiving retired pay under section 7447(d), whichever first occurs, multiplied by the sum of his years of judicial service''.

1969—Subsec. (a)(1). Pub. L. 91–172, § 960(c), substituted ''United States Tax Court'' for ''Tax Court of the United States''.

Subsec. (b). Pub. L. 91–172, § 955(a), substituted provisions authorizing a judge to file notice of election to take benefits relating to survivor annuities while a judge, and if not reappointed, authorizing such election at any time before the day after the day on which his successor takes office, for provisions authorizing a judge to file within 6 months after he takes office or is reappointed, or within 6 months after he becomes eligible for retirement under former section 7447(b) of this title, or within 6 months after Oct. 4, 1961.

Subsec. (d). Pub. L. 91–172, § 955(d)(1), (2), substituted ''civil service retirement laws'' for ''Civil Service Retirement Act'' and ''section 8332 of title 5 of the United States Code'' for ''section 3 of the Civil Service Retirement Act (5 U.S.C. 2253)''.

Subsec. (h). Pub. L. 91–172, § 955(b)(1), substituted ''civil service retirement laws'' for ''Civil Service Retirement Act''.

Subsec. (m). Pub. L. 91–172, § 955(b)(3), substituted ''section 2107 of title 5 of the United States Code'' for ''section 1(c) of the Civil Service Retirement Act (5 U.S.C. 2251(c))''.

Subsec. (n). Pub. L. 91–172, §§ 955(b)(2), 960(e), substituted ''section 8332 of title 5 of the United States Code'' for ''section 3 of the Civil Service Retirement Act (5 U.S.C. 2253)'' and inserted reference to service as a judge of the Tax Court of the United States.

Subsec. (r). Pub. L. 91–172, § 955(b)(1), (4), substituted ''civil service retirement laws'' for ''Civil Service Retirement Act'' and substituted ''an election filed under section 7447(e)'' for ''a waiver filed under section 7447(g)(3)''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1557(c) of Pub. L. 99–514 effective Oct. 22, 1986, but not applicable to any individual who, before Oct. 22, 1986, forfeited his rights to retired pay under section 7447(d) of this title by reason of the 1st sentence of section 7447(f) of this title (as in effect on the day before such date), see section 1557(e) of Pub. L. 99–514, set out as a note under section 7447 of this title.

Section 1559(d) of Pub. L. 99–514 provided that:

''(1) SALARY DEDUCTIONS.—

''(A) The amendment made by subsection (a)(1)(A) [amending this section] shall apply to amounts paid after November 1, 1986.

''(B) The amendment made by subsection (a)(1)(B) [amending this section] shall apply to service after November 1, 1986.

''(2) APPROPRIATIONS.—The amendments made by subsection (a)(2) [amending this section] shall apply to fiscal years beginning after 1986.

''(3) COMPUTATION OF ANNUITIES.—The amendments made by subsection (b) [amending this section] shall apply to annuities the starting date of which is after November 1, 1986.

''(4) OPPORTUNITY TO REVOKE SURVIVOR ANNUITY ELECTION.—

''(A) IN GENERAL.—Any individual who before November 1, 1986, made an election under subsection (b) of section 7448 of the Internal Revenue Code of 1954 [now 1986] may revoke such election. Such a revocation shall constitute a complete withdrawal from the survivor annuity program provided for in such section and shall be filed as provided for elections under such subsection.

''(B) EFFECT OF REVOCATION.—Any revocation under subparagraph (A) shall have the same effect as if there were a termination to which section 7448(g) of such Code applies on the date such revocation is filed.

''(C) PERIOD REVOCATION PERMITTED.—Any revocation under subparagraph (A) may be made only during the 180-day period beginning on the date of the enactment of this Act [Oct. 22, 1986].

''(5) OPPORTUNITY TO ELECT SURVIVOR ANNUITY WHERE PRIOR REVOCATION.—Any individual who under paragraph (4) revoked an election under subsection (b) of section 7448 of such Code may thereafter make such an election only if such individual deposits to the credit of the survivors annuity fund under subsection (c) of such section the entire amount paid to such individual under paragraph (4), together with interest computed as provided in subsection (d) of such section.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 462(b) of Pub. L. 98–369, provided that: ''The amendments made by this [sic] subsection (a) [amending this section] shall apply to annuities payable with respect to months beginning after the date of the enactment of this Act [July 18, 1984].''

EFFECTIVE DATE OF 1982 AMENDMENT

Section 105(d) of Pub. L. 97–362 provided that:

''(1) SUBSECTION (a).—The amendment made by subsection (a) [amending this section] shall apply to annuities payable with respect to judges dying after the date of the enactment of this Act [Oct. 25, 1982].

''(2) SUBSECTION (b).—The amendment made by subsection (b) of this section [amending this section] shall apply with respect to increases in the salary of judges of the United States Tax Court taking effect after the date of the enactment of this Act [Oct. 25, 1982].''

EFFECTIVE DATE OF 1976 AMENDMENT

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) of Pub. L. 94–455, set out as a note under section 6013 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 4(c)(2) of Pub. L. 92–41 provided that: ''The amendment made by subsection (b) [amending this section] shall apply only with respect to judges of the United States Tax Court dying on or after the date of the enactment of this Act [July 1, 1971].''

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Dec. 30, 1969, see section 962(a) of Pub. L. 91–172, set out as a note under section 7441 of this title.

CATCHUP FOR SURVIVORS ANNUITIES IN PAY STATUS ON OCTOBER 25, 1982

Section 105(c) of Pub. L. 97–362, as amended by Pub. L. 97–448, title III, § 305(e), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''If an annuity payable under section 7448(h) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to entitlement to annuity) to the surviving spouse of a judge of the United States Tax Court is being paid on the date of the enactment of this Act, then the amount of that annuity shall be adjusted, as of the first day of the first month beginning more than 30 days after such date, to reflect the amount of the annuity which would have been payable if the amendment made by subsection (b) applied with respect to increases in the salary of a judge under section 7443(c) of such Code taking effect after December 31, 1963.''

[Pub. L. 97–448, title III, § 311(c)(5), Jan. 12, 1983, 96 Stat. 2412, provided that: ''The amendment made by subsection (e) of section 305 [amending section 105(c) of Pub. L. 97–362, set out above] shall take effect on the date of the enactment of the Miscellaneous Revenue Act of 1982 [Oct. 25, 1982].'']

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7447 of this title.

PART II—PROCEDURE

Sec.
7451. Fee for filing petition.
7452. Representation of parties.
7453. Rules of practice, procedure, and evidence.
7454. Burden of proof in fraud and transferee cases.[1]

[1] Section catchline amended by Pub. L. 91–172 without corresponding amendment of analysis.

7455. Service of process.
7456. Administration of oaths and procurement of testimony.
7457. Witness fees.
7458. Hearings.
7459. Reports and decisions.
7460. Provisions of special application to divisions.
7461. Publicity of proceedings.
7462. Publication of reports.
7463. Disputes involving $50,000 or less.
7464. Intervention by trustee of debtor's estate.
7465. Provisions of special application to transferees.

AMENDMENTS

1998—Pub. L. 105–206, title III, § 3103(b)(2), July 22, 1998, 112 Stat. 731, substituted ''$50,000'' for ''$10,000'' in item 7463.

1984—Pub. L. 98–369, div. A, title IV, § 461(a)(2)(B), July 18, 1984, 98 Stat. 823, substituted ''$10,000'' for ''$5,000'' in item 7463.

1980—Pub. L. 96–589, § 6(c)(2), Dec. 24, 1980, 94 Stat. 3407, added item 7464 and redesignated former item 7464 as 7465.

1978—Pub. L. 95–600, title V, § 502(a)(2)(B), Nov. 6, 1978, 92 Stat. 2879, substituted ''$5,000'' for ''$1,500'' in item 7463.

1972—Pub. L. 92–512, title II, § 203(b)(3), Oct. 20, 1972, 86 Stat. 945, substituted ''$1,500'' for ''$1,000'' in item 7463.

1969—Pub. L. 91–172, title IX, § 957(b), Dec. 30, 1969, 83 Stat. 733, added item 7463 and redesignated former item 7463 as 7464.

§ 7451. Fee for filing petition

The tax court is authorized to impose a fee in an amount not in excess $60 to be fixed by the Tax Court for the filing of any petition for the redetermination of a deficiency or for a declaratory judgment under part IV of this subchapter or under section 7428 or for judicial review under section 6226 or section 6228(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 884; Pub. L. 93–406, title II, § 1041(b)(1), Sept. 2, 1974, 88 Stat. 950; Pub. L. 94–455, title XIII, § 1306(b)(1), Oct. 4, 1976, 90 Stat. 1719; Pub. L. 97–34, title VII, § 751(a), Aug. 13, 1981, 95 Stat. 349; Pub. L. 97–248, title IV, § 402(c)(12), Sept. 3, 1982, 96 Stat. 668.)

AMENDMENTS

1982—Pub. L. 97–248 inserted provision relating to judicial review under section 6226 or section 6228(a).

1981—Pub. L. 97–34 increased limitation on amount of fee to $60 from $10.

1976—Pub. L. 94–455 inserted ''or under section 7428'' after ''part IV of this subchapter''.

1974—Pub. L. 93–406 inserted reference to a declaratory judgment under part IV of this subchapter.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 751(b) of Pub. L. 97–34 provided that: ''The amendment made by this section [amending this section] shall apply to petitions filed after December 31, 1981.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 applicable with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after Oct. 4, 1976, but only with respect to determinations (or requests for determinations) made after Jan. 1, 1976, see section 1306(c) of Pub. L. 94–455, set out as an Effective Date note under section 7428 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable to pleadings filed more than one year after Sept. 2, 1974, see section 1041(d) of Pub. L. 93–406, set out as an Effective Date note under section 7476 of this title.

§ 7452. Representation of parties

The Secretary shall be represented by the Chief Counsel for the Internal Revenue Service or his delegate in the same manner before the Tax Court as he has heretofore been represented in proceedings before such Court. The taxpayer shall continue to be represented in accordance with the rules of practice prescribed by the Court. No qualified person shall be denied admission to practice before the Tax Court because of his failure to be a member of any profession or calling.

(Aug. 16, 1954, ch. 736, 68A Stat. 884; Pub. L. 86–368, § 2(a), Sept. 22, 1959, 73 Stat. 648; 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''.

1959—Pub. L. 86–368 substituted ''Chief Counsel for the Internal Revenue Service or his delegate'' for ''Assistant General Counsel of the Treasury Department serving as Chief Counsel of the Internal Revenue Service, or the delegate of such Chief Counsel,''.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–368 effective when Chief Counsel for Internal Revenue Service first appointed pursuant to amendment of section 7801 of this title by Pub. L. 86–368 qualifies and takes office, see section 3 of Pub. L. 86–368, set out as a note under section 7801 of this title.

§ 7453. Rules of practice, procedure, and evidence

Except in the case of proceedings conducted under section 7436(c) or 7463, the proceedings of the Tax Court and its divisions shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Tax Court may prescribe and in accordance with the rules of evidence applicable in trials without a jury in the United States District Court of the District of Columbia.

(Aug. 16, 1954, ch. 736, 68A Stat. 884; Pub. L. 91–172, title IX, § 960(f), Dec. 30, 1969, 83 Stat. 734; Pub. L. 105–34, title XIV, § 1454(b)(3), Aug. 5, 1997, 111 Stat. 1057.)

AMENDMENTS

1997—Pub. L. 105–34 substituted ''section 7436(c) or 7463'' for ''section 7463''.

1969—Pub. L. 91–172 inserted reference to the exception in the case of proceedings conducted under section 7463 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective one year after Dec. 30, 1969, see section 962(e) of Pub. L. 91–172, set out

as an Effective Date note under section 7463 of this title.

TAX COURT RULE MAKING NOT AFFECTED

Authority of Tax Court to prescribe rules under this section unaffected by amendments of title IV of Pub. L. 100–702, see section 405 of Pub. L. 100–702, set out as a note under section 2071 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6110, 7436, 7463 of this title.

§ 7454. Burden of proof in fraud, foundation manager, and transferee cases

(a) Fraud

In any proceeding involving the issue whether the petitioner has been guilty of fraud with intent to evade tax, the burden of proof in respect of such issue shall be upon the Secretary.

(b) Foundation managers

In any proceeding involving the issue whether a foundation manager (as defined in section 4946(b)) has ''knowingly'' participated in an act of self-dealing (within the meaning of section 4941), participated in an investment which jeopardizes the carrying out of exempt purposes (within the meaning of section 4944), or agreed to the making of a taxable expenditure (within the meaning of section 4945), or whether the trustee of a trust described in section 501(c)(21) has ''knowingly'' participated in an act of self-dealing (within the meaning of section 4951) or agreed to the making of a taxable expenditure (within the meaning of section 4952), or whether an organization manager (as defined in section 4955(f)(2)) has ''knowingly'' agreed to the making of a political expenditure (within the meaning of section 4955),,[1] or whether an organization manager (as defined in section 4912(d)(2)) has ''knowingly'' agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), or whether an organization manager (as defined in section 4958(f)(2)) has ''knowingly'' participated in an excess benefit transaction (as defined in section 4958(c)), the burden of proof in respect of such issue shall be upon the Secretary.

(c) Cross reference

For provisions relating to burden of proof as to transferee liability, see section 6902(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 884; Pub. L. 91–172, title I, § 101(j)(57), Dec. 30, 1969, 83 Stat. 532; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–227, § 4(d)(7), Feb. 10, 1978, 92 Stat. 23; Pub. L. 96–222, title I, § 108(b)(3)(B), Apr. 1, 1980, 94 Stat. 226; Pub. L. 100–203, title X, §§ 10712(c)(6), 10714(b), Dec. 22, 1987, 101 Stat. 1330–467, 1330–471; Pub. L. 104–168, title XIII, § 1311(c)(5), July 30, 1996, 110 Stat. 1478; Pub. L. 104–188, title I, § 1704(t)(43), Aug. 20, 1996, 110 Stat. 1889.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–188 substituted ''section 4955(f)(2)'' for ''section 4955(e)(2)''.

Pub. L. 104–168 inserted ''or whether an organization manager (as defined in section 4958(f)(2)) has 'knowingly' participated in an excess benefit transaction (as defined in section 4958(c)),'' after ''section 4912(b),''.

1987—Subsec. (b). Pub. L. 100–203, § 10714(b), substituted '', or whether an organization manager (as defined in section 4912(d)(2)) has 'knowingly' agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), the burden of proof'' for ''the burden of proof''.

Pub. L. 100–203, § 10712(c)(6), substituted ''or whether an organization manager (as defined in section 4955(e)(2)) has 'knowingly' agreed to the making of a political expenditure (within the meaning of section 4955), the burden of proof'' for ''the burden of proof''.

1980—Subsec. (b). Pub. L. 96–222 substituted ''section 501(c)(21)'' for ''section 502(c)(21)''.

1978—Subsec. (b). Pub. L. 95–227 inserted provision relating to trustees of a trust described under section 502(c)(21) of this title.

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1969—Pub. L. 91–172 inserted '', foundation manager'' in section catchline.

Subsecs (b), (c). Pub. L. 91–172 added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–168 applicable to excess benefit transactions occurring on or after Sept. 14, 1995, and not applicable to any benefit arising from a transaction pursuant to any written contract which was binding on Sept. 13, 1995, and at all times thereafter before such transaction occurred, see section 1311(d)(1), (2) of Pub. L. 104–168, set out as a note under section 4955 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10712(c)(6) of Pub. L. 100–203 applicable to taxable years beginning after Dec. 22, 1987, see section 10712(d) of Pub. L. 100–203, set out as an Effective Date note under section 4955 of this title.

Amendment by section 10714(b) of Pub. L. 100–203 applicable to taxable years beginning after Dec. 22, 1987, see section 10714(e) of Pub. L. 100–203, set out as an Effective Date note under section 4912 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–222 effective as if included in the provisions of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95–227, see section 108(b)(4) of Pub. L. 96–222, set out as a note under section 192 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–227 applicable with respect to contributions, acts, and expenditures made after Dec. 31, 1977, in and for taxable years beginning after such date, see section 4(f) of Pub. L. 95–227, set out as an Effective Date note under section 192 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 162 of this title.

§ 7455. Service of process

The mailing by certified mail or registered mail of any pleading, decision, order, notice, or process in respect of proceedings before the Tax Court shall be held sufficient service of such pleading, decision, order, notice, or process.

(Aug. 16, 1954, ch. 736, 68A Stat. 884; Pub. L. 85–866, title I, § 89(b), Sept. 2, 1958, 72 Stat. 1665.)

AMENDMENTS

1958—Pub. L. 85–866 inserted ''certified mail or'' before ''registered mail''.

[1] So in original.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 applicable only if mailing occurs after Sept. 2, 1958, see section 89(d) of Pub. L. 85–866, set out as a note under section 7502 of this title.

§ 7456. Administration of oaths and procurement of testimony

(a) In general

For the efficient administration of the functions vested in the Tax Court or any division thereof, any judge or special trial judge of the Tax Court, the clerk of the court or his deputies, as such, or any other employee of the Tax Court designated in writing for the purpose by the chief judge, may administer oaths, and any judge or special trial judge of the Tax Court may examine witnesses and require, by subpoena ordered by the Tax Court or any division thereof and signed by the judge or special trial judge (or by the clerk of the Tax Court or by any other employee of the Tax Court when acting as deputy clerk)—

(1) the attendance and testimony of witnesses, and the production of all necessary returns, books, papers, documents, correspondence, and other evidence, from any place in the United States at any designated place of hearing, or

(2) the taking of a deposition before any designated individual competent to administer oaths under this title. In the case of a deposition the testimony shall be reduced to writing by the individual taking the deposition or under his direction and shall then be subscribed by the deponent.

(b) Production of records in the case of foreign corporations, foreign trusts or estates and nonresident alien individuals

The Tax Court or any division thereof, upon motion and notice by the Secretary, and upon good cause shown therefor, shall order any foreign corporation, foreign trust or estate, or nonresident alien individual, who has filed a petition with the Tax Court, to produce, or, upon satisfactory proof to the Tax Court or any of its divisions, that the petitioner is unable to produce, to make available to the Secretary, and, in either case, to permit the inspection, copying, or photographing of, such books, records, documents, memoranda, correspondence and other papers, wherever situated, as the Tax Court or any division thereof, may deem relevant to the proceedings and which are in the possession, custody or control of the petitioner, or of any person directly or indirectly under his control or having control over him or subject to the same common control. If the petitioner fails or refuses to comply with any of the provisions of such order, after reasonable time for compliance has been afforded to him, the Tax Court or any division thereof, upon motion, shall make an order striking out pleadings or parts thereof, or dismissing the proceeding or any part thereof, or rendering a judgment by default against the petitioner. For the purpose of this subsection, the term ''foreign trust or estate'' includes an estate or trust, any fiduciary of which is a foreign corporation or nonresident alien individual; and the term ''control'' is not limited to legal control.

(c) Incidental powers

The Tax Court and each division thereof shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as—

(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

(2) misbehavior of any of its officers in their official transactions; or

(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

It shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for any district in which the Tax Court is sitting shall, when requested by the chief judge of the Tax Court, attend any session of the Tax Court in such district.

(Aug. 16, 1954, ch. 736, 68A Stat. 885; Pub. L. 91–172, title IX, §§ 956, 958, Dec. 30, 1969, 83 Stat. 732, 734; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–600, title III, § 336(b)(1), title V, § 502(c), Nov. 6, 1978, 92 Stat. 2841, 2879; Pub. L. 96–222, title I, § 105(a)(1)(B), Apr. 1, 1980, 94 Stat. 218; Pub. L. 97–164, title I, § 153(a), Apr. 2, 1982, 96 Stat. 47; Pub. L. 97–248, title IV, § 402(c)(13), Sept. 3, 1982, 96 Stat. 668; Pub. L. 97–362, title I, § 106(c), Oct. 25, 1982, 96 Stat. 1730; Pub. L. 98–369, div. A, title IV, §§ 463(a), 464(a)–(c), July 18, 1984, 98 Stat. 824; Pub. L. 99–514, title XV, §§ 1555(a), 1556(b)(1), Oct. 22, 1986, 100 Stat. 2754, 2755.)

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–514, § 1556(b)(1), redesignated subsec. (e) as (c). Former subsec. (c), which provided for the appointment of special trial judges, was struck out.

Pub. L. 99–514, § 1555(a), inserted last sentence.

Subsec. (d). Pub. L. 99–514, § 1556(b)(1), struck out subsec. (d) which set out proceedings which could be assigned to special trial judges appointed under former subsec. (c).

Subsec. (e). Pub. L. 99–514, § 1556(b)(1), redesignated subsec. (e) as (c).

1984—Subsec. (a). Pub. L. 98–369, § 464(a), substituted ''special trial judge'' for ''commissioner'' in three places.

Subsec. (c). Pub. L. 98–369, § 464(b), substituted ''Special trial judges'' for ''Commissioners'' in heading, and in text substituted ''special trial judges'' for ''commissioners'' and ''special trial judge'' for ''commissioner''.

Subsec. (d). Pub. L. 98–369, § 464(c), substituted ''Special trial judges'' for ''Commissioners'' in heading, and substituted ''special trial judges'' for ''commissioners'' and ''special trial judge'' for ''commissioner'' in provisions following par. (4).

Pub. L. 98–369, § 463(a), in amending subsec. (d) generally, struck out ''and'' at end of par. (2), substituted ''any proceeding'' for ''any other proceeding'' and ''$10,000; and'' for ''$5,000,'' in par. (3), added par. (4), and substituted ''any proceeding described in paragraph (1), (2), or (3), subject to such conditions and review as the court may provide'' for ''any such proceeding, subject to such conditions and review as the court may by rule provide'' in provisions following par. (4).

1982—Subsec. (c). Pub. L. 97–362, § 106(c)(2), struck out provision that the chief judge may assign proceedings under sections 6226, 6228(a), 7428, 7463, 7476, 7477, and 7478 to be heard by the commissioners of the court, and that the court may authorize a commissioner to make the decision of the court with respect to such proceedings,

subject to such conditions and review as the court may by rule provide. See subsec. (d) of this section.

Pub. L. 97–248 inserted ''6226, 6228(a),'' after ''proceedings under sections''.

Pub. L. 97–164 substituted ''Each commissioner shall receive pay at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351–361), as adjusted by section 461 of title 28, United States Code, and also necessary traveling expenses and per diem allowances, as provided in subchapter I of chapter 57 of title 5, United States Code, while traveling on official business and away from Washington, District of Columbia'' for ''Each commissioner shall receive the same compensation and travel and subsistence allowances provided by law for commissioners of the United States Court of Claims''.

Subsecs. (d), (e). Pub. L. 97–362, § 106(c)(1), added subsec. (d) and redesignated former subsec. (d) as (e).

1980—Subsec. (c). Pub. L. 96–222 substituted ''sections 7428, 7463'' for ''sections 7428''.

1978—Subsec. (a). Pub. L. 95–600, § 502(c), substituted ''any judge or commissioner of the Tax Court'' for ''any judge of the Tax Court'' wherever appearing, and ''by the judge or commissioner'' for ''by the judge'' after ''and signed''.

Subsec. (c). Pub. L. 95–600, § 336(b)(1), inserted provision that the chief judge may assign proceedings under sections 7428, 7476, 7477, and 7478 to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to such proceedings, subject to such conditions and review as the court may by rule provide.

1976—Subsec. (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1969—Subsec. (c). Pub. L. 91–172, § 958, provided that commissioners be compensated at rates identical to those of commissioners of the United States Court of Claims, and substituted provisions authorizing the chief judge of the Tax Court to appoint Commissioners for provisions authorizing attorneys from the legal staff of the Tax Court to act as Commissioners.

Subsec. (d). Pub. L. 91–172, § 956, added subsec. (d).

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1555(b) of Pub. L. 99–514 provided that: ''The amendment 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 1556(b)(1) of Pub. L. 99–514 effective Oct. 22, 1986, except as otherwise provided, see section 1556(c) of Pub. L. 99–514, set out as an Effective Date note under section 7443A of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 463(b) of Pub. L. 98–369 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as if enacted as part of the Miscellaneous Revenue Act of 1982 [Pub. L. 97–362].''

Section 464(e)(1) of Pub. L. 98–369 provided that: ''The amendments made by this section [amending this section and section 7471 of this title and enacting provisions set out below] shall take effect on the date of the enactment of this Act [July 18, 1984].''

EFFECTIVE DATE OF 1982 AMENDMENTS

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 105(b)(1) of Pub. L. 96–222 provided that: ''The amendments made by subsection (a)(1) [amending this section and section 7463 of this title] shall take effect on the date of the enactment of this Act [Apr. 1, 1980].''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 336(b)(1) of Pub. L. 95–600 applicable to requests for determinations made after Dec. 31, 1978, see section 336(d) of Pub. L. 95–600, set out as an Effective Date note under section 7478 of this title.

Amendment by section 502(c) of Pub. L. 95–600 effective Nov. 6, 1978, see section 502(d)(2) of Pub. L. 95–600, set out as a note under section 7463 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Dec. 30, 1969, see section 962(a) of Pub. L. 91–172, set out as a note under section 7441 of this title.

REFERENCES TO COMMISSIONERS DEEMED REFERENCES TO SPECIAL TRIAL JUDGES

Section 464(e)(2) of Pub. L. 98–369 provided that: ''Any reference in any law to a commissioner of the Tax Court shall be treated as a reference to a special trial judge of the Tax Court.''

COMMISSIONERS' SALARIES PENDING CHANGES UNDER FEDERAL SALARY ACT

Section 153(b) of Pub. L. 97–164, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Notwithstanding the amendment made by subsection (a) [amending this section], until such time as a change in the salary rate of a commissioner of the United States Tax Court occurs in accordance with section 7456(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the salary of such commissioner shall be equal to the salary of a commissioner of the Court of Claims immediately prior to the effective date of this Act [Oct. 1, 1982].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7457 of this title.

§ 7457. Witness fees

(a) Amount

Any witness summoned or whose deposition is taken under section 7456 shall receive the same fees and mileage as witnesses in courts of the United States.

(b) Payment

Such fees and mileage and the expenses of taking any such deposition shall be paid as follows:

(1) Witnesses for Secretary

In the case of witnesses for the Secretary, such payments shall be made by the Secretary out of any moneys appropriated for the collection of internal revenue taxes, and may be made in advance.

(2) Other Witnesses

In the case of any other witnesses, such payments shall be made, subject to rules prescribed by the Tax Court, by the party at whose instance the witness appears or the deposition is taken.

(Aug. 16, 1954, ch. 736, 68A Stat. 886; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 7458. Hearings

Notice and opportunity to be heard upon any proceeding instituted before the Tax Court shall

be given to the taxpayer and the Secretary. If an opportunity to be heard upon the proceeding is given before a division of the Tax Court, neither the taxpayer nor the Secretary shall be entitled to notice and opportunity to be heard before the Tax Court upon review, except upon a specific order of the chief judge. Hearings before the Tax Court and its divisions shall be open to the public, and the testimony, and, if the Tax Court so requires, the argument, shall be stenographically reported. The Tax Court is authorized to contract (by renewal of contract or otherwise) for the reporting of such hearings, and in such contract to fix the terms and conditions under which transcripts will be supplied by the contractor to the Tax Court and to other persons and agencies.

(Aug. 16, 1954, ch. 736, 68A Stat. 886; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), (L), Oct. 4, 1976, 90 Stat. 1834, 1835.)

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' and struck out ''nor his delegate'' after ''nor the Secretary''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6110 of this title.

§ 7459. Reports and decisions

(a) Requirement

A report upon any proceeding instituted before the Tax Court and a decision thereon shall be made as quickly as practicable. The decision shall be made by a judge in accordance with the report of the Tax Court, and such decision so made shall, when entered, be the decision of the Tax Court.

(b) Inclusion of findings of fact or opinions in report

It shall be the duty of the Tax Court and of each division to include in its report upon any proceeding its findings of fact or opinion or memorandum opinion. The Tax Court shall report in writing all its findings of fact, opinions, and memorandum opinions. Subject to such conditions as the Tax Court may by rule provide, the requirements of this subsection and of section 7460 are met if findings of fact or opinion are stated orally and recorded in the transcript of the proceedings.

(c) Date of decision

A decision of the Tax Court (except a decision dismissing a proceeding for lack of jurisdiction) shall be held to be rendered upon the date that an order specifying the amount of the deficiency is entered in the records of the Tax Court or, in the case of a declaratory judgment proceeding under part IV of this subchapter or under section 7428 or in the case of an action brought under section 6226, 6228(a),[1] 6247, or 6252, the date of the court's order entering the decision. If the Tax Court dismisses a proceeding for reasons other than lack of jurisdiction and is unable from the record to determine the amount of the deficiency determined by the Secretary, or if the Tax Court dismisses a proceeding for lack of jurisdiction, an order to that effect shall be entered in the records of the Tax Court, and the decision of the Tax Court shall be held to be rendered upon the date of such entry.

(d) Effect of decision dismissing petition

If a petition for a redetermination of a deficiency has been filed by the taxpayer, a decision of the Tax Court dismissing the proceeding shall be considered as its decision that the deficiency is the amount determined by the Secretary. An order specifying such amount shall be entered in the records of the Tax Court unless the Tax Court cannot determine such amount from the record in the proceeding, or unless the dismissal is for lack of jurisdiction.

(e) Effect of decision that tax is barred by limitation

If the assessment or collection of any tax is barred by any statute of limitations, the decision of the Tax Court to that effect shall be considered as its decision that there is no deficiency in respect of such tax.

(f) Findings of fact as evidence

The findings of the Board of Tax Appeals made in connection with any decision prior to February 26, 1926, shall, notwithstanding the enactment of the Revenue Act of 1926 (44 Stat. 9), continue to be prima facie evidence of the facts therein stated.

(g) Penalty

For penalty for taxpayer instituting proceedings before Tax Court merely for delay, see section 6673.

(Aug. 16, 1954, ch. 736, 68A Stat. 886; Pub. L. 93–406, title II, § 1041(b)(2), Sept. 2, 1974, 88 Stat. 950; Pub. L. 94–455, title XIII, § 1306(b)(2), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1719, 1834; Pub. L. 97–248, title IV, § 402(c)(14), Sept. 3, 1982, 96 Stat. 668; Pub. L. 97–362, title I, § 106(b), Oct. 25, 1982, 96 Stat. 1730; Pub. L. 105–34, title XII, §§ 1222(b)(2), 1239(e)(1), Aug. 5, 1997, 111 Stat. 1019, 1028.)

REFERENCES IN TEXT

The Revenue Act of 1926, referred to in subsec. (f), is act Feb. 26, 1926, ch. 27, 44 Stat. 9. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–34, § 1239(e)(1), which directed the amendment of subsec. (c) by substituting '', 6228(a), or 6234(c)'' for ''or section 6228(a)'' could not be executed because the words ''or section 6228(a)'' did not appear in text subsequent to amendment by Pub. L. 105–34, § 1222(b)(2). See below.

Pub. L. 105–34, § 1222(b)(2), substituted '', 6228(a), 6247, or 6252'' for ''or section 6228(a)''.

1982—Subsec. (b). Pub. L. 97–362 inserted provision that subject to such conditions as the Tax Court may by rule provide, the requirements of subsec. (b) and of section 7460 of this title are met if findings of fact or opinion are stated orally and recorded in the transcript of the proceedings.

Subsec. (c). Pub. L. 97–248 inserted ''or in the case of an action brought under section 6226 or section 6228(a)'' after ''or under section 7428''.

1976—Subsec. (c). Pub. L. 94–455 inserted ''or under section 7428'' after ''under part IV of this subchapter'' and struck out ''or his delegate'' after ''Secretary''.

Subsec. (d). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1974—Subsec. (c). Pub. L. 93–406 inserted ''or, in the case of a declaratory judgment proceeding under part

[1] See 1997 Amendment note below.

IV of this subchapter, the date of the court's order entering the decision'' after ''deficiency is entered in the records of the Tax Court''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1222(b)(2) of Pub. L. 105–34 applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105–34, as amended, set out as a note under section 6011 of this title.

Amendment by section 1239(e)(1) of Pub. L. 105–34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1239(f) of Pub. L. 105–34, set out as a note under section 6225 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1306(b)(2) of Pub. L. 94–455 applicable with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after Oct. 4, 1976 but only with respect to determinations (or requests for determinations) made after Jan. 1, 1976, see section 1306(c) of Pub. L. 94–455, set out as an Effective Date note under section 7428 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable to pleadings filed more than one year after Sept. 2, 1974, see section 1041(d) of Pub. L. 93–406, set out as an Effective Date note under section 7476 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6215, 7463 of this title.

§ 7460. Provisions of special application to divisions

(a) Hearings, determinations, and reports

A division shall hear, and make a determination upon, any proceeding instituted before the Tax Court and any motion in connection therewith, assigned to such division by the chief judge, and shall make a report of any such determination which constitutes its final disposition of the proceeding.

(b) Effect of action by a division

The report of the division shall become the report of the Tax Court within 30 days after such report by the division, unless within such period the chief judge has directed that such report shall be reviewed by the Tax Court. Any preliminary action by a division which does not form the basis for the entry of the final decision shall not be subject to review by the Tax Court except in accordance with such rules as the Tax Court may prescribe. The report of a division shall not be a part of the record in any case in which the chief judge directs that such report shall be reviewed by the Tax Court.

(Aug. 16, 1954, ch. 736, 68A Stat. 887.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7459, 7463 of this title.

§ 7461. Publicity of proceedings

(a) General rule

Except as provided in subsection (b), all reports of the Tax Court and all evidence received by the Tax Court and its divisions, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public.

(b) Exceptions

(1) Trade secrets or other confidential information

The Tax Court may make any provision which is necessary to prevent the disclosure of trade secrets or other confidential information, including a provision that any document or information be placed under seal to be opened only as directed by the court.

(2) Evidence, etc.

After the decision of the Tax Court in any proceeding has become final, the Tax Court may, upon motion of the taxpayer or the Secretary, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Tax Court or any division; or the Tax Court may, on its own motion, make such other disposition thereof as it deems advisable.

(Aug. 16, 1954, ch. 736, 68A Stat. 887; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. A, title IV, § 465(a), July 18, 1984, 98 Stat. 825.)

AMENDMENTS

1984—Pub. L. 98–369, in amending section generally, designated existing provisions as subsecs. (a) and (b)(2), added subsec. (b)(1), and in subsec. (b)(2), as so designated, struck out reference to the Secretary's delegate.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 465(b) of Pub. L. 98–369 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 18, 1984].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6110 of this title.

§ 7462. Publication of reports

The Tax Court shall provide for the publication of its reports at the Government Printing Office in such form and manner as may be best adapted for public information and use, and such authorized publication shall be competent evidence of the reports of the Tax Court therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. Such reports shall be subject to sale in the same manner and upon the same terms as other public documents.

(Aug. 16, 1954, ch. 736, 68A Stat. 887.)

§ 7463. Disputes involving $50,000 or less

(a) In general

In the case of any petition filed with the Tax Court for a redetermination of a deficiency

where neither the amount of the deficiency placed in dispute, nor the amount of any claimed overpayment, exceeds—

(1) $50,000 for any one taxable year, in the case of the taxes imposed by subtitle A,

(2) $50,000, in the case of the tax imposed by chapter 11,

(3) $50,000 for any one calendar year, in the case of the tax imposed by chapter 12, or

(4) $50,000 for any 1 taxable period (or, if there is no taxable period, taxable event) in the case of any tax imposed by subtitle D which is described in section 6212(a) (relating to a notice of deficiency),

at the option of the taxpayer concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings in the case shall be conducted under this section. Notwithstanding the provisions of section 7453, such proceedings shall be conducted in accordance with such rules of evidence, practice, and procedure as the Tax Court may prescribe. A decision, together with a brief summary of the reasons therefor, in any such case shall satisfy the requirements of sections 7459(b) and 7460.

(b) Finality of decisions

A decision entered in any case in which the proceedings are conducted under this section shall not be reviewed in any other court and shall not be treated as a precedent for any other case.

(c) Limitation of jurisdiction

In any case in which the proceedings are conducted under this section, notwithstanding the provisions of sections 6214(a) and 6512(b), no decision shall be entered redetermining the amount of a deficiency, or determining an overpayment, except with respect to amounts placed in dispute within the limits described in subsection (a) and with respect to amounts conceded by the parties.

(d) Discontinuance of proceedings

At any time before a decision entered in a case in which the proceedings are conducted under this section becomes final, the taxpayer or the Secretary may request that further proceedings under this section in such case be discontinued. The Tax Court, or the division thereof hearing such case, may, if it finds that (1) there are reasonable grounds for believing that the amount of the deficiency placed in dispute, or the amount of an overpayment, exceeds the applicable jurisdictional amount described in subsection (a), and (2) the amount of such excess is large enough to justify granting such request, discontinue further proceedings in such case under this section. Upon any such discontinuance, proceedings in such case shall be conducted in the same manner as cases to which the provisions of sections 6214(a) and 6512(b) apply.

(e) Amount of deficiency in dispute

For purposes of this section, the amount of any deficiency placed in dispute includes additions to the tax, additional amounts, and penalties imposed by chapter 68, to the extent that the procedures described in subchapter B of chapter 63 apply.

(f) Additional cases in which proceedings may be conducted under this section

At the option of the taxpayer concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings may be conducted under this section (in the same manner as a case described in subsection (a)) in the case of—

(1) a petition to the Tax Court under section 6015(e) in which the amount of relief sought does not exceed $50,000, and

(2) an appeal under section 6330(d)(1)(A) to the Tax Court of a determination in which the unpaid tax does not exceed $50,000.

(Added Pub. L. 91–172, title IX, § 957(a), Dec. 30, 1969, 83 Stat. 733; amended Pub. L. 92–512, title II, § 203(b)(1), (2), Oct. 20, 1972, 86 Stat. 945; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–600, title V, § 502(a)(1), (2)(A), (b), Nov. 6, 1978, 92 Stat. 2879; Pub. L. 96–222, title I, § 105(a)(1)(A), Apr. 1, 1980, 94 Stat. 218; Pub. L. 97–362, title I, § 106(a)(1), Oct. 25, 1982, 96 Stat. 1730; Pub. L. 98–369, div. A, title IV, § 461(a)(1), (2)(A), July 18, 1984, 98 Stat. 823; Pub. L. 101–508, title XI, § 11801(c)(21)(B), Nov. 5, 1990, 104 Stat. 1388–528; Pub. L. 105–206, title III, § 3103(a), July 22, 1998, 112 Stat. 731; Pub. L. 106–554, § 1(a)(7) [title III, § 313(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–642.)

PRIOR PROVISIONS

A prior section 7463 was renumbered section 7465 of this title.

AMENDMENTS

2000—Subsec. (f). Pub. L. 106–554 added subsec. (f).

1998—Pub. L. 105–206 in section catchline and in subsec. (a)(1) to (4) substituted ''$50,000'' for ''$10,000''.

1990—Subsec. (f). Pub. L. 101–508 struck out subsec. (f) ''Qualified State individual income taxes'' which read as follows: ''For purposes of this section, a deficiency placed in dispute or claimed overpayment with regard to a qualified State individual income tax to which subchapter E of chapter 64 applies, for a taxable year, shall be treated as a portion of a deficiency placed in dispute or claimed overpayment of the income tax for that taxable year.''

1984—Pub. L. 98–369, § 461(a)(2)(A), substituted ''$10,000'' for ''$5,000'' in section catchline.

Subsec. (a). Pub. L. 98–369, § 461(a)(1), substituted ''$10,000'' for ''$5,000'' in pars. (1) to (4).

1982—Section (a)(4). Pub. L. 97–362 added par. (4).

1980—Subsec. (g). Pub. L. 96–222 struck out subsec. (g) which authorized the chief judge of the Tax Court to assign proceedings conducted under this section to be heard by the Commissioners of the court.

1978—Pub. L. 95–600, § 502(a)(2)(A), substituted ''$5,000'' for ''$1,500'' in section catchline.

Subsec. (a). Pub. L. 95–600, § 502(a)(1), ''$5,000 for any one taxable year, in the case of the taxes imposed by subtitle A'' for ''$1,500 for any one taxable year, in the case of the taxes imposed by subtitle A and chapter 12, or'' in par. (1), ''$5,000, in the case of the tax imposed by chapter 11, or'' for ''$1,500 in the case of the tax imposed by chapter 11,'' in par. (2), and added par. (3).

Subsec. (g). Pub. L. 95–600, § 502(b), added subsec. (g).

1976—Subsec, (d). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1972—Pub. L. 92–512, § 203(b)(2), substituted ''$1,500'' for ''$1,000'' in section catchline.

Subsec. (a)(1), (2). Pub. L. 92–512, § 203(b)(2), substituted ''$1,500'' for ''$1,000''.

Subsec. (f). Pub. L. 92–512, § 203(b)(1), added subsec. (f).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 applicable to proceedings commenced after July 22, 1998, see section 3103(c)

of Pub. L. 105–206, set out as a note under section 7436 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 461(b) of Pub. L. 98–369 provided that: ''The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 18, 1984].''

EFFECTIVE DATE OF 1982 AMENDMENT

Section 106(a)(2) of Pub. L. 97–362 provided that: ''The amendment made by this subsection [amending this section] shall apply with respect to petitions filed after the date of the enactment of this Act [Oct. 25, 1982].''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–222 effective Apr. 1, 1980, see section 105(b)(1) of Pub. L. 96–222, set out as a note under section 7456 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 502(d) of Pub. L. 95–600 provided that:

''(1) SUBSECTION (a).—The amendments made by subsection (a) [amending this section] shall take effect on the first day of the first calendar month beginning more than 180 days after the date of the enactment of this Act [Nov. 6, 1978].

''(2) SUBSECTIONS (b) AND (c).—The amendments made by subsection (b) [amending this section] and (c) [amending section 7456 of this title] shall take effect on the date of the enactment of this Act.''

EFFECTIVE DATE OF 1972 AMENDMENT

Section 204 of title II of Pub. L. 92–512, as amended by Pub. L. 94–455, title XXI, § 2116(a), Oct. 4, 1976, 90 Stat. 1910; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) GENERAL RULE.—Except as provided in subsections (b) and (c), the provisions of this title (and the amendments made thereby) [enacting this section and sections 6362 and 6363 of this title and amending this section and section 6405 of this title] shall take effect on the date of the enactment of this Act [Oct. 20, 1972].

''(b) COLLECTION AND ADMINISTRATION OF STATE TAXES BY THE UNITED STATES MAY NOT BEGIN BEFORE JANUARY 1, 1974.—Section 6361 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by section 202(a) of this Act) shall take effect on whichever of the following is the later:

''(1) January 1, 1974, or

''(2) the first January 1 which is more than one year after the first date on which at least one State has notified the Secretary of the Treasury or his delegate of an election to enter into an agreement under section 6363 of such Code.

''(c) JURISDICTION OF TAX COURT IN DISPUTES INVOLVING $1,500 OR LESS.—The amendments made by paragraphs (2) and (3) of section 203(b) of this Act [amending this section] shall take effect on January 1, 1974.''

EFFECTIVE DATE

Section 962(e) of Pub. L. 91–172 provided that: ''The amendments made by sections 957 [enacting this section] and 960(a), (b), (f), and (i) [amending sections 6214, 6512, 7453, 7456, 7481, 7487, of this title] shall take effect one year after the date of enactment of this Act [Dec. 30, 1969].''

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6214, 6512, 7430, 7436, 7443A, 7453, 7481, 7487, 7526 of this title.

§ 7464. Intervention by trustee of debtor's estate

The trustee of the debtor's estate in any case under title 11 of the United States Code may intervene, on behalf of the debtor's estate, in any proceeding before the Tax Court to which the debtor is a party.

(Added Pub. L. 96–589, § 6(c)(1), Dec. 24, 1980, 94 Stat. 3407.)

PRIOR PROVISIONS

A prior section 7464 was renumbered section 7465 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as an Effective Date of 1980 Amendment note under section 108 of this title.

§ 7465. Provisions of special application to transferees

(1) For rules of burden of proof in transferee proceedings, see section 6902(a).

(2) For authority of Tax Court to prescribe rules by which a transferee of property of a taxpayer shall be entitled to examine books, records and other evidence, see section 6902(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 888, § 7463; renumbered § 7464, Pub. L. 91–172, title IX, § 957(a), Dec. 30, 1969, 83 Stat. 733; renumbered § 7465, Pub. L. 96–589, § 6(c)(1), Dec. 24, 1980, 94 Stat. 3407.)

PART III—MISCELLANEOUS PROVISIONS

Sec.
7471. Employees.
7472. Expenditures.
7473. Disposition of fees.
7474. Fee for transcript of record.
7475. Practice fee.

AMENDMENTS

1988—Pub. L. 100–647, title I, § 1018(u)(45), Nov. 10, 1988, 102 Stat. 3592, added item 7475.

§ 7471. Employees

(a) Appointment and compensation

The Tax Court is authorized to appoint, in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and to fix the basic pay of, in accordance with chapter 51 and subchapter III of chapter 53 of such title, such employees as may be necessary efficiently to execute the functions vested in the Tax Court.

(b) Expenses for travel and subsistence

The employees of the Tax Court shall receive their necessary traveling expenses, and expenses for subsistence while traveling on duty and away from their designated stations, as provided in chapter 57 of title 5, United States Code.

(c) Special trial judges

For compensation and travel and subsistence allowances of special trial judges of the Tax Court, see subsections (d) and (e) of section 7443A.

(Aug. 6, 1954, ch. 736, 68A Stat. 888; Pub. L. 91–172, title IX, § 960(g), Dec. 30, 1969, 83 Stat. 734; Pub. L. 94–455, title XIX, § 1906(a)(47), Oct. 4, 1976, 90 Stat. 1831; Pub. L. 98–369, div. A, title IV, § 464(d),

July 18, 1984, 98 Stat. 825; Pub. L. 99–514, title XV, § 1556(b)(2), Oct. 22, 1986, 100 Stat. 2755.)

REFERENCES IN TEXT

The provisions of title 5, United States Code, governing appointment in the competitive service, referred to in subsec. (a), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–514 substituted ''subsections (d) and (e) of section 7443A'' for ''section 7456(c)''.

1984—Subsec. (c). Pub. L. 98–369 substituted references to special trial judges for references to commissioners in the subsection heading and text.

1976—Subsec. (a). Pub. L. 94–455, § 1906(a)(47)(A), among other changes, substituted provisions referring to title 5 of the United States Code for provisions referring to the civil service law, and to chapter 51 and subchapter III of chapter 53 of title 5 for the Classification Act of 1949.

Subsec. (b). Pub. L. 94–455, § 1906(a)(47)(B), substituted ''as provided in chapter 57 of title 5, United States Code'' for ''as provided in the Travel Expense Act of 1949 (63 Stat. 166; 5 U.S.C. chapter 16)''.

1969—Subsec. (c). Pub. L. 91–172 inserted reference to the compensation of commissioners.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective Oct. 22, 1986, except as otherwise provided, see section 1556(c) of Pub. L. 99–514, set out as an Effective Date note under section 7443A of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 18, 1984, see section 464(e)(1) of Pub. L. 98–369, set out as a note under section 7456 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

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.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Dec. 30, 1969, see section 962(a) of Pub. L. 91–172, set out as a note under section 7441 of this title.

§ 7472. Expenditures

The Tax Court is authorized to make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals), as may be necessary efficiently to execute the functions vested in the Tax Court. Except as provided in section 7475, all expenditures of the Tax Court shall be allowed and paid, out of any moneys appropriated for purposes of the Tax Court, upon presentation of itemized vouchers therefor signed by the certifying officer designated by the chief judge.

(Aug. 16, 1954, ch. 736, 68A Stat. 888; Pub. L. 99–514, title XV, § 1553(b)(1), Oct. 22, 1986, 100 Stat. 2754.)

AMENDMENTS

1986—Pub. L. 99–514 substituted ''Except as provided in section 7475, all'' for ''All'' in second sentence.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective Jan. 1, 1987, see section 1553(c) of Pub. L. 99–514, set out as an Effective Date note under section 7475 of this title.

§ 7473. Disposition of fees

Except as provided in section 7475, all fees received by the Tax Court shall be covered into the Treasury as miscellaneous receipts.

(Aug. 16, 1954, ch. 736, 68A Stat. 888; Pub. L. 99–514, title XV, § 1553(b)(2), Oct. 22, 1986, 100 Stat. 2754.)

AMENDMENTS

1986—Pub. L. 99–514 substituted ''Except as provided in section 7475, all'' for ''All''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective Jan. 1, 1987, see section 1553(c) of Pub. L. 99–514, set out as an Effective Date note under section 7475 of this title.

§ 7474. Fee for transcript of record

The Tax Court is authorized to fix a fee, not in excess of the fee fixed by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any record, entry, or other paper and the comparison and certification thereof.

(Aug. 16, 1954, ch. 736, 68A Stat. 888.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7487 of this title.

§ 7475. Practice fee

(a) In general

The Tax Court is authorized to impose a periodic registration fee on practitioners admitted to practice before such Court. The frequency and amount of such fee shall be determined by the Tax Court, except that such amount may not exceed $30 per year.

(b) Use of fees

The fees described in subsection (a) shall be available to the Tax Court to employ independent counsel to pursue disciplinary matters.

(Added Pub. L. 99–514, title XV, § 1553(a), Oct. 22, 1986, 100 Stat. 2754.)

EFFECTIVE DATE

Section 1553(c) of Pub. L. 99–514 provided that: ''The amendments made by this section [enacting this section and amending sections 7472 and 7473 of this title] shall take effect on January 1, 1987.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7472, 7473 of this title.

PART IV—DECLARATORY JUDGMENTS

Sec.
7476. Declaratory judgments relating to qualification of certain retirement plans.
7477. Declaratory judgments relating to value of certain gifts.
7478. Declaratory judgments relating to status of certain governmental obligations.
7479. Declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166.

AMENDMENTS

1997—Pub. L. 105–34, title V, §§ 505(b), 506(c)(2), Aug. 5, 1997, 111 Stat. 855, 856, added items 7477 and 7479.

1984—Pub. L. 98–369, div. A, title I, § 131(e)(2)(B), July 18, 1984, 98 Stat. 665, struck out item 7477 ''Declaratory judgments relating to transfers of property from the United States''.

1978—Pub. L. 95–600, title III, § 336(c)(2), Nov. 6, 1978, 92 Stat. 2842, added item 7478.

1976—Pub. L. 94–455, title X, § 1042(d)(2)(D), (E), Oct. 4, 1976, 90 Stat. 1639, struck out in part heading ''RELATING TO QUALIFICATIONS OF CERTAIN RETIREMENT PLANS'' after ''DECLARATORY JUDGMENTS'', inserted ''relating to qualification of certain retirement plans'' after ''Declaratory judgments'' in item 7476, and added item 7477.

1974—Pub. L. 93–406, title II, § 1041(a), Sept. 2, 1974, 88 Stat. 949, added part heading and analysis of sections.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 7451, 7459 of this title.

§ 7476. Declaratory judgments relating to qualification of certain retirement plans

(a) Creation of remedy

In a case of actual controversy involving—

(1) a determination by the Secretary with respect to the initial qualification or continuing qualification of a retirement plan under subchapter D of chapter 1, or

(2) a failure by the Secretary to make a determination with respect to—

(A) such initial qualification, or

(B) such continuing qualification if the controversy arises from a plan amendment or plan termination,

upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to such initial qualification or continuing qualification. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such. For purposes of this section, a determination with respect to a continuing qualification includes any revocation of or other change in a qualification.

(b) Limitations

(1) Petitioner

A pleading may be filed under this section only by a petitioner who is the employer, the plan administrator, an employee who has qualified under regulations prescribed by the Secretary as an interested party for purposes of pursuing administrative remedies within the Internal Revenue Service, or the Pension Benefit Guaranty Corporation.

(2) Notice

For purposes of this section, the filing of a pleading by any petitioner may be held by the Tax Court to be premature, unless the petitioner establishes to the satisfaction of the court that he has complied with the requirements prescribed by regulations of the Secretary with respect to notice to other interested parties of the filing of the request for a determination referred to in subsection (a).

(3) Exhaustion of administrative remedies

The Tax Court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service. A petitioner shall not be deemed to have exhausted his administrative remedies with respect to a failure by the Secretary to make a determination with respect to initial qualification or continuing qualification of a retirement plan before the expiration of 270 days after the request for such determination was made.

(4) Plan put into effect

No proceeding may be maintained under this section unless the plan (and, in the case of a controversy involving the continuing qualification of the plan because of an amendment to the plan, the amendment) with respect to which a decision of the Tax Court is sought has been put into effect before the filing of the pleading. A plan or amendment shall not be treated as not being in effect merely because under the plan the funds contributed to the plan may be refunded if the plan (or the plan as so amended) is found to be not qualified.

(5) Time for bringing action

If the Secretary sends by certified or registered mail notice of his determination with respect to the qualification of the plan to the persons referred to in paragraph (1) (or, in the case of employees referred to in paragraph (1), to any individual designated under regulations prescribed by the Secretary as a representative of such employee), no proceeding may be initiated under this section by any person unless the pleading is filed before the ninety-first day after the day after such notice is mailed to such person (or to his designated representative, in the case of an employee).

(c) Retirement plan

For purposes of this section, the term ''retirement plan'' means—

(1) a pension, profit-sharing, or stock bonus plan described in section 401(a) or a trust which is part of such a plan, or

(2) an annuity plan described in section 403(a).

(d) Cross reference

For provisions concerning intervention by Pension Benefit Guaranty Corporation and Secretary of Labor in actions brought under this section and right of Pension Benefit Guaranty Corporation to bring action, see section 3001(c) of subtitle A of title III of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 93–406, title II, § 1041(a), Sept. 2, 1974, 88 Stat. 949; amended Pub. L. 94–455, title X, § 1042(d)(2)(C), title XIII, § 1306(b)(3), title XIX, §§ 1906(a)(48), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1639, 1719, 1831, 1834; Pub. L. 95–600, title III, § 336(b)(2)(A), title VII, § 701(dd)(1), Nov. 6, 1978, 92 Stat. 2842, 2924; Pub. L. 98–369, div. A, title IV, § 491(d)(52), July 18, 1984, 98 Stat. 852; Pub. L. 99–514, title XVIII, § 1899A(59), Oct. 22, 1986, 100 Stat. 2962.)

REFERENCES IN TEXT

Section 3001(c) of subtitle A of title III of the Employee Retirement Income Security Act of 1974, referred to in subsec. (d), is classified to section 1201(c) of Title 29, Labor.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–514 substituted ''plan, or'' for ''plan,, or''.

1984—Subsec. (c)(3). Pub. L. 98–369 struck out par. (3) which included a bond purchase plan described in section 405(a) within the term ''retirement plan''.

1978—Subsec. (a). Pub. L. 95–600, § 701(dd)(1), inserted provision relating to revocation of qualification.

Subsecs. (c) to (e). Pub. L. 95–600, § 336(b)(2)(A), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (c), which authorized the chief judge to assign proceedings under this section or section 7428 to be heard by the commissioners of the court, was struck out.

1976—Pub. L. 94–455, § 1042(d)(2)(C), inserted ''relating to qualification of certain retirement plans'' after ''Declaratory judgments'' in section catchline.

Subsec. (a). Pub. L. 94–455, §§ 1906(a)(48), (b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing, and ''United States'' after ''appropriate pleading, the'' in provisions following par. (2).

Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out in pars. (1) to (3) and (5), ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (c). Pub. L. 94–455, § 1306(b)(3), substituted ''this section or section 7428'' for ''this section''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98–369, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 336(b)(2)(A) of Pub. L. 95–600 applicable to requests for determinations made after Dec. 31, 1978, see section 336(d) of Pub. L. 95–600, set out as an Effective Date note under section 7478 of this title.

Section 701(dd)(3) of Pub. L. 95–600, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by paragraphs (1) and (2) [amending this section and section 7428 of this title] shall take effect as if included in section 7476 or 7428 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as the case may be) at the respective times such sections were added to such Code.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1042(d)(2)(C) of Pub. L. 94–455 applicable to pleadings filed with the Tax Court after Oct. 4, 1976, but only with respect to transfers beginning after Oct. 9, 1975, see section 1042(e)(1) of Pub. L. 94–455, set out as a note under section 367 of this title.

Amendment by section 1306(b)(3) of Pub. L. 94–455 applicable with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after Oct. 4, 1976 but only with respect to determinations (or requests for determinations) made after Jan. 1, 1976, see section 1306(c) of Pub. L. 94–455, set out as an Effective Date note under section 7428 of this title.

Amendment by section 1906(a)(48), (b)(13)(A) of 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.

EFFECTIVE DATE

Section 1041(d) of Pub. L. 93–406 provided that: ''The amendments made by this section [enacting this section and amending sections 7451, 7459, and 7482 of this title] shall apply to pleadings filed more than 1 year after the date of the enactment of this Act [Sept. 2, 1974].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7482 of this title; title 29 section 1201.

§ 7477. Declaratory judgments relating to value of certain gifts

(a) Creation of remedy

In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 or disclosed on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

(b) Limitations

(1) Petitioner

A pleading may be filed under this section only by the donor.

(2) Exhaustion of administrative remedies

The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

(3) Time for bringing action

If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.

(Added Pub. L. 105–34, title V, § 506(c)(1), Aug. 5, 1997, 111 Stat. 855.)

PRIOR PROVISIONS

A prior section 7477, added Pub. L. 94–455, title X, § 1042(d)(1), Oct. 4, 1976, 90 Stat. 1637; amended Pub. L. 95–600, title III, § 336(b)(2)(B), Nov. 6, 1978, 92 Stat. 2842, provided for declaratory judgments relating to transfers of property from the United States, prior to repeal by Pub. L. 98–369, div. A, title I, § 131(e)(1), (g), July 18, 1984, 98 Stat. 664, 665, applicable to transfers or exchanges after Dec. 31, 1984, in taxable years ending after such date, with special rules for certain transfers and ruling requests before Mar. 1, 1984.

EFFECTIVE DATE

Section applicable to gifts made after Aug. 5, 1997, see section 506(e)(1) of Pub. L. 105–34, set out as an Effective Date of 1997 Amendment note under section 2001 of this title.

§ 7478. Declaratory judgments relating to status of certain governmental obligations

(a) Creation of remedy

In a case of actual controversy involving—

(1) a determination by the Secretary whether interest on prospective obligations will be excludable from gross income under section 103(a), or

(2) a failure by the Secretary to make a determination with respect to any matter referred to in paragraph (1),

upon the filing of an appropriate pleading, the Tax Court may make a declaration whether interest on such prospective obligations will be excludable from gross income under section 103(a). Any such declaration shall have the force and

effect of a decision of the Tax Court and shall be reviewable as such.

(b) Limitations

(1) Petitioner

A pleading may be filed under this section only by the prospective issuer.

(2) Exhaustion of administrative remedies

The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service. A petitioner shall be deemed to have exhausted its administrative remedies with respect to a failure of the Secretary to make a determination with respect to an issue of obligations at the expiration of 180 days after the date on which the request for such determination was made if the petitioner has taken, in a timely manner, all reasonable steps to secure such determination.

(3) Time for bringing action

If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a)(1) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.

(Added Pub. L. 95–600, title III, § 336(a), Nov. 6, 1978, 92 Stat. 2841; amended Pub. L. 100–647, title I, § 1013(a)(42), Nov. 10, 1988, 102 Stat. 3544.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–647 substituted ''whether interest on prospective obligations will be excludable from gross income under section 103(a)'' for ''whether prospective obligations are described in section 103(a)'' in par. (1) and ''whether interest on such prospective obligations will be excludable from gross income under section 103(a)'' for ''whether such prospective obligations are described in section 103(a)'' in concluding provisions.

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 336(d) of Pub. L. 95–600 provided that: ''The amendments made by this section [enacting this section and amending sections 7456, 7476, 7477, and 7482 of this title] shall apply to requests for determinations made after December 31, 1978.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7482 of this title.

§ 7479. Declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166

(a) Creation of remedy

In a case of actual controversy involving a determination by the Secretary of (or a failure by the Secretary to make a determination with respect to)—

(1) whether an election may be made under section 6166 (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) with respect to an estate (or with respect to any property included therein), or

(2) whether the extension of time for payment of tax provided in section 6166(a) has ceased to apply with respect to an estate (or with respect to any property included therein),

upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to whether such election may be made or whether such extension has ceased to apply. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

(b) Limitations

(1) Petitioner

A pleading may be filed under this section, with respect to any estate, only—

(A) by the executor of such estate, or

(B) by any person who has assumed an obligation to make payments under section 6166 with respect to such estate (but only if each other such person is joined as a party).

(2) Exhaustion of administrative remedies

The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service. A petitioner shall be deemed to have exhausted its administrative remedies with respect to a failure of the Secretary to make a determination at the expiration of 180 days after the date on which the request for such determination was made if the petitioner has taken, in a timely manner, all reasonable steps to secure such determination.

(3) Time for bringing action

If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.

(c) Extension of time to file refund suit

The 2-year period in section 6532(a)(1) for filing suit for refund after disallowance of a claim shall be suspended during the 90-day period after the mailing of the notice referred to in subsection (b)(3) and, if a pleading has been filed with the Tax Court under this section, until the decision of the Tax Court has become final.

(Added Pub. L. 105–34, title V, § 505(a), Aug. 5, 1997, 111 Stat. 854; amended Pub. L. 105–206, title III, § 3104(b), title VI, § 6007(d), July 22, 1998, 112 Stat. 732, 809.)

AMENDMENTS

1998—Subsec. (a)(1), (2). Pub. L. 105–206, § 6007(d), substituted ''an estate (or with respect to any property included therein),'' for ''an estate,''.

Subsec. (c). Pub. L. 105–206, § 3104(b), added subsec. (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 3104(b) of Pub. L. 105–206 applicable to any claim for refund filed after July 22, 1998,

see section 3104(c) of Pub. L. 105–206, set out as a note under section 7422 of this title.

Amendment by section 6007(d) of Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE

Section 505(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [enacting this section] shall apply to the estates of decedents dying after the date of the enactment of this Act [Aug. 5, 1997].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7422 of this title.

Subchapter D—Court Review of Tax Court Decisions

Sec.
7481. Date when Tax Court decision becomes final.
7482. Courts of review.
7483. Notice of appeal.
7484. Change of incumbent in office.
7485. Bond to stay assessment and collection.
7486. Refund, credit, or abatement of amounts disallowed.
7487. Cross references.

AMENDMENTS

1969—Pub. L. 91–172, title IX, §§959(b), 960(i)(2), Dec. 30, 1969, 83 Stat. 734, 735, substituted ''Notice of appeal'' for ''Petition for review'' in item 7483 and substituted ''Cross references'' for ''Cross reference'' in item 7487.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6406 of this title.

§ 7481. Date when Tax Court decision becomes final

(a) Reviewable decisions

Except as provided in subsections (b), (c), and (d), the decision of the Tax Court shall become final—

(1) Timely notice of appeal not filed

Upon the expiration of the time allowed for filing a notice of appeal, if no such notice has been duly filed within such time; or

(2) Decision affirmed or appeal dismissed

(A) Petition for certiorari not filed on time

Upon the expiration of the time allowed for filing a petition for certiorari, if the decision of the Tax Court has been affirmed or the appeal dismissed by the United States Court of Appeals and no petition for certiorari has been duly filed; or

(B) Petition for certiorari denied

Upon the denial of a petition for certiorari, if the decision of the Tax Court has been affirmed or the appeal dismissed by the United States Court of Appeals; or

(C) After mandate of Supreme Court

Upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the decision of the Tax Court be affirmed or the appeal dismissed.

(3) Decision modified or reversed

(A) Upon mandate of Supreme Court

If the Supreme Court directs that the decision of the Tax Court be modified or reversed, the decision of the Tax Court rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Secretary or the taxpayer has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Tax Court shall become final when so corrected.

(B) Upon mandate of the Court of Appeals

If the decision of the Tax Court is modified or reversed by the United States Court of Appeals, and if—

(i) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(ii) the petition for certiorari has been denied, or

(iii) the decision of the United States Court of Appeals has been affirmed by the Supreme Court, then the decision of the Tax Court rendered in accordance with the mandate of the United States Court of Appeals shall become final on the expiration of 30 days from the time such decision of the Tax Court was rendered, unless within such 30 days either the Secretary or the taxpayer has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Tax Court shall become final when so corrected.

(4) Rehearing

If the Supreme Court orders a rehearing; or if the case is remanded by the United States Court of Appeals to the Tax Court for a rehearing, and if—

(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(B) the petition for certiorari has been denied, or

(C) the decision of the United States Court of Appeals has been affirmed by the Supreme Court,

then the decision of the Tax Court rendered upon such rehearing shall become final in the same manner as though no prior decision of the Tax Court has been rendered.

(5) Definition of "mandate"

As used in this section, the term ''mandate'', in case a mandate has been recalled prior to the expiration of 30 days from the date of issuance thereof, means the final mandate.

(b) Nonreviewable decisions

The decision of the Tax Court in a proceeding conducted under section 7436(c) or 7463 shall become final upon the expiration of 90 days after the decision is entered.

(c) Jurisdiction over interest determinations

(1) In general

Notwithstanding subsection (a), if, within 1 year after the date the decision of the Tax Court becomes final under subsection (a) in a case to which this subsection applies, the taxpayer files a motion in the Tax Court for a re-

determination of the amount of interest involved, then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest or the Secretary has made an underpayment of such interest and the amount thereof.

(2) Cases to which this subsection applies

This subsection shall apply where—

(A)(i) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title, and

(ii) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

(B) the Tax Court finds under section 6512(b) that the taxpayer has made an overpayment.

(3) Special rules

If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest or that the Secretary has made an underpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining interest, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court.

(d) Decisions relating to estate tax extended under section 6166

If with respect to a decedent's estate subject to a decision of the Tax Court—

(1) the time for payment of an amount of tax imposed by chapter 11 is extended under section 6166, and

(2) there is treated as an administrative expense under section 2053 either—

(A) any amount of interest which a decedent's estate pays on any portion of the tax imposed by section 2001 on such estate for which the time of payment is extended under section 6166, or

(B) interest on any estate, succession, legacy, or inheritance tax imposed by a State on such estate during the period of the extension of time for payment under section 6166,

then, upon a motion by the petitioner in such case in which such time for payment of tax has been extended under section 6166, the Tax Court may reopen the case solely to modify the Court's decision to reflect such estate's entitlement to a deduction for such administration expenses under section 2053 and may hold further trial solely with respect to the claim for such deduction if, within the discretion of the Tax Court, such a hearing is deemed necessary. An order of the Tax Court disposing of a motion under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.

(Aug. 16, 1954, ch. 736, 68A Stat. 889; Pub. L. 91–172, title IX, § 960(h)(1), Dec. 30, 1969, 83 Stat. 734; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100–647, title VI, §§ 6246(a), (b)(2), 6247(a), (b)(2), Nov. 10, 1988, 102 Stat. 3751, 3752; Pub. L. 105–34, title XIV, §§ 1452(a), 1454(b)(3), Aug. 5, 1997, 111 Stat. 1054, 1057.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–34, § 1454(b)(3), substituted ''section 7436(c) or 7463'' for ''section 7463''.

Subsec. (c). Pub. L. 105–34, § 1452(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''Notwithstanding subsection (a), if—

''(1) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title,

''(2) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

''(3) within 1 year after the date the decision of the Tax Court becomes final under subsection (a), the taxpayer files a petition in the Tax Court for a determination that the amount of interest claimed by the Secretary exceeds the amount of interest imposed by this title,

then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest and the amount of any such overpayment. If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining the interest due, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court.''

1988—Subsec. (a). Pub. L. 100–647, § 6247(b)(2), substituted ''subsections (b), (c), and (d)'' for ''subsections (b) and (c)''.

Pub. L. 100–647, § 6246(b)(2), substituted ''subsections (b) and (c)'' for ''subsection (b)''.

Subsec. (c). Pub. L. 100–647, § 6246(a), added subsec. (c).

Subsec. (d). Pub. L. 100–647, § 6247(a), added subsec. (d).

1976—Subsecs. (a)(3)(A), (B)(iii). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1969—Pub. L. 91–172 designated existing provisions as subsec. (a), inserted reference to the exception provided for in subsec. (b), substituted ''notice of appeal'' for ''petition for review'' in par. (1), and substituted references to dismissal of appeal for references to dismissal of petition for review in par. (2), and added subsec. (b).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1452(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].''

Amendment by section 1454(b)(3) of Pub. L. 105–34 effective Aug. 5, 1997, see section 1454(c) of Pub. L. 105–34, set out as a note under section 6511 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 6246(a), (b)(2) of Pub. L. 100–647 applicable to assessments of deficiencies redetermined by the Tax Court made after Nov. 10, 1988, see section 6246(c) of Pub. L. 100–647, set out as a note under section 6512 of this title.

Amendment by section 6247(a), (b)(2) of Pub. L. 100–647 effective with respect to Tax Court cases for which the decision is not final on Nov. 10, 1988, see section 6247(c) of Pub. L. 100–647, set out as a note under section 6512 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective 30 days after Dec. 30, 1969, see section 962(f) of Pub. L. 91–172, set out as a note under section 7483 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6214, 6230, 6255, 6512, 7428, 7436 of this title.

§ 7482. Courts of review

(a) Jurisdiction

(1) In general

The United States Courts of Appeals (other than the United States Court of Appeals for the Federal Circuit) shall have exclusive jurisdiction to review the decisions of the Tax Court, except as provided in section 1254 of Title 28 of the United States Code, in the same manner and to the same extent as decisions of the district courts in civil actions tried without a jury; and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 1254 of Title 28 of the United States Code.

(2) Interlocutory orders

(A) In general

When any judge of the Tax Court includes in an interlocutory order a statement that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation, the United States Court of Appeals may, in its discretion, permit an appeal to be taken from such order, if application is made to it within 10 days after the entry of such order. Neither the application for nor the granting of an appeal under this paragraph shall stay proceedings in the Tax Court, unless a stay is ordered by a judge of the Tax Court or by the United States Court of Appeals which has jurisdiction of the appeal or a judge of that court.

(B) Order treated as Tax Court decision

For purposes of subsections (b) and (c), an order described in this paragraph shall be treated as a decision of the Tax Court.

(C) Venue for review of subsequent proceedings

If a United States Court of Appeals permits an appeal to be taken from an order described in subparagraph (A), except as provided in subsection (b)(2), any subsequent review of the decision of the Tax Court in the proceeding shall be made by such Court of Appeals.

(3) Certain orders entered under section 6213(a)

An order of the Tax Court which is entered under authority of section 6213(a) and which resolves a proceeding to restrain assessment or collection shall be treated as a decision of the Tax Court for purposes of this section and shall be subject to the same review by the United States Court of Appeals as a similar order of a district court.

(b) Venue

(1) In general

Except as otherwise provided in paragraphs (2) and (3), such decisions may be reviewed by the United States court of appeals for the circuit in which is located—

(A) in the case of a petitioner seeking redetermination of tax liability other than a corporation, the legal residence of the petitioner,

(B) in the case of a corporation seeking redetermination of tax liability, the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in any judicial circuit, then the office to which was made the return of the tax in respect of which the liability arises,

(C) in the case of a person seeking a declaratory decision under section 7476, the principal place of business, or principal office or agency of the employer,

(D) in the case of an organization seeking a declaratory decision under section 7428, the principal office or agency of the organization,

(E) in the case of a petition under section 6226, 6228(a), 6247, or 6252, the principal place of business of the partnership, or

(F) in the case of a petition under section 6234(c)—

(i) the legal residence of the petitioner if the petitioner is not a corporation, and

(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation.

If for any reason no subparagraph of the preceding sentence applies, then such decisions may be reviewed by the Court of Appeals for the District of Columbia. For purposes of this paragraph, the legal residence, principal place of business, or principal office or agency referred to herein shall be determined as of the time the petition seeking redetermination of tax liability was filed with the Tax Court or as of the time the petition seeking a declaratory decision under section 7428 or 7476 or the petition under section 6226, 6228(a), or 6234(c), was filed with the Tax Court.

(2) By agreement

Notwithstanding the provisions of paragraph (1), such decisions may be reviewed by any United States Court of Appeals which may be designated by the Secretary and the taxpayer by stipulation in writing.

(3) Declaratory judgment actions relating to status of certain governmental obligations

In the case of any decision of the Tax Court in a proceeding under section 7478, such decision may only be reviewed by the Court of Appeals for the District of Columbia.

(c) Powers

(1) To affirm, modify, or reverse

Upon such review, such courts shall have power to affirm or, if the decision of the Tax Court is not in accordance with law, to modify or to reverse the decision of the Tax Court, with or without remanding the case for a rehearing, as justice may require.

(2) To make rules

Rules for review of decisions of the Tax Court shall be those prescribed by the Supreme Court under section 2072 of title 28 of the United States Code.

(3) To require additional security

Nothing in section 7483 shall be construed as relieving the petitioner from making or filing such undertakings as the court may require as a condition of or in connection with the review.

(4) To impose penalties

The United States Court of Appeals and the Supreme Court shall have the power to require the taxpayer to pay to the United States a penalty in any case where the decision of the Tax Court is affirmed and it appears that the appeal was instituted or maintained primarily for delay or that the taxpayer's position in the appeal is frivolous or groundless.

(Aug. 16, 1954, ch. 736, 68A Stat. 890; Pub. L. 89–713, § 3(c), Nov. 2, 1966, 80 Stat. 1109; Pub. L. 91–172, title IX, § 960(h)(2), Dec. 30, 1969, 83 Stat 735; Pub. L. 93–406, title II, § 1041(b)(3), Sept. 2, 1974, 88 Stat. 950; Pub. L. 94–455, title X, § 1042(d)(2)(A), (B), title XIII, § 1306(b)(4), (5), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1638, 1639, 1719, 1834; Pub. L. 95–600, title III, § 336(c)(1), Nov. 6, 1978, 92 Stat. 2842; Pub. L. 97–164, title I, § 154, Apr. 2, 1982, 96 Stat. 47; Pub. L. 97–248, title IV, § 402(c)(15), Sept. 3, 1982, 96 Stat. 668; Pub. L. 98–369, div. A, title I, § 131(e)(2)(A), July 18, 1984, 98 Stat. 665; Pub. L. 99–514, title XV, § 1558(a), (b), title XVIII, §§ 1810(g)(2), 1899A(60), Oct. 22, 1986, 100 Stat. 2757, 2758, 2828, 2962; Pub. L. 100–647, title VI, § 6243(b), Nov. 10, 1988, 102 Stat. 3750; Pub. L. 101–239, title VII, § 7731(b), Dec. 19, 1989, 103 Stat. 2401; Pub. L. 105–34, title XII, §§ 1222(b)(3), 1239(d), Aug. 5, 1997, 111 Stat. 1019, 1028.)

AMENDMENTS

1997—Subsec. (b)(1). Pub. L. 105–34, § 1239(d)(2), substituted ", 6228(a), or 6234(c)" for "or 6228(a)" in concluding provisions.

Subsec. (b)(1)(E). Pub. L. 105–34, § 1222(b)(3), substituted ", 6228(a), 6247, or 6252" for "or 6228(a)".

Subsec. (b)(1)(F). Pub. L. 105–34, § 1239(d)(1), added subpar. (F).

1989—Subsec. (c)(4). Pub. L. 101–239 substituted "penalties" for "damages" in heading and amended text generally. Prior to amendment, text read as follows: "The United States Court of Appeals and the Supreme Court shall have power to impose damages in any case where the decision of the Tax Court is affirmed and it appears that the notice of appeal was filed merely for delay."

1988—Subsec. (a)(3). Pub. L. 100–647 added par. (3).

1986—Subsec. (a). Pub. L. 99–514, § 1558(a), (b), inserted par. (1) designation and heading "In general" before existing text and realigned its margin, and added par. (2).

Subsec. (b)(1). Pub. L. 99–514, § 1810(g)(2), substituted "section 7428 or 7476" for "section 7428, 7476, or 7477" in last sentence.

Subsec. (b)(1)(E). Pub. L. 99–514, § 1899A(60), substituted "partnership." for "partnership,".

1984—Subsec. (b)(1)(D) to (F). Pub. L. 98–369 struck out subpar. (D) which provided that venue in the case of a person seeking declaratory judgment under section 7477 be the legal residence of such person if such person is not a corporation, or the principal place of business or principal office or agency of such person if such person is a corporation, and redesignated subpars. (E) and (F) as (D) and (E), respectively.

1982—Subsec. (a). Pub. L. 97–164 inserted "(other than the United States Court of Appeals for the Federal Circuit)" after "The United States Courts of Appeals".

Subsec. (b)(1). Pub. L. 97–248 added subpar. (F), and in provisions following subpar. (F) inserted ", or the petition under section 6226 or 6228(a)," after "or 7477".

1978—Subsec. (b)(1). Pub. L. 95–600, § 336(c)(1)(A), substituted "provided in paragraphs (2) and (3)" for "provided in paragraph (2)".

Subsec. (b)(3). Pub. L. 95–600, § 336(c)(1)(B), added par. (3).

1976—Subsec. (b)(1)(D). Pub. L. 94–455, § 1042(d)(2)(A), added subpar. (D).

Subsec. (b)(1)(E). Pub. L. 94–455, § 1306(b)(4), added subpar. (E).

Subsec. (b)(1). Pub. L. 94–455, §§ 1042(d)(2)(B), 1306(b)(5), in provisions following subpar. (E), substituted "no subparagraph of the preceding sentence applies" for "subparagraph (A), (B), and (C) do not apply" and "section 7428, 7476, or 7477" for "section 7476".

Subsec. (b)(2). Pub. L. 94–455, § 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

1974—Subsec. (b)(1). Pub. L. 93–406 added subpar. (C) and, in provisions following subpar. (C), substituted "If for any reason subparagraph (A), (B), and (C) do not apply" for "If for any reason neither subparagraph (A) nor (B) applies", and inserted provisions referring to the time the petition seeking a declaratory decision under section 7476 was filed with the Tax Court.

1969—Subsec. (c). Pub. L. 91–172 substituted "section 2072 of title 28" for "section 2074 of title 28" in par. (2) and struck out provision for the applicability of rules adopted under authority of section 1141(c)(2) of the Internal Revenue Act of 1939 until such time as rules prescribed by the Supreme Court under section 2072 of title 28 become effective and, in par. (4), substituted "notice of appeal" for "petition".

1966—Subsec. (b)(1). Pub. L. 89–713 substituted provisions requiring that appeals from Tax Court decisions be made to the Court of Appeals for the circuit in which the taxpayer resides, in the case of a taxpayer other than a corporation, and, in the case of appeals by corporations, to the Court of Appeals for the circuit in which the corporation has its principal place of business or principal office or agency for provisions prescribing review by the Court of Appeals for the circuit in which was located the office to which was made the return of the tax in respect of which the liability arose, and inserted provision for the time of determining legal residence, place of business, or principal office or agency.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1222(b)(3) of Pub. L. 105–34 applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105–34, as amended, set out as a note under section 6011 of this title.

Amendment by section 1239(d) of Pub. L. 105–34 applicable to partnership taxable years ending after Aug. 5, 1997, see section 1239(f) of Pub. L. 105–34, set out as a note under section 6225 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to positions taken after Dec. 31, 1989, in proceedings which are pending on, or commenced after such date, see section 7731(d) of Pub. L. 101–239, set out as a note under section 6673 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 applicable to orders entered after Nov. 10, 1988, see section 6243(c) of Pub. L. 100–647, set out as a note under section 6213 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1558(c) of Pub. L. 99–514 provided that: "The amendments made by this section [amending this section] shall apply to any order of the Tax Court entered after the date of the enactment of this Act [Oct. 22, 1986]."

Amendment by section 1810(g)(2) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see

section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to transfers or exchanges after Dec. 31, 1984, in taxable years ending after such date, with special rules for certain transfers and ruling requests before Mar. 1, 1984, see section 131(g) of Pub. L. 98–369, set out as a note under section 367 of this title.

EFFECTIVE DATE OF 1982 AMENDMENTS

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–600 applicable to requests for determinations made after Dec. 31, 1978, see section 336(d) of Pub. L. 95–600, set out as an Effective Date note under section 7478 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1042(d)(2)(A), (B) of Pub. L. 94–455 applicable with respect to pleadings filed with the Tax Court after Oct. 4, 1976, but only with respect to transfers beginning after Oct. 9, 1975, see section 1042(e)(1) of Pub. L. 94–455, set out as a note under section 367 of this title.

Amendment by section 1306(b)(4), (5) of Pub. L. 94–455 applicable with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after Oct. 4, 1976 but only with respect to determinations (or requests for determinations) made after Jan. 1, 1976, see section 1306(c) of Pub. L. 94–455, set out as an Effective Date note under section 7428 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–406 applicable to pleadings filed more than one year after Sept. 2, 1974, see section 1041(d) of Pub. L. 93–406, set out as an Effective Date note under section 7476 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective 30 days after Dec. 30, 1969, see section 962(f) of Pub. L. 91–172, set out as a note under section 7483 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–713 applicable to all decisions of the Tax Court entered after Nov. 2, 1966, see section 3(d) of Pub. L. 89–713, set out as a note under section 7422 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7437, 7485 of this title.

§ 7483. Notice of appeal

Review of a decision of the Tax Court shall be obtained by filing a notice of appeal with the clerk of the Tax Court within 90 days after the decision of the Tax Court is entered. If a timely notice of appeal is filed by one party, any other party may take an appeal by filing a notice of appeal within 120 days after the decision of the Tax Court is entered.

(Aug. 16, 1954, ch. 736, 68A Stat. 891; Pub. L. 91–172, title IX, § 959(a), Dec. 30, 1969, 83 Stat. 734.)

AMENDMENTS

1969—Pub. L. 91–172 substituted references to notice of appeal for references to petition for review, and otherwise generally altered the section as to time for appeal and terminology in order to conform section to the form of the Federal Rules of Appellate Procedure.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 962(f) of Pub. L. 91–172, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by sections 959 and 960(h) [amending this section and sections 7481, 7482, and 7485 of this title] shall take effect 30 days after the date of the enactment of this Act [Dec. 30, 1969]. In the case of any decision of the Tax Court entered before the 30th day after the date of the enactment of this Act [Dec. 30, 1969], the United States Courts of Appeals shall have jurisdiction to hear an appeal from such decision, if such appeal was filed within the time prescribed by Rule 13(a) of the Federal Rules of Appellate Procedure or by section 7483 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] as in effect at the time the decision of the Tax Court was entered.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6512, 7482, 7485 of this title.

§ 7484. Change of incumbent in office

When the incumbent of the office of Secretary changes, no substitution of the name of his successor shall be required in proceedings pending before any appellate court reviewing the action of the Tax Court.

(Aug. 16, 1954, ch. 736, 68A Stat. 891; 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''.

§ 7485. Bond to stay assessment and collection

(a) Upon notice of appeal

Notwithstanding any provision of law imposing restrictions on the assessment and collection of deficiencies, the review under section 7483 shall not operate as a stay of assessment or collection of any portion of the amount of the deficiency determined by the Tax Court unless a notice of appeal in respect of such portion is duly filed by the taxpayer, and then only if the taxpayer—

(1) on or before the time his notice of appeal is filed has filed with the Tax Court a bond in a sum fixed by the Tax Court not exceeding double the amount of the portion of the deficiency in respect of which the notice of appeal is filed, and with surety approved by the Tax Court, conditioned upon the payment of the deficiency as finally determined, together with any interest, additional amounts, or additions to the tax provided for by law, or

(2) has filed a jeopardy bond under the income or estate tax laws.

If as a result of a waiver of the restrictions on the assessment and collection of a deficiency

any part of the amount determined by the Tax Court is paid after the filing of the appeal bond, such bond shall, at the request of the taxpayer, be proportionately reduced.

(b) Bond in case of appeal of certain partnership-related decisions

The condition of subsection (a) shall be satisfied if a partner duly files notice of appeal from a decision under section 6226, 6228(a), 6247, or 6252 and on or before the time the notice of appeal is filed with the Tax Court, a bond in an amount fixed by the Tax Court is filed, and with surety approved by the Tax Court, conditioned upon the payment of deficiencies attributable to the partnership items to which that decision relates as finally determined, together with any interest, penalties, additional amounts, or additions to the tax provided by law. Unless otherwise stipulated by the parties, the amount fixed by the Tax Court shall be based upon its estimate of the aggregate liability of the parties to the action.

(c) Cross references

(1) For requirement of additional security notwithstanding this section, see section 7482(c)(3).

(2) For deposit of United States bonds or notes in lieu of sureties, see section 9303 of title 31, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 891; Pub. L. 91–172, title IX, § 960(h)(3), Dec. 30, 1969, 83 Stat. 735; Pub. L. 97–248, title IV, § 402(c)(16), Sept. 3, 1982, 96 Stat. 668; Pub. L. 97–258, § 3(f)(15), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 105–34, title XII, §§ 1222(b)(4), 1241(a), Aug. 5, 1997, 111 Stat. 1019, 1029.)

REFERENCES IN TEXT

The income and estate tax laws, referred to in subsec. (a)(2), are classified generally to this title.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–34, § 1222(b)(4)(B), amended heading generally. Prior to amendment, heading read as follows: ''Bond in case of appeal of decision under section 6226 or section 6228(a)''.

Pub. L. 105–34, § 1222(b)(4)(A), substituted '', 6228(a), 6247, or 6252'' for ''or 6228(a)''.

Pub. L. 105–34, § 1241(a), inserted ''penalties,'' after ''any interest,'' and substituted ''aggregate liability of the parties to the action'' for ''aggregate of such deficiencies''.

1982—Subsecs. (b), (c). Pub. L. 97–248 added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c)(2). Pub. L. 97–258 substituted ''section 9303 of title 31, United States Code'' for ''6 U.S.C. 15''. Notwithstanding the directory language that amendment be made to subsec. (b)(2), the amendment was executed to subsec. (c)(2) to reflect the probable intent of Congress and the intervening redesignation of subsec. (b) as (c) by Pub. L. 97–248.

1969—Subsec. (a). Pub. L. 91–172 substituted ''notice of appeal'' for ''petition for review'' and ''appeal bond'' for ''review bond''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1222(b)(4) of Pub. L. 105–34 applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105–34, as amended, set out as a note under section 6011 of this title.

Section 1241(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97–248].''

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97–248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective 30 days after Dec. 30, 1969, see section 962(f) of Pub. L. 91–172, set out as a note under section 7483 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6015, 6215, 7101, 7103 of this title.

§ 7486. Refund, credit, or abatement of amounts disallowed

In cases where assessment or collection has not been stayed by the filing of a bond, then if the amount of the deficiency determined by the Tax Court is disallowed in whole or in part by the court of review, the amount so disallowed shall be credited or refunded to the taxpayer, without the making of claim therefor, or, if collection has not been made, shall be abated.

(Aug. 16, 1954, ch. 736, 68A Stat. 891.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6422 of this title.

§ 7487. Cross references

(1) Nonreviewability.—For nonreviewability of Tax Court decisions in small claims cases, see section 7463(b).

(2) Transcripts.—For authority of the Tax Court to fix fees for transcript of records, see section 7474.

(Aug. 16, 1954, ch. 736, 68A Stat. 892; Pub. L. 91–172, title IX, § 960(i)(1), Dec. 30, 1969, 83 Stat. 735.)

AMENDMENTS

1969—Pub. L. 91–172 inserted reference to section 7463(b) for nonreviewability of Tax Court decisions in small claims cases.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective one year after Dec. 30, 1969, see section 962(e) of Pub. L. 91–172, set out as an Effective Date note under section 7463 of this title.

Subchapter E—Burden of Proof

Sec.
7491. Burden of proof.

§ 7491. Burden of proof

(a) Burden shifts where taxpayer produces credible evidence

(1) General rule

If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability of the taxpayer for any tax imposed by

subtitle A or B, the Secretary shall have the burden of proof with respect to such issue.

(2) Limitations

Paragraph (1) shall apply with respect to an issue only if—

(A) the taxpayer has complied with the requirements under this title to substantiate any item;

(B) the taxpayer has maintained all records required under this title and has cooperated with reasonable requests by the Secretary for witnesses, information, documents, meetings, and interviews; and

(C) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430(c)(4)(A)(ii).

Subparagraph (C) shall not apply to any qualified revocable trust (as defined in section 645(b)(1)) with respect to liability for tax for any taxable year ending after the date of the decedent's death and before the applicable date (as defined in section 645(b)(2)).

(3) Coordination

Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of proof with respect to such issue.

(b) Use of statistical information on unrelated taxpayers

In the case of an individual taxpayer, the Secretary shall have the burden of proof in any court proceeding with respect to any item of income which was reconstructed by the Secretary solely through the use of statistical information on unrelated taxpayers.

(c) Penalties

Notwithstanding any other provision of this title, the Secretary shall have the burden of production in any court proceeding with respect to the liability of any individual for any penalty, addition to tax, or additional amount imposed by this title.

(Added Pub. L. 105–206, title III, § 3001(a), July 22, 1998, 112 Stat. 726; amended Pub. L. 105–277, div. J, title IV, § 4002(b), Oct. 21, 1998, 112 Stat. 2681–906.)

PRIOR PROVISIONS

A prior section 7491, act Aug. 16, 1954, ch. 736, 68A Stat. 893, placed the burden of proof in establishing the applicability of an exemption upon the defendant in the case of marihuana offenses, prior to repeal by Pub. L. 91–513, title III, §§ 1101(b)(5)(A), 1103, 1105(a), Oct. 27, 1970, 84 Stat. 1292, 1294, 1295, effective on first day of seventh calendar month that begins after Oct. 26, 1970, with prosecutions commenced prior to such date not to be affected or abated by reason thereof.

A prior section 7492, act Aug. 16, 1954, ch. 736, 68A Stat. 893, related to the enforceability of cotton futures contracts, prior to repeal by Pub. L. 94–455, title XIX, § 1952(n)(4)(A), (*o*), Oct. 4, 1976, 90 Stat. 1846, effective on the 90th day after Oct. 4, 1976.

A prior section 7493, act Aug. 16, 1954, ch. 736, 68A Stat. 893, provided that no person whose evidence is deemed material by the officer prosecuting on behalf of the United States in any case brought under any provision of subchapter D of chapter 39 of this title withhold his testimony because of complicity by him in any violation of subchapter D of chapter 39 of this title or of any regulation made pursuant to such chapter, but that such person called by such officer who testifies in the case be exempt from prosecution for any offense to which his testimony relates, prior to repeal by Pub. L. 91–452, title II, §§ 232, 260, Oct. 15, 1970, 84 Stat. 930, 931, effective on 60th day following Oct. 15, 1970, and not to affect any immunity to which any individual was entitled under by reason of any testimony given before 60th day following Oct. 15, 1970. See section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–277 inserted concluding provisions.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective as if included in the provision of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, to which such amendment relates, see section 4002(k) of Pub. L. 105–277, set out as a note under section 1 of this title.

EFFECTIVE DATE

Pub. L. 105–206, title III, § 3001(c), July 22, 1998, 112 Stat. 727, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting this subchapter] shall apply to court proceedings arising in connection with examinations commencing after the date of the enactment of this Act [July 22, 1998].

''(2) TAXABLE PERIODS OR EVENTS AFTER DATE OF ENACTMENT.—In any case in which there is no examination, such amendments shall apply to court proceedings arising in connection with taxable periods or events beginning or occurring after such date of enactment.''

CHAPTER 77—MISCELLANEOUS PROVISIONS

Sec.

7501. Liability for taxes withheld or collected.
7502. Timely mailing treated as timely filing and paying.
7503. Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.
7504. Fractional parts of a dollar.
7505. Sale of personal property acquired by the United States.
7506. Administration of real estate acquired by the United States.
7507. Exemption of insolvent banks from tax.
7508. Time for performing certain acts postponed by reason of service in combat zone.
7508A. Authority to postpone certain tax-related deadlines by reason of presidentially declared disaster.
7509. Expenditures incurred by the United States Postal Service.
7510. Exemption from tax of domestic goods purchased for the United States.
[7511. Repealed.]
7512. Separate accounting for certain collected taxes, etc.
7513. Reproduction of returns and other documents.
7514. Authority to prescribe or modify seals.
7515. Special statistical studies and compilations and other services on request.[1]
7516. Supplying training and training aids on request.
7517. Furnishing on request of statement explaining estate or gift valuation.
7518. Tax incentives relating to merchant marine capital construction funds.
7519. Required payments for entities electing not to have required taxable year.
7520. Valuation tables.

[1] Section repealed by Pub. L. 94–455 without corresponding amendment of analysis.

7521. Procedures involving taxpayer interviews.
7522. Content of tax due, deficiency, and other notices.
7523. Graphic presentation of major categories of Federal outlays and income.
7524. Annual notice of tax delinquency.
7525. Confidentiality privileges relating to taxpayer communications.
7526. Low-income taxpayer clinics.

AMENDMENTS

1998—Pub. L. 105–206, title III, §§3411(b), 3601(b), July 22, 1998, 112 Stat. 751, 776, added items 7525 and 7526.

1997—Pub. L. 105–34, title IX, §911(b), Aug. 5, 1997, 111 Stat. 878, added item 7508A.

1996—Pub. L. 104–168, title XII, §1204(b), July 30, 1996, 110 Stat. 1471, added item 7524.

1990—Pub. L. 101–508, title XI, §§11622(b), 11704(a)(31), Nov. 5, 1990, 104 Stat. 1388–505, 1388–519, substituted ''7522. Content of tax due, deficiency, and other notices.'' for ''7521. Content of tax due, deficiency, and other notices.'' and added item 7523.

1989—Pub. L. 101–239, title VII, §7816(u)(2), Dec. 19, 1989, 103 Stat. 2423, redesignated item 7520, relating to procedures involving taxpayer interviews, as 7521.

1988—Pub. L. 100–647, title VI, §6233(b), Nov. 10, 1988, 102 Stat. 3735, added item 7521.

Pub. L. 100–647, title VI, §6228(c), Nov. 10, 1988, 102 Stat. 3732, added item 7520 relating to procedures involving taxpayer interviews.

Pub. L. 100–647, title V, §5031(b), Nov. 10, 1988, 102 Stat. 3669, added item 7520 relating to valuation tables.

1987—Pub. L. 100–203, title X, §10206(b)(2), Dec. 22, 1987, 101 Stat. 1330–401, added item 7519.

1986—Pub. L. 99–514, title II, §261(f), Oct. 22, 1986, 100 Stat. 2216, added item 7518.

1976—Pub. L. 94–455, title XIX, §1906(b)(11), (12), Oct. 4, 1976, 90 Stat. 1834, substituted ''Time for performing certain acts postponed by reason of service in combat zone'' for ''Time for performing certain acts postponed by reason of war'' in item 7508, and ''Expenditures incurred by the United States Postal Service'' for ''Expenditures incurred by the Post Office Department'' in item 7509.

Pub. L. 94–455, title XX, §2008(a)(2)(C), Oct. 4, 1976, 90 Stat. 1891, added item 7517 relating to statement explaining estate or gift valuation.

1966—Pub. L. 89–719, title I, §111(c)(2), Nov. 2, 1966, 80 Stat. 1145, substituted ''acquired'' for ''purchased'' in item 7505.

Pub. L. 89–713, §5(b), Nov. 2, 1966, 80 Stat. 1111, inserted ''and paying'' in item 7502.

1962—Pub. L. 87–870, §3(a)(2), Oct. 23, 1962, 76 Stat. 1161, added items 7515 and 7516.

Pub. L. 87–456, title III, §302(d), May 24, 1962, 76 Stat. 77, struck out item 7511 ''Exemption of consular officers and employees of foreign states from payment of internal revenue taxes on imported articles''.

1958—Pub. L. 85–866, title I, §§90(b), 91(b), Sept. 2, 1958, 72 Stat. 1666, 1667, added items 7513 and 7514.

Pub. L. 85–321, §3(a), Feb. 11, 1958, 72 Stat. 6, added item 7512.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7851 of this title.

§ 7501. Liability for taxes withheld or collected

(a) General rule

Whenever any person is required to collect or withhold any internal revenue tax from any other person and to pay over such tax to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

(b) Penalties

For penalties applicable to violations of this section, see sections 6672 and 7202.

(Aug. 16, 1954, ch. 736, 68A Stat. 895.)

§ 7502. Timely mailing treated as timely filing and paying

(a) General rule

(1) Date of delivery

If any return, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under authority of any provision of the internal revenue laws is, after such period or such date, delivered by United States mail to the agency, officer, or office with which such return, claim, statement, or other document is required to be filed, or to which such payment is required to be made, the date of the United States postmark stamped on the cover in which such return, claim, statement, or other document, or payment, is mailed shall be deemed to be the date of delivery or the date of payment, as the case may be.

(2) Mailing requirements

This subsection shall apply only if—

(A) the postmark date falls within the prescribed period or on or before the prescribed date—

(i) for the filing (including any extension granted for such filing) of the return, claim, statement, or other document, or

(ii) for making the payment (including any extension granted for making such payment), and

(B) the return, claim, statement, or other document, or payment was, within the time prescribed in subparagraph (A), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the agency, officer, or office with which the return, claim, statement, or other document is required to be filed, or to which such payment is required to be made.

(b) Postmarks

This section shall apply in the case of postmarks not made by the United States Postal Service only if and to the extent provided by regulations prescribed by the Secretary.

(c) Registered and certified mailing; electronic filing

(1) Registered mail

For purposes of this section, if any return, claim, statement, or other document, or payment, is sent by United States registered mail—

(A) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed; and

(B) the date of registration shall be deemed the postmark date.

(2) Certified mail; electronic filing

The Secretary is authorized to provide by regulations the extent to which the provisions of paragraph (1) with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail and electronic filing.

(d) Exceptions

This section shall not apply with respect to—

(1) the filing of a document in, or the making of a payment to, any court other than the Tax Court,

(2) currency or other medium of payment unless actually received and accounted for, or

(3) returns, claims, statements, or other documents, or payments, which are required under any provision of the internal revenue laws or the regulations thereunder to be delivered by any method other than by mailing.

(e) Mailing of deposits

(1) Date of deposit

If any deposit required to be made (pursuant to regulations prescribed by the Secretary under section 6302(c)) on or before a prescribed date is, after such date, delivered by the United States mail to the bank, trust company, domestic building and loan association, or credit union authorized to receive such deposit, such deposit shall be deemed received by such bank, trust company, domestic building and loan association, or credit union on the date the deposit was mailed.

(2) Mailing requirements

Paragraph (1) shall apply only if the person required to make the deposit establishes that—

(A) the date of mailing falls on or before the second day before the prescribed date for making the deposit (including any extension of time granted for making such deposit), and

(B) the deposit was, on or before such second day, mailed in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the bank, trust company, domestic building and loan association, or credit union authorized to receive such deposit.

In applying subsection (c) for purposes of this subsection, the term ''payment'' includes ''deposit'', and the reference to the postmark date refers to the date of mailing.

(3) No application to certain deposits

Paragraph (1) shall not apply with respect to any deposit of $20,000 or more by any person who is required to deposit any tax more than once a month.

(f) Treatment of private delivery services

(1) In general

Any reference in this section to the United States mail shall be treated as including a reference to any designated delivery service, and any reference in this section to a postmark by the United States Postal Service shall be treated as including a reference to any date recorded or marked as described in paragraph (2)(C) by any designated delivery service.

(2) Designated delivery service

For purposes of this subsection, the term ''designated delivery service'' means any delivery service provided by a trade or business if such service is designated by the Secretary for purposes of this section. The Secretary may designate a delivery service under the preceding sentence only if the Secretary determines that such service—

(A) is available to the general public,

(B) is at least as timely and reliable on a regular basis as the United States mail,

(C) records electronically to its data base, kept in the regular course of its business, or marks on the cover in which any item referred to in this section is to be delivered, the date on which such item was given to such trade or business for delivery, and

(D) meets such other criteria as the Secretary may prescribe.

(3) Equivalents of registered and certified mail

The Secretary may provide a rule similar to the rule of paragraph (1) with respect to any service provided by a designated delivery service which is substantially equivalent to United States registered or certified mail.

(Aug. 16, 1954, ch. 736, 68A Stat. 895; Pub. L. 85–866, title I, § 89(a), Sept. 2, 1958, 72 Stat. 1665; Pub. L. 89–713, § 5(a), Nov. 2, 1966, 80 Stat. 1110; Pub. L. 90–364, title I, § 106(a), June 28, 1968, 82 Stat. 266; Pub. L. 94–455, title XIX, §§ 1906(a)(49), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1831, 1834; Pub. L. 95–147, § 3(b), Oct. 28, 1977, 91 Stat. 1228; Pub. L. 98–369, div. A, title I, § 157(a), July 18, 1984, 98 Stat. 695; Pub. L. 99–514, title XVIII, § 1811(e), Oct. 22, 1986, 100 Stat. 2833; Pub. L. 104–168, title XII, § 1210, July 30, 1996, 110 Stat. 1474; Pub. L. 105–206, title II, § 2003(b), July 22, 1998, 112 Stat. 725.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–206 inserted ''; electronic filing'' after ''mailing'' in heading and amended text of subsec. (c) generally. Prior to amendment, text read as follows:

''(1) REGISTERED MAIL.—For purposes of this section, if any such return, claim, statement, or other document, or payment, is sent by United States registered mail—

''(A) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed, and

''(B) the date of registration shall be deemed the postmark date.

''(2) CERTIFIED MAIL.—The Secretary is authorized to provide by regulations the extent to which the provisions of paragraph (1) of this subsection with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail.''

1996—Subsec. (f). Pub. L. 104–168 added subsec. (f).

1986—Subsec. (e)(3). Pub. L. 99–514 substituted ''any tax'' for ''the tax''.

1984—Subsec. (e)(3). Pub. L. 98–369 added par. (3).

1977—Subsec. (e). Pub. L. 95–147 substituted '', trust company, domestic building and loan association, or credit union'' for ''or trust company'' in three places.

1976—Subsec. (b). Pub. L. 94–455, § 1906(a)(49), (b)(13)(A), substituted ''United States Postal Service'' for ''United States Post Office'' after ''made by the'', and struck out ''or his delegate'' after ''Secretary''.

Subsecs. (c)(2), (e)(1). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1968—Subsec. (e). Pub. L. 90–364 added subsec. (e).

1966—Subsec. (a). Pub. L. 89–713 inserted filing of tax returns and the payments of tax to the list of operations to which the timely-mailing-timely-filing provisions of the subsec. apply and altered the subsec. structurally by dividing its provisions into pars. (1) and (2).

Subsec. (b). Pub. L. 89–713 substituted ''Postmarks'' for ''Stamp machine'' in heading.

Subsec. (c). Pub. L. 89–713 inserted returns and payments to the list of operations to which the timely-mailing-timely-filing provisions apply and altered par. (1) structurally by dividing its provisions into subpars. (A) and (B).

Subsec. (d). Pub. L. 89–713 designated existing provisions as par. (1) and added pars. (2) and (3).

1958—Subsec. (c). Pub. L. 85–866 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 157(b) of Pub. L. 98–369 provided that: ''The amendment made by this section [amending this section] shall apply to deposits required to be made after July 31, 1984.''

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–147 applicable to amounts deposited after Oct. 28, 1977, see section 3(c) of Pub. L. 95–147, set out as a note under section 6302 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

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.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 106(b) of Pub. L. 90–364 provided that: ''The amendment made by subsec. (a) [amending this section] shall apply only as to mailing occurring after the date of the enactment of this Act [June 28, 1968].''

EFFECTIVE DATE OF 1966 AMENDMENT

Section 5(c) of Pub. L. 89–713 provided that: ''The amendments made by this section [amending this section] shall apply only if the mailing occurs after the date of the enactment of this Act [Nov. 2, 1966].''

EFFECTIVE DATE OF 1958 AMENDMENT

Section 89(d) of Pub. L. 85–866 provided that: ''This section [amending this section and sections 167, 6164, 6212, 6532, and 7455 of this title] shall apply only if the mailing occurs after the date of the enactment of this Act [Sept. 2, 1958].''

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.

PROVISIONS OF INTERNAL REVENUE CODE OF 1939

Section 89(c) of Pub. L. 85–866 provided that: ''In applying any provision of the Internal Revenue Code of 1939 which requires, or provides for, the use of registered mail, the reference to registered mail shall be treated as including a reference to certified mail.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7851 of this title.

§ 7503. Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday

When the last day prescribed under authority of the internal revenue laws for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of such act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday. For purposes of this section, the last day for the performance of any act shall be determined by including any authorized extension of time; the term ''legal holiday'' means a legal holiday in the District of Columbia; and in the case of any return, statement, or other document required to be filed, or any other act required under authority of the internal revenue laws to be performed, at any office of the Secretary or at any other office of the United States or any agency thereof, located outside the District of Columbia but within an internal revenue district, the term ''legal holiday'' also means a Statewide legal holiday in the State where such office is located.

(Aug. 16, 1954, ch. 736, 68A Stat. 896; 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''.

APPLICABILITY OF THIS SECTION FOR PURPOSES OF SECTION 10222(b) OF PUB. L. 100–203

Pub. L. 100–647, title VI, § 6278, Nov. 10, 1988, 102 Stat. 3754, provided that: ''Section 7503 of the 1986 Code shall apply for purposes of determining whether any disposition meets the requirements of section 10222(b)(2)(B) of the Revenue Act of 1987 [Pub. L. 100–203, set out as a note under section 301 of this title]. If any disposition meets the requirements of such section by reason of the preceding sentence, for all purposes of the 1986 Code, such disposition shall be deemed to have occurred on December 31, 1988.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5061, 5703, 7851 of this title.

§ 7504. Fractional parts of a dollar

The Secretary may by regulations provide that in the allowance of any amount as a credit or refund, or in the collection of any amount as a deficiency or underpayment, of any tax imposed by this title, a fractional part of a dollar shall be disregarded, unless it amounts to 50 cents or more, in which case it shall be increased to 1 dollar.

(Aug. 16, 1954, ch. 736, 68A Stat. 896; 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 6420 of this title.

§ 7505. Sale of personal property acquired by the United States

(a) Sale

Any personal property acquired by the United States in payment of or as security for debts arising under the internal revenue laws may be sold by the Secretary in accordance with such regulations as may be prescribed by the Secretary.

(b) Accounting

In case of the resale of such property, the proceeds of the sale shall be paid into the Treasury as internal revenue collections, and there shall be rendered a distinct account of all charges incurred in such sales.

(Aug. 16, 1954, ch. 736, 68A Stat. 896; Pub. L. 89–719, title I, § 111(a), (c)(1), Nov. 2, 1966, 80 Stat. 1145; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1966—Pub. L. 89–719 substituted ''acquired by the United States in payment of or as security for debts arising under the internal revenue laws'' for ''purchased by the United States under the authority of section 6335(e) (relating to purchase for the account of the United States of property sold under levy)'' in subsec. (a), and substituted ''acquired'' for ''purchased'' in section catchline.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

§ 7506. Administration of real estate acquired by the United States

(a) Person charged with

The Secretary shall have charge of all real estate which is or shall become the property of the United States by judgment of forfeiture under the internal revenue laws, or which has been or shall be assigned, set off, or conveyed by purchase or otherwise to the United States in payment of debts or penalties arising under the laws relating to internal revenue, or which has been or shall be vested in the United States by mortgage or other security for the payment of such debts, or which has been redeemed by the United States, and of all trusts created for the use of the United States in payment of such debts due them.

(b) Sale

The Secretary, may, at public sale, and upon not less than 20 days' notice, sell and dispose of any real estate owned or held by the United States as aforesaid.

(c) Lease

Until such sale, the Secretary may lease such real estate owned as aforesaid on such terms and for such period as the Secretary shall deem proper.

(d) Release to debtor

In cases where real estate has or may become the property of the United States by conveyance or otherwise, in payment of or as security for a debt arising under the laws relating to internal revenue, and such debt shall have been paid, together with the interest thereon, at the rate of 1 percent per month, to the United States, within 2 years from the date of the acquisition of such real estate, it shall be lawful for the Secretary to release by deed or otherwise convey such real estate to the debtor from whom it was taken, or to his heirs or other legal representatives.

(Aug. 16, 1954, ch. 736, 68A Stat. 896; Pub. L. 89–719, title I, § 111(b), Nov. 2, 1966, 80 Stat. 1145; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsecs. (a) to (d). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1966—Subsec. (a). Pub. L. 89–719 inserted reference to real estate which has been redeemed by the United States.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7809 of this title.

§ 7507. Exemption of insolvent banks from tax

(a) Assets in general

Whenever and after any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has ceased to do business by reason of insolvency or bankruptcy, no tax shall be assessed or collected, or paid into the Treasury of the United States, on account of such bank or trust company, which shall diminish the assets thereof necessary for the full payment of all its depositors; and such tax shall be abated from such national banks as are found by the Comptroller of the Currency to be insolvent; and the Secretary, when the facts shall appear to him, is authorized to remit so much of the said tax against any such insolvent banks and trust companies organized under State law as shall be found to affect the claims of their depositors.

(b) Segregated assets; earnings

Whenever any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has been released or discharged from its liability to its depositors for any part of their claims against it, and such depositors have accepted, in lieu thereof, a lien upon subsequent earnings of such bank or trust company, or claims against assets segregated by such bank or trust company or against assets transferred from it to an individual or corporate trustee or agent, no tax shall be assessed or collected, or paid into the Treasury of the United States, on account of such bank or trust company, such individual or corporate trustee or such agent, which shall diminish the assets thereof which

are available for the payment of such depositor claims and which are necessary for the full payment thereof. The term ''agent'', as used in this subsection, shall be deemed to include a corporation acting as a liquidating agent.

(c) Refund; reassessment; statutes of limitation

(1) Any such tax collected shall be deemed to be erroneously collected, and shall be refunded subject to all provisions and limitations of law, so far as applicable, relating to the refunding of taxes.

(2) Any tax, the assessment, collection, or payment of which is barred under subsection (a), or any such tax which has been abated or remitted shall be assessed or reassessed whenever it shall appear that payment of the tax will not diminish the assets as aforesaid.

(3) Any tax, the assessment, collection, or payment of which is barred under subsection (b), or any such tax which has been refunded shall be assessed or reassessed after full payment of such claims of depositors to the extent of the remaining assets segregated or transferred as described in subsection (b).

(4) The running of the statute of limitations on the making of assessment and collection shall be suspended during, and for 90 days beyond, the period for which, pursuant to this section, assessment or collection may not be made, and a tax may be reassessed as provided in paragraphs (2) and (3) of this subsection and collected, during the time within which, had there been no abatement, collection might have been made.

(d) Exception of employment taxes

This section shall not apply to any tax imposed by chapter 21 or chapter 23.

(Aug. 16, 1954, ch. 736, 68A Stat. 897; Pub. L. 94–455, title XIX, § 1906(a)(50), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1831, 1834.)

AMENDMENTS

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

Subsec. (c). Pub. L. 94–455, § 1906(a)(50), struck out ''after May 28, 1938'' in par. (2) after ''or remitted'' and in par. (3) after ''been refunded''.

EFFECTIVE DATE OF 1976 AMENDMENT

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 REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6207, 6504 of this title.

§ 7508. Time for performing certain acts postponed by reason of service in combat zone

(a) Time to be disregarded

In the case of an individual serving in the Armed Forces of the United States, or serving in support of such Armed Forces, in an area designated by the President of the United States by Executive order as a ''combat zone'' for purposes of section 112, at any time during the period designated by the President by Executive order as the period of combatant activities in such zone for purposes of such section, or hospitalized as a result of injury received while serving in such an area during such time, the period of service in such area, plus the period of continuous qualified hospitalization attributable to such injury, and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

(1) Whether any of the following acts was performed within the time prescribed therefor:

(A) Filing any return of income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby);

(B) Payment of any income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby) or any installment thereof or of any other liability to the United States in respect thereof;

(C) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;

(D) Allowance of a credit or refund of any tax;

(E) Filing a claim for credit or refund of any tax;

(F) Bringing suit upon any such claim for credit or refund;

(G) Assessment of any tax;

(H) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

(I) Collection, by the Secretary, by levy or otherwise, of the amount of any liability in respect of any tax;

(J) Bringing suit by the United States, or any officer on its behalf, in respect of any liability in respect of any tax; and

(K) Any other act required or permitted under the internal revenue laws specified in regulations prescribed under this section by the Secretary;

(2) The amount of any credit or refund.

(b) Special rule for overpayments

(1) In general

Subsection (a) shall not apply for purposes of determining the amount of interest on any overpayment of tax.

(2) Special rules

If an individual is entitled to the benefits of subsection (a) with respect to any return and such return is timely filed (determined after the application of such subsection), subsections (b)(3) and (e) of section 6611 shall not apply.

(c) Application to spouse

The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause this section to apply for any spouse for any taxable year beginning more than 2 years

after the date designated under section 112 as the date of termination of combatant activities in a combat zone.

(d) Missing status

The period of service in the area referred to in subsection (a) shall include the period during which an individual entitled to benefits under subsection (a) is in a missing status, within the meaning of section 6013(f)(3).

(e) Exceptions

(1) Tax in jeopardy; cases under title 11 of the United States Code and receiverships; and transferred assets

Notwithstanding the provisions of subsection (a), any action or proceeding authorized by section 6851 (regardless of the taxable year for which the tax arose), chapter 70, or 71, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun, or prosecuted. In any other case in which the Secretary determines that collection of the amount of any assessment would be jeopardized by delay, the provisions of subsection (a) shall not operate to stay collection of such amount by levy or otherwise as authorized by law. There shall be excluded from any amount assessed or collected pursuant to this paragraph the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under subsection (a). In any case to which this paragraph relates, if the Secretary is required to give any notice to or make any demand upon any person, such requirement shall be deemed to be satisfied if the notice or demand is prepared and signed, in any case in which the address of such person last known to the Secretary is in an area for which United States post offices under instructions of the Postmaster General are not, by reason of the combatant activities, accepting mail for delivery at the time the notice or demand is signed. In such case the notice or demand shall be deemed to have been given or made upon the date it is signed.

(2) Action taken before ascertainment of right to benefits

The assessment or collection of any internal revenue tax or of any liability to the United States in respect of any internal revenue tax, or any action or proceeding by or on behalf of the United States in connection therewith, may be made, taken, begun, or prosecuted in accordance with law, without regard to the provisions of subsection (a), unless prior to such assessment collection, action, or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (a).

(f) Treatment of individuals performing Desert Shield services

(1) In general

Any individual who performed Desert Shield services (and the spouse of such individual) shall be entitled to the benefits of this section in the same manner as if such services were services referred to in subsection (a).

(2) Desert Shield services

For purposes of this subsection, the term ''Desert Shield services'' means any services in the Armed Forces of the United States or in support of such Armed Forces if—

(A) such services are performed in the area designated by the President pursuant to this subparagraph as the ''Persian Gulf Desert Shield area'', and

(B) such services are performed during the period beginning on August 2, 1990, and ending on the date on which any portion of the area referred to in subparagraph (A) is designated by the President as a combat zone pursuant to section 112.

(g) Qualified hospitalization

For purposes of subsection (a), the term ''qualified hospitalization'' means—

(1) any hospitalization outside the United States, and

(2) any hospitalization inside the United States, except that not more than 5 years of hospitalization may be taken into account under this paragraph.

Paragraph (2) shall not apply for purposes of applying this section with respect to the spouse of an individual entitled to the benefits of subsection (a).

(Aug. 16, 1954, ch. 736, 68A Stat. 898; Pub. L. 93–597, § 5(a), Jan. 2, 1975, 88 Stat. 1952; Pub. L. 94–455, title XIX, § 1906(a)(51), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1831, 1834; Pub. L. 94–569, § 3(e), Oct. 20, 1976, 90 Stat. 2700; Pub. L. 96–589, § 6(i)(14), Dec. 24, 1980, 94 Stat. 3411; Pub. L. 97–448, title III, § 307(d), Jan. 12, 1983, 96 Stat. 2407; Pub. L. 99–514, title XVII, § 1708(a)(4), Oct. 22, 1986, 100 Stat. 2782; Pub. L. 102–2, § 1(a)–(c), Jan. 30, 1991, 105 Stat. 5.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–2, § 1(c)(1), in introductory provisions, struck out ''outside the United States'' before ''as a result of injury'' and substituted ''the period of continuous qualified hospitalization'' for ''the period of continuous hospitalization outside the United States''.

Subsec. (a)(2). Pub. L. 102–2, § 1(b)(2), struck out ''(including interest)'' after ''refund''.

Subsecs. (b) to (e). Pub. L. 102–2, § 1(b)(1), added subsec. (b) and redesignated former subsecs. (b) to (d) as (c) to (e), respectively.

Subsecs. (f), (g). Pub. L. 102–2, § 1(a), (c)(2), added subsecs. (f) and (g).

1986—Subsec. (b). Pub. L. 99–514 amended last sentence generally. Prior to amendment, last sentence read as follows: ''The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning—

''(1) after December 31, 1982, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

''(2) more than 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in paragraph (1).''

1983—Subsec. (b)(1). Pub. L. 97–448 substituted ''December 31, 1982'' for ''January 2, 1978''.

1980—Subsec. (d). Pub. L. 96–589 substituted ''cases under title 11 of the United States Code and receiverships'' for ''bankruptcy and receiverships'' in par. (1) heading.

1976—Pub. L. 94–455, § 1906(a)(51)(A), substituted ''by reason of service in combat zone'' for ''by reason of war'' in section catchline.

Subsec. (a). Pub. L. 94–455, § 1906(a)(51)(B), (b)(13)(A), substituted ''United States'' for ''States of the Union

and the District of Columbia'' in two places after ''hospitalized outside the'' and ''hospitalization outside the'', and struck out ''or his delegate'' after ''Secretary''.

Subsec. (b). Pub. L. 94–569 substituted ''taxable year beginning'' for ''taxable year beginning more than 2 years after'' in provisions preceding par. (1), substituted ''after January 2, 1978'' for ''the date of the enactment of this subsection'' in par. (1), and substituted ''more than 2 years after the date designated'' for ''the date designated'' in par. (2).

Subsec. (d). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1975—Subsecs. (b) to (d). Pub. L. 93–597 added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

EFFECTIVE DATE OF 1991 AMENDMENT

Section 1(d) of Pub. L. 102–2 provided that: ''The amendments made by this section [amending this section] shall take effect on August 2, 1990.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1982, see section 1708(b) of Pub. L. 99–514, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96–589, set out as a note under section 108 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

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.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 5(b) of Pub. L. 93–597 provided that: ''The amendments made by subsection (a) [amending this section] shall apply to taxable years ending on or after February 28, 1961.''

TRANSFER OF FUNCTIONS

Office of Postmaster General of Post Office Department abolished and all functions, powers, and duties of Postmaster General transferred to United States Postal Service by Pub. L. 91–375, § 4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service.

EX. ORD. NO. 12750. DESIGNATION OF ARABIAN PENINSULA AREAS, AIRSPACE, AND ADJACENT WATERS AS PERSIAN GULF DESERT SHIELD AREA

Ex. Ord. No. 12750, Feb. 14, 1991, 56 F.R. 6785, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7508 of the Internal Revenue Code of 1986 (26 U.S.C. 7508), I hereby designate, for purposes of that section, the following locations, including the air space above such locations, as the Persian Gulf Desert Shield area in which any individual who performed Desert Shield services (including the spouse of such individual) is entitled to the benefits of section 7508 of the Internal Revenue Code of 1986:

—the Persian Gulf

—the Red Sea

—the Gulf of Oman

—that portion of the Arabian Sea that lies north of 10 degrees north latitude and west of 68 degrees east longitude

—the Gulf of Aden

—the total land area of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.

GEORGE BUSH.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6504, 6533, 6901, 7508A of this title.

§ 7508A. Authority to postpone certain tax-related deadlines by reason of presidentially declared disaster

(a) In general

In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined by section 1033(h)(3)), the Secretary may prescribe regulations under which a period of up to 90 days may be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any penalty, additional amount, or addition to the tax) of such taxpayer—

(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor, and

(2) the amount of any credit or refund.

(b) Interest on overpayments and underpayments

Subsection (a) shall not apply for the purpose of determining interest on any overpayment or underpayment.

(Added Pub. L. 105–34, title IX, § 911(a), Aug. 5, 1997, 111 Stat. 877.)

EFFECTIVE DATE

Section 911(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [enacting this section] shall apply with respect to any period for performing an act that has not expired before the date of the enactment of this Act [Aug. 5, 1997].''

AUTHORITY TO POSTPONE CERTAIN TAX-RELATED DEADLINES BY REASON OF Y2K FAILURES

Pub. L. 106–170, title V, § 522, Dec. 17, 1999, 113 Stat. 1927, provided that:

''(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary of the Treasury (or the Secretary's delegate) to be affected by a Y2K failure, the Secretary may disregard a period of up to 90 days in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such taxpayer—

''(1) whether any of the acts described in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1986 (without regard to the exceptions in parentheses in subparagraphs (A) and (B)) were performed within the time prescribed therefor; and

''(2) the amount of any credit or refund.

''(b) APPLICABILITY OF CERTAIN RULES.—For purposes of this section, rules similar to the rules of subsections (b) and (e) of section 7508 of the Internal Revenue Code of 1986 shall apply.''

ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS

Section 915 of Pub. L. 105–34, as amended by Pub. L. 105–277, div. J, title IV, § 4003(e)(1), Oct. 21, 1998, 112 Stat. 2681–909, provided that:

''(a) IN GENERAL.—If the Secretary of the Treasury extends for any period the time for filing income tax returns under section 6081 of the Internal Revenue Code of 1986 and the time for paying income tax with respect to such returns under section 6161 of such Code (and waives any penalties relating to the failure to so file or so pay) for any individual located in a Presidentially declared disaster area, the Secretary shall, notwith-

standing section 7508A(b) of such Code, abate for such period the assessment of any interest prescribed under section 6601 of such Code on such income tax.

''(b) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of subsection (a), the term 'Presidentially declared disaster area' means, with respect to any individual, any area which the President has determined during 1997 or 1998 warrants assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.].

''(c) INDIVIDUAL.—For purposes of this section, the term 'individual' shall not include any estate or trust.

''(d) EFFECTIVE DATE.—This section shall apply to disasters declared after December 31, 1996.''

§ 7509. Expenditures incurred by the United States Postal Service

The Postmaster General or his delegate shall at least once a month transfer to the Treasury of the United States a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the United States Postal Service in performing the duties, if any, imposed upon such Service with respect to chapter 21, relating to the tax under the Federal Insurance Contributions Act, and the Secretary shall be authorized and directed to advance from time to time to the credit of the United States Postal Service, from appropriations made for the collection of the taxes imposed by chapter 21, such sums as may be required for such additional expenditures incurred by the United States Postal Service.

(Aug. 16, 1954, ch. 736, 68A Stat. 899; Pub. L. 94–455, title XIX, § 1906(a)(52), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1832, 1834.)

REFERENCES IN TEXT

The Federal Insurance Contributions Act, referred to in text, is act Aug. 16, 1954, ch. 736, §§ 3101, 3102, 3111, 3112, 3121 to 3128, 68A Stat. 415, as amended, which is classified generally to chapter 21 (§ 3101 et seq.) of this title. For complete classification of this Act to the Code, see section 3128 of this title and Tables.

AMENDMENTS

1976—Pub. L. 94–455 substituted ''United States Postal Service'' for ''Post Office Department'' in section catchline and wherever appearing in text, ''such Service'' for ''such Department'', and struck out '', together with the receipts required to be deposited under section 6803(a),'' after ''Treasury of the United States'' and ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 effective 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.

§ 7510. Exemption from tax of domestic goods purchased for the United States

The privilege existing by provision of law on December 1, 1873, or thereafter of purchasing supplies of goods imported from foreign countries for the use of the United States, duty free, shall be extended, under such regulations as the Secretary may prescribe, to all articles of domestic production which are subject to tax by the provisions of this title.

(Aug. 16, 1954, ch. 736, 68A Stat. 900; 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 sections 5001, 5002, 5003, 5004, 5005, 5173, 5214 of this title.

[§ 7511. Repealed. Pub. L. 87–456, title III, § 302(d), May 24, 1962, 76 Stat. 77]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 900, related to exemption of consular officers and employees of foreign states from payment of internal revenue taxes on imported articles.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87–456.

§ 7512. Separate accounting for certain collected taxes, etc.

(a) General rule

Whenever any person who is required to collect, account for, and pay over any tax imposed by subtitle C or chapter 33—

(1) at the time and in the manner prescribed by law or regulations (A) fails to collect, truthfully account for, or pay over such tax, or (B) fails to make deposits, payments, or returns of such tax, and

(2) is notified, by notice delivered in hand to such person, of any such failure,

then all the requirements of subsection (b) shall be complied with. In the case of a corporation, partnership, or trust, notice delivered in hand to an officer, partner, or trustee, shall, for purposes of this section, be deemed to be notice delivered in hand to such corporation, partnership, or trust and to all officers, partners, trustees, and employees thereof.

(b) Requirements

Any person who is required to collect, account for, and pay over any tax imposed by subtitle C or chapter 33, if notice has been delivered to such person in accordance with subsection (a), shall collect the taxes imposed by subtitle C or chapter 33 which become collectible after delivery of such notice, shall (not later than the end of the second banking day after any amount of such taxes is collected) deposit such amount in a separate account in a bank (as defined in section 581), and shall keep the amount of such taxes in such account until payment over to the United States. Any such account shall be designated as a special fund in trust for the United States, payable to the United States by such person as trustee.

(c) Relief from further compliance with subsection (b)

Whenever the Secretary is satisfied, with respect to any notification made under subsection (a), that all requirements of law and regulations with respect to the taxes imposed by subtitle C or chapter 33, as the case may be, will henceforth be complied with, he may cancel such notification. Such cancellation shall take effect at such time as is specified in the notice of such cancellation.

(Added Pub. L. 85–321, § 1, Feb. 11, 1958, 72 Stat. 5; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–223, title I, § 101(c)(3), Apr. 2, 1980, 94 Stat. 251; Pub. L. 100–418, title I, § 1941(b)(2)(O), Aug. 23, 1988, 102 Stat. 1324.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–418, § 1941(b)(2)(O)(i), substituted ''or chapter 33'' for '', by chapter 33, or by section 4986'' in introductory provisions.

Subsec. (b). Pub. L. 100–418, § 1941(b)(2)(O)(i), (ii), substituted ''or chapter 33'' for '', by chapter 33, or by section 4986'' and ''or chapter 33'' for '', chapter 33, or section 4986''.

Subsec. (c). Pub. L. 100–418, § 1941(b)(2)(O)(ii), substituted ''or chapter 33'' for '', chapter 33, or section 4986''.

1980—Subsecs. (a) to (c). Pub. L. 96–223 inserted references to tax imposed by section 4986.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

NOTIFICATION OF FAILURE TO COLLECT, ACCOUNT FOR, AND PAY OVER TAXES

Section 4 of Pub. L. 85–321, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Notification may be made under section 7512(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by the first section of this Act)—

''(1) in the case of taxes imposed by subtitle C of such Code, only with respect to pay periods beginning after the date of the enactment of this Act [Feb. 11, 1958]; and

''(2) in the case of taxes imposed by chapter 33 of such Code, only with respect to taxes so imposed after the date of the enactment of this Act [Feb. 11, 1958].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7215 of this title.

§ 7513. Reproduction of returns and other documents

(a) In general

The Secretary is authorized to have any Federal agency or any person process films or other photoimpressions of any return, document, or other matter, and make reproductions from films or photoimpressions of any return, document, or other matter.

(b) Regulations

The Secretary shall prescribe regulations which shall provide such safeguards as in the opinion of the Secretary are necessary or appropriate to protect the film, photoimpressions, and reproductions made therefrom, against any unauthorized use, and to protect the information contained therein against any unauthorized disclosure.

(c) Penalty

For penalty for violation of regulations for safeguarding against unauthorized use of any film or photoimpression, or reproduction made therefrom, and against unauthorized disclosure of information contained therein, see section 7213.

(Added Pub. L. 85–866, title I, § 90(a), Sept. 2, 1958, 72 Stat. 1666; amended Pub. L. 94–455, title XII, § 1202(f), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1687, 1834.)

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94–455, § 1906(b) (13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsecs. (c), (d). Pub. L. 94–455, § 1202(f), redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to legal status and evidentiary use of reproductions.

EFFECTIVE DATE

Section effective Aug. 17, 1954, see section 1(c) of Pub. L. 85–866, set out as an Effective Date of 1958 Amendment note under section 165 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6103 of this title.

§ 7514. Authority to prescribe or modify seals

The Secretary is authorized to prescribe or modify seals of office for the district directors of internal revenue and other officers or employees of the Treasury Department to whom any of the functions of the Secretary of the Treasury shall have been or may be delegated. Each seal so prescribed shall contain such device as the Secretary may select. Each seal shall remain in the custody of any officer or employee whom the Secretary may designate, and, in accordance with the regulations approved by the Secretary, may be affixed in lieu of the seal of the Treasury Department to any certificate or attestation (except for material to be published in the Federal Register) that may be required of such officer or employee. Judicial notice shall be taken of any seal prescribed in accordance with this authority, a facsimile of which has been published in the Federal Register together with the regulations prescribing such seal and the affixation thereof.

(Added Pub. L. 85–866, title I, § 91(a), Sept. 2, 1958, 72 Stat. 1667; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), (M), Oct. 4, 1976, 90 Stat. 1834, 1835.)

AMENDMENTS

1976—Pub. L. 94–455 substituted ''functions of the Secretary of the Treasury'' for ''functions of the Secretary'' after ''whom any of the'' and struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE

Section effective Aug. 17, 1954, see section 1(c) of Pub. L. 85–866, set out as an Effective Date of 1958 Amendment note under section 165 of this title.

[§ 7515. Repealed. Pub. L. 94–455, title XII, § 1202(h)(4), Oct. 4, 1976, 90 Stat. 1688]

Section, added Pub. L. 87–870, § 3(a)(1), Oct. 23, 1962, 76 Stat. 1160, authorized Secretary, within his discretion and upon written request, to make special statistical studies and compilations from any information received by compliance with this title, such studies were authorized to be made jointly with party or parties requesting them and transcripts to be made available to requesting party for a fee.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 6103 of this title.

§ 7516. Supplying training and training aids on request

The Secretary is authorized within his discretion, upon written request, to admit employees and officials of any State, the Commonwealth of Puerto Rico, any possession of the United States, any political subdivision or instrumentality of any of the foregoing, the District of Columbia, or any foreign government to training courses conducted by the Internal Revenue Service, and to supply them with texts and other training aids. The Secretary may require payment from the party or parties making the request of a reasonable fee not to exceed the cost of the training and training aids supplied pursuant to such request.

(Added Pub. L. 87–870, § 3(a)(1), Oct. 23, 1962, 76 Stat. 1160; amended 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 7809 of this title.

§ 7517. Furnishing on request of statement explaining estate or gift valuation

(a) General rule

If the Secretary makes a determination or a proposed determination of the value of an item of property for purposes of the tax imposed under chapter 11, 12, or 13, he shall furnish, on the written request of the executor, donor, or the person required to make the return of the tax imposed by chapter 13 (as the case may be), to such executor, donor, or person a written statement containing the material required by subsection (b). Such statement shall be furnished not later than 45 days after the later of the date of such request or the date of such determination or proposed determination.

(b) Contents of statement

A statement required to be furnished under subsection (a) with respect to the value of an item of property shall—

(1) explain the basis on which the valuation was determined or proposed,

(2) set forth any computation used in arriving at such value, and

(3) contain a copy of any expert appraisal made by or for the Secretary.

(c) Effect of statement

Except to the extent otherwise provided by law, the value determined or proposed by the Secretary with respect to which a statement is furnished under this section, and the method used in arriving at such value, shall not be binding on the Secretary.

(Added Pub. L. 94–455, title XX, § 2008(a)(1), Oct. 4, 1976, 90 Stat. 1891.)

EFFECTIVE DATE

Section 2008(d)(1) of Pub. L. 94–455, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by subsection (a) [enacting this section and amending sections 2031 and 2512 of this title]—

''(A) insofar as they relate to the tax imposed under chapter 11 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 2001 et seq. of this title], shall apply to the estates of decedents dying after December 31, 1976, and

''(B) insofar as they relate to the tax imposed under chapter 12 of such Code [section 2501 et seq. of this title], shall apply to gifts made after December 31, 1976.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2031, 2512 of this title.

§ 7518. Tax incentives relating to merchant marine capital construction funds

(a) Ceiling on deposits

(1) In general

The amount deposited in a fund established under section 607 of the Merchant Marine Act, 1936 (hereinafter in this section referred to as a ''capital construction fund'') shall not exceed for any taxable year the sum of:

(A) that portion of the taxable income of the owner or lessee for such year (computed as provided in chapter 1 but without regard to the carryback of any net operating loss or net capital loss and without regard to this section) which is attributable to the operation of the agreement vessels in the foreign or domestic commerce of the United States or in the fisheries of the United States,

(B) the amount allowable as a deduction under section 167 for such year with respect to the agreement vessels,

(C) if the transaction is not taken into account for purposes of subparagraph (A), the net proceeds (as defined in joint regulations) from—

(i) the sale or other disposition of any agreement vessel, or

(ii) insurance or indemnity attributable to any agreement vessel, and

(D) the receipts from the investment or reinvestment of amounts held in such fund.

(2) Limitations on deposits by lessees

In the case of a lessee, the maximum amount which may be deposited with respect to an agreement vessel by reason of paragraph (1)(B) for any period shall be reduced by any amount which, under an agreement entered into under section 607 of the Merchant Marine Act, 1936, the owner is required or permitted to deposit for such period with respect to such vessel by reason of paragraph (1)(B).

(3) Certain barges and containers included

For purposes of paragraph (1), the term ''agreement vessel'' includes barges and containers which are part of the complement of such vessel and which are provided for in the agreement.

(b) Requirements as to investments

(1) In general

Amounts in any capital construction fund shall be kept in the depository or depositories specified in the agreement and shall be subject

to such trustee and other fiduciary requirements as may be specified by the Secretary.

(2) Limitation on fund investments

Amounts in any capital construction fund may be invested only in interest-bearing securities approved by the Secretary; except that, if such Secretary consents thereto, an agreed percentage (not in excess of 60 percent) of the assets of the fund may be invested in the stock of domestic corporations. Such stock must be currently fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange, and must be stock which would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their capital. If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in such a way as to tend to restore the fund to a situation in which the fair market value of the stock does not exceed such agreed percentage.

(3) Investment in certain preferred stock permitted

For purposes of this subsection, if the common stock of a corporation meets the requirements of this subsection and if the preferred stock of such corporation would meet such requirements but for the fact that it cannot be listed and registered as required because it is nonvoting stock, such preferred stock shall be treated as meeting the requirements of this subsection.

(c) Nontaxability for deposits

(1) In general

For purposes of this title—

(A) taxable income (determined without regard to this section and section 607 of the Merchant Marine Act, 1936) for the taxable year shall be reduced by an amount equal to the amount deposited for the taxable year out of amounts referred to in subsection (a)(1)(A),

(B) gain from a transaction referred to in subsection (a)(1)(C) shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from such transaction is deposited in the fund,

(C) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account,

(D) the earnings and profits (within the meaning of section 316) of any corporation shall be determined without regard to this section and section 607 of the Merchant Marine Act, 1936, and

(E) in applying the tax imposed by section 531 (relating to the accumulated earnings tax), amounts while held in the fund shall not be taken into account.

(2) Only qualified deposits eligible for treatment

Paragraph (1) shall apply with respect to any amount only if such amount is deposited in the fund pursuant to the agreement and not later than the time provided in joint regulations.

(d) Establishment of accounts

For purposes of this section—

(1) In general

Within a capital construction fund 3 accounts shall be maintained:

(A) the capital account,

(B) the capital gain account, and

(C) the ordinary income account.

(2) Capital account

The capital account shall consist of—

(A) amounts referred to in subsection (a)(1)(B),

(B) amounts referred to in subsection (a)(1)(C) other than that portion thereof which represents gain not taken into account by reason of subsection (c)(1)(B),

(C) the percentage applicable under section 243(a)(1) of any dividend received by the fund with respect to which the person maintaining the fund would (but for subsection (c)(1)(C)) be allowed a deduction under section 243, and

(D) interest income exempt from taxation under section 103.

(3) Capital gain account

The capital gain account shall consist of—

(A) amounts representing capital gains on assets held for more than 6 months and referred to in subsection (a)(1)(C) or (a)(1)(D), reduced by

(B) amounts representing capital losses on assets held in the fund for more than 6 months.

(4) Ordinary income account

The ordinary income account shall consist of—

(A) amounts referred to in subsection (a)(1)(A),

(B)(i) amounts representing capital gains on assets held for 6 months or less and referred to in subsection (a)(1)(C) or (a)(1)(D), reduced by

(ii) amounts representing capital losses on assets held in the fund for 6 months or less,

(C) interest (not including any tax-exempt interest referred to in paragraph (2)(D)) and other ordinary income (not including any dividend referred to in subparagraph (E)) received on assets held in the fund,

(D) ordinary income from a transaction described in subsection (a)(1)(C), and

(E) the portion of any dividend referred to in paragraph (2)(C) not taken into account under such paragraph.

(5) Capital losses only allowed to offset certain gains

Except on termination of a capital construction fund, capital losses referred to in paragraph (3)(B) or in paragraph (4)(B)(ii) shall be allowed only as an offset to gains referred to in paragraph (3)(A) or (4)(B)(i), respectively.

(e) Purposes of qualified withdrawals

(1) In general

A qualified withdrawal from the fund is one made in accordance with the terms of the agreement but only if it is for:

(A) the acquisition, construction, or reconstruction of a qualified vessel,

(B) the acquisition, construction, or reconstruction of barges and containers which are part of the complement of a qualified vessel, or

(C) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, or reconstruction of a qualified vessel or a barge or container which is part of the complement of a qualified vessel.

Except to the extent provided in regulations prescribed by the Secretary, subparagraph (B), and so much of subparagraph (C) as relates only to barges and containers, shall apply only with respect to barges and containers constructed in the United States.

(2) Penalty for failing to fulfill any substantial obligation

Under joint regulations, if the Secretary determines that any substantial obligation under any agreement is not being fulfilled, he may, after notice and opportunity for hearing to the person maintaining the fund, treat the entire fund or any portion thereof as an amount withdrawn from the fund in a nonqualified withdrawal.

(f) Tax treatment of qualified withdrawals

(1) Ordering rule

Any qualified withdrawal from a fund shall be treated—

(A) first as made out of the capital account,

(B) second as made out of the capital gain account, and

(C) third as made out of the ordinary income account.

(2) Adjustment to basis of vessel, etc., where withdrawal from ordinary income account

If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the ordinary income account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.

(3) Adjustment to basis of vessel, etc., where withdrawal from capital gain account

If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the capital gain account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.

(4) Adjustment to basis of vessels, etc., where withdrawals pay principal on debt

If any portion of a qualified withdrawal to pay the principal on any indebtedness is made out of the ordinary income account or the capital gain account, then an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) if this were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated as a nonqualified withdrawal.

(5) Ordinary income recapture of basis reduction

If any property the basis of which was reduced under paragraph (2), (3), or (4) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as an amount referred to in subsection (g)(3)(A) which was withdrawn on the date of such disposition. Subject to such conditions and requirements as may be provided in joint regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under joint regulations which will, insofar as practicable, restore the fund to the position it was in before the withdrawal.

(g) Tax treatment of nonqualified withdrawals

(1) In general

Except as provided in subsection (h), any withdrawal from a capital construction fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

(2) Ordering rule

Any nonqualified withdrawal from a fund shall be treated—

(A) first as made out of the ordinary income account,

(B) second as made out of the capital gain account, and

(C) third as made out of the capital account.

For purposes of this section, items withdrawn from any account shall be treated as withdrawn on a first-in-first-out basis; except that (i) any nonqualified withdrawal for research, development, and design expenses incident to new and advanced ship design, machinery and equipment, and (ii) any amount treated as a nonqualified withdrawal under the second sentence of subsection (f)(4), shall be treated as withdrawn on a last-in-first-out basis.

(3) Operating rules

For purposes of this title—

(A) any amount referred to in paragraph (2)(A) shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made,

(B) any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than 6 months, and

(C) for the period on or before the last date prescribed for payment of tax for the taxable year in which this withdrawal is made—

(i) no interest shall be payable under section 6601 and no addition to the tax shall be payable under section 6651,

(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph (4)) from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and

(iii) no interest shall be payable on amounts referred to in clauses (i) and (ii) of paragraph (2) or in the case of any nonqualified withdrawal arising from the application of the recapture provision of section 606(5) of the Merchant Marine Act of 1936 as in effect on December 31, 1969.

(4) Interest rate

For purposes of paragraph (3)(C)(ii), the applicable rate of interest for any nonqualified withdrawal—

(A) made in a taxable year beginning in 1970 or 1971 is 8 percent, or

(B) made in a taxable year beginning after 1971, shall be determined and published jointly by the Secretary of the Treasury or his delegate and the applicable Secretary and shall bear a relationship to 8 percent which the Secretaries determine under joint regulations to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1970.

(5) Amount not withdrawn from fund after 25 years from deposit taxed as nonqualified withdrawal

(A) In general

The applicable percentage of any amount which remains in a capital construction fund at the close of the 26th, 27th, 28th, 29th, or 30th taxable year following the taxable year for which such amount was deposited shall be treated as a nonqualified withdrawal in accordance with the following table:

If the amount remains in the fund at the close of the—	The applicable percentage is—
26th taxable year	20 percent
27th taxable year	40 percent
28th taxable year	60 percent
29th taxable year	80 percent
30th taxable year	100 percent.

(B) Earnings treated as deposits

The earnings of any capital construction fund for any taxable year (other than net gains) shall be treated for purposes of this paragraph as an amount deposited for such taxable year.

(C) Amounts committed treated as withdrawn

For purposes of subparagraph (A), an amount shall not be treated as remaining in a capital construction fund at the close of any taxable year to the extent there is a binding contract at the close of such year for a qualified withdrawal of such amount with respect to an identified item for which such withdrawal may be made.

(D) Authority to treat excess funds as withdrawn

If the Secretary determines that the balance in any capital construction fund exceeds the amount which is appropriate to meet the vessel construction program objectives of the person who established such fund, the amount of such excess shall be treated as a nonqualified withdrawal under subparagraph (A) unless such person develops appropriate program objectives within 3 years to dissipate such excess.

(E) Amounts in fund on January 1, 1987

For purposes of this paragraph, all amounts in a capital construction fund on January 1, 1987, shall be treated as deposited in such fund on such date.

(6) Nonqualified withdrawals taxed at highest marginal rate

(A) In general

In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (5)), the tax imposed by chapter 1 shall be determined—

(i) by excluding such withdrawal from gross income, and

(ii) by increasing the tax imposed by chapter 1 by the product of the amount of such withdrawal and the highest rate of tax specified in section 1 (section 11 in the case of a corporation).

With respect to the portion of any nonqualified withdrawal made out of the capital gain account during a taxable year to which section 1(h) or 1201(a) applies, the rate of tax taken into account under the preceding sentence shall not exceed 20 percent (34 percent in the case of a corporation).

(B) Tax benefit rule

If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under chapter 1 for any taxable year preceding the taxable year in which such withdrawal occurs—

(i) such portion shall not be taken into account under subparagraph (A), and

(ii) an amount equal to such portion shall be treated as allowed as a deduction under section 172 for the taxable year in which such withdrawal occurs.

(C) Coordination with deduction for net operating losses

Any nonqualified withdrawal excluded from gross income under subparagraph (A) shall be excluded in determining taxable income under section 172(b)(2).

(h) Certain corporate reorganizations and changes in partnerships

Under joint regulations—

(1) a transfer of a fund from one person to another person in a transaction to which section 381 applies may be treated as if such transaction did not constitute a nonqualified withdrawal, and

(2) a similar rule shall be applied in the case of a continuation of a partnership.

(i) Definitions

For purposes of this section, any term defined in section 607(k) of the Merchant Marine Act, 1936 which is also used in this section (including the definition of ''Secretary'') shall have the

meaning given such term by such section 607(k) as in effect on the date of the enactment of this section.

(Added Pub. L. 99–514, title II, § 261(b), Oct. 22, 1986, 100 Stat. 2208; amended Pub. L. 100–647, title I, §§ 1002(m)(1), 1018(u)(23), Nov. 10, 1988, 102 Stat. 3382, 3591; Pub. L. 101–508, title XI, § 11101(d)(7)(A), Nov. 5, 1990, 104 Stat. 1388–405; Pub. L. 105–34, title III, § 311(c)(2), Aug. 5, 1997, 111 Stat. 835.)

REFERENCES IN TEXT

Section 607 of the Merchant Marine Act, 1936, referred to in subsecs. (a), (c), and (i), is classified to section 1177 of Title 46, Appendix, Shipping.

Section 606(5) of the Merchant Marine Act of 1936, referred to in subsec. (g)(3)(C)(iii), is classified to section 1176(5) of Title 46, Appendix.

The date of the enactment of this section, referred to in subsec. (i), is the date of enactment of Pub. L. 99–514, which was approved Oct. 22, 1986.

AMENDMENTS

1997—Subsec. (g)(6)(A). Pub. L. 105–34 substituted ''20 percent'' for ''28 percent'' in concluding provisions.

1990—Subsec. (g)(6)(A). Pub. L. 101–508 substituted ''section 1(h)'' for ''section 1(j)'' in last sentence.

1988—Subsec. (g)(1). Pub. L. 100–647, § 1018(u)(23), substituted ''not a qualified withdrawal'' for ''not qualified withdrawal''.

Subsec. (g)(6)(A). Pub. L. 100–647, § 1002(m)(1), substituted ''section 1(j)'' for ''section 1(i)''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to taxable years ending after May 6, 1997, see section 311(d) of Pub. L. 105–34, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable to taxable years beginning after Dec. 31, 1990, see section 11101(e) of Pub. L. 101–508, set out as a note under section 1 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 261(g) of Pub. L. 99–514 provided that: ''The amendments made by this section [enacting this section and amending section 26 of this title and section 1177 of Title 46, Appendix, Shipping] shall apply to taxable years beginning after December 31, 1986.''

MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS

Section 261(a) of Pub. L. 99–514 provided that: ''The purpose of this section [enacting this section, amending section 26 of this title and section 1177 of Title 46, Appendix, and enacting provisions set out as a note above] is to coordinate the application of the Internal Revenue Code of 1986 with the capital construction program under the Merchant Marine Act, 1936 [46 App. U.S.C. 1101 et seq.].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26, 56 of this title; title 46 App. section 1177.

§ 7519. Required payments for entities electing not to have required taxable year

(a) General rule

This section applies to a partnership or S corporation for any taxable year, if—

(1) an election under section 444 is in effect for the taxable year, and

(2) the required payment determined under subsection (b) for such taxable year (or any preceding taxable year) exceeds $500.

(b) Required payment

For purposes of this section, the term ''required payment'' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to—

(1) the excess of the product of—

(A) the applicable percentage of the adjusted highest section 1 rate, multiplied by

(B) the net base year income of the entity, over

(2) the net required payment balance.

For purposes of paragraph (1)(A), the term ''adjusted highest section 1 rate'' means the highest rate of tax in effect under section 1 as of the end of the base year plus 1 percentage point (or, in the case of applicable election years beginning in 1987, 36 percent).

(c) Refund of payments

(1) In general

If, for any applicable election year, the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), the entity shall be entitled to a refund of such excess for such year.

(2) Termination of elections, etc.

If—

(A) an election under section 444 is terminated effective with respect to any year, or

(B) the entity is liquidated during any year, the entity shall be entitled to a refund of the net required payment balance.

(3) Date on which refund payable

Any refund under this subsection shall be payable on the later of—

(A) April 15 of the calendar year following—

(i) in the case of the year referred to in paragraph (1), the calendar year in which it begins,

(ii) in the case of the year referred to in paragraph (2), the calendar year in which it ends, or

(B) the day 90 days after the day on which claim therefor is filed with the Secretary.

(d) Net base year income

For purposes of this section—

(1) In general

An entity's net base year income shall be equal to the sum of—

(A) the deferral ratio multiplied by the entity's net income for the base year, plus

(B) the excess (if any) of—

(i) the deferral ratio multiplied by the aggregate amount of applicable payments made by the entity during the base year, over

(ii) the aggregate amount of such applicable payments made during the deferral period of the base year.

For purposes of this paragraph, the term ''deferral ratio'' means the ratio which the num-

ber of months in the deferral period of the base year bears to the number of months in the partnership's or S corporation's taxable year.

(2) Net income

Net income is determined by taking into account the aggregate amount of the following items—

(A) Partnerships

In the case of a partnership, net income shall be the amount (not below zero) determined by taking into account the aggregate amount of the partnership's items described in section 702(a) (other than credits and tax-exempt income).

(B) S corporations

In the case of an S corporation, net income shall be the amount (not below zero) determined by taking into account the aggregate amount of the S corporation's items described in section 1366(a) (other than credits and tax-exempt income). If the S corporation was a C corporation for the base year, its taxable income for such year shall be treated as its net income for such year (and such corporation shall be treated as an S corporation for such taxable year for purposes of paragraph (3)).

(C) Certain limitations disregarded

For purposes of subparagraph (A) or (B), any limitation on the amount of any item described in either such paragraph which may be taken into account for purposes of computing the taxable income of a partner or shareholder shall be disregarded.

(3) Applicable payments

(A) In general

The term ''applicable payment'' means amounts paid by a partnership or S corporation which are includible in gross income of a partner or shareholder.

(B) Exceptions

The term ''applicable payment'' shall not include any—

(i) gain from the sale or exchange of property between the partner or shareholder and the partnership or S corporation, and

(ii) dividend paid by the S corporation.

(4) Applicable percentage

The applicable percentage is the percentage determined in accordance with the following table:

If the applicable election year of the partnership or S corporation begins during:	The applicable percentage is:
1987	25
1988	50
1989	75
1990 or thereafter	100.

Notwithstanding the preceding provisions of this paragraph, the applicable percentage for any partnership or S corporation shall be 100 percent unless more than 50 percent of such entity's net income for the short taxable year which would have resulted if the entity had not made an election under section 444 would have been allocated to partners or shareholders who would have been entitled to the benefits of section 806(e)(2)(C) of the Tax Reform Act of 1986 with respect to such income.

(5) Treatment of guaranteed payments

(A) In general

Any guaranteed payment by a partnership shall not be treated as an applicable payment, and the amount of the net income of the partnership shall be determined by not taking such guaranteed payment into account.

(B) Guaranteed payment

For purposes of subparagraph (A), the term ''guaranteed payment'' means any payment referred to in section 707(c).

(e) Other definitions and special rules

For purposes of this section—

(1) Deferral period

The term ''deferral period'' has the meaning given to such term by section 444(b)(4).

(2) Years

(A) Base year

The term ''base year'' means, with respect to any applicable election year, the taxable year of the partnership or S corporation preceding such applicable election year.

(B) Applicable election year

The term ''applicable election year'' means any taxable year of a partnership or S corporation with respect to which an election is in effect under section 444.

(3) Requirement of reporting

Each partnership or S corporation which makes an election under section 444 shall include on any required return or statement such information as the Secretary shall prescribe as is necessary to carry out the provisions of this section.

(4) Net required payment balance

The term ''net required payment balance'' means the excess (if any) of—

(A) the aggregate of the required payments under this section for all preceding applicable election years, over

(B) the aggregate amount allowable as a refund to the entity under subsection (c) for all preceding applicable election years.

(f) Administrative provisions

(1) In general

Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, any payment required by this section shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C.

(2) Due date

The amount of any payment required by this section shall be paid on or before April 15 of the calendar year following the calendar year in which the applicable election year begins (or such later date as may be prescribed by the Secretary).

(3) Interest

For purposes of determining interest, any payment required by this section shall be treated as a tax; except that no interest shall be allowed with respect to any refund of a payment made under this section.

(4) Penalties

(A) In general

In the case of any failure by any person to pay on the date prescribed therefor any amount required by this section, there shall be imposed on such person a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term ''underpayment'' means the excess of the amount of the payment required under this section over the amount (if any) of such payment paid on or before the date prescribed therefor. No penalty shall be imposed under this subparagraph on any failure which is shown to be due to reasonable cause and not willful neglect.

(B) Negligence and fraud penalties made applicable

For purposes of part II of subchapter A of chapter 68, any payment required by this section shall be treated as a tax.

(C) Willful failure

If any partnership or S corporation willfully fails to comply with the requirements of this section, section 444 shall cease to apply with respect to such partnership or S corporation.

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section and section 280H, including regulations providing for appropriate adjustments in the application of this section and sections 280H and 444 in cases where—

(1) 2 or more applicable election years begin in the same calendar year, or

(2) the base year is a taxable year of less than 12 months.

(Added Pub. L. 100–203, title X, § 10206(b)(1), Dec. 22, 1987, 101 Stat. 1330–398; amended Pub. L. 100–647, title II, § 2004(e)(4)–(10), (14)(B), Nov. 10, 1988, 102 Stat. 3601, 3602; Pub. L. 101–239, title VII, §§ 7721(c)(12), 7821(b), Dec. 19, 1989, 103 Stat. 2400, 2424; Pub. L. 101–508, title XI, § 11704(a)(29), Nov. 5, 1990, 104 Stat. 1388–519; Pub. L. 105–34, title XII, § 1281(d), Aug. 5, 1997, 111 Stat. 1037.)

REFERENCES IN TEXT

Section 806(e)(2)(C) of the Tax Reform Act of 1986, referred to in subsec. (d)(4), is section 806(e)(2)(C) of Pub. L. 99–514, which is set out as a note under section 1378 of this title.

AMENDMENTS

1997—Subsec. (f)(4)(A). Pub. L. 105–34 inserted at end ''No penalty shall be imposed under this subparagraph on any failure which is shown to be due to reasonable cause and not willful neglect.''

1990—Subsec. (c)(3). Pub. L. 101–508 substituted ''payable on the later of'' for ''payable on later of''.

1989—Subsec. (d)(4). Pub. L. 101–239, § 7821(b), struck out ''for taxable years beginning after 1987,'' before ''the applicable percentage'' and substituted ''unless more than 50 percent'' for ''if more than 50 percent'' and ''who would have been entitled'' for ''who would not have been entitled''.

Subsec. (f)(4)(B). Pub. L. 101–239, § 7721(c)(12), substituted ''part II of subchapter A of chapter 68'' for ''section 6653''.

1988—Subsec. (b)(2). Pub. L. 100–647, § 2004(e)(4)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''the amount of the required payment for the preceding applicable election year.''

Subsec. (c). Pub. L. 100–647, § 2004(e)(5), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''If the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), then the entity shall be entitled to a refund of such excess.''

Subsec. (d)(2)(A). Pub. L. 100–647, § 2004(e)(10), substituted ''(other than credits and tax-exempt income)'' for ''(other than credits)''.

Subsec. (d)(2)(B). Pub. L. 100–647, § 2004(e)(7), (10), substituted ''(other than credits and tax-exempt income)'' for ''(other than credits)'' and inserted before period at end ''(and such corporation shall be treated as an S corporation for such taxable year for purposes of paragraph (3))''.

Subsec. (d)(3)(A). Pub. L. 100–647, § 2004(e)(14)(B), struck out ''or incurred'' after ''amounts paid''.

Subsec. (d)(4). Pub. L. 100–647, § 2004(e)(9), inserted at end ''Notwithstanding the preceding provisions of this paragraph, for taxable years beginning after 1987, the applicable percentage for any partnership or S corporation shall be 100 percent if more than 50 percent of such entity's net income for the short taxable year which would have resulted if the entity had not made an election under section 444 would have been allocated to partners or shareholders who would not have been entitled to the benefits of section 806(e)(2)(C) of the Tax Reform Act of 1986 with respect to such income.''

Subsec. (d)(5). Pub. L. 100–647, § 2004(e)(8), added par. (5).

Subsec. (e)(4). Pub. L. 100–647, § 2004(e)(4)(B), added par. (4).

Subsec. (g). Pub. L. 100–647, § 2004(e)(6), substituted ''including regulations providing for appropriate adjustments in the application of this section and sections 280H and 444 in cases where—

''(1) 2 or more applicable election years begin in the same calendar year, or

''(2) the base year is a taxable year of less than 12 months'' for ''including regulations for annualizing the income and applicable payments of an entity if the base year is a taxable year of less than 12 months''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to taxable years beginning after Aug. 5, 1997, see section 1281(e) of Pub. L. 105–34, set out as a note under section 6652 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7721(c)(12) of Pub. L. 101–239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as a note under section 461 of this title.

Section 7821(b) of Pub. L. 101–239 provided that the amendment made by that section is effective with respect to taxable years beginning after 1988.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100–203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100–647, set out as a note under section 56 of this title.

EFFECTIVE DATE

Section applicable to applicable election years beginning after Dec. 31, 1986, see section 10206(d)(2) of Pub. L. 100–203, set out as a note under section 444 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 444 of this title.

§ 7520. Valuation tables

(a) General rule

For purposes of this title, the value of any annuity, any interest for life or a term of years, or any remainder or reversionary interest shall be determined—

(1) under tables prescribed by the Secretary, and

(2) by using an interest rate (rounded to the nearest 2/10ths of 1 percent) equal to 120 percent of the Federal midterm rate in effect under section 1274(d)(1) for the month in which the valuation date falls.

If an income, estate, or gift tax charitable contribution is allowable for any part of the property transferred, the taxpayer may elect to use such Federal midterm rate for either of the 2 months preceding the month in which the valuation date falls for purposes of paragraph (2). In the case of transfers of more than 1 interest in the same property with respect to which the taxpayer may use the same rate under paragraph (2), the taxpayer shall use the same rate with respect to each such interest.

(b) Section not to apply for certain purposes

This section shall not apply for purposes of part I of subchapter D of chapter 1 or any other provision specified in regulations.

(c) Tables

(1) In general

The tables prescribed by the Secretary for purposes of subsection (a) shall contain valuation factors for a series of interest rate categories.

(2) Initial table

Not later than the day 3 months after the date of the enactment of this section, the Secretary shall prescribe initial tables for purposes of subsection (a). Such tables may be based on the same mortality experience as used for purposes of section 2031 on the date of the enactment of this section.

(3) Revision for recent mortality charges

Not later than December 31, 1989, the Secretary shall revise the initial tables prescribed for purposes of subsection (a) to take into account the most recent mortality experience available as of the time of such revision. Such tables shall be revised not less frequently than once each 10 years thereafter to take into account the most recent mortality experience available as of the time of the revision.

(d) Valuation date

For purposes of this section, the term ''valuation date'' means the date as of which the valuation is made.

(e) Tables to include formulas

For purposes of this section, the term ''tables'' includes formulas.

(Added Pub. L. 100–647, title V, § 5031(a), Nov. 10, 1988, 102 Stat. 3668.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 100–647, which was approved Nov. 10, 1988.

CODIFICATION

Another section 7520 was renumbered section 7521 of this title.

EFFECTIVE DATE

Section 5031(c) of Pub. L. 100–647 provided that: ''The amendments made by this section [enacting this section] shall apply in cases where the date as of which the valuation is to be made occurs on or after the 1st day of the 6th calendar month beginning after the date of the enactment of this Act [Nov. 10, 1988].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 664, 2702 of this title.

§ 7521. Procedures involving taxpayer interviews

(a) Recording of interviews

(1) Recording by taxpayer

Any officer or employee of the Internal Revenue Service in connection with any in-person interview with any taxpayer relating to the determination or collection of any tax shall, upon advance request of such taxpayer, allow the taxpayer to make an audio recording of such interview at the taxpayer's own expense and with the taxpayer's own equipment.

(2) Recording by IRS officer or employee

An officer or employee of the Internal Revenue Service may record any interview described in paragraph (1) if such officer or employee—

(A) informs the taxpayer of such recording prior to the interview, and

(B) upon request of the taxpayer, provides the taxpayer with a transcript or copy of such recording but only if the taxpayer provides reimbursement for the cost of the transcription and reproduction of such transcript or copy.

(b) Safeguards

(1) Explanations of processes

An officer or employee of the Internal Revenue Service shall before or at an initial interview provide to the taxpayer—

(A) in the case of an in-person interview with the taxpayer relating to the determination of any tax, an explanation of the audit process and the taxpayer's rights under such process, or

(B) in the case of an in-person interview with the taxpayer relating to the collection of any tax, an explanation of the collection process and the taxpayer's rights under such process.

(2) Right of consultation

If the taxpayer clearly states to an officer or employee of the Internal Revenue Service at any time during any interview (other than an interview initiated by an administrative summons issued under subchapter A of chapter 78) that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person

permitted to represent the taxpayer before the Internal Revenue Service, such officer or employee shall suspend such interview regardless of whether the taxpayer may have answered one or more questions.

(c) Representatives holding power of attorney

Any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service who is not disbarred or suspended from practice before the Internal Revenue Service and who has a written power of attorney executed by the taxpayer may be authorized by such taxpayer to represent the taxpayer in any interview described in subsection (a). An officer or employee of the Internal Revenue Service may not require a taxpayer to accompany the representative in the absence of an administrative summons issued to the taxpayer under subchapter A of chapter 78. Such an officer or employee, with the consent of the immediate supervisor of such officer or employee, may notify the taxpayer directly that such officer or employee believes such representative is responsible for unreasonable delay or hindrance of an Internal Revenue Service examination or investigation of the taxpayer.

(d) Section not to apply to certain investigations

This section shall not apply to criminal investigations or investigations relating to the integrity of any officer or employee of the Internal Revenue Service.

(Added Pub. L. 100–647, title VI, § 6228(a), Nov. 10, 1988, 102 Stat. 3731, § 7520; renumbered § 7521, Pub. L. 101–239, title VII, § 7816(u)(1), Dec. 19, 1989, 103 Stat. 2423.)

CODIFICATION

Another section 7521 was renumbered section 7522 of this title.

EFFECTIVE DATE

Section 6228(d) of Pub. L. 100–647 provided that: ''The amendments made by subsections (a) and (c) [enacting this section] shall apply to interviews conducted on or after the date which is 90 days 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 7803 of this title.

§ 7522. Content of tax due, deficiency, and other notices

(a) General rule

Any notice to which this section applies shall describe the basis for, and identify the amounts (if any) of, the tax due, interest, additional amounts, additions to the tax, and assessable penalties included in such notice. An inadequate description under the preceding sentence shall not invalidate such notice.

(b) Notices to which section applies

This section shall apply to—

(1) any tax due notice or deficiency notice described in section 6155, 6212, or 6303,

(2) any notice generated out of any information return matching program, and

(3) the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

(Added Pub. L. 100–647, title VI, § 6233(a), Nov. 10, 1988, 102 Stat. 3735, § 7521; renumbered § 7522, Pub. L. 101–508, title XI, § 11704(a)(30), Nov. 5, 1990, 104 Stat. 1388–519.)

EFFECTIVE DATE

Section 6233(c) of Pub. L. 100–647 provided that: ''The amendments made by this section [enacting this section] 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 fiscal 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.[1]
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''.

[1] Section numbers editorially supplied.

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.

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].''

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,

(I) any enrolled agent, 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; Pub. L. 106–554, § 1(a)(7) [title III, § 319(26)], Dec. 21, 2000, 114 Stat. 2763, 2763A–648.)

AMENDMENTS

2000—Subsec. (b)(2)(A) to (G). Pub. L. 106–554 substituted a comma for semicolon at end.

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 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.

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 magistrate judge 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 magistrate judge 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 magistrate judge 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. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; 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; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

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 magistrate judge'' and ''magistrate judge'' substituted for ''United States magistrate'' and ''magistrate'', respectively, wherever appearing in subsec. (b) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrate'' and ''magistrate'' substituted for ''United States commissioner'' and ''commissioner'', respectively, pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) 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.

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)[1] 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 re-

[1] See References in Text note below.

gard 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—

(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, 2006.

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, 2006.

(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; Pub. L. 106–554, § 1(a)(7) [title III, § 303], Dec. 21, 2000, 114 Stat. 2763, 2763A–632.)

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

2000—Subsec. (c)(6). Pub. L. 106–554 substituted ''January 1, 2006'' for ''January 1, 2001'' in subpar. (B) and concluding provisions.

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 nonrecoverable (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 summons

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) Summons to which section applies

(1) In general

Except as provided in paragraph (2), this section shall apply to any summons 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 summons—

(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 testi-

mony (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 Secrtetary 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, redes-

ignated 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 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 period 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 ''approporiate'' 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), reenacted 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.)

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 administering 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.)

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.)

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 con-

tributing 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 marihuana) 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, as amended, set out as a note under section 245 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 pro-

duced 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

The Secretary shall determine the amount of all taxes imposed by, and collected 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) The payment of an estimated amount shall be made to the government of the Virgin Islands before the commencement of each fiscal year as set forth in section 4(c)(2) of the Act entitled ''An Act to authorize appropriations for certain insular areas of the United States, and for other purposes'', approved August 18, 1978 (48 U.S.C. 1645), as in effect on the date of the enactment of the Trade and Development Act of 2000. The payment so made 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 sub-

heading 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.

(h) Manner of cover over of tax must be derived from this title

No amount shall be covered into the treasury of Puerto Rico or the Virgin Islands with respect to taxes for which cover over is provided under this section unless made in the manner specified in this section without regard to—

(1) any provision of law which is not contained in this title or in a revenue Act; and

(2) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

(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; Pub. L. 106–200, title VI, §602(b), (c), May 18, 2000, 114 Stat. 305, 306.)

REFERENCES IN TEXT

The date of the enactment of the Trade and Development Act of 2000, referred to in subsec. (b)(3)(A), is the date of enactment of Pub. L. 106–200, which was approved May 18, 2000.

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

2000—Subsec. (b)(3). Pub. L. 106–200, §602(b), amended generally par. (3) heading and text of par. (3) introductory provisions and subpar. (A). Prior to amendment, text of par. (3) introductory provisions and subpar. (A) read as follows: ''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.''

Subsec. (h). Pub. L. 106–200, §602(c), added subsec. (h).

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 ''subheading 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 pur-

poses 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 2000 AMENDMENT

Pub. L. 106–200, title VI, § 602(d), May 18, 2000, 114 Stat. 306, provided that: ''The amendments made by this section [amending this section and provisions set out as a note under this section] shall apply with respect to transfers or payments made after the date of the enactment of this Act [May 18, 2000].''

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 sec-

tion] 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, as amended by Pub. L. 106–200, § 602(a), May 18, 2000, 114 Stat. 305, provided that: ''Notwithstanding section 7652 of the Internal Revenue Code of 1986, the following rules shall apply with respect to any transfer before the first day of the month within which the date of the enactment of the Trade and Development Act of 2000 [May 18, 2000] occurs, 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) SECOND TRANSFER OF INCREMENTAL INCREASE IN COVER OVER ATTRIBUTABLE TO PERIODS BEFORE RESUMPTION OF REGULAR PAYMENTS.—The Secretary of the Treasury shall transfer on the first payment date after the date of the enactment of the Trade and Development Act of 2000 [May 18, 2000] 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 the first day of the month within which such date of enactment occurs, 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 a tax equal to the internal revenue tax imposed in such islands upon like articles there manufactured.

(b) Exemption from tax imposed in the United States

Articles, goods, wares, or merchandise going into Puerto Rico, the Virgin Islands, Guam, and American Samoa from the United States shall be exempted from the payment of any tax imposed by the internal revenue laws of the United States.

(c) Drawback of tax paid in the United States

All provisions of law for the allowance of drawback of internal revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal revenue tax has been paid when shipped from the United States to Puerto Rico, the Virgin Islands, Guam, or American Samoa.

(d) Cross reference

For the disposition of the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in Guam and transported into the United States or its possessions, or consumed in Guam, see the Act of August 1, 1950 (48 U.S.C. 1421h).

(Aug. 16, 1954, ch. 736 68A Stat. 908; Pub. L. 86–70, § 22(f), June 25, 1959, 73 Stat. 146; Pub. L. 86–624, § 18(h), July 12, 1960, 74 Stat. 416; Pub. L. 94–455, title XIX, § 1906(a)(56), Oct. 4, 1976, 90 Stat. 1832.)

REFERENCES IN TEXT

Act of August 1, 1950, referred to in subsec. (d), is act Aug. 1, 1950, ch. 512, 64 Stat. 384, as amended, known as the Organic Act of Guam, which is classified principally to chapter 8A (§ 1421 et seq.) of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 48 and Tables.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94–455 struck out ''ch. 512, 64 Stat. 392, section 30'' after ''August 1, 1950''.

1960—Subsec. (d). Pub. L. 86–624 substituted ''or its possessions'' for '', its possessions or the Territory of Hawaii''.

1959—Subsec. (d). Pub. L. 86–70 substituted ''its possessions or the Territory of Hawaii'' for ''its Territories or possessions''.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–624 effective Aug. 21, 1959, see section 18(k) of Pub. L. 86–624, set out as a note under section 3121 of this title.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5003 of this title.

§ 7654. Coordination of United States and certain possession individual income taxes

(a) General rule

The net collection of taxes imposed by chapter 1 for each taxable year with respect to an individual to whom section 931 or 932(c) applies shall be covered into the Treasury of the specified possession of which such individual is a bona fide resident.

(b) Definition and special rule

For purposes of this section—

(1) Net collections

In determining net collections for a taxable year, an appropriate adjustment shall be made for credits allowed against the tax liability and refunds made of income taxes for the taxable year.

(2) Specified possession

The term ''specified possession'' means Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(c) Transfers

The transfers of funds between the United States and any specified possession required by this section shall be made not less frequently than annually.

(d) Federal personnel

In addition to the amount determined under subsection (a), the United States shall pay to each specified possession at such times and in such manner as determined by the Secretary—

(1) the amount of the taxes deducted and withheld by the United States under chapter 24 with respect to compensation paid to members of the Armed Forces who are stationed in such possession but who have no income tax liability to such possession with respect to such compensation by reason of the Soldiers' and Sailors' Civil Relief Act (50 App. U.S.C. 501 et seq.), and

(2) the amount of the taxes deducted and withheld under chapter 24 with respect to amounts paid for services performed as an employee of the United States (or any agency thereof) in a specified possession with respect to an individual unless section 931 or 932(c) applies.

(e) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section and sections 931 and 932, including regulations prohibiting the rebate of taxes covered over which are allocable to United States source income and prescribing the information which the individuals to whom such sections may apply shall furnish to the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 909; Pub. L. 92–606, § 1(b), Oct. 31, 1972, 86 Stat. 1495; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–248, title III, §§ 307(a)(16), 308(a), Sept. 3, 1982, 96 Stat. 590, 591; Pub. L. 98–67, title I, § 102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 99–514, title XII, § 1276(a), Oct. 22, 1986, 100 Stat. 2599; Pub. L. 100–647, title I, § 1012(y), Nov. 10, 1988, 102 Stat. 3530.)

REFERENCES IN TEXT

The Soldiers' and Sailors' Civil Relief Act, referred to in subsec. (d)(1), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of the Appendix to Title 50, War and National Defense. For complete classification of this Act to the Code, see section 501 of the Appendix to Title 50 and Tables.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–647 substituted ''an individual to whom'' for ''an individual to which''.

1986—Pub. L. 99–514 amended section generally, substituting provisions relating to coordination of United States and certain possession individual income taxes for provisions relating to coordination of United States and Guam individual income taxes.

1983—Subsec. (d). Pub. L. 98–67 repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

1982—Subsec. (d). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (d) is amended by inserting ''subchapter A of'' before ''chapter 24''. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1976—Subsecs. (d), (e). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1972—Pub. L. 92–606 substituted provisions relating to individual income taxes in Guam and their sharing by the United States and Guam, for provisions relating to payment to Guam and American Samoa of proceeds of tax on coconut and other vegetable oils.

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 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 1972 AMENDMENT

Amendment by Pub. L. 92–606 applicable with respect to taxable years beginning after Dec. 31, 1972, see section 2 of Pub. L. 92–606, set out in part as an Effective Date note under section 931 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 932, 6688, 7809 of this title; title 48 section 1421i.

§ 7655. Cross references

(a) Imposition of tax in possessions

For provisions imposing tax in possessions, see—

(1) Chapter 2, relating to self-employment tax;

(2) Chapter 21, relating to the tax under the Federal Insurance Contributions Act.

(b) Other provisions

For other provisions relating to possessions of the United States, see—

(1) Section 931, relating to income tax on residents of Guam, American Samoa, or the Northern Mariana Islands;

(2) Section 933, relating to income tax on residents of Puerto Rico.

(Aug. 16, 1954, ch. 736, 68A Stat. 909; Pub. L. 85–859, title II, § 204(19), Sept. 2, 1958, 72 Stat. 1430; Pub. L. 91–513, title III, § 1102(k), Oct. 27, 1970, 84 Stat. 1293; Pub. L. 94–455, title XIX, § 1904(b)(6)(B), Oct. 4, 1976, 90 Stat. 1815; Pub. L. 99–514, title XII, § 1272(d)(11), Oct. 22, 1986, 100 Stat. 2594; Pub. L. 101–508, title XI, § 11801(c)(22)(E), Nov. 5, 1990, 104 Stat. 1388–528.)

REFERENCES IN TEXT

The Federal Insurance Contributions Act, referred to in subsec. (a)(2), is act Aug. 16, 1954, ch. 736, §§ 3101, 3102, 3111, 3112, 3121 to 3128, 68A Stat. 415, as amended, which is classified generally to chapter 21 (§ 3101 et seq.) of this title. For complete classification of this Act to the Code, see section 3128 of this title and Tables.

AMENDMENTS

1990—Subsec. (a)(2), (3). Pub. L. 101–508, § 11801(c)(22)(E)(i), substituted period for semicolon at end of par. (2) and struck out par. (3) which cross-referenced former chapter 37 relating to tax on sugar.

Subsec. (b)(2), (3). Pub. L. 101–508, § 11801(c)(22)(E)(ii), substituted period for semicolon at end of par. (2) and struck out par. (3) which cross-referenced former section 6418(b) relating to the exportation of sugar to Puerto Rico.

1986—Subsec. (b). Pub. L. 99–514 added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

1976—Subsec. (a)(3), (5). Pub. L. 94–455 substituted ''Chapter 37'' for ''Subchapter A of chapter 37'' in par. (5) and redesignated par. (5) as (3).

1970—Subsec. (a)(3), (4). Pub. L. 91–513 struck out pars. (3) and (4) relating to taxes in respect of narcotic drugs and taxes in respect of marihuana, respectively, and making references to parts I and III of subchapter A of chapter 39 and to parts II and III of subchapter A of chapter 39, respectively.

1958—Subsec. (a)(5), (6). Pub. L. 85–859 redesignated par. (6) as (5) and struck out former par. (5) which contained a cross reference to chapter 51 of this title.

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 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

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

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.

CHAPTER 79—DEFINITIONS

Sec.
7701. Definitions.
7702. Life insurance contract defined.
7702A. Modified endowment contract defined.
7702B. Treatment of qualified long-term care insurance.
7703. Determination of marital status.
7704. Certain publicly traded partnerships treated as corporations.

AMENDMENTS

1996—Pub. L. 104–191, title III, § 321(e), Aug. 21, 1996, 110 Stat. 2059, added item 7702B.

1988—Pub. L. 100–647, title V, § 5012(c)(2), Nov. 10, 1988, 102 Stat. 3664, added item 7702A.

1987—Pub. L. 100–203, title X, § 10211(b), Dec. 22, 1987, 101 Stat. 1330–405, added item 7704.

1986—Pub. L. 99–514, title XIII, § 1301(j)(2)(B), Oct. 22, 1986, 100 Stat. 2657, added item 7703.

1984—Pub. L. 98–369, div. A, title II, § 221(c), July 18, 1984, 98 Stat. 772, added item 7702.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 5002, 7851 of this title.

§ 7701. Definitions

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) Person

The term ''person'' shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(2) Partnership and partner

The term ''partnership'' includes a syndicate, group, pool, joint venture, or other un-

incorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term ''partner'' includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) Corporation

The term ''corporation'' includes associations, joint-stock companies, and insurance companies.

(4) Domestic

The term ''domestic'' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

(5) Foreign

The term ''foreign'' when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) Fiduciary

The term ''fiduciary'' means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) Stock

The term ''stock'' includes shares in an association, joint-stock company, or insurance company.

(8) Shareholder

The term ''shareholder'' includes a member in an association, joint-stock company, or insurance company.

(9) United States

The term ''United States'' when used in a geographical sense includes only the States and the District of Columbia.

(10) State

The term ''State'' shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) Secretary of the Treasury and Secretary

(A) Secretary of the Treasury

The term ''Secretary of the Treasury'' means the Secretary of the Treasury, personally, and shall not include any delegate of his.

(B) Secretary

The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(12) Delegate

(A) In general

The term ''or his delegate''—

(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

(ii) when used with reference to any other official of the United States, shall be similarly construed.

(B) Performance of certain functions in Guam or American Samoa

The term ''delegate,'' in relation to the performance of functions in Guam or American Samoa with respect to the taxes imposed by chapters 1, 2, and 21, also includes any officer or employee of any other department or agency of the United States, or of any possession thereof, duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform such functions.

(13) Commissioner

The term ''Commissioner'' means the Commissioner of Internal Revenue.

(14) Taxpayer

The term ''taxpayer'' means any person subject to any internal revenue tax.

(15) Military or naval forces and armed forces of the United States

The term ''military or naval forces of the United States'' and the term ''Armed Forces of the United States'' each includes all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, and each term also includes the Coast Guard. The members of such forces include commissioned officers and personnel below the grade of commissioned officers in such forces.

(16) Withholding agent

The term ''withholding agent'' means any person required to deduct and withhold any tax under the provisions of section 1441, 1442, 1443, or 1461.

(17) Husband and wife

As used in sections 152(b)(4), 682, and 2516, if the husband and wife therein referred to are divorced, wherever appropriate to the meaning of such sections, the term ''wife'' shall be read ''former wife'' and the term ''husband'' shall be read ''former husband''; and, if the payments described in such sections are made by or on behalf of the wife or former wife to the husband or former husband instead of vice versa, wherever appropriate to the meaning of such sections, the term ''husband'' shall be read ''wife'' and the term ''wife'' shall be read ''husband.''

(18) International organization

The term ''international organization'' means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288–288f).

(19) Domestic building and loan association

The term ''domestic building and loan association'' means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association—

(A) which either (i) is an insured institution within the meaning of section 401(a)[1] of the National Housing Act (12 U.S.C., sec. 1724(a)), or (ii) is subject by law to supervision and examination by State or Federal authority having supervision over such associations;

(B) the business of which consists principally of acquiring the savings of the public and investing in loans; and

(C) at least 60 percent of the amount of the total assets of which (at the close of the taxable year) consists of—

(i) cash,

(ii) obligations of the United States or of a State or political subdivision thereof, and stock or obligations of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof, but not including obligations the interest on which is excludable from gross income under section 103,

(iii) certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations,

(iv) loans secured by a deposit or share of a member,

(v) loans (including redeemable ground rents, as defined in section 1055) secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property or real property used primarily for church purposes, loans made for the improvement of residential real property or real property used primarily for church purposes, provided that for purposes of this clause, residential real property shall include single or multifamily dwellings, facilities in residential developments dedicated to public use or property used on a nonprofit basis for residents, and mobile homes not used on a transient basis,

(vi) loans secured by an interest in real property located within an urban renewal area to be developed for predominantly residential use under an urban renewal plan approved by the Secretary of Housing and Urban Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, and loans made for the improvement of any such real property,

(vii) loans secured by an interest in educational, health, or welfare institutions or facilities, including structures designed or used primarily for residential purposes for students, residents, and persons under care, employees, or members of the staff of such institutions or facilities,

(viii) property acquired through the liquidation of defaulted loans described in clause (v), (vi), or (vii),

(ix) loans made for the payment of expenses of college or university education or vocational training, in accordance with such regulations as may be prescribed by the Secretary,

(x) property used by the association in the conduct of the business described in subparagraph (B), and

(xi) any regular or residual interest in a REMIC, and any regular interest in a FASIT, but only in the proportion which the assets of such REMIC or FASIT consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.

At the election of the taxpayer, the percentage specified in this subparagraph shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary. For purposes of clause (v), if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan is deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). For purposes of clause (v), loans made to finance the acquisition or development of land shall be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary, there is reasonable assurance that the property will become residential real property within a period of 3 years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such 3-year period, such land becomes residential real property. For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi).

(20) Employee

For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of sections 104, 105, and 106 with respect to accident and health insurance or accident and health plans, and for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, and for purposes of applying section 125 with respect to cafeteria plans, the term ''employee'' shall include a full-time life insurance salesman who is considered an employee for the purpose of chapter 21, or in the case of services performed before

[1] See References in Text note below.

January 1, 1951, who would be considered an employee if his services were performed during 1951.

(21) Levy

The term ''levy'' includes the power of distraint and seizure by any means.

(22) Attorney General

The term ''Attorney General'' means the Attorney General of the United States.

(23) Taxable year

The term ''taxable year'' means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the taxable income is computed under subtitle A. ''Taxable year'' means, in the case of a return made for a fractional part of a year under the provisions of subtitle A or under regulations prescribed by the Secretary, the period for which such return is made.

(24) Fiscal year

The term ''fiscal year'' means an accounting period of 12 months ending on the last day of any month other than December.

(25) Paid or incurred, paid or accrued

The terms ''paid or incurred'' and ''paid or accrued'' shall be construed according to the method of accounting upon the basis of which the taxable income is computed under subtitle A.

(26) Trade or business

The term ''trade or business'' includes the performance of the functions of a public office.

(27) Tax Court

The term ''Tax Court'' means the United States Tax Court.

(28) Other terms

Any term used in this subtitle with respect to the application of, or in connection with, the provisions of any other subtitle of this title shall have the same meaning as in such provisions.

(29) Internal Revenue Code

The term ''Internal Revenue Code of 1986'' means this title, and the term ''Internal Revenue Code of 1939'' means the Internal Revenue Code enacted February 10, 1939, as amended.

(30) United States person

The term ''United States person'' means—

(A) a citizen or resident of the United States,

(B) a domestic partnership,

(C) a domestic corporation,

(D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and

(E) any trust if—

(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and

(ii) one or more United States persons have the authority to control all substantial decisions of the trust.

(31) Foreign estate or trust

(A) Foreign estate

The term ''foreign estate'' means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

(B) Foreign trust

The term ''foreign trust'' means any trust other than a trust described in subparagraph (E) of paragraph (30).

(32) Cooperative bank

The term ''cooperative bank'' means an institution without capital stock organized and operated for mutual purposes and without profit, which—

(A) either—

(i) is an insured institution within the meaning of section 401(a)[2] of the National Housing Act (12 U.S.C., sec. 1724(a)), or

(ii) is subject by law to supervision and examination by State or Federal authority having supervision over such institutions, and

(B) meets the requirements of subparagraphs (B) and (C) of paragraph (19) of this subsection (relating to definition of domestic building and loan association).

In determining whether an institution meets the requirements referred to in subparagraph (B) of this paragraph, any reference to an association or to a domestic building and loan association contained in paragraph (19) shall be deemed to be a reference to such institution.

(33) Regulated public utility

The term ''regulated public utility'' means—

(A) A corporation engaged in the furnishing or sale of—

(i) electric energy, gas, water, or sewerage disposal services, or

(ii) transportation (not included in subparagraph (C)) on an intrastate, suburban, municipal, or interurban electric railroad, on an intrastate, municipal, or suburban trackless trolley system, or on a municipal or suburban bus system, or

(iii) transportation (not included in clause (ii)) by motor vehicle—

if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, by a public service or public utility commission or other similar body of the District of Columbia or of any State or political subdivision thereof, or by a foreign country or an agency or instrumentality or political subdivision thereof.

(B) A corporation engaged as a common carrier in the furnishing or sale of transportation of gas by pipe line, if subject to the jurisdiction of the Federal Energy Regulatory Commission.

(C) A corporation engaged as a common carrier (i) in the furnishing or sale of transportation by railroad, if subject to the jurisdiction of the Surface Transportation Board, or (ii) in the furnishing or sale of transportation of oil or other petroleum products (in-

[2] See References in Text note below.

cluding shale oil) by pipe line, if subject to the jurisdiction of the Federal Energy Regulatory Commission or if the rates for such furnishing or sale are subject to the jurisdiction of a public service or public utility commission or other similar body of the District of Columbia or of any State.

(D) A corporation engaged in the furnishing or sale of telephone or telegraph service, if the rates for such furnishing or sale meet the requirements of subparagraph (A).

(E) A corporation engaged in the furnishing or sale of transportation as a common carrier by air, subject to the jurisdiction of the Secretary of Transportation.

(F) A corporation engaged in the furnishing or sale of transportation by a water carrier subject to jurisdiction under subchapter II of chapter 135 of title 49.

(G) A rail carrier subject to part A of subtitle IV of title 49, if (i) substantially all of its railroad properties have been leased to another such railroad corporation or corporations by an agreement or agreements entered into before January 1, 1954, (ii) each lease is for a term of more than 20 years, and (iii) at least 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from such leases and from sources described in subparagraphs (A) through (F), inclusive. For purposes of the preceding sentence, an agreement for lease of railroad properties entered into before January 1, 1954, shall be considered to be a lease including such term as the total number of years of such agreement may, unless sooner terminated, be renewed or continued under the terms of the agreement, and any such renewal or continuance under such agreement shall be considered part of the lease entered into before January 1, 1954.

(H) A common parent corporation which is a common carrier by railroad subject to part A of subtitle IV of title 49 if at least 80 percent of its gross income (computed without regard to capital gains or losses) is derived directly or indirectly from sources described in subparagraphs (A) through (F), inclusive. For purposes of the preceding sentence, dividends and interest, and income from leases described in subparagraph (G), received from a regulated public utility shall be considered as derived from sources described in subparagraphs (A) through (F), inclusive, if the regulated public utility is a member of an affiliated group (as defined in section 1504) which includes the common parent corporation.

The term ''regulated public utility'' does not (except as provided in subparagraphs (G) and (H)) include a corporation described in subparagraphs (A) through (F), inclusive, unless 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from sources described in subparagraphs (A) through (F), inclusive. If the taxpayer establishes to the satisfaction of the Secretary that (i) its revenue from regulated rates described in subparagraph (A) or (D) and its revenue derived from unregulated rates are derived from the operation of a single interconnected and coordinated system or from the operation of more than one such system, and (ii) the unregulated rates have been and are substantially as favorable to users and consumers as are the regulated rates, then such revenue from such unregulated rates shall be considered, for purposes of the preceding sentence, as income derived from sources described in subparagraph (A) or (D).

[(34) Repealed. Pub. L. 98–369, div. A, title IV, § 4112(b)(11), July 18, 1984, 98 Stat. 792]

(35) Enrolled actuary

The term ''enrolled actuary'' means a person who is enrolled by the Joint Board for the Enrollment of Actuaries established under subtitle C of the title III of the Employee Retirement Income Security Act of 1974.

(36) Income tax return preparer

(A) In general

The term ''income tax return preparer'' means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by subtitle A or any claim for refund of tax imposed by subtitle A. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

(B) Exceptions

A person shall not be an ''income tax return preparer'' merely because such person—

(i) furnishes typing, reproducing, or other mechanical assistance,

(ii) prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed,

(iii) prepares as a fiduciary a return or claim for refund for any person, or

(iv) prepares a claim for refund for a taxpayer in response to any notice of deficiency issued to such taxpayer or in response to any waiver of restriction after the commencement of an audit of such taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.

(37) Individual retirement plan

The term ''individual retirement plan'' means—

(A) an individual retirement account described in section 408(a), and

(B) an individual retirement annuity described in section 408(b).

(38) Joint return

The term ''joint return'' means a single return made jointly under section 6013 by a husband and wife.

(39) Persons residing outside United States

If any citizen or resident of the United States does not reside in (and is not found in)

any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to—

(A) jurisdiction of courts, or

(B) enforcement of summons.

(40) Indian tribal government

(A) In general

The term ''Indian tribal government'' means the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions.

(B) Special rule for Alaska Natives

No determination under subparagraph (A) with respect to Alaska Natives shall grant or defer any status or powers other than those enumerated in section 7871. Nothing in the Indian Tribal Governmental Tax Status Act of 1982, or in the amendments made thereby, shall validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

(41) TIN

The term ''TIN'' means the identifying number assigned to a person under section 6109.

(42) Substituted basis property

The term ''substituted basis property'' means property which is—

(A) transferred basis property, or

(B) exchanged basis property.

(43) Transferred basis property

The term ''transferred basis property'' means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to the basis in the hands of the donor, grantor, or other transferor.

(44) Exchanged basis property

The term ''exchanged basis property'' means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to other property held at any time by the person for whom the basis is to be determined.

(45) Nonrecognition transaction

The term ''nonrecognition transaction'' means any disposition of property in a transaction in which gain or loss is not recognized in whole or in part for purposes of subtitle A.

(46) Determination of whether there is a collective bargaining agreement

In determining whether there is a collective bargaining agreement between employee representatives and 1 or more employers, the term ''employee representatives'' shall not include any organization more than one-half of the members of which are employees who are owners, officers, or executives of the employer. An agreement shall not be treated as a collective bargaining agreement unless it is a bona fide agreement between bona fide employee representatives and 1 or more employers.

(b) Definition of resident alien and nonresident alien

(1) In general

For purposes of this title (other than subtitle B)—

(A) Resident alien

An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):

(i) Lawfully admitted for permanent residence

Such individual is a lawful permanent resident of the United States at any time during such calendar year.

(ii) Substantial presence test

Such individual meets the substantial presence test of paragraph (3).

(iii) First year election

Such individual makes the election provided in paragraph (4).

(B) Nonresident alien

An individual is a nonresident alien if such individual is neither a citizen of the United States nor a resident of the United States (within the meaning of subparagraph (A)).

(2) Special rules for first and last year of residency

(A) First year of residency

(i) In general

If an alien individual is a resident of the United States under paragraph (1)(A) with respect to any calendar year, but was not a resident of the United States at any time during the preceding calendar year, such alien individual shall be treated as a resident of the United States only for the portion of such calendar year which begins on the residency starting date.

(ii) Residency starting date for individuals lawfully admitted for permanent residence

In the case of an individual who is a lawfully permanent resident of the United States at any time during the calendar year, but does not meet the substantial presence test of paragraph (3), the residency starting date shall be the first day in such calendar year on which he was present in the United States while a lawful permanent resident of the United States.

(iii) Residency starting date for individuals meeting substantial presence test

In the case of an individual who meets the substantial presence test of paragraph (3) with respect to any calendar year, the residency starting date shall be the first day during such calendar year on which

the individual is present in the United States.

(iv) Residency starting date for individuals making first year election

In the case of an individual who makes the election provided by paragraph (4) with respect to any calendar year, the residency starting date shall be the 1st day during such calendar year on which the individual is treated as a resident of the United States under that paragraph.

(B) Last year of residency

An alien individual shall not be treated as a resident of the United States during a portion of any calendar year if—

(i) such portion is after the last day in such calendar year on which the individual was present in the United States (or, in the case of an individual described in paragraph (1)(A)(i), the last day on which he was so described),

(ii) during such portion the individual has a closer connection to a foreign country than to the United States, and

(iii) the individual is not a resident of the United States at any time during the next calendar year.

(C) Certain nominal presence disregarded

(i) In general

For purposes of subparagraphs (A)(iii) and (B), an individual shall not be treated as present in the United States during any period for which the individual establishes that he has a closer connection to a foreign country than to the United States.

(ii) Not more than 10 days disregarded

Clause (i) shall not apply to more than 10 days on which the individual is present in the United States.

(3) Substantial presence test

(A) In general

Except as otherwise provided in this paragraph, an individual meets the substantial presence test of this paragraph with respect to any calendar year (hereinafter in this subsection referred to as the ''current year'') if—

(i) such individual was present in the United States on at least 31 days during the calendar year, and

(ii) the sum of the number of days on which such individual was present in the United States during the current year and the 2 preceding calendar years (when multiplied by the applicable multiplier determined under the following table) equals or exceeds 183 days:

In the case of days in:	The applicable multiplier is:
Current year	1
1st preceding year	⅓
2nd preceding year	⅙

(B) Exception where individual is present in the United States during less than one-half of current year and closer connection to foreign country is established

An individual shall not be treated as meeting the substantial presence test of this paragraph with respect to any current year if—

(i) such individual is present in the United States on fewer than 183 days during the current year, and

(ii) it is established that for the current year such individual has a tax home (as defined in section 911(d)(3) without regard to the second sentence thereof) in a foreign country and has a closer connection to such foreign country than to the United States.

(C) Subparagraph (B) not to apply in certain cases

Subparagraph (B) shall not apply to any individual with respect to any current year if at any time during such year—

(i) such individual had an application for adjustment of status pending, or

(ii) such individual took other steps to apply for status as a lawful permanent resident of the United States.

(D) Exception for exempt individuals or for certain medical conditions

An individual shall not be treated as being present in the United States on any day if—

(i) such individual is an exempt individual for such day, or

(ii) such individual was unable to leave the United States on such day because of a medical condition which arose while such individual was present in the United States.

(4) First-year election

(A) An alien individual shall be deemed to meet the requirements of this subparagraph if such individual—

(i) is not a resident of the United States under clause (i) or (ii) of paragraph (1)(A) with respect to a calendar year (hereinafter referred to as the ''election year''),

(ii) was not a resident of the United States under paragraph (1)(A) with respect to the calendar year immediately preceding the election year,

(iii) is a resident of the United States under clause (ii) of paragraph (1)(A) with respect to the calendar year immediately following the election year, and

(iv) is both—

(I) present in the United States for a period of at least 31 consecutive days in the election year, and

(II) present in the United States during the period beginning with the first day of such 31-day period and ending with the last day of the election year (hereinafter referred to as the ''testing period'') for a number of days equal to or exceeding 75 percent of the number of days in the testing period (provided that an individual shall be treated for purposes of this subclause as present in the United States for a number of days during the testing period not exceeding 5 days in the aggregate, notwithstanding his absence from the United States on such days).

(B) An alien individual who meets the requirements of subparagraph (A) shall, if he so

elects, be treated as a resident of the United States with respect to the election year.

(C) An alien individual who makes the election provided by subparagraph (B) shall be treated as a resident of the United States for the portion of the election year which begins on the 1st day of the earliest testing period during such year with respect to which the individual meets the requirements of clause (iv) of subparagraph (A).

(D) The rules of subparagraph (D)(i) of paragraph (3) shall apply for purposes of determining an individual's presence in the United States under this paragraph.

(E) An election under subparagraph (B) shall be made on the individual's tax return for the election year, provided that such election may not be made before the individual has met the substantial presence test of paragraph (3) with respect to the calendar year immediately following the election year.

(F) An election once made under subparagraph (B) remains in effect for the election year, unless revoked with the consent of the Secretary.

(5) Exempt individual defined

For purposes of this subsection—

(A) In general

An individual is an exempt individual for any day if, for such day, such individual is—

(i) a foreign government-related individual,

(ii) a teacher or trainee,

(iii) a student, or

(iv) a professional athlete who is temporarily in the United States to compete in a charitable sports event described in section 274(*l*)(1)(B).

(B) Foreign government-related individual

The term ''foreign government-related individual'' means any individual temporarily present in the United States by reason of—

(i) diplomatic status, or a visa which the Secretary (after consultation with the Secretary of State) determines represents full-time diplomatic or consular status for purposes of this subsection,

(ii) being a full-time employee of an international organization, or

(iii) being a member of the immediate family of an individual described in clause (i) or (ii).

(C) Teacher or trainee

The term ''teacher or trainee'' means any individual—

(i) who is temporarily present in the United States under subparagraph (J) or (Q) of section 101(15) of the Immigration and Nationality Act (other than as a student), and

(ii) who substantially complies with the requirements for being so present.

(D) Student

The term ''student'' means any individual—

(i) who is temporarily present in the United States—

(I) under subparagraph (F) or (M) of section 101(15) of the Immigration and Nationality Act, or

(II) as a student under subparagraph (J) or (Q) of such section 101(15), and

(ii) who substantially complies with the requirements for being so present.

(E) Special rules for teachers, trainees, and students

(i) Limitation on teachers and trainees

An individual shall not be treated as an exempt individual by reason of clause (ii) of subparagraph (A) for the current year if, for any 2 calendar years during the preceding 6 calendar years, such person was an exempt person under clause (ii) or (iii) of subparagraph (A). In the case of an individual all of whose compensation is described in section 872(b)(3), the preceding sentence shall be applied by substituting ''4 calendar years'' for ''2 calendar years''.

(ii) Limitation on students

For any calendar year after the 5th calendar year for which an individual was an exempt individual under clause (ii) or (iii) of subparagraph (A), such individual shall not be treated as an exempt individual by reason of clause (iii) of subparagraph (A), unless such individual establishes to the satisfaction of the Secretary that such individual does not intend to permanently reside in the United States and that such individual meets the requirements of subparagraph (D)(ii).

(6) Lawful permanent resident

For purposes of this subsection, an individual is a lawful permanent resident of the United States at any time if—

(A) such individual has the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, and

(B) such status has not been revoked (and has not been administratively or judicially determined to have been abandoned).

(7) Presence in the United States

For purposes of this subsection—

(A) In general

Except as provided in subparagraph (B), (C), or (D), an individual shall be treated as present in the United States on any day if such individual is physically present in the United States at any time during such day.

(B) Commuters from Canada or Mexico

If an individual regularly commutes to employment (or self-employment) in the United States from a place of residence in Canada or Mexico, such individual shall not be treated as present in the United States on any day during which he so commutes.

(C) Transit between 2 foreign points

If an individual, who is in transit between 2 points outside the United States, is physically present in the United States for less than 24 hours, such individual shall not be treated as present in the United States on any day during such transit.

(D) Crew members temporarily present

An individual who is temporarily present in the United States on any day as a regular

member of the crew of a foreign vessel engaged in transportation between the United States and a foreign country or a possession of the United States shall not be treated as present in the United States on such day unless such individual otherwise engages in any trade or business in the United States on such day.

(8) Annual statements

The Secretary may prescribe regulations under which an individual who (but for subparagraph (B) or (D) of paragraph (3)) would meet the substantial presence test of paragraph (3) is required to submit an annual statement setting forth the basis on which such individual claims the benefits of subparagraph (B) or (D) of paragraph (3), as the case may be.

(9) Taxable year

(A) In general

For purposes of this title, an alien individual who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

(B) Fiscal year taxpayer

If—

(i) an individual is treated under paragraph (1) as a resident of the United States for any calendar year, and

(ii) after the application of subparagraph (A), such individual has a taxable year other than a calendar year,

he shall be treated as a resident of the United States with respect to any portion of a taxable year which is within such calendar year.

(10) Coordination with section 877

If—

(A) an alien individual was treated as a resident of the United States during any period which includes at least 3 consecutive calendar years (hereinafter referred to as the ''initial residency period''), and

(B) such individual ceases to be treated as a resident of the United States but subsequently becomes a resident of the United States before the close of the 3rd calendar year beginning after the close of the initial residency period,

such individual shall be taxable for the period after the close of the initial residency period and before the day on which he subsequently became a resident of the United States in the manner provided in section 877(b). The preceding sentence shall apply only if the tax imposed pursuant to section 877(b) exceeds the tax which, without regard to this paragraph, is imposed pursuant to section 871.

(11) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

(c) Includes and including

The terms ''includes'' and ''including'' when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(d) Commonwealth of Puerto Rico

Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this title to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(e) Treatment of certain contracts for providing services, etc.

For purposes of chapter 1—

(1) In general

A contract which purports to be a service contract shall be treated as a lease of property if such contract is properly treated as a lease of property, taking into account all relevant factors including whether or not—

(A) the service recipient is in physical possession of the property,

(B) the service recipient controls the property,

(C) the service recipient has a significant economic or possessory interest in the property,

(D) the service provider does not bear any risk of substantially diminished receipts or substantially increased expenditures if there is nonperformance under the contract,

(E) the service provider does not use the property concurrently to provide significant services to entities unrelated to the service recipient, and

(F) the total contract price does not substantially exceed the rental value of the property for the contract period.

(2) Other arrangements

An arrangement (including a partnership or other pass-thru entity) which is not described in paragraph (1) shall be treated as a lease if such arrangement is properly treated as a lease, taking into account all relevant factors including factors similar to those set forth in paragraph (1).

(3) Special rules for contracts or arrangements involving solid waste disposal, energy, and clean water facilities

(A) In general

Notwithstanding paragraphs (1) and (2), and except as provided in paragraph (4), any contract or arrangement between a service provider and a service recipient—

(i) with respect to—

(I) the operation of a qualified solid waste disposal facility,

(II) the sale to the service recipient of electrical or thermal energy produced at a cogeneration or alternative energy facility, or

(III) the operation of a water treatment works facility, and

(ii) which purports to be a service contract,

shall be treated as a service contract.

(B) Qualified solid waste disposal facility

For purposes of subparagraph (A), the term ''qualified solid waste disposal facility''

means any facility if such facility provides solid waste disposal services for residents of part or all of 1 or more governmental units and substantially all of the solid waste processed at such facility is collected from the general public.

(C) Cogeneration facility

For purposes of subparagraph (A), the term ''cogeneration facility'' means a facility which uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy.

(D) Alternative energy facility

For purposes of subparagraph (A), the term ''alternative energy facility'' means a facility for producing electrical or thermal energy if the primary energy source for the facility is not oil, natural gas, coal, or nuclear power.

(E) Water treatment works facility

For purposes of subparagraph (A), the term ''water treatment works facility'' means any treatment works within the meaning of section 212(2) of the Federal Water Pollution Control Act.

(4) Paragraph (3) not to apply in certain cases

(A) In general

Paragraph (3) shall not apply to any qualified solid waste disposal facility, cogeneration facility, alternative energy facility, or water treatment works facility used under a contract or arrangement if—

(i) the service recipient (or a related entity) operates such facility,

(ii) the service recipient (or a related entity) bears any significant financial burden if there is nonperformance under the contract or arrangement (other than for reasons beyond the control of the service provider),

(iii) the service recipient (or a related entity) receives any significant financial benefit if the operating costs of such facility are less than the standards of performance or operation under the contract or arrangement, or

(iv) the service recipient (or a related entity) has an option to purchase, or may be required to purchase, all or a part of such facility at a fixed and determinable price (other than for fair market value).

For purposes of this paragraph, the term ''related entity'' has the same meaning as when used in section 168(h).

(B) Special rules for application of subparagraph (A) with respect to certain rights and allocations under the contract

For purposes of subparagraph (A), there shall not be taken into account—

(i) any right of a service recipient to inspect any facility, to exercise any sovereign power the service recipient may possess, or to act in the event of a breach of contract by the service provider, or

(ii) any allocation of any financial burden or benefits in the event of any change in any law.

(C) Special rules for application of subparagraph (A) in the case of certain events

(i) Temporary shut-downs, etc.

For purposes of clause (ii) of subparagraph (A), there shall not be taken into account any temporary shut-down of the facility for repairs, maintenance, or capital improvements, or any financial burden caused by the bankruptcy or similar financial difficulty of the service provider.

(ii) Reduced costs

For purposes of clause (iii) of subparagraph (A), there shall not be taken into account any significant financial benefit merely because payments by the service recipient under the contract or arrangement are decreased by reason of increased production or efficiency or the recovery of energy or other products.

(5) Exception for certain low-income housing

This subsection shall not apply to any property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B) (relating to low-income housing) if—

(A) such property is operated by or for an organization described in paragraph (3) or (4) of section 501(c), and

(B) at least 80 percent of the units in such property are leased to low-income tenants (within the meaning of section 167(k)(3)(B)) (as in effect on the day before the date of the enactment of the Revenue Reconcilation[3] Act of 1990).

(6) Regulations

The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the provisions of this subsection.

(f) Use of related persons or pass-thru entities

The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of those provisions of this title which deal with—

(1) the linking of borrowing to investment, or

(2) diminishing risks,

through the use of related persons, pass-thru entities, or other intermediaries.

(g) Clarification of fair market value in the case of nonrecourse indebtedness

For purposes of subtitle A, in determining the amount of gain or loss (or deemed gain or loss) with respect to any property, the fair market value of such property shall be treated as being not less than the amount of any nonrecourse indebtedness to which such property is subject.

(h) Motor vehicle operating leases

(1) In general

For purposes of this title, in the case of a qualified motor vehicle operating agreement which contains a terminal rental adjustment clause—

(A) such agreement shall be treated as a lease if (but for such terminal rental adjust-

[3] So in original. Probably should be ''Reconciliation''.

ment clause) such agreement would be treated as a lease under this title, and

(B) the lessee shall not be treated as the owner of the property subject to an agreement during any period such agreement is in effect.

(2) Qualified motor vehicle operating agreement defined

For purposes of this subsection—

(A) In general

The term ''qualified motor vehicle operating agreement'' means any agreement with respect to a motor vehicle (including a trailer) which meets the requirements of subparagraphs (B), (C), and (D) of this paragraph.

(B) Minimum liability of lessor

An agreement meets the requirements of this subparagraph if under such agreement the sum of—

(i) the amount the lessor is personally liable to repay, and

(ii) the net fair market value of the lessor's interest in any property pledged as security for property subject to the agreement,

equals or exceeds all amounts borrowed to finance the acquisition of property subject to the agreement. There shall not be taken into account under clause (ii) any property pledged which is property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement.

(C) Certification by lessee; notice of tax ownership

An agreement meets the requirements of this subparagraph if such agreement contains a separate written statement separately signed by the lessee—

(i) under which the lessee certifies, under penalty of perjury, that it intends that more than 50 percent of the use of the property subject to such agreement is to be in a trade or business of the lessee, and

(ii) which clearly and legibly states that the lessee has been advised that it will not be treated as the owner of the property subject to the agreement for Federal income tax purposes.

(D) Lessor must have no knowledge that certification is false

An agreement meets the requirements of this subparagraph if the lessor does not know that the certification described in subparagraph (C)(i) is false.

(3) Terminal rental adjustment clause defined

(A) In general

For purposes of this subsection, the term ''terminal rental adjustment clause'' means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

(B) Special rule for lessee dealers

The term ''terminal rental adjustment clause'' also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in subparagraph (A).

(i) Taxable mortgage pools

(1) Treated as separate corporations

A taxable mortgage pool shall be treated as a separate corporation which may not be treated as an includible corporation with any other corporation for purposes of section 1501.

(2) Taxable mortgage pool defined

For purposes of this title—

(A) In general

Except as otherwise provided in this paragraph, a taxable mortgage pool is any entity (other than a REMIC or a FASIT) if—

(i) substantially all of the assets of such entity consists of debt obligations (or interests therein) and more than 50 percent of such debt obligations (or interests) consists of real estate mortgages (or interests therein),

(ii) such entity is the obligor under debt obligations with 2 or more maturities, and

(iii) under the terms of the debt obligations referred to in clause (ii) (or underlying arrangement), payments on such debt obligations bear a relationship to payments on the debt obligations (or interests) referred to in clause (i).

(B) Portion of entities treated as pools

Any portion of an entity which meets the definition of subparagraph (A) shall be treated as a taxable mortgage pool.

(C) Exception for domestic building and loan

Nothing in this subsection shall be construed to treat any domestic building and loan association (or portion thereof) as a taxable mortgage pool.

(D) Treatment of certain equity interests

To the extent provided in regulations, equity interest of varying classes which correspond to maturity classes of debt shall be treated as debt for purposes of this subsection.

(3) Treatment of certain REIT's

If—

(A) a real estate investment trust is a taxable mortgage pool, or

(B) a qualified REIT subsidiary (as defined in section 856(i)(2)) of a real estate investment trust is a taxable mortgage pool,

under regulations prescribed by the Secretary, adjustments similar to the adjustments provided in section 860E(d) shall apply to the shareholders of such real estate investment trust.

(j) Tax treatment of Federal Thrift Savings Fund

(1) In general

For purposes of this title—

(A) the Thrift Savings Fund shall be treated as a trust described in section 401(a) which is exempt from taxation under section 501(a);

(B) any contribution to, or distribution from, the Thrift Savings Fund shall be treated in the same manner as contributions to or distributions from such a trust; and

(C) subject to section 401(k)(4)(B) and any dollar limitation on the application of section 402(e)(3), contributions to the Thrift Savings Fund shall not be treated as distributed or made available to an employee or Member nor as a contribution made to the Fund by an employee or Member merely because the employee or Member has, under the provisions of subchapter III of chapter 84 of title 5, United States Code, and section 8351 of such title 5, an election whether the contribution will be made to the Thrift Savings Fund or received by the employee or Member in cash.

(2) Nondiscrimination requirements

Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section.

(3) Coordination with Social Security Act

Paragraph (1) shall not be construed to provide that any amount of the employee's or Member's basic pay which is contributed to the Thrift Savings Fund shall not be included in the term ''wages'' for the purposes of section 209 of the Social Security Act or section 3121(a) of this title.

(4) Definitions

For purposes of this subsection, the terms ''Member'', ''employee'', and ''Thrift Savings Fund'' shall have the same respective meanings as when used in subchapter III of chapter 84 of title 5, United States Code.

(5) Coordination with other provisions of law

No provision of law not contained in this title shall apply for purposes of determining the treatment under this title of the Thrift Savings Fund or any contribution to, or distribution from, such Fund.

(k) Treatment of certain amounts paid to charity

In the case of any payment which, except for section 501(b) of the Ethics in Government Act of 1978, might be made to any officer or employee of the Federal Government but which is made instead on behalf of such officer or employee to an organization described in section 170(c)—

(1) such payment shall not be treated as received by such officer or employee for all purposes of this title and for all purposes of any tax law of a State or political subdivision thereof, and

(2) no deduction shall be allowed under any provision of this title (or of any tax law of a State or political subdivision thereof) to such officer or employee by reason of having such payment made to such organization.

For purposes of this subsection, a Senator, a Representative in, or a Delegate or Resident Commissioner to, the Congress shall be treated as an officer or employee of the Federal Government.

***(l)* Regulations relating to conduit arrangements**

The Secretary may prescribe regulations recharacterizing any multiple-party financing transaction as a transaction directly among any 2 or more of such parties where the Secretary determines that such recharacterization is appropriate to prevent avoidance of any tax imposed by this title.

(m) Designation of contract markets

Any designation by the Commodity Futures Trading Commission of a contract market which could not have been made under the law in effect on the day before the date of the enactment of the Commodity Futures Modernization Act of 2000 shall apply for purposes of this title except to the extent provided in regulations prescribed by the Secretary.

(n) Cross references

(1) Other definitions

For other definitions, see the following sections of Title 1 of the United States Code:

(1) Singular as including plural, section 1.

(2) Plural as including singular, section 1.

(3) Masculine as including feminine, section 1.

(4) Officer, section 1.

(5) Oath as including affirmation, section 1.

(6) County as including parish, section 2.

(7) Vessel as including all means of water transportation, section 3.

(8) Vehicle as including all means of land transportation, section 4.

(9) Company or association as including successors and assigns, section 5.

(2) Effect of cross references

For effect of cross references in this title, see section 7806(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 911; Pub. L. 86–70, § 22(g), (h), June 25, 1959, 73 Stat. 146; Pub. L. 86–624, § 18(i), (j), July 12, 1960, 74 Stat. 416; Pub. L. 86–778, title I, § 103(t), Sept. 13, 1960, 74 Stat. 941; Pub. L. 87–834, §§ 6(c), 7(h), Oct. 16, 1962, 76 Stat. 982, 988; Pub. L. 87–870, § 5(a), Oct. 23, 1962, 76 Stat. 1161; Pub. L. 88–272, title II, §§ 204(a)(3), 234(b)(3), Feb. 26, 1964, 78 Stat. 36, 114; Pub. L. 89–368, title I, § 102(b)(5), Mar. 15, 1966, 80 Stat. 64; Pub. L. 89–809, title I, § 103(*l*)(1), Nov. 13, 1966, 80 Stat. 1554; Pub. L. 90–364, title I, § 103(e)(6), June 28, 1968, 82 Stat. 264; Pub. L. 91–172, title IV, § 432(c), (d), title IX, § 960(j), Dec. 30, 1969, 83 Stat. 622, 623, 735; Pub. L. 92–606, § 1(f)(4), Oct. 31, 1972, 86 Stat. 1497; Pub. L. 93–406, title III, § 3043, Sept. 2, 1974, 88 Stat. 1003; Pub. L. 94–455, title XII, § 1203(a), title XIX, § 1906(a)(57), (b)(13)(A), (c)(3), Oct. 4, 1976, 90 Stat. 1688, 1832, 1834, 1835; Pub. L. 95–600, title I, § 157(k)(2), title VII, § 701(cc)(2), Nov. 6, 1978, 92 Stat. 2809, 2923; Pub. L. 97–34, title VII, § 725(c)(4), Aug. 13, 1981, 95 Stat. 346; Pub. L. 97–248, title II, § 201(d)(10), formerly § 201(c)(10), title III, §§ 307(a)(17), 308(a), 336(a), Sept. 3, 1982, 96 Stat. 421, 590, 591, 628, renumbered § 201(d)(10) and amended Pub. L. 97–448, title III, § 306(a)(1)(A)(i), (b)(3), Jan. 12, 1983, 96 Stat. 2400, 2406; Pub. L. 97–449, § 5(e), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 97–473, title II, § 203,

Jan. 14, 1983, 96 Stat. 2611; Pub. L. 98–67, title I, §§102(a), 104(d)(1), Aug. 5, 1983, 97 Stat. 369, 379; Pub. L. 98–216, §3(c)(2), Feb. 14, 1984, 98 Stat. 6; Pub. L. 98–369, div. A, title I, §§31(e), 43(a)(1), 53(c), 75(c), 138(a), title IV, §§412(b)(11), 422(d)(3), 474(r)(29)(K), 491(d)(53), title V, §526(c)(1), July 18, 1984, 98 Stat. 518, 558, 567, 595, 672, 792, 798, 845, 852, 874; Pub. L. 98–443, §9(q), Oct. 4, 1984, 98 Stat. 1708; Pub. L. 99–514, title II, §201(c), (d)(14), title VI, §§671(b)(3), 673, title XI, §§1137, 1147(a), 1166(a), title XVIII, §§1802(a)(9)(C), 1810(*l*)(1)–(5)(A), 1842(d), 1899A(63), (64), Oct. 22, 1986, 100 Stat. 2138, 2142, 2317, 2319, 2486, 2493, 2511, 2790, 2830–2832, 2853, 2962; Pub. L. 100–202, §101(m) [title VI, §624(a)], Dec. 22, 1987, 101 Stat. 1329–390, 1329–429; Pub. L. 100–647, §1(c), title I, §§1001(d)(2)(D), 1002(a)(2), 1006(t)(12), (25)(A), 1011A(m)(1), 1011B(e), 1018(g)(3), Nov. 10, 1988, 102 Stat. 3342, 3351, 3352, 3422, 3426, 3483, 3489, 3583; Pub. L. 101–194, title VI, §602, Nov. 30, 1989, 103 Stat. 1762; Pub. L. 101–508, title XI, §§11704(a)(34), 11812(b)(13), Nov. 5, 1990, 104 Stat. 1388–519, 1388–536; Pub. L. 102–90, title III, §314(e), Aug. 14, 1991, 105 Stat. 470; Pub. L. 102–318, title V, §521(b)(43), July 3, 1992, 106 Stat. 313; Pub. L. 103–66, title XIII, §13238, Aug. 10, 1993, 107 Stat. 508; Pub. L. 103–296, title III, §320(a)(3), Aug. 15, 1994, 108 Stat. 1535; Pub. L. 104–88, title III, §304(e), Dec. 29, 1995, 109 Stat. 944; Pub. L. 104–188, title I, §§1402(b)(3), 1621(b)(8), (9), 1907(a)(1), (2), Aug. 20, 1996, 110 Stat. 1790, 1867, 1916; Pub. L. 105–34, title XI, §§1151(a), 1174(b), title XVI, §1601(i)(3)(A), Aug. 5, 1997, 111 Stat. 986, 989, 1093; Pub. L. 106–554, §1(a)(7) [title IV, §401(i)], Dec. 21, 2000, 114 Stat. 2763, 2763A–650.)

REFERENCES IN TEXT

Section 401 of the National Housing Act, referred to in subsec. (a)(19)(A), (32)(A)(i), which was classified to section 1724 of Title 12, Banks and Banking, was repealed by Pub. L. 101–73, title IV, §407, Aug. 9, 1989, 103 Stat. 363.

Part A and part B of title I of the Housing Act of 1949, referred to in subsec. (a)(19)(C)(vi), which were classified generally to part A (§1450 et seq.) and part B (§1469 et seq.) of subchapter II of chapter 8A of Title 42, The Public Health and Welfare, were omitted from the Code pursuant to section 5316 of Title 42, which terminated authority to make new loans and grants under title I of that Act after Jan. 1, 1975.

Section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsec. (a)(19)(C)(vi), which was classified to section 3303 of Title 42, was omitted from the Code pursuant to section 5316 of Title 42, which terminated authority to make new loans and grants under title I (§101 et seq.) of that Act after Jan. 1, 1975.

The Internal Revenue Code of 1939, referred to in subsec. (a)(29), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 was redesignated The Internal Revenue Code of 1986 by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (a)(35), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended. Subtitle C of title III of the Employee Retirement Income Security Act of 1974 is classified to subtitle C (§1241 et seq.) of subchapter II of chapter 18 of Title 29, Labor and amended subsec. (a)(35) of this section. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

The Indian Tribal Governmental Tax Status Act of 1982, referred to in subsec. (a)(40)(B), is title II of Pub. L. 97–473, Jan. 14, 1983, 96 Stat. 2607, as amended, which is classified principally to subchapter C (§7871) of chapter 80 of this title. For complete classification of this Act to the Code, see Short Title of 1983 Amendments note set out under section 1 of this title and Tables.

Section 101(15) of the Immigration and Nationality Act, referred to in subsec. (b)(5)(C)(i), (D)(i), probably means section 101(a)(15) of that Act, which is classified to section 1101(a)(15) of Title 8, Aliens and Nationality.

Section 212(2) of the Federal Water Pollution Control Act, referred to in subsec. (e)(3)(E), is classified to section 1292(2) of Title 33, Navigation and Navigable Waters.

The date of the enactment of the Revenue Reconciliation Act of 1990, referred to in subsec. (e)(5)(B), is the date of enactment of Pub. L. 101–508, which was approved Nov. 5, 1990.

Section 209 of the Social Security Act, referred to in subsec. (j)(3), is classified to section 409 of Title 42, The Public Health and Welfare.

Section 501(b) of the Ethics in Government Act of 1978, referred to in subsec. (k), is section 501(b) of Pub. L. 95–521, which is set out in the Appendix to Title 5, Government Organization and Employees.

The date of the enactment of the Commodity Futures Modernization Act of 2000, referred to in subsec. (m), is the date of enactment of Pub. L. 106–554, which was approved Dec. 21, 2000.

AMENDMENTS

2000—Subsecs. (m), (n). Pub. L. 106–554 added subsec. (m) and redesignated former subsec. (m) as (n).

1997—Subsec. (a)(4). Pub. L. 105–34, §1151(a), inserted before period at end ''unless, in the case of a partnership, the Secretary provides otherwise by regulations''.

Subsec. (a)(30)(E)(ii). Pub. L. 105–34, §1601(i)(3)(A), substituted ''persons'' for ''fiduciaries''.

Subsec. (b)(7)(A). Pub. L. 105–34, §1174(b)(2), substituted '', (C), or (D)'' for ''or (C)''.

Subsec. (b)(7)(D). Pub. L. 105–34, §1174(b)(1), added subpar. (D).

1996—Subsec. (a)(19)(C)(xi). Pub. L. 104–188, §1621(b)(8), amended cl. (xi) generally. Prior to amendment, cl. (xi) read as follows: ''any regular or residual interest in a REMIC, but only in the proportion which the assets of such REMIC consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC are assets described in clauses (i) through (x), the entire interest in the REMIC shall qualify.''

Subsec. (a)(20). Pub. L. 104–188, §1402(b)(3), struck out '', for the purpose of applying the provisions of section 101(b) with respect to employees' death benefits'' after ''health plans''.

Subsec. (a)(30)(C) to (E). Pub. L. 104–188, §1907(a)(1), struck out ''and'' at end of subpar. (C), added subpars. (D) and (E), and struck out former subpar. (D) which read as follows: ''any estate or trust (other than a foreign estate or foreign trust, within the meaning of section 7701(a)(31)).''

Subsec. (a)(31). Pub. L. 104–188, §1907(a)(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The terms 'foreign estate' and 'foreign trust' mean an estate or trust, as the case may be, the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.''

Subsec. (i)(2)(A). Pub. L. 104–188, §1621(b)(9), inserted ''or a FASIT'' after ''a REMIC'' in introductory provisions.

1995—Subsec. (a)(33)(B). Pub. L. 104–88, §304(e)(1), substituted ''Federal Energy Regulatory Commission'' for ''Federal Power Commission''.

Subsec. (a)(33)(C)(i). Pub. L. 104–88, §304(e)(2), substituted ''Surface Transportation Board'' for ''Interstate Commerce Commission''.

Subsec. (a)(33)(C)(ii). Pub. L. 104–88, §304(e)(3), substituted ''Federal Energy Regulatory Commission'' for ''Interstate Commerce Commission''.

Subsec. (a)(33)(F). Pub. L. 104–88, §304(e)(4), substituted ''a water carrier subject to jurisdiction under subchapter II of chapter 135 of title 49'' for ''common carrier by water, subject to the jurisdiction of the Interstate Commerce Commission under subchapter III of chapter 105 of title 49, or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933''.

Subsec. (a)(33)(G). Pub. L. 104–88, §304(e)(5), substituted ''rail carrier subject to part A of subtitle IV'' for ''railroad corporation subject to subchapter I of chapter 105''.

Subsec. (a)(33)(H). Pub. L. 104–88, §304(e)(6), substituted ''part A of subtitle IV'' for ''subchapter I of chapter 105''.

1994—Subsec. (b)(5)(C)(i), (D)(i)(II). Pub. L. 103–296 substituted ''(J) or (Q)'' for ''(J)''.

1993—Subsecs. (*l*), (m). Pub. L. 103–66 added subsec. (*l*) and redesignated former subsec. (*l*) as (m).

1992—Subsec. (j)(1)(C). Pub. L. 102–318 substituted ''402(e)(3)'' for ''402(a)(8)''.

1991—Subsec. (k). Pub. L. 102–90 amended last sentence generally. Prior to amendment, last sentence read as follows: ''For purposes of this subsection, a Representative in, or a Delegate or Resident Commissioner to, the Congress shall be treated as an officer or employee of the Federal Government and a Senator or officer (except the Vice President) or employee of the Senate shall not be treated as an officer or employee of the Federal Government.''

1990—Subsec. (e)(5)(B). Pub. L. 101–508, §11812(b)(13), inserted before period at end ''(as in effect on the day before the date of the enactment of the Revenue Reconcilation [sic] Act of 1990)''.

Subsec. (j)(1)(C). Pub. L. 101–508, §11704(a)(34), substituted ''(C) subject to section 401(k)(4)(B) and any dollar limitation on the application of section 402(a)(8),'' for ''(C) subject to, section 401(k)(4)(B), and any dollar limitation on the application of section 402(a)(8),''.

1989—Subsecs. (k), (*l*). Pub. L. 101–194 added subsec. (k) and redesignated former subsec. (k) as (*l*).

1988—Subsec. (a)(19). Pub. L. 100–647, §1006(t)(25)(A), inserted at end ''For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi).''

Subsec. (a)(19)(C)(xi). Pub. L. 100–647, §1006(t)(12), substituted ''are assets described'' for ''are loans described''.

Subsec. (a)(20). Pub. L. 100–647, §1011B(e), substituted ''and 106'' for ''106, and 125'' and inserted ''and for purposes of applying section 125 with respect to cafeteria plans,'' before ''the term''.

Subsec. (a)(29). Pub. L. 100–647, §1(c), substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

Subsec. (b)(5)(A)(iv). Pub. L. 100–647, §1018(g)(3), substituted ''section 274(*l*)(1)(B)'' for ''section 274(k)(2)''.

Subsec. (b)(5)(D)(i)(I). Pub. L. 100–647, §1001(d)(2)(D), substituted ''subparagraph (F) or (M)'' for ''subparagraph (F)''.

Subsec. (e)(5). Pub. L. 100–647, §1002(a)(2), made technical correction to language of Pub. L. 99–514, §201(d)(14)(B), see 1986 Amendment note below.

Subsec. (j)(1)(C). Pub. L. 100–647, §1011A(m)(1), inserted '', section 401(k)(4)(B),'' after ''the provisions of paragraph (2)'' in subpar. (C), as it read before amendment by Pub. L. 100–202. See Effective Date of 1988 Amendment note below.

1987—Subsec. (j)(1)(C). Pub. L. 100–202, §101(m) [title VI, §624(a)(1)], which directed that ''the provisions of paragraph (2) and'' after ''subject to'' be struck out, was executed by striking out ''the provisions of paragraph (2)'' after ''subject to'' in view of the amendment by section 1011A(m)(1) of Pub. L. 100–647 which was effective as if it had been included in Pub. L. 99–514. See 1988 Amendment note above.

Subsec. (j)(2). Pub. L. 100–202, §101(m) [title VI, §624(a)(2)], added par. (2) and struck out former par. (2) which read as follows: ''Paragraph (1)(C) shall not apply to the Thrift Savings Fund unless the Fund meets the antidiscrimination requirements (other than any requirement relating to coverage) applicable to arrangements described in section 401(k) and to matching contributions. Rules similar to the rules of sections 401(k)(8) and 401(m)(8) (relating to no disqualification if excess contributions distributed) shall apply for purposes of the preceding sentence.''

1986—Subsec. (a)(17). Pub. L. 99–514, §1842(d), inserted reference to section 2516.

Subsec. (a)(19)(C)(xi). Pub. L. 99–514, §671(b)(3), added cl. (xi).

Subsec. (a)(20). Pub. L. 99–514, §1166(a), inserted reference to section 125.

Subsec. (a)(46). Pub. L. 99–514, §1137, inserted last sentence.

Subsec. (b)(1)(A). Pub. L. 99–514, §1810(*l*)(2), substituted ''the requirements of clause (i), (ii), or (iii)'' for ''the requirements of clause (i) or (ii)'' in introductory provisions and added cl. (iii).

Subsec. (b)(2)(A)(iv). Pub. L. 99–514, §1810(*l*)(3), added cl. (iv).

Subsec. (b)(4). Pub. L. 99–514, §1810(*l*)(4), added par. (4). Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 99–514, §1810(*l*)(4), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (b)(5)(A)(iv). Pub. L. 99–514, §1810(*l*)(5)(A), which directed that cl. (iv) be added to subpar. (4)(A), was executed by adding cl. (iv) to subpar. (5)(A) to reflect the probable intent of Congress and the intervening redesignation of par. (4) as (5) by section 1810(*l*)(4) of Pub. L. 99–514.

Subsec. (b)(5)(E)(i). Pub. L. 99–514, §1810(*l*)(1), inserted last sentence.

Pub. L. 99–514, §1899A(63), substituted ''preceding'' for ''preceeding''.

Subsec. (b)(6) to (11). Pub. L. 99–514, §1810(*l*)(4), redesignated pars. (5) to (10) as pars. (6) to (11), respectively.

Subsec. (e)(4)(A). Pub. L. 99–514, §201(d)(14)(A), substituted ''section 168(h)'' for ''section 168(j)''.

Pub. L. 99–514, §1802(a)(9)(C), inserted at end ''For purposes of this paragraph, the term 'related entity' has the same meaning as when used in section 168(j).''

Subsec. (e)(5). Pub. L. 99–514, §201(d)(14)(B), as amended by Pub. L. 100–647, §1002(a)(2), substituted ''property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B) (relating to low-income housing)'' for ''low-income housing (within the meaning of section 168(c)(2)(F))''.

Pub. L. 99–514, §1899A(64), substituted ''section 168(c)(2)(F))'' for ''section 168(C)(2)(F))''.

Subsec. (h). Pub. L. 99–514, §201(c), added subsec. (h). Former subsec. (h), relating to cross references, was successively redesignated as (i), (j), and (k).

Subsec. (i). Pub. L. 99–514, §673, added subsec. (i). Former subsec. (i), relating to cross references, as previously redesignated, was successively redesignated as (j) and (k).

Subsec. (j). Pub. L. 99–514, §1147(a), added subsec. (j). Former subsec. (j), relating to cross references, as previously redesignated, was redesignated as (k).

Subsec. (k). Pub. L. 99–514, §§201(c), 673, 1147(a), successively redesignated subsec. (h), relating to cross references, as subsecs. (i), (j), and (k).

1984—Subsec. (a)(16). Pub. L. 98–369, §474(r)(29)(K), struck out ''1451,'' after ''1443''.

Subsec. (a)(17). Pub. L. 98–369, §422(d)(3), struck out reference to sections 71 and 215.

Subsec. (a)(33)(E). Pub. L. 98–443 substituted ''Secretary of Transportation'' for ''Civil Aeronautics Board''.

Subsec. (a)(33)(G). Pub. L. 98–216 substituted ''subchapter I of chapter 105 of title 49'' for ''part I of the Interstate Commerce Act''.

Subsec. (a)(34). Pub. L. 98–369, § 412(b)(11), repealed par. (34) which defined estimated income tax in the case of an individual or a corporation as the estimated tax defined in section 6015(d) or 6154(c), respectively.

Subsec. (a)(37)(C). Pub. L. 98–369, § 491(d)(53), struck out subpar. (C) which included a retirement bond described in section 409 within the term ''individual plan''.

Subsec. (a)(42) to (45). Pub. L. 98–369, § 43(a)(1), added pars. (42) to (45).

Subsec. (a)(46). Pub. L. 98–369, § 526(c)(1), added par. (46).

Subsec. (b). Pub. L. 98–369, § 138(a), added subsec. (b). Former subsec. (b), relating to includes and including, redesignated (c).

Subsec. (c). Pub. L. 98–369, § 138(a), redesignated former subsec. (b), relating to includes and including, as (c). Former subsec. (c), relating to Commonwealth of Puerto Rico, redesignated (d).

Subsec. (d). Pub. L. 98–369, § 138(a), redesignated former subsec. (c), relating to Commonwealth of Puerto Rico, as (d). Former subsec. (d), relating to cross references, redesignated (e).

Subsec. (e). Pub. L. 98–369, § 31(e), added subsec. (e). Former subsec. (e), relating to cross references, redesignated (f).

Pub. L. 98–369, § 138(a), redesignated former subsec. (d), relating to cross references, as (e).

Subsec. (f). Pub. L. 98–369, § 53(c), added subsec. (f). Former subsec. (f), relating to cross references, redesignated (g).

Pub. L. 98–369, § 31(e), redesignated former subsec. (e), relating to cross references, as (f).

Subsec. (g). Pub. L. 98–369, § 75(c), added subsec. (g). Former subsec. (g), relating to cross references, redesignated (h).

Pub. L. 98–369, § 53(c), redesignated former subsec. (f), relating to cross references, as (g).

Subsec. (h). Pub. L. 98–369, § 75(c), redesignated former subsec. (g), relating to cross references, as (h).

1983—Subsec. (a)(16). Pub. L. 98–67, § 102(a), repealed amendments made by Pub. L. 97–248. See 1982 Amendment note below.

Subsec. (a)(33)(F). Pub. L. 97–449, § 5(e)(1), substituted ''subchapter III of chapter 105 of title 49'' for ''part III of the Interstate Commerce Act''.

Subsec. (a)(33)(H). Pub. L. 97–449, § 5(e)(2), substituted ''subchapter I of chapter 105 of title 49'' for ''part I of the Interstate Commerce Act''.

Subsec. (a)(38), (39). Pub. L. 97–448, § 306(b)(3), redesignated par. (38), as added by Pub. L. 97–248, § 336(a), relating to persons residing outside the United States, as (39).

Subsec. (a)(40). Pub. L. 97–473 added par. (40).

Subsec. (a)(41). Pub. L. 98–67, § 104(d)(1), added par. (41).

1982—Subsec. (a)(16). Pub. L. 97–248, §§ 307(a)(17), 308(a), provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, par. (16) is amended by substituting ''1461 or 3451'' for ''or 1461''. Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§ 301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

Subsec. (a)(38). Pub. L. 97–248, § 201(d)(10), formerly § 201(c)(10), added par. (38) relating to joint return.

Pub. L. 97–248, § 336(a), added par. (38) relating to persons residing outside the United States.

1981—Subsec. (a)(34)(A). Pub. L. 97–34 substituted ''section 6015(d)'' for ''section 6015(c)''.

1978—Subsec. (a)(36)(B)(iii). Pub. L. 95–600, § 701(cc)(2), substituted ''prepares as a fiduciary a return or claim for refund for any person, or'' for ''prepares a return or claim for refund for any trust or estate with respect to which he is a fiduciary, or''.

Subsec. (a)(37). Pub. L. 95–600, § 157(k)(2), added par. (37).

1976—Subsec. (a)(4). Pub. L. 94–455, § 1906(c)(3), struck out ''or Territory'' after ''any State''.

Subsec. (a)(11). Pub. L. 94–455, § 1906(a)(57)(A), substituted definitions of ''Secretary of the Treasury'' and ''Secretary'' for ''Secretary.—The term 'Secretary' means the Secretary of the Treasury''.

Subsec. (a)(12)(A). Pub. L. 94–455, § 1906(a)(57)(B), substituted definition of ''or his delegate'' for definition of ''Secretary of his delegate''.

Subsec. (a)(19), (23), (33). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (a)(36). Pub. L. 94–455, § 1203(a), added par. (36).

1974—Subsec. (a)(35). Pub. L. 93–406 added par. (35).

1972—Subsec. (a)(12)(B). Pub. L. 92–606 inserted reference to chapter 1.

1969—Subsec. (a)(19)(A). Pub. L. 91–172, § 432(c) reenacted subpar. (A) without change.

Subsec. (a)(19)(B). Pub. L. 91–172, § 432(c), struck out reference to subpar. (C).

Subsec. (a)(19)(C). Pub. L. 91–172, § 432(c), substituted 60 percent for 90 percent in text preceding cl. (i), reenacted cl. (i) without change, in cl. (ii), excluded obligations the interest on which was excludible from gross income under section 103, expanded provisions of former cl. (iii) and transferred them to cl. (v), reenacted cl. (iv) without change, redesignated former cls. (v) and (vi) as cls. (viii) and (x) and added cls. (iii), (vi), (vii) and (ix), and text following cl. (x).

Subsec. (a)(19)(D) to (F). Pub. L. 91–172, § 432(c), struck out subpars. (D) to (F) and text following subpar. (F) which had further qualified the assets.

Subsec. (a)(27). Pub. L. 91–172, § 960(j), substituted ''United States Tax Court'' for ''Tax Court of the United States''.

Subsec. (a)(32). Pub. L. 91–172, § 432(d), struck out references to subpars. (D), (E) and (F) and struck out ''determined with the application of the second, third, and fourth sentences of paragraph (19).'' in subpar. (B) and, in text following subpar. (B), struck out provisions relating to the deduction allowable for a reasonable addition to the reserve for bad debts.

1968—Subsec. (a)(34)(B). Pub. L. 90–364 substituted ''section 6154(c)'' for ''section 6016(b)''.

1966—Subsec. (a)(31). Pub. L. 89–809 substituted '', from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States,'' for ''from sources without the United States''.

Pub. L. 89–368 added par. (34).

1964—Subsec. (a)(20). Pub. L. 88–272 inserted ''For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees''.

Subsec. (a)(33). Pub. L. 88–272 added par. (33).

1962—Subsec. (a)(19). Pub. L. 87–834, § 6(c), amended par. (19) generally. Prior to such amendment, subsection read as follows: ''The term 'domestic building and loan association' means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association, substantially all the business of which is confined to making loans to members.''

Subsec. (a)(30), (31). Pub. L. 87–834, § 7(h), added pars. (30), (31).

Subsec. (a)(32). Pub. L. 87–870 added par. (32).

1960—Subsec. (a)(9), (10). Pub. L. 86–624, § 18(i), (j), struck out reference to the Territory of Hawaii.

Subsec. (a)(12). Pub. L. 86–778 designated existing provisions as par. (A) and added par. (B).

1959—Subsec. (a)(9). Pub. L. 86–70, § 22(g), substituted ''the Territory of Hawaii'' for ''the Territories of Alaska and Hawaii''.

Subsec. (a)(10). Pub. L. 86–70, § 22(h), substituted ''Territory of Hawaii'' for ''Territories''.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1151(b) of Pub. L. 105–34 provided that: ''Any regulations issued with respect to the amendment made by subsection (a) [amending this section] shall

apply to partnerships created or organized after the date determined under section 7805(b) of the Internal Revenue Code of 1986 (without regard to paragraph (2) thereof) with respect to such regulations.''

Section 1174(c) of Pub. L. 105–34 provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and sections 861 and 863 of this title] shall apply to remuneration for services performed in taxable years beginning after December 31, 1997.

''(2) PRESENCE.—The amendment made by subsection (b) [amending this section] shall apply to taxable years beginning after December 31, 1997.''

Amendment by section 1601(i)(3)(A) of Pub. L. 105–34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104–188, to which it relates, see section 1601(j) of Pub. L. 105–34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Section 1601(i)(4) of Pub. L. 105–34 provided that: ''The Secretary of the Treasury may by regulations or other administrative guidance provide that the amendments made by section 1907(a) of the Small Business Job Protection Act of 1996 [Pub. L. 104–188, amending this section] shall not apply to a trust with respect to a reasonable period beginning on the date of the enactment of such Act [Aug. 20, 1996], if—

''(A) such trust is in existence on August 20, 1996, and is a United States person for purposes of the Internal Revenue Code of 1986 on such date (determined without regard to such amendments),

''(B) no election is in effect under section 1907(a)(3)(B) of such Act [set out as a note below] with respect to such trust,

''(C) before the expiration of such reasonable period, such trust makes the modifications necessary to be treated as a United States person for purposes of such Code (determined with regard to such amendments), and

''(D) such trust meets such other conditions as the Secretary may require.''

Amendment by section 1402(b)(3) of Pub. L. 104–188 applicable with respect to decedents dying after Aug. 20, 1996, see section 1402(c) of Pub. L. 104–188, set out as a note under section 101 of this title.

Amendment by section 1621(b)(8), (9) of Pub. L. 104–188 effective Sept. 1, 1997, see section 1621(d) of Pub. L. 104–188, set out as a note under section 26 of this title.

Section 1907(a)(3) of Pub. L. 104–188, as amended by Pub. L. 105–34, title XI, § 1161(a), Aug. 5, 1997, 111 Stat. 987, provided that: ''The amendments made by this subsection [amending this section] shall apply—

''(A) to taxable years beginning after December 31, 1996, or

''(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act [Aug. 20, 1996].

Such an election, once made, shall be irrevocable. To the extent prescribed in regulations by the Secretary of the Treasury or his delegate, a trust which was in existence on August 20, 1996 (other than a trust treated as owned by the grantor under subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986), and which was treated as a United States person on the day before the date of the enactment of this Act may elect to continue to be treated as a United States person notwithstanding section 7701(a)(30)(E) of such Code.''

[Section 1161(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending section 1907(a)(3) of Pub. L. 104–188, set out above] shall take effect as if included in the amendments made by section 1907(a) of the Small Business Job Protection Act of 1996 [Pub. L. 104–188].'']

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective with calendar quarter following Aug. 15, 1994, see section 320(c) of Pub. L. 103–296, set out as a note under section 871 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–318 applicable to distributions after Dec. 31, 1992, see section 521(e) of Pub. L. 102–318, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–90 effective Jan. 1, 1992, see section 314(g)(1) of Pub. L. 102–90, as amended, set out as a note under section 31–2 of Title 2, The Congress.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11812(b)(13) of Pub. L. 101–508 applicable to property placed in service after Nov. 5, 1990, but not applicable to any property to which section 168 of this title does not apply by reason of subsec. (f)(5) of section 168, and not applicable to rehabilitation expenditures described in section 252(f)(5) of Pub. L. 99–514, see section 11812(c) of Pub. L. 101–508, set out as a note under section 42 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 603 of title VI of Pub. L. 101–194 provided that: ''The amendments made by this title [amending this section, sections 31–1 and 441i of Title 2, The Congress, and title V of the Ethics in Government Act of 1978, Pub. L. 95–521, set out in the Appendix to Title 5, Government Organization and Employees] shall take effect on January 1, 1991. Such amendments shall cease to be effective if the provisions of section 703 [5 U.S.C. 5318 note] are subsequently repealed, in which case the laws in effect before such amendments shall be deemed to be reenacted.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by title I 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

Amendment by section 201(c), (d)(14) of Pub. L. 99–514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, with exceptions, see sections 203 and 204 of Pub. L. 99–514, set out as a note under section 168 of this title.

Amendment by section 201(c), (d)(14) of Pub. L. 99–514 not applicable to any property placed in service before Jan. 1, 1994, if such property placed in service as part of specified rehabilitations, and not applicable to certain additional rehabilitations, see section 251(d)(2), (3) of Pub. L. 99–514, set out as a note under section 46 of this title.

Amendment by section 671(b)(3) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 675 of Pub. L. 99–514, set out as an Effective Date note under section 860A of this title.

Amendment by section 673 of Pub. L. 99–514 effective Jan. 1, 1992, but not applicable to any entity in existence on Dec. 31, 1991, except with respect to any entity as of the first day after Dec. 31, 1991, on which there is a substantial transfer of cash or other property to such entity, and for purposes of applying section 860F(d) of this title, applicable to taxable years beginning after Dec. 31, 1986, see section 675(c) of Pub. L. 99–514, set out as an Effective Date note under section 860A of this title.

Section 1166(b) of Pub. L. 99–514 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to years beginning after December 31, 1985.''

Amendment by sections 1802(a)(9)(C), 1810(*l*)(1)–(4), 1842(d) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

Section 1810(*l*)(5)(B) of Pub. L. 99–514 provided that: ''The amendments made by this paragraph [amending this section] shall apply to periods after the date of the enactment of this Act [Oct. 22, 1986].''

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98–443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

Amendment by section 31(e) of Pub. L. 98–369 effective, except as otherwise provided in section 31(g) of Pub. L. 98–369, as to property placed in service by the taxpayer after May 23, 1983, in taxable years ending after such date and to property placed in service by the taxpayer on or before May 23, 1983, if the lease to the tax-exempt entity is entered into after May 23, 1983, except that in the case of a service contract or other arrangement described in section 7701(e) of this title with respect to which no party is a tax-exempt entity, section 7701(e) shall not apply to (A) such contract or other arrangement if such contract or other arrangement was entered into before Nov. 5, 1983, or (B) any renewal or other extension of such contract or other arrangement pursuant to an option contained in such contract or other arrangement on Nov. 5, 1983, see section 31(g)(1), (13) of Pub. L. 98–369, set out as a note under section 168 of this title.

Amendment by section 43(a)(1) of Pub. L. 98–369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98–369, set out as an Effective Date note under section 1271 of this title.

Amendment by section 53(c) of Pub. L. 98–369 effective July 18, 1984, except as otherwise provided, see section 53(e)(3) of Pub. L. 98–369, as amended, set out as an Effective Date note under section 1059 of this title.

Amendment by section 75(c) of Pub. L. 98–369 applicable to distributions, sales, and exchanges made after Mar. 31, 1984, in taxable years ending after such date, see section 75(e) of Pub. L. 98–369, set out as an Effective Date note under section 386 of this title.

Section 138(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.—The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1984.

''(2) TRANSITIONAL RULE FOR APPLYING SUBSTANTIAL PRESENCE TEST.—

''(A) If an alien individual was not a resident of the United States as of the close of calendar year 1984, the determination of whether such individual meets the substantial presence test of section 7701(b)(3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by this section) shall be made by only taking into account presence after 1984.

''(B) If an alien individual was a resident of the United States as of the close of calendar year 1984, but was not a resident of the United States as of the close of calendar year 1983, the determination of whether such individual meets such substantial presence test shall be made by only taking into account presence in the United States after 1983.

''(3) TRANSITIONAL RULE FOR APPLYING LAWFUL RESIDENCE TEST.—In the case of any individual who—

''(A) was a lawful permanent resident of the United States (within the meaning of section 7701(b)(5) of the Internal Revenue Code of 1986, as added by this section) throughout calendar year 1984, or

''(B) was present in the United States at any time during 1984 while such individual was a lawful permanent resident of the United States (within the meaning of such section 7701(b)(5)),

for purposes of section 7701(b)(2)(A) of such Code (as so added), such individual shall be treated as a resident of the United States during 1984.''

Amendment by section 412(b)(11) of Pub. L. 98–369 applicable with respect to taxable years beginning after Dec. 31, 1984, see section 414(a)(1) of Pub. L. 98–369, set out as a note under section 6654 of this title.

Amendment by section 422(d)(3) of Pub. L. 98–369 applicable with respect to divorce or separation instruments executed after Dec. 31, 1984, or executed before Jan. 1, 1985, but modified on or after Jan. 1, 1985, with express provision for application of amendment to modification, see section 422(e)(1), (2) of Pub. L. 98–369, set out as a note under section 71 of this title.

Amendment by section 474(r)(29)(K) of Pub. L. 98–369 not applicable with respect to obligations issued before Jan. 1, 1984, see section 475(b) of Pub. L. 98–369, set out as a note under section 33 of this title.

Amendment by section 491(d)(53) of Pub. L. 98–369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98–369, set out as a note under section 62 of this title.

Section 526(c)(2) of Pub. L. 98–369 provided that: ''The amendment made by this subsection [amending this section] shall take effect on April 1, 1984.''

EFFECTIVE DATE OF 1983 AMENDMENTS

Amendment by section 104(d)(1) of Pub. L. 98–67 applicable with respect to payments made after Dec. 31, 1983, see section 110(a) of Pub. L. 98–67, set out as a note under section 31 of this title.

For effective date of amendment by Pub. L. 97–473, see section 204 of Pub. L. 97–473, set out as an Effective Date note under section 7871 of this title.

Amendment by Pub. L. 97–448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 311(d) of Pub. L. 97–448, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 201(d)(10) of Pub. L. 97–248 applicable to taxable years beginning after Dec. 31, 1982, see section 201(e)(1) of Pub. L. 97–248, set out as a note under section 5 of this title.

Section 336(b) of Pub. L. 97–248 provided that: ''The amendment 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].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to estimated tax for taxable years beginning after Dec. 31, 1980, see section 725(d) of Pub. L. 97–34, set out as a note under section 871 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 157(k)(2) of Pub. L. 95–600 applicable to taxable years beginning after Dec. 31, 1974, see section 157(k)(3) of Pub. L. 95–600, set out as a note under section 6058 of this title.

Amendment by section 701(cc)(2) of Pub. L. 95–600 applicable to documents prepared after Dec. 31, 1976, see section 701(cc)(3) of Pub. L. 95–600, set out as a note under section 6695 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1203(j) of Pub. L. 94–455 provided that: ''The amendments made by this section [enacting sections 6060, 6107, 6694, 6695, 6696, 7407, and 7427 of this title, renumbering former sections 7407 and 7427 as 7408 and 7428 of this title, respectively, and amending this section and sections 6109, 6503, 6504, and 6511 of this title] shall apply to documents prepared after December 31, 1976.''

Amendment by section 1906(a)(57), (b)(13)(A), (c)(3) of Pub. L. 94–455 effective on first day of first month which begins more than ninety 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.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–606 applicable with respect to taxable years beginning after Dec. 31, 1972, see sec-

tion 2 of Pub. L. 92–606, set out in part as an Effective Date note under section 931 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 432(c), (d) of Pub. L. 91–172 effective for taxable years beginning after July 11, 1969, see section 432(e) of Pub. L. 91–172, set out as a note under section 593 of this title.

Amendment by section 960(j) of Pub. L. 91–172 effective Dec. 30, 1969, see section 962(a) of Pub. L. 91–172, set out as a note under section 7441 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–364 applicable with respect to taxable years beginning after Dec. 31, 1967, except as provided by section 104 of Pub. L. 90–364, see section 103(f) of Pub. L. 90–364, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1966 AMENDMENTS

Amendment by Pub. L. 89–809 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 103(n)(1) of Pub. L. 89–809, set out as a note under section 871 of this title.

Amendment by Pub. L. 89–368 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 102(d) of Pub. L. 89–368, set out as a note under section 6654 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by section 204(a)(3) of Pub. L. 88–272 applicable to group-term life insurance provided after Dec. 31, 1963, in taxable years ending after such date, see section 204(d) of Pub. L. 88–272, set out as an Effective Date note under section 79 of this title.

Amendment by section 234(b)(3) of Pub. L. 88–272 applicable to taxable years beginning after Dec. 31, 1963, see section 234(c) of Pub. L. 88–272, set out as a note under section 1503 of this title.

EFFECTIVE DATE OF 1962 AMENDMENTS

Section 5(b) of Pub. L. 87–870 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall apply with respect to taxable years beginning after the date of the enactment of the Revenue Act of 1962 [Oct. 16, 1962].''

Section 6(g)(3) of Pub. L. 87–834 provided that: ''The amendment made by subsection (c) [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 16, 1962].''

EFFECTIVE DATE OF 1960 AMENDMENTS

Amendment by Pub. L. 86–778 effective Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86–778, set out as an Effective Date of 1960 Amendment note under section 402 of Title 42, The Public Health and Welfare.

Amendment by Pub. L. 86–624 effective August 21, 1959, see section 18(k) of Pub. L. 86–624, set out as a note under section 3121 of this title.

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.

SAVINGS PROVISION

For provisions that nothing in amendment by section 11812(b)(13) of Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 29 of this title.

TRANSFER OF FUNCTIONS

Coast Guard transferred to Department of Transportation and all functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89–670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89–670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§ 1401–1465] of title I of Pub. L. 104–188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104–188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§ 521–523] of title V of Pub. L. 102–318 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, 1994, see section 523 of Pub. L. 102–318, set out as a note under section 401 of this title.

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.

AUTHORS OR ARTISTS PERFORMING SERVICES UNDER CONTRACT WITH CORPORATION

Pub. L. 96–605, title IV, § 402, Dec. 28, 1980, 94 Stat. 3532, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) IN GENERAL.—An author or artist performing services under contract with a corporation shall be considered as an employee of the corporation for the purpose of applying the provisions specified in section 7701(a)(20) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], if, on December 31, 1977, such author or artist was a participant in one or more of the pension, profit-sharing or annuity plans of such corporation which are described in subsection (b)(2).

''(b) DEFINITIONS.—For purposes of this section—

''(1) CONTRACT.—The term 'contract' means a contract which during its term—

''(A) requires such author or artist to give the corporation first reading or first refusal on writings or drawings of specified types, and prohibits him from offering any such writing or drawing to any other publication unless it has been offered to and rejected by the corporation; or

''(B) requires such author or artist to use his best efforts to produce work of specified types for the corporation.

''(2) CORPORATION.—The term 'corporation' means a corporation which for at least 15 years prior to January 1, 1978, had in effect one or more pension, profit-sharing and annuity plans, each of which—

''(A) had contained from its inception a definition of the term 'employee' that included the category of 'authors and artists under contract', and

''(B) had been determined by the Secretary of the Treasury (taking into account the definition described in subparagraph (A)) to be a qualified plan within part I of subchapter D of chapter 1 of subtitle A of the Internal Revenue Code of 1986 [section 401 et seq. of this title] for all of such years.

''(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after December 31, 1980.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 56, 118, 168, 246A, 269B, 312, 357, 362, 401, 408, 408A, 542, 593, 597, 679, 682, 853, 860F, 865, 877, 881, 884, 904, 958, 988, 993, 1246, 1247, 1249, 1313, 1341, 3405, 4975, 6038, 6038A, 6039F, 6046, 6059, 6694, 7213 of this title; title 4 section 114; title 5 section 8351; title 12 sections 1464, 1467a, 1823; title 22 sections 2314, 2755; title 29 section 1108; title 42 section 1320a–7e.

§ 7702. Life insurance contract defined

(a) General rule

For purposes of this title, the term ''life insurance contract'' means any contract which is a life insurance contract under the applicable law, but only if such contract—

(1) meets the cash value accumulation test of subsection (b), or

(2)(A) meets the guideline premium requirements of subsection (c), and

(B) falls within the cash value corridor of subsection (d).

(b) Cash value accumulation test for subsection (a)(1)

(1) In general

A contract meets the cash value accumulation test of this subsection if, by the terms of the contract, the cash surrender value of such contract may not at any time exceed the net single premium which would have to be paid at such time to fund future benefits under the contract.

(2) Rules for applying paragraph (1)

Determinations under paragraph (1) shall be made—

(A) on the basis of interest at the greater of an annual effective rate of 4 percent or the rate or rates guaranteed on issuance of the contract,

(B) on the basis of the rules of subparagraph (B)(i) (and, in the case of qualified additional benefits, subparagraph (B)(ii)) of subsection (c)(3), and

(C) by taking into account under subparagraphs (A) and (D) of subsection (e)(1) only current and future death benefits and qualified additional benefits.

(c) Guideline premium requirements

For purposes of this section—

(1) In general

A contract meets the guideline premium requirements of this subsection if the sum of the premiums paid under such contract does not at any time exceed the guideline premium limitation as of such time.

(2) Guideline premium limitation

The term ''guideline premium limitation'' means, as of any date, the greater of—

(A) the guideline single premium, or

(B) the sum of the guideline level premiums to such date.

(3) Guideline single premium

(A) In general

The term ''guideline single premium'' means the premium at issue with respect to future benefits under the contract.

(B) Basis on which determination is made

The determination under subparagraph (A) shall be based on—

(i) reasonable mortality charges which meet the requirements (if any) prescribed in regulations and which (except as provided in regulations) do not exceed the mortality charges specified in the prevailing commissioners' standard tables (as defined in section 807(d)(5)) as of the time the contract is issued,

(ii) any reasonable charges (other than mortality charges) which (on the basis of the company's experience, if any, with respect to similar contracts) are reasonably expected to be actually paid, and

(iii) interest at the greater of an annual effective rate of 6 percent or the rate or rates guaranteed on issuance of the contract.

(C) When determination made

Except as provided in subsection (f)(7), the determination under subparagraph (A) shall be made as of the time the contract is issued.

(D) Special rules for subparagraph (B)(ii)

(i) Charges not specified in the contract

If any charge is not specified in the contract, the amount taken into account under subparagraph (B)(ii) for such charge shall be zero.

(ii) New companies, etc.

If any company does not have adequate experience for purposes of the determination under subparagraph (B)(ii), to the extent provided in regulations, such determination shall be made on the basis of the industry-wide experience.

(4) Guideline level premium

The term ''guideline level premium'' means the level annual amount, payable over a period not ending before the insured attains age 95, computed on the same basis as the guideline single premium, except that paragraph (3)(B)(iii) shall be applied by substituting ''4 percent'' for ''6 percent''.

(d) Cash value corridor for purposes of subsection (a)(2)(B)

For purposes of this section—

(1) In general

A contract falls within the cash value corridor of this subsection if the death benefit under the contract at any time is not less than the applicable percentage of the cash surrender value.

(2) Applicable percentage

In the case of an insured with an attained age as of the beginning of the contract year of:		The applicable percentage shall decrease by a ratable portion for each full year:	
More than:	But not more than:	From:	To:
0	40	250	250
40	45	250	215
45	50	215	185
50	55	185	150

In the case of an insured with an attained age as of the beginning of the contract year of:		The applicable percentage shall decrease by a ratable portion for each full year:	
More than:	But not more than:	From:	To:
55	60	150	130
60	65	130	120
65	70	120	115
70	75	115	105
75	90	105	105
90	95	105	100.

(e) Computational rules

(1) In general

For purposes of this section (other than subsection (d))—

(A) the death benefit (and any qualified additional benefit) shall be deemed not to increase,

(B) the maturity date, including the date on which any benefit described in subparagraph (C) is payable, shall be deemed to be no earlier than the day on which the insured attains age 95, and no later than the day on which the insured attains age 100,

(C) the death benefits shall be deemed to be provided until the maturity date determined by taking into account subparagraph (B), and

(D) the amount of any endowment benefit (or sum of endowment benefits, including any cash surrender value on the maturity date determined by taking into account subparagraph (B)) shall be deemed not to exceed the least amount payable as a death benefit at any time under the contract.

(2) Limited increases in death benefit permitted

Notwithstanding paragraph (1)(A)—

(A) for purposes of computing the guideline level premium, an increase in the death benefit which is provided in the contract may be taken into account but only to the extent necessary to prevent a decrease in the excess of the death benefit over the cash surrender value of the contract,

(B) for purposes of the cash value accumulation test, the increase described in subparagraph (A) may be taken into account if the contract will meet such test at all times assuming that the net level reserve (determined as if level annual premiums were paid for the contract over a period not ending before the insured attains age 95) is substituted for the net single premium, and

(C) for purposes of the cash value accumulation test, the death benefit increases may be taken into account if the contract—

(i) has an initial death benefit of $5,000 or less and a maximum death benefit of $25,000 or less,

(ii) provides for a fixed predetermined annual increase not to exceed 10 percent of the initial death benefit or 8 percent of the death benefit at the end of the preceding year, and

(iii) was purchased to cover payment of burial expenses or in connection with prearranged funeral expenses.

For purposes of subparagraph (C), the initial death benefit of a contract shall be determined by treating all contracts issued to the same contract owner as 1 contract.

(f) Other definitions and special rules

For purposes of this section—

(1) Premiums paid

(A) In general

The term ''premiums paid'' means the premiums paid under the contract less amounts (other than amounts includible in gross income) to which section 72(e) applies and less any excess premiums with respect to which there is a distribution described in subparagraph (B) or (E) of paragraph (7) and any other amounts received with respect to the contract which are specified in regulations.

(B) Treatment of certain premiums returned to policyholder

If, in order to comply with the requirements of subsection (a)(2)(A), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of a contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such year.

(C) Interest returned includible in gross income

Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

(2) Cash values

(A) Cash surrender value

The cash surrender value of any contract shall be its cash value determined without regard to any surrender charge, policy loan, or reasonable termination dividends.

(B) Net surrender value

The net surrender value of any contract shall be determined with regard to surrender charges but without regard to any policy loan.

(3) Death benefit

The term ''death benefit'' means the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefits).

(4) Future benefits

The term ''future benefits'' means death benefits and endowment benefits.

(5) Qualified additional benefits

(A) In general

The term ''qualified additional benefits'' means any—

(i) guaranteed insurability,

(ii) accidental death or disability benefit,

(iii) family term coverage,

(iv) disability waiver benefit, or

(v) other benefit prescribed under regulations.

(B) Treatment of qualified additional benefits

For purposes of this section, qualified additional benefits shall not be treated as fu-

ture benefits under the contract, but the charges for such benefits shall be treated as future benefits.

(C) Treatment of other additional benefits

In the case of any additional benefit which is not a qualified additional benefit—

(i) such benefit shall not be treated as a future benefit, and

(ii) any charge for such benefit which is not prefunded shall not be treated as a premium.

(6) Premium payments not disqualifying contract

The payment of a premium which would result in the sum of the premiums paid exceeding the guideline premium limitation shall be disregarded for purposes of subsection (a)(2) if the amount of such premium does not exceed the amount necessary to prevent the termination of the contract on or before the end of the contract year (but only if the contract will have no cash surrender value at the end of such extension period).

(7) Adjustments

(A) In general

If there is a change in the benefits under (or in other terms of) the contract which was not reflected in any previous determination or adjustment made under this section, there shall be proper adjustments in future determinations made under this section.

(B) Rule for certain changes during first 15 years

If—

(i) a change described in subparagraph (A) reduces benefits under the contract,

(ii) the change occurs during the 15-year period beginning on the issue date of the contract, and

(iii) a cash distribution is made to the policyholder as a result of such change,

section 72 (other than subsection (e)(5) thereof) shall apply to such cash distribution to the extent it does not exceed the recapture ceiling determined under subparagraph (C) or (D) (whichever applies).

(C) Recapture ceiling where change occurs during first 5 years

If the change referred to in subparagraph (B)(ii) occurs during the 5-year period beginning on the issue date of the contract, the recapture ceiling is—

(i) in the case of a contract to which subsection (a)(1) applies, the excess of—

(I) the cash surrender value of the contract, immediately before the reduction, over

(II) the net single premium (determined under subsection (b)), immediately after the reduction, or

(ii) in the case of a contract to which subsection (a)(2) applies, the greater of—

(I) the excess of the aggregate premiums paid under the contract, immediately before the reduction, over the guideline premium limitation for the contract (determined under subsection (c)(2), taking into account the adjustment described in subparagraph (A)), or

(II) the excess of the cash surrender value of the contract, immediately before the reduction, over the cash value corridor of subsection (d) (determined immediately after the reduction).

(D) Recapture ceiling where change occurs after 5th year and before 16th year

If the change referred to in subparagraph (B) occurs after the 5-year period referred to under subparagraph (C), the recapture ceiling is the excess of the cash surrender value of the contract, immediately before the reduction, over the cash value corridor of subsection (d) (determined immediately after the reduction and whether or not subsection (d) applies to the contract).

(E) Treatment of certain distributions made in anticipation of benefit reductions

Under regulations prescribed by the Secretary, subparagraph (B) shall apply also to any distribution made in anticipation of a reduction in benefits under the contract. For purposes of the preceding sentence, appropriate adjustments shall be made in the provisions of subparagraphs (C) and (D); and any distribution which reduces the cash surrender value of a contract and which is made within 2 years before a reduction in benefits under the contract shall be treated as made in anticipation of such reduction.

(8) Correction of errors

If the taxpayer establishes to the satisfaction of the Secretary that—

(A) the requirements described in subsection (a) for any contract year were not satisfied due to reasonable error, and

(B) reasonable steps are being taken to remedy the error,

the Secretary may waive the failure to satisfy such requirements.

(9) Special rule for variable life insurance contracts

In the case of any contract which is a variable contract (as defined in section 817), the determination of whether such contract meets the requirements of subsection (a) shall be made whenever the death benefits under such contract change but not less frequently than once during each 12-month period.

(g) Treatment of contracts which do not meet subsection (a) test

(1) Income inclusion

(A) In general

If at any time any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), the income on the contract for any taxable year of the policyholder shall be treated as ordinary income received or accrued by the policyholder during such year.

(B) Income on the contract

For purposes of this paragraph, the term ''income on the contract'' means, with re-

spect to any taxable year of the policyholder, the excess of—

(i) the sum of—

(I) the increase in the net surrender value of the contract during the taxable year, and

(II) the cost of life insurance protection provided under the contract during the taxable year, over

(ii) the premiums paid (as defined in subsection (f)(1)) under the contract during the taxable year.

(C) Contracts which cease to meet definition

If, during any taxable year of the policyholder, a contract which is a life insurance contract under the applicable law ceases to meet the definition of life insurance contract under subsection (a), the income on the contract for all prior taxable years shall be treated as received or accrued during the taxable year in which such cessation occurs.

(D) Cost of life insurance protection

For purposes of this paragraph, the cost of life insurance protection provided under the contract shall be the lesser of—

(i) the cost of individual insurance on the life of the insured as determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by the Secretary by regulations, or

(ii) the mortality charge (if any) stated in the contract.

(2) Treatment of amount paid on death of insured

If any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), the excess of the amount paid by the reason of the death of the insured over the net surrender value of the contract shall be deemed to be paid under a life insurance contract for purposes of section 101 and subtitle B.

(3) Contract continues to be treated as insurance contract

If any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), such contract shall, notwithstanding such failure, be treated as an insurance contract for purposes of this title.

(h) Endowment contracts receive same treatment

(1) In general

References in subsections (a) and (g) to a life insurance contract shall be treated as including references to a contract which is an endowment contract under the applicable law.

(2) Definition of endowment contract

For purposes of this title (other than paragraph (1)), the term ''endowment contract'' means a contract which is an endowment contract under the applicable law and which meets the requirements of subsection (a).

(i) Transitional rule for certain 20-pay contracts

(1) In general

In the case of a qualified 20-pay contract, this section shall be applied by substituting ''3 percent'' for ''4 percent'' in subsection (b)(2).

(2) Qualified 20-pay contract

For purposes of paragraph (1), the term ''qualified 20-pay contract'' means any contract which—

(A) requires at least 20 nondecreasing annual premium payments, and

(B) is issued pursuant to an existing plan of insurance.

(3) Existing plan of insurance

For purposes of this subsection, the term ''existing plan of insurance'' means, with respect to any contract, any plan of insurance which was filed by the company issuing such contract in 1 or more States before September 28, 1983, and is on file in the appropriate State for such contract.

(j) Certain church self-funded death benefit plans treated as life insurance

(1) In general

In determining whether any plan or arrangement described in paragraph (2) is a life insurance contract, the requirement of subsection (a) that the contract be a life insurance contract under applicable law shall not apply.

(2) Description

For purposes of this subsection, a plan or arrangement is described in this paragraph if—

(A) such plan or arrangement provides for the payment of benefits by reason of the death of the individuals covered under such plan or arrangement, and

(B) such plan or arrangement is provided by a church for the benefit of its employees and their beneficiaries, directly or through an organization described in section 414(e)(3)(A) or an organization described in section 414(e)(3)(B)(ii).

(3) Definitions

For purposes of this subsection—

(A) Church

The term ''church'' means a church or a convention or association of churches.

(B) Employee

The term ''employee'' includes an employee described in section 414(e)(3)(B).

(k) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 98–369, div. A, title II, § 221(a), July 18, 1984, 98 Stat. 767; amended Pub. L. 99–514, title XVIII, § 1825(a)–(c), Oct. 22, 1986, 100 Stat. 2846–2848; Pub. L. 100–647, title V, § 5011(a), (b), title VI, § 6078(a), Nov. 10, 1988, 102 Stat. 3660, 3661, 3709.)

AMENDMENTS

1988—Subsec. (c)(3)(B)(i), (ii). Pub. L. 100–647, § 5011(a), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

''(i) the mortality charges specified in the contract (or, if none is specified, the mortality charges used in determining the statutory reserves for such contract),

''(ii) any charges (not taken into account under clause (i)) specified in the contract (the amount of any charge not so specified shall be treated as zero), and''.

Subsec. (c)(3)(D). Pub. L. 100–647, § 5011(b), added subpar. (D).

Subsecs. (j), (k). Pub. L. 100–647, § 6078(a), added subsec. (j) and redesignated former subsec. (j) as (k).

1986—Subsec. (b)(2)(C). Pub. L. 99–514, § 1825(a)(2), substituted ''subparagraphs (A) and (D)'' for ''subparagraphs (A) and (C)''.

Subsec. (e)(1). Pub. L. 99–514, § 1825(a)(3), inserted ''(other than subsection (d))'' after ''section''.

Subsec. (e)(1)(B). Pub. L. 99–514, § 1825(a)(1)(A), substituted ''shall be deemed to be no earlier than'' for ''shall be no earlier than''.

Subsec. (e)(1)(C). Pub. L. 99–514, § 1821(a)(1)(C), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (e)(1)(D). Pub. L. 99–514, § 1821(a)(1)(C), (D), redesignated subpar. (C) as (D) and substituted ''the maturity date determined by taking into account subparagraph (B)'' for ''the maturity date described in subparagraph (B)''.

Subsec. (e)(2)(C). Pub. L. 99–514, § 1825(a)(4), added subpar. (C).

Subsec. (f)(1)(A). Pub. L. 99–514, § 1825(b)(2), substituted ''less any excess premiums with respect to which there is a distribution described in subparagraph (B) or (E) of paragraph (7) and any other amounts received'' for ''less any other amounts received''.

Subsec. (f)(7). Pub. L. 99–514, § 1825(b)(1), amended par. (7) generally. Prior to amendment, par. (7)(A), in general, read as follows: ''In the event of a change in the future benefits or any qualified additional benefit (or in any other terms) under the contract which was not reflected in any previous determination made under this section, under regulations prescribed by the Secretary, there shall be proper adjustments in future determinations made under this section.'', and par. (7)(B), certain changes treated as exchange, read as follows: ''In the case of any change which reduces the future benefits under the contract, such change shall be treated as an exchange of the contract for another contract.''

Subsec. (g)(1)(B)(ii). Pub. L. 99–514, § 1825(c), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the amount of premiums paid under the contract during the taxable year reduced by any policyholder dividends received during such taxable year.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 5011(d) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending this section] shall apply to contracts entered into on or after October 21, 1988.''

Section 6078(b) of Pub. L. 100–647 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendment made by section 221(a) of the Tax Reform Act of 1984 [Pub. L. 98–369, which enacted this section].''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1825(a)(4) of Pub. L. 99–514, as amended by Pub. L. 100–647, title I, § 1018(j), Nov. 10, 1988, 102 Stat. 3583, provided that the amendment made by that section is effective with respect to contracts entered into after Oct. 22, 1986.

Amendment by section 1825(a)(1)–(3), (b), (c) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section 221(d) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, title XVIII, §§ 1825(e), 1899A(69), Oct. 22, 1986, 100 Stat. 2095, 2848, 2962, provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [enacting this section and amending section 101 of this title and provisions set out as a note under section 101 of this title] shall apply to contracts issued after December 31, 1984, in taxable years ending after such date.

''(2) SPECIAL RULE FOR CERTAIN CONTRACTS ISSUED AFTER JUNE 30, 1984.—

''(A) GENERAL RULE.—Except as otherwise provided in this paragraph, the amendments made by this section shall apply also to any contract issued after June 30, 1984, which provides an increasing death benefit and has premium funding more rapid than 10-year level premium payments.

''(B) EXCEPTION FOR CERTAIN CONTRACTS.—Subparagraph (A) shall not apply to any contract if—

''(i) such contract (whether or not a flexible premium contract) would meet the requirements of section 101(f) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954],

''(ii) such contract is not a flexible premium life insurance contract (within the meaning of section 101(f) of such Code) and would meet the requirements of section 7702 of such Code determined by—

''(I) substituting '3 percent' for '4 percent' in section 7702(b)(2) of such Code, and

''(II) treating subparagraph (B) of section 7702(e)(1) of such Code as if it read as follows: 'the maturity date shall be the latest maturity date permitted under the contract, but not less than 20 years after the date of issue or (if earlier) age 95', or

''(iii) under such contract—

''(I) the premiums (including any policy fees) will be adjusted from time-to-time to reflect the level amount necessary (but not less than zero) at the time of such adjustment to provide a level death benefit assuming interest crediting and an annual effective interest rate of not less than 3 percent, or

''(II) at the option of the insured, in lieu of an adjustment under subclause (I) there will be a comparable adjustment in the amount of the death benefit.

''(C) CERTAIN CONTRACTS ISSUED BEFORE OCTOBER 1, 1984.—

''(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting 'September 30, 1984' for 'June 30, 1984' in the case of a contract—

''(I) which would meet the requirements of section 7702 of such Code if '3 percent' were substituted for '4 percent' in section 7702(b)(2) of such Code, and the rate or rates guaranteed on issuance of the contract were determined without regard to any mortality charges and any initial excess interest guarantees, and

''(II) the cash surrender value of which does not at any time exceed the net single premium which would have to be paid at such time to fund future benefits under the contract.

''(ii) DEFINITIONS.—For purposes of clause (i)—

''(I) IN GENERAL.—Except as provided in subclause (II), terms used in clause (i) shall have the same meanings as when used in section 7702 of such Code.

''(II) NET SINGLE PREMIUM.—The term 'net single premium' shall be determined by substituting '3 percent' for '4 percent' in section 7702(b)(2) of such Code, by using the 1958 standard ordinary mortality and morbidity tables of the National Association of Insurance Commissioners, and by assuming a level death benefit.

''(3) TRANSITIONAL RULE FOR CERTAIN EXISTING PLANS OF INSURANCE.—A plan of insurance on file in 1 or more States before September 28, 1983, shall be treated for purposes of section 7702(i)(3) of such Code as a plan of insurance on file in 1 or more States before September 28, 1983, without regard to whether such plan of insurance is modified after September 28, 1983, to permit the crediting of excess interest or similar amounts annu-

ally and not monthly under contracts issued pursuant to such plan of insurance.

''(4) EXTENSION OF FLEXIBLE PREMIUM CONTRACT PROVISIONS.—The amendments made by subsection (b) [amending section 101 of this title and provisions set out as a note under section 101 of this title] shall take effect on January 1, 1984.

''(5) SPECIAL RULE FOR MASTER CONTRACT.—For purposes of this subsection, in the case of a master contract, the date taken into account with respect to any insured shall be the first date on which such insured is covered under such contract.''

INTERIM RULES; REGULATIONS; STANDARDS BEFORE REGULATIONS TAKE EFFECT

Section 5011(c) of Pub. L. 100–647 provided that:

''(1) REGULATIONS.—Not later than January 1, 1990, the Secretary of the Treasury (or his delegate) shall issue regulations under section 7702(c)(3)(B)(i) of the 1986 Code (as amended by subsection (a)).

''(2) STANDARDS BEFORE REGULATIONS TAKE EFFECT.—In the case of any contract to which the amendments made by this section [amending this section] apply and which is issued before the effective date of the regulations required under paragraph (1), mortality charges which do not differ materially from the charges actually expected to be imposed by the company (taking into account any relevant characteristic of the insured of which the company is aware) shall be treated as meeting the requirements of clause (i) of section 7702(c)(3)(B) of the 1986 Code (as amended by subsection (a)).''

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.

TREATMENT OF FLEXIBLE PREMIUM CONTRACTS ISSUED DURING 1984 WHICH MEET NEW REQUIREMENTS

Section 221(b)(3) of Pub. L. 98–369, as added by Pub. L. 99–514, title XVIII, § 1825(d), Oct. 22, 1986, 100 Stat. 2848, provided that: ''Any flexible premium contract issued during 1984 which meets the requirements of section 7702 of the Internal Revenue Code of 1954 [now 1986] (as added by this section) shall be treated as meeting the requirements of section 101(f) of such Code.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 56, 72, 264, 817, 817A, 953, 7702A, 7702B of this title; title 15 section 6712.

§ 7702A. Modified endowment contract defined

(a) General rule

For purposes of section 72, the term ''modified endowment contract'' means any contract meeting the requirements of section 7702—

(1) which—

(A) is entered into on or after June 21, 1988, and

(B) fails to meet the 7-pay test of subsection (b), or

(2) which is received in exchange for a contract described in paragraph (1) or this paragraph.

(b) 7-pay test

For purposes of subsection (a), a contract fails to meet the 7-pay test of this subsection if the accumulated amount paid under the contract at any time during the 1st 7 contract years exceeds the sum of the net level premiums which would have been paid on or before such time if the contract provided for paid-up future benefits after the payment of 7 level annual premiums.

(c) Computational rules

(1) In general

Except as provided in this subsection, the determination under subsection (b) of the 7 level annual premiums shall be made—

(A) as of the time the contract is issued, and

(B) by applying the rules of section 7702(b)(2) and of section 7702(e) (other than paragraph (2)(C) thereof), except that the death benefit provided for the 1st contract year shall be deemed to be provided until the maturity date without regard to any scheduled reduction after the 1st 7 contract years.

(2) Reduction in benefits during 1st 7 years

(A) In general

If there is a reduction in benefits under the contract within the 1st 7 contract years, this section shall be applied as if the contract had originally been issued at the reduced benefit level.

(B) Reductions attributable to nonpayment of premiums

Any reduction in benefits attributable to the nonpayment of premiums due under the contract shall not be taken into account under subparagraph (A) if the benefits are reinstated within 90 days after the reduction in such benefits.

(3) Treatment of material changes

(A) In general

If there is a material change in the benefits under (or in other terms of) the contract which was not reflected in any previous determination under this section, for purposes of this section—

(i) such contract shall be treated as a new contract entered into on the day on which such material change takes effect, and

(ii) appropriate adjustments shall be made in determining whether such contract meets the 7-pay test of subsection (b) to take into account the cash surrender value under the old contract.

(B) Treatment of certain benefit increases

For purposes of subparagraph (A), the term ''material change'' includes any increase in the death benefit under the contract or any increase in, or addition of, a qualified additional benefit under the contract. Such term shall not include—

(i) any increase which is attributable to the payment of premiums necessary to fund the lowest level of the death benefit and qualified additional benefits payable in the 1st 7 contract years (determined after taking into account death benefit increases described in subparagraph (A) or (B) of section 7702(e)(2)) or to crediting of interest or other earnings (including policyholder dividends) in respect of such premiums, and

(ii) to the extent provided in regulations, any cost-of-living increase based on an established broad-based index if such increase is funded ratably over the remaining period during which premiums are required to be paid under the contract.

(4) Special rule for contracts with death benefits of $10,000 or less

In the case of a contract—

(A) which provides an initial death benefit of $10,000 or less, and

(B) which requires at least 7 nondecreasing annual premium payments,

each of the 7 level annual premiums determined under subsection (b) (without regard to this paragraph) shall be increased by $75. For purposes of this paragraph, the contract involved and all contracts previously issued to the same policyholder by the same company shall be treated as one contract.

(5) Regulatory authority for certain collection expenses

The Secretary may by regulations prescribe rules for taking into account expenses solely attributable to the collection of premiums paid more frequently than annually.

(6) Treatment of certain contracts with more than one insured

If—

(A) a contract provides a death benefit which is payable only upon the death of 1 insured following (or occurring simultaneously with) the death of another insured, and

(B) there is a reduction in such death benefit below the lowest level of such death benefit provided under the contract during the 1st 7 contract years,

this section shall be applied as if the contract had originally been issued at the reduced benefit level.

(d) Distributions affected

If a contract fails to meet the 7-pay test of subsection (b), such contract shall be treated as failing to meet such requirements only in the case of—

(1) distributions during the contract year in which the failure takes effect and during any subsequent contract year, and

(2) under regulations prescribed by the Secretary, distributions (not described in paragraph (1)) in anticipation of such failure.

For purposes of the preceding sentence, any distribution which is made within 2 years before the failure to meet the 7-pay test shall be treated as made in anticipation of such failure.

(e) Definitions

For purposes of this section—

(1) Amount paid

(A) In general

The term ''amount paid'' means—

(i) the premiums paid under the contract, reduced by

(ii) amounts to which section 72(e) applies (determined without regard to paragraph (4)(A) thereof) but not including amounts includible in gross income.

(B) Treatment of certain premiums returned

If, in order to comply with the requirements of subsection (b), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of such contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such contract year.

(C) Interest returned includible in gross income

Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

(2) Contract year

The term ''contract year'' means the 12-month period beginning with the 1st month for which the contract is in effect, and each 12-month period beginning with the corresponding month in subsequent calendar years.

(3) Other terms

Except as otherwise provided in this section, terms used in this section shall have the same meaning as when used in section 7702.

(Added Pub. L. 100–647, title V, § 5012(c)(1), Nov. 10, 1988, 102 Stat. 3662; amended Pub. L. 101–239, title VII, §§ 7647(a), 7815(a)(1), (4), Dec. 19, 1989, 103 Stat. 2382, 2414; Pub. L. 106–554, § 1(a)(7) [title III, § 318(a)(1), (2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–645.)

AMENDMENTS

2000—Subsec. (a)(2). Pub. L. 106–554, § 1(a)(7) [title III, § 318(a)(1)], inserted ''or this paragraph'' before period at end.

Subsec. (c)(3)(A)(ii). Pub. L. 106–554, § 1(a)(7) [title III, § 318(a)(2)], substituted ''under the old contract'' for ''under the contract''.

1989—Subsec. (c)(3)(B). Pub. L. 101–239, § 7815(a)(1), substituted ''benefit increases'' for ''increases in future benefits'' in heading and amended text generally. Prior to amendment, text read as follows: ''For purposes of subparagraph (A), the term 'material change' includes any increase in future benefits under the contract. Such term shall not include—

''(i) any increase which is attributable to the payment of premiums necessary to fund the lowest level of future benefits payable in the 1st 7 contract years (determined after taking into account death benefit increases described in subparagraph (A) or (B) of section 7702(e)(2)) or to crediting of interest or other earnings (including policyholder dividends) in respect of such premiums, and

''(ii) to the extent provided in regulations, any cost-of-living increase based on an established broad-based index if such increase is funded ratably over the remaining life of the the contract.''

Subsec. (c)(4). Pub. L. 101–239, § 7815(a)(4), substituted ''of $10,000 or less'' for ''under $10,000'' in heading and ''the same policyholder'' for ''the same insurer'' in concluding provisions.

Subsec. (c)(6). Pub. L. 101–239, § 7647(a), added par. (6).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, § 1(a)(7) [title III, § 318(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–645, provided that: ''The amendments made by this subsection [amending this section] shall take effect as if included in the amendments made by section 5012 of the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100–647].''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7647(b) of Pub. L. 101–239 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to contracts entered into on or after September 14, 1989.''

Amendment by section 7815(a)(1), (4) of Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

EFFECTIVE DATE

Section 5012(e) of Pub. L. 100–647, as amended by Pub. L. 101–239, title VII, § 7815(a)(2), Dec. 19, 1989, 103 Stat. 2414, provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [enacting this section and amending sections 26 and 72 of this title] shall apply to contracts entered into on or after June 21, 1988.

''(2) SPECIAL RULE WHERE DEATH BENEFIT INCREASES BY MORE THAN $150,000.—If the death benefit under the contract increases by more than $150,000 over the death benefit under the contract in effect on October 20, 1988, the rules of section 7702A(c)(3) of the 1986 Code (as added by this section) shall apply in determining whether such contract is issued on or after June 21, 1988. The preceding sentence shall not apply in the case of a contract which, as of June 21, 1988, required at least 7 level annual premium payments and under which the policyholder makes at least 7 level annual premium payments.

''(3) CERTAIN OTHER MATERIAL CHANGES TAKEN INTO ACCOUNT.—A contract entered into before June 21, 1988, shall be treated as entered into after such date if—

''(A) on or after June 21, 1988, the death benefit under the contract is increased (or a qualified additional benefit is increased or added) and before June 21, 1988, the owner of the contract did not have a unilateral right under the contract to obtain such increase or addition without providing additional evidence of insurability, or

''(B) the contract is converted after June 20, 1988, from a term life insurance contract to a life insurance contract providing coverage other than term life insurance coverage without regard to any right of the owner of the contract to such conversion.

''(4) CERTAIN EXCHANGES PERMITTED.—In the case of a modified endowment contract which—

''(A) required at least 7 annual level premium payments,

''(B) is entered into after June 20, 1988, and before the date of the enactment of this Act [Nov. 10, 1988], and

''(C) is exchanged within 3 months after such date of enactment for a life insurance contract which meets the requirements of section 7702A(b),

the contract which is received in exchange for such contract shall not be treated as a modified endowment contract if the taxpayer elects, notwithstanding section 1035 of the 1986 Code, to recognize gain on such exchange.

''(5) SPECIAL RULE FOR ANNUITY CONTRACTS.—In the case of annuity contracts, the amendments made by subsection (d) [amending section 72 of this title] shall apply to contracts entered into after October 21, 1988.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 72, 264, 817A of this title.

§ 7702B. Treatment of qualified long-term care insurance

(a) In general

For purposes of this title—

(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

(4) except as provided in subsection (e)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

(b) Qualified long-term care insurance contract

For purposes of this title—

(1) In general

The term ''qualified long-term care insurance contract'' means any insurance contract if—

(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

(C) such contract is guaranteed renewable,

(D) such contract does not provide for a cash surrender value or other money that can be—

(i) paid, assigned, or pledged as collateral for a loan, or

(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C),

(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

(F) such contract meets the requirements of subsection (g).

(2) Special rules

(A) Per diem, etc. payments permitted

A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

(B) Special rules relating to medicare

(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

(ii) No provision of law shall be construed or applied so as to prohibit the offering of a

qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

(C) Refunds of premiums

Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

(c) Qualified long-term care services

For purposes of this section—

(1) In general

The term ''qualified long-term care services'' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

(A) are required by a chronically ill individual, and

(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(2) Chronically ill individual

(A) In general

The term ''chronically ill individual'' means any individual who has been certified by a licensed health care practitioner as—

(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

(ii) having a level of disability similar (as determined under regulations prescribed by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i), or

(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

(B) Activities of daily living

For purposes of subparagraph (A), each of the following is an activity of daily living:

(i) Eating.

(ii) Toileting.

(iii) Transferring.

(iv) Bathing.

(v) Dressing.

(vi) Continence.

A contract shall not be treated as a qualified long-term care insurance contract unless the determination of whether an individual is a chronically ill individual described in subparagraph (A)(i) takes into account at least 5 of such activities.

(3) Maintenance or personal care services

The term ''maintenance or personal care services'' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

(4) Licensed health care practitioner

The term ''licensed health care practitioner'' means any physician (as defined in section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

(d) Aggregate payments in excess of limits

(1) In general

If the aggregate of—

(A) the periodic payments received for any period under all qualified long-term care insurance contracts which are treated as made for qualified long-term care services for an insured, and

(B) the periodic payments received for such period which are treated under section 101(g) as paid by reason of the death of such insured,

exceeds the per diem limitation for such period, such excess shall be includible in gross income without regard to section 72. A payment shall not be taken into account under subparagraph (B) if the insured is a terminally ill individual (as defined in section 101(g)) at the time the payment is received.

(2) Per diem limitation

For purposes of paragraph (1), the per diem limitation for any period is an amount equal to the excess (if any) of—

(A) the greater of—

(i) the dollar amount in effect for such period under paragraph (4), or

(ii) the costs incurred for qualified long-term care services provided for the insured for such period, over

(B) the aggregate payments received as reimbursements (through insurance or otherwise) for qualified long-term care services provided for the insured during such period.

(3) Aggregation rules

For purposes of this subsection—

(A) all persons receiving periodic payments described in paragraph (1) with respect to the same insured shall be treated as 1 person, and

(B) the per diem limitation determined under paragraph (2) shall be allocated first to the insured and any remaining limitation shall be allocated among the other such persons in such manner as the Secretary shall prescribe.

(4) Dollar amount

The dollar amount in effect under this subsection shall be $175 per day (or the equivalent

amount in the case of payments on another periodic basis).

(5) Inflation adjustment

In the case of a calendar year after 1997, the dollar amount contained in paragraph (4) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(10).

(6) Periodic payments

For purposes of this subsection, the term ''periodic payment'' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

(e) Treatment of coverage provided as part of a life insurance contract

Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as part of a life insurance contract—

(1) In general

This section shall apply as if the portion of the contract providing such coverage is a separate contract.

(2) Application of section 7702

Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

(3) Application of section 213

No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

(4) Portion defined

For purposes of this subsection, the term ''portion'' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to long-term care insurance coverage.

(f) Treatment of certain State-maintained plans

(1) In general

If—

(A) an individual receives coverage for qualified long-term care services under a State long-term care plan, and

(B) the terms of such plan would satisfy the requirements of subsection (b) were such plan an insurance contract,

such plan shall be treated as a qualified long-term care insurance contract for purposes of this title.

(2) State long-term care plan

For purposes of paragraph (1), the term ''State long-term care plan'' means any plan—

(A) which is established and maintained by a State or an instrumentality of a State,

(B) which provides coverage only for qualified long-term care services, and

(C) under which such coverage is provided only to—

(i) employees and former employees of a State (or any political subdivision or instrumentality of a State),

(ii) the spouses of such employees, and

(iii) individuals bearing a relationship to such employees or spouses which is described in any of paragraphs (1) through (8) of section 152(a).

(g) Consumer protection provisions

(1) In general

The requirements of this subsection are met with respect to any contract if the contract meets—

(A) the requirements of the model regulation and model Act described in paragraph (2),

(B) the disclosure requirement of paragraph (3), and

(C) the requirements relating to nonforfeitability under paragraph (4).

(2) Requirements of model regulation and Act

(A) In general

The requirements of this paragraph are met with respect to any contract if such contract meets—

(i) Model regulation

The following requirements of the model regulation:

(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

(II) Section 7B (relating to prohibitions on limitations and exclusions).

(III) Section 7C (relating to extension of benefits).

(IV) Section 7D (relating to continuation or conversion of coverage).

(V) Section 7E (relating to discontinuance and replacement of policies).

(VI) Section 8 (relating to unintentional lapse).

(VII) Section 9 (relating to disclosure), other than section 9F thereof.

(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

(IX) Section 11 (relating to minimum standards).

(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

(XI) Section 23 (relating to prohibition against preexisting conditions and pro-

bationary periods in replacement policies or certificates).

(ii) Model Act

The following requirements of the model Act:

(I) Section 6C (relating to preexisting conditions).

(II) Section 6D (relating to prior hospitalization).

(B) Definitions

For purposes of this paragraph—

(i) Model provisions

The terms ''model regulation'' and ''model Act'' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

(ii) Coordination

Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

(iii) Determination

For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.

(3) Disclosure requirement

The requirement of this paragraph is met with respect to any contract if such contract meets the requirements of section 4980C(d).

(4) Nonforfeiture requirements

(A) In general

The requirements of this paragraph are met with respect to any level premium contract, if the issuer of such contract offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

(B) Requirements of provision

The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

(i) The nonforfeiture provision shall be appropriately captioned.

(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying contracts approved by the appropriate State regulatory agency for the same contract form.

(iii) The nonforfeiture provision shall provide at least one of the following:

(I) Reduced paid-up insurance.

(II) Extended term insurance.

(III) Shortened benefit period.

(IV) Other similar offerings approved by the appropriate State regulatory agency.

(5) Cross reference

For coordination of the requirements of this subsection with State requirements, see section 4980C(f).

(Added and amended Pub. L. 104–191, title III, §§ 321(a), 325, Aug. 21, 1996, 110 Stat. 2054, 2063; Pub. L. 105–34, title XVI, § 1602(b), (e), Aug. 5, 1997, 111 Stat. 1094; Pub. L. 105–206, title VI, § 6023(28), July 22, 1998, 112 Stat. 826.)

ADJUSTMENT OF DOLLAR AMOUNT OF PER DIEM LIMITATION REGARDING PERIODIC PAYMENTS FOR CALENDAR YEAR 2001

For adjustment of dollar amount of per diem limitation on periodic payments received under qualified long-term care or certain life insurance contracts under subsection (d)(4) of this section for calendar year 2001, see section 3.27 of Revenue Procedure 2001–13, set out as a note under section 1 of this title.

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(1)(B), (2)(B)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Section 1861(r)(1) of the Act is classified to section 1395x(r)(1) of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (e)(2). Pub. L. 105–206 inserted ''section'' after ''Application of'' in heading.

1997—Subsec. (c)(2)(B). Pub. L. 105–34, § 1602(b), inserted ''described in subparagraph (A)(i)'' after ''chronically ill individual'' in concluding provisions.

Subsec. (g)(4)(B)(ii), (iii)(IV). Pub. L. 105–34, § 1602(e), substituted ''appropriate State regulatory agency'' for ''Secretary''.

1996—Subsec. (g). Pub. L. 104–191, § 325, added subsec. (g).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective as if included in the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104–191, to which such amendment relates, see section 1602(i) of Pub. L. 105–34, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 325 of Pub. L. 104–191 applicable to contracts issued after Dec. 31, 1996, with provisions of section 321(f) of Pub. L. 104–191, set out as an Effective Date note below, applicable to such contracts, see section 327 of Pub. L. 104–191, set out as an Effective Date note under section 4980C of this title.

EFFECTIVE DATE

Section 321(f) of Pub. L. 104–191 provided that:

''(1) GENERAL EFFECTIVE DATE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section [enacting this section and amending sections 106, 125, 807, and 4980B of this title, section 1167 of Title 29, Labor, and section 300bb–8 of Title 42, The Public Health and Welfare] shall apply to contracts issued after December 31, 1996.

''(B) RESERVE METHOD.—The amendment made by subsection (b) [amending section 807 of this title]

shall apply to contracts issued after December 31, 1997.

''(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1997, which met the long-term care insurance requirements of the State in which the contract was sitused [sic] at the time the contract was issued—

''(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

''(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

In the case of an individual who is covered on December 31, 1996, under a State long-term care plan (as defined in section 7702B(f)(2) of such Code), the terms of such plan on such date shall be treated for purposes of the preceding sentence as a contract issued on such date which met the long-term care insurance requirements of such State.

''(3) EXCHANGES OF EXISTING POLICIES.—If, after the date of enactment of this Act [Aug. 21, 1996] and before January 1, 1998, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

''(4) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

''(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

''(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

''(5) APPLICATION OF PER DIEM LIMITATION TO EXISTING CONTRACTS.—The amount of per diem payments made under a contract issued on or before July 31, 1996, with respect to an insured which are excludable from gross income by reason of section 7702B of the Internal Revenue Code of 1986 (as added by this section) shall not be reduced under subsection (d)(2)(B) thereof by reason of reimbursements received under a contract issued on or before such date. The preceding sentence shall cease to apply as of the date (after July 31, 1996) such contract is exchanged or there is any contract modification which results in an increase in the amount of such per diem payments or the amount of such reimbursements.''

LONG-TERM CARE STUDY REQUEST

Section 321(g) of Pub. L. 104–191 provided that: ''The Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate shall jointly request the National Association of Insurance Commissioners, in consultation with representatives of the insurance industry and consumer organizations, to formulate, develop, and conduct a study to determine the marketing and other effects of per diem limits on certain types of long-term care policies. If the National Association of Insurance Commissioners agrees to the study request, the National Association of Insurance Commissioners shall report the results of its study to such committees not later than 2 years after accepting the request.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 106, 162, 213, 220, 807, 818, 4980B, 4980C of this title; title 5 sections 9001, 9002; title 12 section 1715z–20; title 29 section 1167; title 42 section 300bb–8.

§ 7703. Determination of marital status

(a) General rule

For purposes of part V of subchapter B of chapter 1 and those provisions of this title which refer to this subsection—

(1) the determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

(2) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(b) Certain married individuals living apart

For purposes of those provisions of this title which refer to this subsection, if—

(1) an individual who is married (within the meaning of subsection (a)) and who files a separate return maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a child (within the meaning of section 151(c)(3)) with respect to whom such individual is entitled to a deduction for the taxable year under section 151 (or would be so entitled but for paragraph (2) or (4) of section 152(e)),

(2) such individual furnishes over one-half of the cost of maintaining such household during the taxable year, and

(3) during the last 6 months of the taxable year, such individual's spouse is not a member of such household,

such individual shall not be considered as married.

(Added Pub. L. 99–514, title XIII, § 1301(j)(2)(A), Oct. 22, 1986, 100 Stat. 2657; amended Pub. L. 100–647, title I, § 1018(u)(41), Nov. 10, 1988, 102 Stat. 3592.)

PRIOR PROVISIONS

Provisions relating to determination of marital status were formerly contained in section 143 of this title, prior to enactment of this section by Pub. L. 99–514.

AMENDMENTS

1988—Subsec. (b)(1). Pub. L. 100–647 substituted ''section 151(c)(3)'' for ''section 151(e)(3)''.

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 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99–514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 2, 22, 24, 25A, 32, 55, 62, 63, 68, 86, 135, 151, 152, 153, 194, 221, 879, 1044,

1202, 1398, 3402, 6012, 6103, 6654 of this title; title 38 section 1503.

§ 7704. Certain publicly traded partnerships treated as corporations

(a) General rule

For purposes of this title, except as provided in subsection (c), a publicly traded partnership shall be treated as a corporation.

(b) Publicly traded partnership

For purposes of this section, the term ''publicly traded partnership'' means any partnership if—

(1) interests in such partnership are traded on an established securities market, or

(2) interests in such partnership are readily tradable on a secondary market (or the substantial equivalent thereof).

(c) Exception for partnerships with passive-type income

(1) In general

Subsection (a) shall not apply to any publicly traded partnership for any taxable year if such partnership met the gross income requirements of paragraph (2) for such taxable year and each preceding taxable year beginning after December 31, 1987, during which the partnership (or any predecessor) was in existence. For purposes of the preceding sentence, a partnership shall not be treated as being in existence during any period before the 1st taxable year in which such partnership (or a predecessor) was a publicly traded partnership.

(2) Gross income requirements

A partnership meets the gross income requirements of this paragraph for any taxable year if 90 percent or more of the gross income of such partnership for such taxable year consists of qualifying income.

(3) Exception not to apply to certain partnerships which could qualify as regulated investment companies

This subsection shall not apply to any partnership which would be described in section 851(a) if such partnership were a domestic corporation. To the extent provided in regulations, the preceding sentence shall not apply to any partnership a principal activity of which is the buying and selling of commodities (not described in section 1221(a)(1)), or options, futures, or forwards with respect to commodities.

(d) Qualifying income

For purposes of this section—

(1) In general

Except as otherwise provided in this subsection, the term ''qualifying income'' means—

(A) interest,

(B) dividends,

(C) real property rents,

(D) gain from the sale or other disposition of real property (including property described in section 1221(a)(1)),

(E) income and gains derived from the exploration, development, mining or production, processing, refining, transportation (including pipelines transporting gas, oil, or products thereof), or the marketing of any mineral or natural resource (including fertilizer, geothermal energy, and timber),

(F) any gain from the sale or disposition of a capital asset (or property described in section 1231(b)) held for the production of income described in any of the foregoing subparagraphs of this paragraph, and

(G) in the case of a partnership described in the second sentence of subsection (c)(3), income and gains from commodities (not described in section 1221(a)(1)) or futures, forwards, and options with respect to commodities.

For purposes of subparagraph (E), the term ''mineral or natural resource'' means any product of a character with respect to which a deduction for depletion is allowable under section 611; except that such term shall not include any product described in subparagraph (A) or (B) of section 613(b)(7).

(2) Certain interest not qualified

Interest shall not be treated as qualifying income if—

(A) such interest is derived in the conduct of a financial or insurance business, or

(B) such interest would be excluded from the term ''interest'' under section 856(f).

(3) Real property rent

The term ''real property rent'' means amounts which would qualify as rent from real property under section 856(d) if—

(A) such section were applied without regard to paragraph (2)(C) thereof (relating to independent contractor requirements), and

(B) stock owned, directly or indirectly, by or for a partner would not be considered as owned under section 318(a)(3)(A) by the partnership unless 5 percent or more (by value) of the interests in such partnership are owned, directly or indirectly, by or for such partner.

(4) Certain income qualifying under regulated investment company or real estate trust provisions

The term ''qualifying income'' also includes any income which would qualify under section 851(b)(2) or 856(c)(2).

(5) Special rule for determining gross income from certain real property sales

In the case of the sale or other disposition of real property described in section 1221(a)(1), gross income shall not be reduced by inventory costs.

(e) Inadvertent terminations

If—

(1) a partnership fails to meet the gross income requirements of subsection (c)(2),

(2) the Secretary determines that such failure was inadvertent,

(3) no later than a reasonable time after the discovery of such failure, steps are taken so that such partnership once more meets such gross income requirements, and

(4) such partnership agrees to make such adjustments (including adjustments with respect

to the partners) or to pay such amounts as may be required by the Secretary with respect to such period,

then, notwithstanding such failure, such entity shall be treated as continuing to meet such gross income requirements for such period.

(f) Effect of becoming corporation

As of the 1st day that a partnership is treated as a corporation under this section, for purposes of this title, such partnership shall be treated as—

(1) transferring all of its assets (subject to its liabilities) to a newly formed corporation in exchange for the stock of the corporation, and

(2) distributing such stock to its partners in liquidation of their interests in the partnership.

(g) Exception for electing 1987 partnerships

(1) In general

Subsection (a) shall not apply to an electing 1987 partnership.

(2) Electing 1987 partnership

For purposes of this subsection, the term ''electing 1987 partnership'' means any publicly traded partnership if—

(A) such partnership is an existing partnership (as defined in section 10211(c)(2) of the Revenue Reconciliation Act of 1987),

(B) subsection (a) has not applied (and without regard to subsection (c)(1) would not have applied) to such partnership for all prior taxable years beginning after December 31, 1987, and before January 1, 1998, and

(C) such partnership elects the application of this subsection, and consents to the application of the tax imposed by paragraph (3), for its first taxable year beginning after December 31, 1997.

A partnership which, but for this sentence, would be treated as an electing 1987 partnership shall cease to be so treated (and the election under subparagraph (C) shall cease to be in effect) as of the 1st day after December 31, 1997, on which there has been an addition of a substantial new line of business with respect to such partnership.

(3) Additional tax on electing partnerships

(A) Imposition of tax

There is hereby imposed for each taxable year on the income of each electing 1987 partnership a tax equal to 3.5 percent of such partnership's gross income for the taxable year from the active conduct of trades and businesses by the partnership.

(B) Adjustments in the case of tiered partnerships

For purposes of this paragraph, in the case of a partnership which is a partner in another partnership, the gross income referred to in subparagraph (A) shall include the partnership's distributive share of the gross income of such other partnership from the active conduct of trades and businesses of such other partnership. A similar rule shall apply in the case of lower-tiered partnerships.

(C) Treatment of tax

For purposes of this title, the tax imposed by this paragraph shall be treated as imposed by chapter 1 other than for purposes of determining the amount of any credit allowable under chapter 1 and shall be paid by the partnership. Section 6655 shall be applied to such partnership with respect to such tax in the same manner as if the partnership were a corporation, such tax were imposed by section 11, and references in such section to taxable income were references to the gross income referred to in subparagraph (A).

(4) Election

An election and consent under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the partnership. Such revocation may be made without the consent of the Secretary, but, once so revoked, may not be reinstated.

(Added Pub. L. 100–203, title X, § 10211(a), Dec. 22, 1987, 101 Stat. 1330–403; amended Pub. L. 100–647, title II, § 2004(f)(1), (3)–(5), Nov. 10, 1988, 102 Stat. 3602, 3603; Pub. L. 105–34, title IX, § 964(a), Aug. 5, 1997, 111 Stat. 892; Pub. L. 105–206, title VI, § 6009(b)(1), July 22, 1998, 112 Stat. 812; Pub. L. 106–170, title V, § 532(c)(2)(V)–(Y), Dec. 17, 1999, 113 Stat. 1931.)

REFERENCES IN TEXT

Section 10211(c)(2) of the Revenue Reconciliation Act of 1987, referred to in subsec. (g)(2)(A), probably means section 10211(c)(2) of the Revenue Act of 1987, title X of Pub. L. 100–203, which is set out as a note below.

AMENDMENTS

1999—Subsecs. (c)(3), (d)(1)(D), (G), (5). Pub. L. 106–170 substituted ''section 1221(a)(1)'' for ''section 1221(1)''.

1998—Subsec. (g)(3)(C). Pub. L. 105–206 inserted at end ''and shall be paid by the partnership. Section 6655 shall be applied to such partnership with respect to such tax in the same manner as if the partnership were a corporation, such tax were imposed by section 11, and references in such section to taxable income were references to the gross income referred to in subparagraph (A)''.

1997—Subsec. (g). Pub. L. 105–34 added subsec. (g).

1988—Subsec. (c)(1). Pub. L. 100–647, § 2004(f)(3), inserted at end ''For purposes of the preceding sentence, a partnership shall not be treated as being in existence during any period before the 1st taxable year in which such partnership (or a predecessor) was a publicly traded partnership.''

Subsec. (d)(1). Pub. L. 100–647, § 2004(f)(4), inserted at end ''For purposes of subparagraph (E), the term 'mineral or natural resource' means any product of a character with respect to which a deduction for depletion is allowable under section 611; except that such term shall not include any product described in subparagraph (A) or (B) of section 613(b)(7).''

Subsec. (d)(3). Pub. L. 100–647, § 2004(f)(5), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The term 'real property rent' means amounts which would qualify as rent from real property under section 856(d) if such section were applied without regard to paragraph (2)(C) thereof (relating to independent contractor requirements).''

Subsec. (e)(4). Pub. L. 100–647, § 2004(f)(1), inserted ''or to pay such amounts'' before ''as may be required''.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–170 applicable to any instrument held, acquired, or entered into, any trans-

action entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106–170, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title VI, § 6009(b)(2), July 22, 1998, 112 Stat. 812, provided that: ''The second sentence of section 7704(g)(3)(C) of the 1986 Code (as added by paragraph (1)) shall apply to taxable years beginning after the date of the enactment of this Act [July 22, 1998].''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 964(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1997.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100–203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100–647, set out as a note under section 56 of this title.

EFFECTIVE DATE

Section 10211(c) of Pub. L. 100–203, as amended by Pub. L. 100–647, title II, § 2004(f)(2), Nov. 10, 1988, 102 Stat. 3602, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting this section] shall apply—

''(A) except as provided in subparagraph (B), to taxable years beginning after December 31, 1987, or

''(B) in the case of an existing partnership, to taxable years beginning after December 31, 1997.

''(2) EXISTING PARTNERSHIP.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'existing partnership' means any partnership if—

''(i) such partnership was a publicly traded partnership on December 17, 1987,

''(ii) a registration statement indicating that such partnership was to be a publicly traded partnership was filed with the Securities and Exchange Commission with respect to such partnership on or before such date, or

''(iii) with respect to such partnership, an application was filed with a State regulatory commission on or before such date seeking permission to restructure a portion of a corporation as a publicly traded partnership.

''(B) SPECIAL RULE WHERE SUBSTANTIAL NEW LINE OF BUSINESS ADDED AFTER DECEMBER 17, 1987.—A partnership which, but for this subparagraph, would be treated as an existing partnership shall cease to be treated as an existing partnership as of the 1st day after December 17, 1987, on which there has been an addition of a substantial new line of business with respect to such partnership.

''(C) COORDINATION WITH PASSIVE-TYPE INCOME REQUIREMENTS.—In the case of an existing partnership, paragraph (1) of section 7704(c) of the Internal Revenue Code of 1986 (as added by this section) shall be applied by substituting for 'December 31, 1987' the earlier of—

''(i) December 31, 1997, or

''(ii) the day (if any) as of which such partnership ceases to be treated as an existing partnership by reason of subparagraph (B).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 351, 475, 988 of this title; title 29 section 1107.

CHAPTER 80—GENERAL RULES

Subchapter		Sec.[1]
A.	Application of internal revenue laws	7801
B.	Effective date and related provisions	7851
C.	Provisions affecting more than one subtitle	7871

[1] Section numbers editorially supplied.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7851 of this title.

Subchapter A—Application of Internal Revenue Laws

Sec.
7801. Authority of Department of the Treasury.
7802. Internal Revenue Service Oversight Board.
7803. Commissioner of Internal Revenue; other officials.
7804. Other personnel.
7805. Rules and regulations.
7806. Construction of title.
7807. Rules in effect upon enactment of this title.
7808. Depositaries for collections.
7809. Deposit of collections.
7810. Revolving fund for redemption of real property.
7811. Taxpayer Assistance Orders.

AMENDMENTS

1998—Pub. L. 105–206, title I, §§ 1101(c)(2), 1102(e)(1), 1104(b)(2), July 22, 1998, 112 Stat. 697, 704, 710, added items 7802 to 7804 and struck out former items 7802 ''Commissioner of Internal Revenue; Assistant Commissioners; Taxpayer Advocate'', 7803 ''Other personnel'', and 7804 ''Effect of reorganization plans''.

1996—Pub. L. 104–168, title I, § 101(b)(3), July 30, 1996, 110 Stat. 1456, added item 7802 and struck out former item 7802 ''Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)''.

1988—Pub. L. 100–647, title VI, § 6230(b), Nov. 10, 1988, 102 Stat. 3734, added item 7811.

1983—Pub. L. 97–473, title II, § 202(c), Jan. 14, 1983, 96 Stat. 2610, added item for subchapter C.

1974—Pub. L. 93–406, title II, § 1051(c), Sept. 2, 1974, 88 Stat. 951, substituted ''Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)'' for ''Commissioner of Internal Revenue'' in item 7802.

1966—Pub. L. 89–719, title I, § 112(c), Nov. 2, 1966, 80 Stat. 1146, added item 7810.

§ 7801. Authority of Department of the Treasury

(a) Powers and duties of Secretary

Except as otherwise expressly provided by law, the administration and enforcement of this title shall be performed by or under the supervision of the Secretary of the Treasury.

[(b) Repealed. Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, 1078]

(c) Functions of Department of Justice unaffected

Nothing in this section or section 301(f) of title 31 shall be considered to affect the duties, powers, or functions imposed upon, or vested in, the Department of Justice, or any officer thereof, by law existing on May 10, 1934.

(Aug. 16, 1954, ch. 736, 68A Stat. 915; Pub. L. 86–368, § 1, Sept. 22, 1959, 73 Stat. 647; Pub. L. 88–426, title III, § 305(39), Aug. 14, 1964, 78 Stat. 427; Pub. L. 94–455, title XIX, § 1906(b)(13)(B), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–258, §§ 2(f)(1), 5(b), Sept. 13, 1982, 96 Stat. 1059, 1068, 1078.)

AMENDMENTS

1982—Subsec. (b). Pub. L. 97–258, § 5(b), struck out subsec. (b) which related to Office of General Counsel of

Department of the Treasury. See section 301 of Title 31, Money and Finance.

Subsec. (c). Pub. L. 97–258, § 2(f)(1), inserted ''or section 301(f) of title 31'' after ''Nothing in this section''.

1976—Subsec. (b). Pub. L. 94–455 substituted ''Secretary of the Treasury'' for ''Secretary'' in four places, in par. (1) after ''prescribed by the'', in par. (2) after ''prescribed by the'' and in third sentence thereof ''The'', and in par. (3) before ''may appoint and fix''.

1964—Subsec. (b)(2). Pub. L. 88–426 struck out provisions which prescribed compensation of Assistant General Counsel.

1959—Pub. L. 86–368 provided for Presidential appointment and for compensation of Assistant General Counsel who shall be Chief Counsel for Internal Revenue Service.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 3 of Pub. L. 86–368 provided that:

''(a) Except as otherwise provided in this Act, the amendments made by this Act [amending this section] shall take effect on the date of the enactment of this Act [Sept. 22, 1959].

''(b) The amendments made by section 2 of this Act [amending sections 7452 and 8023 of this title] shall take effect when the Chief Counsel for the Internal Revenue Service first appointed pursuant to the amendment made by section 1 of this Act [amending this section] qualifies and takes office.''

REPEALS

Pub. L. 86–368, § 1, Sept. 22, 1959, 73 Stat. 648; Pub. L. 88–426, title III, § 305(39), Aug. 14, 1964, 78 Stat. 427; and Pub. L. 94–455, title XIX, § 1906(b)(13)(B), Oct. 4, 1976, 90 Stat. 1834, cited as credits to this section, were repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1079, 1080, 1082.

SAVINGS PROVISION

Section 4 of Pub. L. 86–368 provided that the position of Assistant General Counsel serving as Chief Counsel of the Internal Revenue Service was abolished as of the time that the Chief Counsel for the Internal Revenue Service appointed pursuant to the amendment to this section by Pub. L. 86–368, took office, but that Pub. L. 86–368 was not to be construed to otherwise abolish, terminate, or change any office or position, or employment of any officer or employee existing immediately preceding Sept. 22, 1959, and that any delegation of authority pursuant to Reorg. Plan No. 26 of 1950 or Reorg. Plan No. 2 of 1952 including any redelegation of authority, in effect immediately preceding Sept. 22, 1959, was to remain in effect unless distinctly inconsistent or manifestly incompatible with the amendment made to this section by Pub. L. 86–368.

ITEMIZED INCOME TAX RECEIPT

Pub. L. 106–58, title VI, § 650, Sept. 29, 1999, 113 Stat. 479, provided that:

''(a) IN GENERAL.—Not later than April 15, 2000, the Secretary of the Treasury shall establish an interactive program on an Internet website where any taxpayer may generate an itemized receipt showing a proportionate allocation (in money terms) of the taxpayer's total tax payments among the major expenditure categories.

''(b) INFORMATION NECESSARY TO GENERATE RECEIPT.—For purposes of generating an itemized receipt under subsection (a), the interactive program—

''(1) shall only require the input of the taxpayer's total tax payments; and

''(2) shall not require any identifying information relating to the taxpayer.

''(c) TOTAL TAX PAYMENTS.—For purposes of this section, total tax payments of an individual for any taxable year are—

''(1) the tax imposed by subtitle A of the Internal Revenue Code of 1986 for such taxable year (as shown on his return); and

''(2) the tax imposed by section 3101 of such Code on wages received during such taxable year.

''(d) CONTENT OF TAX RECEIPT.—

''(1) MAJOR EXPENDITURE CATEGORIES.—For purposes of subsection (a), the major expenditure categories are:

''(A) National defense.
''(B) International affairs.
''(C) Medicaid.
''(D) Medicare.
''(E) Means-tested entitlements.
''(F) Domestic discretionary.
''(G) Social Security.
''(H) Interest payments.
''(I) All other.

''(2) Other items on receipt.—

''(A) IN GENERAL.—In addition, the tax receipt shall include selected examples of more specific expenditure items, including the items listed in subparagraph (B), either at the budget function, subfunction, or program, project, or activity levels, along with any other information deemed appropriate by the Secretary of the Treasury and the Director of the Office of Management and Budget to enhance taxpayer understanding of the Federal budget.

''(B) LISTED ITEMS.—The expenditure items listed in this subparagraph are as follows:

''(i) Public schools funding programs.
''(ii) Student loans and college aid.
''(iii) Low-income housing programs.
''(iv) Food stamp and welfare programs.
''(v) Law enforcement, including the Federal Bureau of Investigation, law enforcement grants to the States, and other Federal law enforcement personnel.
''(vi) Infrastructure, including roads, bridges, and mass transit.
''(vii) Farm subsidies.
''(viii) Congressional Member and staff salaries.
''(ix) Health research programs.
''(x) Aid to the disabled.
''(xi) Veterans health care and pension programs.
''(xii) Space programs.
''(xiii) Environmental cleanup programs.
''(xiv) United States embassies.
''(xv) Military salaries.
''(xvi) Foreign aid.
''(xvii) Contributions to the North Atlantic Treaty Organization.
''(xviii) Amtrak.
''(xix) United States Postal Service.

''(e) COST.—No charge shall be imposed to cover any cost associated with the production or distribution of the tax receipt.

''(f) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out this section.''

REORGANIZATION OF INTERNAL REVENUE SERVICE

Pub. L. 105–206, title I, § 1001, July 22, 1998, 112 Stat. 689, provided that:

''(a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement a plan to reorganize the Internal Revenue Service. The plan shall—

''(1) supersede any organization or reorganization of the Internal Revenue Service based on any statute or reorganization plan applicable on the effective date of this section;

''(2) eliminate or substantially modify the existing organization of the Internal Revenue Service which is based on a national, regional, and district structure;

''(3) establish organizational units serving particular groups of taxpayers with similar needs; and

''(4) ensure an independent appeals function within the Internal Revenue Service, including the prohibition in the plan of ex parte communications between appeals officers and other Internal Revenue Service employees to the extent that such communications appear to compromise the independence of the appeals officers.

''(b) SAVINGS PROVISIONS.—

''(1) PRESERVATION OF SPECIFIC TAX RIGHTS AND REMEDIES.—Nothing in the plan developed and implemented under subsection (a) shall be considered to impair any right or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws. For the purpose of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action. The venue of any such action shall be the same as under existing law.

''(2) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

''(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of any function transferred or affected by the reorganization of the Internal Revenue Service or any other administrative unit of the Department of the Treasury under this section; and

''(B) which are in effect at the time this section takes effect, or were final before the effective date of this section and are to become effective on or after the effective date of this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Treasury, the Commissioner of Internal Revenue, or other authorized official, a court of competent jurisdiction, or by operation of law.

''(3) PROCEEDINGS NOT AFFECTED.—The provisions of this section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) at the time this section takes effect, with respect to functions transferred or affected by the reorganization under this section but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

''(4) SUITS NOT AFFECTED.—The provisions of this section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

''(5) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service), or by or against any individual in the official capacity of such individual as an officer of the Department of the Treasury, shall abate by reason of the enactment of this section.

''(6) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) relating to a function transferred or affected by the reorganization under this section may be continued by the Department of the Treasury through any appropriate administrative unit of the Department, including the Internal Revenue Service with the same effect as if this section had not been enacted.

''(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [July 22, 1998].''

INTERNAL REVENUE SERVICE MISSION TO FOCUS ON TAXPAYERS' NEEDS

Pub. L. 105–206, title I, § 1002, July 22, 1998, 112 Stat. 690, provided that: ''The Internal Revenue Service shall review and restate its mission to place a greater emphasis on serving the public and meeting taxpayers' needs.''

EXPLANATION OF JOINT AND SEVERAL LIABILITY

Pub. L. 105–206, title III, § 3501, July 22, 1998, 112 Stat. 770, provided that:

''(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act [July 22, 1998], establish procedures to clearly alert married taxpayers of their joint and several liabilities on all appropriate publications and instructions.

''(b) RIGHT TO LIMIT LIABILITY.—The procedures under subsection (a) shall include requirements that notice of an individual's right to relief under section 6015 of the Internal Revenue Code of 1986 shall be included in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights [Pub. L. 100–647, set out below] (Internal Revenue Service Publication No. 1) and in any collection-related notices.''

EXPLANATION OF TAXPAYERS' RIGHTS IN INTERVIEWS WITH INTERNAL REVENUE SERVICE

Pub. L. 105–206, title III, § 3502, July 22, 1998, 112 Stat. 770, provided that: ''The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act [July 22, 1998], revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights [Pub. L. 100–647, set out below] (Internal Revenue Service Publication No. 1) to more clearly inform taxpayers of their rights—

''(1) to be represented at interviews with the Internal Revenue Service by any person authorized to practice before the Internal Revenue Service; and

''(2) to suspend an interview pursuant to section 7521(b)(2) of the Internal Revenue Code of 1986.''

DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION

Pub. L. 105–206, title III, § 3503, July 22, 1998, 112 Stat. 771, provided that:

''(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act [July 22, 1998], incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights [Pub. L. 100–647, set out below] (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any infor-

mation the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including whether taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

''(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the same day.''

DISCLOSURE TO TAXPAYERS

Pub. L. 105–206, title III, § 3508, July 22, 1998, 112 Stat. 772, provided that: ''The Secretary of the Treasury or the Secretary's delegate shall ensure that any instructions booklet accompanying an individual Federal income tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms) shall include, in clear language, in conspicuous print, and in a conspicuous place, a concise description of the conditions under which return information may be disclosed to any party outside the Internal Revenue Service, including disclosure to any State or agency, body, or commission (or legal representative) thereof.''

INTERNAL REVENUE SERVICE EMPLOYEE CONTACTS

Pub. L. 105–206, title III, § 3705, July 22, 1998, 112 Stat. 777, provided that:

''(a) NOTICE.—The Secretary of the Treasury or the Secretary's delegate shall provide that—

''(1) any manually generated correspondence received by a taxpayer from the Internal Revenue Service shall include in a prominent manner the name, telephone number, and unique identifying number of an Internal Revenue Service employee the taxpayer may contact with respect to the correspondence;

''(2) any other correspondence or notice received by a taxpayer from the Internal Revenue Service shall include in a prominent manner a telephone number that the taxpayer may contact; and

''(3) an Internal Revenue Service employee shall give a taxpayer during a telephone or personal contact the employee's name and unique identifying number.

''(b) SINGLE CONTACT.—The Secretary of the Treasury or the Secretary's delegate shall develop a procedure under which, to the extent practicable and if advantageous to the taxpayer, one Internal Revenue Service employee shall be assigned to handle a taxpayer's matter until it is resolved.

''(c) TELEPHONE HELPLINE IN SPANISH.—The Secretary of the Treasury or the Secretary's delegate shall provide, in appropriate circumstances, that taxpayer questions on telephone helplines of the Internal Revenue Service are answered in Spanish.

''(d) OTHER TELEPHONE HELPLINE OPTIONS.—The Secretary of the Treasury or the Secretary's delegate shall provide, in appropriate circumstances, on telephone helplines of the Internal Revenue Service an option for any taxpayer to talk to an Internal Revenue Service employee during normal business hours. The person shall direct phone questions of the taxpayer to other Internal Revenue Service personnel who can provide assistance to the taxpayer.

''(e) EFFECTIVE DATES.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall take effect 60 days after the date of the enactment of this Act [July 22, 1998].

''(2) SUBSECTION (c).—Subsection (c) shall take effect on January 1, 2000.

''(3) SUBSECTION (d).—Subsection (d) shall take effect on January 1, 2000.

''(4) UNIQUE IDENTIFYING NUMBER.—Any requirement under this section to provide a unique identifying number shall take effect 6 months after the date of the enactment of this Act [July 22, 1998].''

LISTING OF LOCAL INTERNAL REVENUE SERVICE TELEPHONE NUMBERS AND ADDRESSES

Pub. L. 105–206, title III, § 3709, July 22, 1998, 112 Stat. 779, provided that: ''The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, provide that the local telephone numbers and addresses of Internal Revenue Service offices located in any particular area be listed in a telephone book for that area.''

STUDY OF NONCOMPLIANCE WITH INTERNAL REVENUE LAWS BY TAXPAYERS

Pub. L. 105–206, title III, § 3803, 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 and the Commissioner of Internal Revenue shall jointly conduct a study, in consultation with the Joint Committee on Taxation, of the noncompliance with internal revenue laws by taxpayers (including willful noncompliance and noncompliance due to tax law complexity or other factors) and report the findings of such study to Congress.''

TAX LAW COMPLEXITY ANALYSIS; COMMISSIONER STUDY

Pub. L. 105–206, title IV, § 4022(a), July 22, 1998, 112 Stat. 785, provided that:

''(1) IN GENERAL.—The Commissioner of Internal Revenue shall conduct each year after 1998 an analysis of the sources of complexity in administration of the Federal tax laws. Such analysis may include an analysis of—

''(A) questions frequently asked by taxpayers with respect to return filing;

''(B) common errors made by taxpayers in filling out their returns;

''(C) areas of law which frequently result in disagreements between taxpayers and the Internal Revenue Service;

''(D) major areas of law in which there is no (or incomplete) published guidance or in which the law is uncertain;

''(E) areas in which revenue officers make frequent errors interpreting or applying the law;

''(F) the impact of recent legislation on complexity; and

''(G) forms supplied by the Internal Revenue Service, including the time it takes for taxpayers to complete and review forms, the number of taxpayers who use each form, and how recent legislation has affected the time it takes to complete and review forms.

''(2) REPORT.—The Commissioner shall not later than March 1 of each year report the results of the analysis conducted under paragraph (1) for the preceding year to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The report shall include any recommendations—

''(A) for reducing the complexity of the administration of Federal tax laws; and

''(B) for repeal or modification of any provision the Commissioner believes adds undue and unnecessary complexity to the administration of the Federal tax laws.''

NATIONAL COMMISSION ON RESTRUCTURING INTERNAL REVENUE SERVICE

Pub. L. 104–52, title VI, § 637, Nov. 19, 1995, 109 Stat. 509, as amended by Pub. L. 104–134, title II, § 2904(a), Apr. 26, 1996, 110 Stat. 1321–333; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 643(a)–(e)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–365, provided that:

''(a) FINDINGS.—The Congress finds the following:

''(1) While the budget for the Internal Revenue Service (hereafter referred to as the 'IRS') has risen from $2.5 billion in fiscal year 1979 to $7.3 billion in fiscal year 1996, tax returns processing has not become significantly faster, tax collection rates have not significantly increased, and the accuracy and timeliness of taxpayer assistance has not significantly improved.

''(2) To date, the Tax Systems Modernization (TSM) program has cost the taxpayers $2.5 billion, with an estimated cost of $8 billion. Despite this investment, modernization efforts were recently described by the GAO as 'chaotic' and 'ad hoc'.

''(3) While the IRS maintains that TSM will increase efficiency and thus revenues, Congress has had to appropriate additional funds in recent years for compliance initiatives in order to increase tax revenues.

''(4) Because TSM has not been implemented, the IRS continues to rely on paper returns, processing a total of 14 billion pieces of paper every tax season. This results in an extremely inefficient system.

''(5) This lack of efficiency reduces the level of customer service and impedes the ability of the IRS to collect revenue.

''(6) The present status of the IRS shows the need for the establishment of a Commission which will examine the organization of IRS and recommend actions to expedite the implementation of TSM and improve service to taxpayers.

''(b) COMPOSITION OF THE COMMISSION.—

''(1) ESTABLISHMENT.—To carry out the purposes of this section, there is established a National Commission on Restructuring the Internal Revenue Service (in this section referred to as the 'Commission').

''(2) COMPOSITION.—The Commission shall be composed of seventeen members, as follows:

''(A) Five members appointed by the President, two from the executive branch of the Government, two from private life, and one from an organization that represents a substantial number of Internal Revenue Service employees.

''(B) Four members appointed by the Majority Leader of the Senate, one from Members of the Senate and three from private life.

''(C) Two members appointed by the Minority Leader of the Senate, one from Members of the Senate and one from private life.

''(D) Four members appointed by the Speaker of the House of Representatives, one from Members of the House of Representatives and three from private life.

''(E) Two members appointed by the Minority Leader of the House of Representatives, one from Members of the House of Representatives and one from private life.

''The Commissioner of the Internal Revenue Service shall be an ex officio member of the Commission.

''(3) CO-CHAIRS.—The Commission shall elect Co-Chairs from among its members.

''(4) MEETING; QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Co-Chairs or a majority of its members. Nine members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

''(5) APPOINTMENT; INITIAL MEETING.—

''(A) APPOINTMENT.—It is the sense of the Congress that members of the Committee [Commission] should be appointed not more than 60 days after the date of the enactment of this section [Nov. 19, 1995].

''(B) INITIAL MEETING.—If, after 60 days from the date of the enactment of this section, seven or more members of the Commission have been appointed, members who have been appointed may meet and select Co-Chairs who thereafter shall have the authority to begin the operations of the Commission, including the hiring of staff.

''(c) FUNCTIONS OF COMMISSION.—

''(1) IN GENERAL.—The functions of the Commission shall be—

''(A) to conduct, for a period of not to exceed 15 months from the date of its first meeting, the review described in paragraph (2), and

''(B) to submit to the Congress a final report of the results of the review, including recommendations for restructuring the IRS.

''(2) REVIEW.—The Commission shall review—

''(A) the present practices of the IRS, especially with respect to—

''(i) its organizational structure;

''(ii) its paper processing and return processing activities;

''(iii) its infrastructure; and

''(iv) the collection process;

''(B) requirements for improvement in the following areas:

''(i) making returns processing 'paperless';

''(ii) modernizing IRS operations;

''(iii) improving the collections process without major personnel increases or increased funding;

''(iv) improving taxpayer accounts management;

''(v) improving the accuracy of information requested by taxpayers in order to file their returns; and

''(vi) changing the culture of the IRS to make the organization more efficient, productive, and customer-oriented;

''(C) whether the IRS could be replaced with a quasi-governmental agency with tangible incentives and internally managing its programs and activities and for modernizing its activities, and

''(D) whether the IRS could perform other collection, information, and financial service functions of the Federal Government.

''(d) POWERS OF THE COMMISSION.—

''(1) IN GENERAL.—(A) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this section—

''(i) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths, and

''(ii) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may deem advisable.

''(B) Subpoenas issued under subparagraph (A)(ii) may be issued under the signature of the Co-Chairs of the Commission, the chairman of any designated subcommittee, or any designated member, and may be served by any person designated by such Co-Chairs, subcommittee chairman, or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

''(2) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this section.

''(3) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this section. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Co-Chairs.

''(4) ASSISTANCE FROM FEDERAL AGENCIES.—(A) The Secretary of the Treasury is authorized on a nonreimbursable basis to provide the Commission with administrative services, funds, facilities, staff, and other support services for the performance of the Commission's functions.

''(B) The Administrator of General Services shall provide to the Commission on a nonreimbursable basis such administrative support services as the Commission may request.

''(C) In addition to the assistance set forth in subparagraphs (A) and (B), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may deem advisable and as may be authorized by law.

''(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

''(6) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property in carrying out its duties under this section.

''(e) STAFF OF THE COMMISSION.—

''(1) IN GENERAL.—The Co-Chairs, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

''(2) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(f) COMPENSATION AND TRAVEL EXPENSES.—

''(1) COMPENSATION.—(A) Except as provided in subparagraph (B), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

''(B) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

''(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

''(g) FINAL REPORT OF COMMISSION; TERMINATION.—

''(1) FINAL REPORT.—Not later than 15 months after the date of the first meeting of the Commission, the Commission shall submit to the Congress its final report, as described in subsection (c)(2).

''(2) TERMINATION.—(A) The Commission, and all the authorities of this section, shall terminate on the date which is 60 days after the date on which a final report is required to be transmitted under paragraph (1).

''(B) The Commission may use the 60-day period referred to in subparagraph (A) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its final report and disseminating that report.

''(h) AUTHORIZATION OF APPROPRIATIONS.—Such sums as may be necessary are authorized to be appropriated for the activities of the Commission.

''(i) APPROPRIATIONS.—Notwithstanding any other provision of this Act, $1,000,000 shall be available from fiscal year 1996 funds appropriated to the Internal Revenue Service, 'Information systems' account, for the activities of the Commission, to remain available until expended.''

[Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 643(f)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–366, provided that: ''The amendments made by this section [amending section 637 of Pub. L. 104–52, set out above] shall take effect as if included in the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1996 [Pub. L. 104–52].'']

[Pub. L. 104–134, title II, § 2904(b), Apr. 26, 1996, 110 Stat. 1321–333, provided that: ''The amendments made by this section [amending section 637 of Pub. L. 104–52, set out above] shall take effect as if included in the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1996 [Pub. L. 104–52].'']

FEES FOR SERVICES RENDERED

Pub. L. 103–329, title I, § 3, Sept. 30, 1994, 108 Stat. 2388, as amended by Pub. L. 104–19, title I, July 27, 1995, 109 Stat. 227, provided that: ''The Secretary of the Treasury may establish new fees or raise existing fees for services provided by the Internal Revenue Service to increase receipts, where such fees are authorized by another law. The Secretary of the Treasury may spend the new or increased fee receipts to supplement appropriations made available to the Internal Revenue Service appropriations accounts in fiscal years 1995 and thereafter: *Provided*, That the Secretary shall base such fees on the costs of providing specified services to persons paying such fees: *Provided further*, That the Secretary shall provide quarterly reports to the Congress on the collection of such fees and how they are being expended by the Service: *Provided further*, That the total expenditures from such fees shall not exceed $119,000,000 annually.''

DISCLOSURE OF RIGHTS OF TAXPAYERS

Pub. L. 100–647, title VI, § 6227, Nov. 10, 1988, 102 Stat. 3731, provided that:

''(a) IN GENERAL.—The Secretary of the Treasury shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act [Nov. 10, 1988], prepare a statement which sets forth in simple and nontechnical terms—

''(1) the rights of a taxpayer and the obligations of the Internal Revenue Service (hereinafter in this section referred to as the 'Service') during an audit;

''(2) the procedures by which a taxpayer may appeal any adverse decision of the Service (including administrative and judicial appeals);

''(3) the procedures for prosecuting refund claims and filing of taxpayer complaints; and

''(4) the procedures which the Service may use in enforcing the internal revenue laws (including assessment, jeopardy assessment, levy and distraint, and enforcement of liens).

''(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary of the Treasury shall transmit drafts of the statement required under subsection (a) (or proposed revisions of any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

''(c) DISTRIBUTION.—The statement prepared in accordance with subsections (a) and (b) shall be distributed by the Secretary of the Treasury to all taxpayers the Secretary contacts with respect to the determination or collection of any tax (other than by providing tax forms). The Secretary shall take such actions as the Secretary deems necessary to ensure that such distribution does not result in multiple statements being sent to any one taxpayer.''

DESIGNATION OF OFFICERS TO ACT AS SECRETARY OF TREASURY

Designation of officers of Treasury Department to act as Secretary of Treasury, during any period when, by

reason of absence, disability, or vacancy in office, either the Secretary of Treasury or his Deputy Secretary is not available to exercise the powers or perform the duties of the office of the Secretary, see Ex. Ord. No. 11822, Dec. 10, 1974, 39 F.R. 43275, set out as a note under section 3345 of Title 5, Government Organization and Employees.

FEES FOR REQUESTS FOR RULING, DETERMINATION, AND SIMILAR LETTERS

Pub. L. 100–203, title X, § 10511, Dec. 22, 1987, 101 Stat. 1330–446, as amended by Pub. L. 101–508, title XI, § 11319(a), Nov. 5, 1990, 104 Stat. 1388–460; Pub. L. 103–465, title VII, § 743, Dec. 8, 1994, 108 Stat. 5011; Pub. L. 104–117, § 2, Mar. 20, 1996, 110 Stat. 828, provided that:

''(a) GENERAL RULE.—The Secretary of the Treasury or his delegate (hereinafter in this section referred to as the 'Secretary') shall establish a program requiring the payment of user fees for requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters and for similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—The Secretary shall provide for such exemptions (and reduced fees) under such program as he determines to be appropriate.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

"Category	Average Fee
Employee plan ruling and opinion	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination ...	$275
Chief counsel ruling	$200.

''(c) APPLICATION OF SECTION.—Subsection (a) shall apply with respect to requests made on or after the 1st day of the second calendar month beginning after the date of the enactment of this Act [Dec. 22, 1987] and before September 30, 1990. Subsection (a) shall also apply with respect to requests made after September 30, 1990, and before October 1, 2003.''

[Section 11319(b) of Pub. L. 101–508 provided that: ''The amendment made by this section [amending section 10511 of Pub. L. 100–203 set out above] shall take effect on September 29, 1990, except that no advance payment shall be required for any fee for any requests filed after September 29, 1990, and before the 30th day after the date of the enactment of this Act [Nov. 5, 1990].'']

STUDY OF TAX INCENTIVES FOR EXPENDITURES REQUIRED BY OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION AND MINING HEALTH AND SAFETY ADMINISTRATION

Pub. L. 95–600, title V, § 552, Nov. 6, 1978, 92 Stat. 2891, authorized the Secretary of the Treasury to conduct an investigation into the appropriateness of providing additional tax incentives for expenditures required by the Occupational Safety and Health Act, section 651 et seq. of Title 29, Labor, and the Mining Safety and Health Administration of the Department of Labor and to submit a report on such investigation to Congress before Apr. 1, 1979, together with any legislative recommendations.

STUDY OF TAXATION OF NONRESIDENT ALIEN REAL ESTATE TRANSACTIONS IN THE UNITED STATES

Pub. L. 95–600, title V, § 553, Nov. 6, 1978, 92 Stat. 2891, authorized the Secretary of the Treasury to make a study of the appropriate tax treatment to be given to income derived from, or gain realized on, the sale of interests in United States property held by nonresident aliens or foreign corporations and to submit a report on such study to Congress no later than six months from Nov. 6, 1978, together with any recommendations.

STUDY AND INVESTIGATION OF INTERNAL REVENUE CODE PROVISIONS WHICH IMPEDE OR DISCOURAGE RECYCLING OF SOLID WASTE MATERIALS; PRESIDENTIAL AND CONGRESSIONAL REPORT

Pub. L. 94–568, § 4, Oct. 20, 1976, 90 Stat. 2698, provided that the Secretary of the Treasury, in cooperation with the Administrator of the Environmental Protection Agency, make a complete study of all provisions of the Internal Revenue Code of 1954 which impeded or discouraged the recycling of solid waste materials and to report to the President and Congress, not later than Apr. 20, 1977, his findings, together with specific legislative proposals designed to increase and encourage the recycling of solid waste materials and detailed revenue cost estimates.

EX. ORD. NO. 13051. INTERNAL REVENUE SERVICE MANAGEMENT BOARD

Ex. Ord. No. 13051, June 24, 1997, 62 F.R. 34609, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 31 U.S.C. 301 and 26 U.S.C. 7801(a), and in order to establish a permanent oversight board to assist the Secretary of the Treasury (''Secretary'') in ensuring effective management of the Internal Revenue Service, it is hereby ordered as follows:

SECTION 1. *Establishment.* (a) There is hereby established within the Department of the Treasury the Internal Revenue Service Management Board (''Board'').

(b) The Board shall consist of:

(1) the Deputy Secretary of the Treasury, who shall serve as Chair of the Board;

(2) the Assistant Secretary of the Treasury (Management) and the Chief Financial Officer, who shall serve as Vice Chairs;

(3) the Assistant Secretary of the Treasury (Tax Policy);

(4) the Under Secretary of the Treasury (Enforcement);

(5) the Deputy Assistant Secretary of the Treasury (Departmental Finance and Management);

(6) the Deputy Assistant Secretary of the Treasury (Information Systems)/Chief Information Officer;

(7) the Assistant Secretary of the Treasury (Legislative Affairs and Public Liaison);

(8) the General Counsel for the Department of the Treasury;

(9) the Director, Office of Security, Department of the Treasury;

(10) the Senior Procurement Executive for the Department of the Treasury;

(11) the Commissioner of Internal Revenue;

(12) the Deputy Commissioner of Internal Revenue;

(13) the Associate Commissioner of Internal Revenue for Modernization/Chief Information Officer of the Internal Revenue Service;

(14) the Deputy Director for Management, Office of Management and Budget;

(15) the Administrator for Federal Procurement Policy, Office of Management and Budget;

(16) a representative of the Office of the Vice President designated by the Vice President;

(17) a representative of the Office of Management and Budget designated by the Director of such office;

(18) a representative of the Office of Personnel Management designated by the Director of such office;

(19) representatives of such other Government agencies as may be determined from time to time by the Secretary of the Treasury, designated by the head of such agency; and

(20) such other officers or employees of the Department of the Treasury as may be designated by the Secretary.

(c) A member of the Board described in paragraphs (16) through (20) of subsection (b) may be removed by the official who designated such member.

(d) The Board may seek the views, consistent with 18 U.S.C. 205, of Internal Revenue Service employee representatives on matters considered by the Board under section 3 of this order.

SEC. 2. *Structure*. There shall be an Executive Committee of the full Board, the members of which shall be appointed by the Secretary.

SEC. 3. *Functions*. (a) The Board shall directly support the Secretary's oversight of the management and operation of the Internal Revenue Service. This includes:

(1) working through the Deputy Secretary, assisting the Secretary on the full range of high-level management issues and concerns affecting the Internal Revenue Service, particularly those that have a significant impact on operations, modernization, and customer service.

(2) acting through the Executive Committee, serving as the primary review for strategic decisions concerning modernization of the Internal Revenue Service, including modernization direction, strategy, significant reorganization plans, performance metrics, budgetary issues, major capital investments, and compensation of personnel.

(b) The Board shall meet at least monthly and shall prescribe such bylaws or procedures as the Board deems appropriate.

(c) The Board shall prepare semiannual reports to the President and to the Congress, which shall be transmitted by the Secretary of the Treasury.

SEC. 4. *Administration*. To the extent permitted by law and subject to the availability of appropriations, the Secretary shall provide the Board administrative services, facilities, staff, and such other financial support services as may be necessary for the performance of its functions under this order.

SEC. 5. *Judicial Review*. This order is intended only to improve the internal management of the Internal Revenue Service and is not intended, and shall not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.

WILLIAM J. CLINTON.

§ 7802. Internal Revenue Service Oversight Board

(a) Establishment

There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (hereafter in this subchapter referred to as the ''Oversight Board'').

(b) Membership

(1) Composition

The Oversight Board shall be composed of nine members, as follows:

(A) six members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

(B) one member shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury.

(C) one member shall be the Commissioner of Internal Revenue.

(D) one member shall be an individual who is a full-time Federal employee or a representative of employees and who is appointed by the President, by and with the advice and consent of the Senate.

(2) Qualifications and terms

(A) Qualifications

Members of the Oversight Board described in paragraph (1)(A) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas:

(i) Management of large service organizations.

(ii) Customer service.

(iii) Federal tax laws, including tax administration and compliance.

(iv) Information technology.

(v) Organization development.

(vi) The needs and concerns of taxpayers.

(vii) The needs and concerns of small businesses.

In the aggregate, the members of the Oversight Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence.

(B) Terms

Each member who is described in subparagraph (A) or (D) of paragraph (1) shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A)—

(i) two members shall be appointed for a term of 3 years,

(ii) two members shall be appointed for a term of 4 years, and

(iii) two members shall be appointed for a term of 5 years.

(C) Reappointment

An individual who is described in subparagraph (A) or (D) of paragraph (1) may be appointed to no more than two 5-year terms on the Oversight Board.

(D) Vacancy

Any vacancy on the Oversight Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

(3) Ethical considerations

(A) Financial disclosure

During the entire period that an individual appointed under subparagraph (A) or (D) of paragraph (1) is a member of the Oversight Board, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act, except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

(B) Restrictions on post-employment

For purposes of section 207(c) of title 18, United States Code, an individual appointed under subparagraph (A) or (D) of paragraph (1) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title dur-

ing the entire period the individual is a member of the Board, except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

(C) Members who are special Government employees

If an individual appointed under subparagraph (A) or (D) of paragraph (1) is a special Government employee, the following additional rules apply for purposes of chapter 11 of title 18, United States Code:

(i) Restriction on representation

In addition to any restriction under section 205(c) of title 18, United States Code, except as provided in subsections (d) through (i) of section 205 of such title, such individual (except in the proper discharge of official duties) shall not, with or without compensation, represent anyone to or before any officer or employee of—

(I) the Oversight Board or the Internal Revenue Service on any matter;

(II) the Department of the Treasury on any matter involving the internal revenue laws or involving the management or operations of the Internal Revenue Service; or

(III) the Department of Justice with respect to litigation involving a matter described in subclause (I) or (II).

(ii) Compensation for services provided by another

For purposes of section 203 of such title—

(I) such individual shall not be subject to the restrictions of subsection (a)(1) thereof for sharing in compensation earned by another for representations on matters covered by such section, and

(II) a person shall not be subject to the restrictions of subsection (a)(2) thereof for sharing such compensation with such individual.

(D) Waiver

The President may, only at the time the President nominates the member of the Oversight Board described in paragraph (1)(D), waive for the term of the member any appropriate provision of chapter 11 of title 18, United States Code, to the extent such waiver is necessary to allow such member to participate in the decisions of the Board while continuing to serve as a full-time Federal employee or a representative of employees. Any such waiver shall not be effective unless a written intent of waiver to exempt such member (and actual waiver language) is submitted to the Senate with the nomination of such member.

(4) Quorum

Five members of the Oversight Board shall constitute a quorum. A majority of members present and voting shall be required for the Oversight Board to take action.

(5) Removal

(A) In general

Any member of the Oversight Board appointed under subparagraph (A) or (D) of paragraph (1) may be removed at the will of the President.

(B) Secretary and Commissioner

An individual described in subparagraph (B) or (C) of paragraph (1) shall be removed upon termination of service in the office described in such subparagraph.

(6) Claims

(A) In general

Members of the Oversight Board who are described in subparagraph (A) or (D) of paragraph (1) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member.

(B) Effect on other law

This paragraph shall not be construed—

(i) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions;

(ii) to affect any other right or remedy against the United States under applicable law; or

(iii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

(c) General responsibilities

(1) Oversight

(A) In general

The Oversight Board shall oversee the Internal Revenue Service in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

(B) Mission of IRS

As part of its oversight functions described in subparagraph (A), the Oversight Board shall ensure that the organization and operation of the Internal Revenue Service allows it to carry out its mission.

(C) Confidentiality

The Oversight Board shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

(2) Exceptions

The Oversight Board shall have no responsibilities or authority with respect to—

(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

(B) specific law enforcement activities of the Internal Revenue Service, including specific compliance activities such as examinations, collection activities, and criminal investigations,

(C) specific procurement activities of the Internal Revenue Service, or

(D) except as provided in subsection (d)(3), specific personnel actions.

(d) Specific responsibilities

The Oversight Board shall have the following specific responsibilities:

(1) Strategic plans

To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

(A) mission and objectives, and standards of performance relative to either, and

(B) annual and long-range strategic plans.

(2) Operational plans

To review the operational functions of the Internal Revenue Service, including—

(A) plans for modernization of the tax system,

(B) plans for outsourcing or managed competition, and

(C) plans for training and education.

(3) Management

To—

(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner;

(B) review the Commissioner's selection, evaluation, and compensation of Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service; and

(C) review and approve the Commissioner's plans for any major reorganization of the Internal Revenue Service.

(4) Budget

To—

(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner;

(B) submit such budget request to the Secretary of the Treasury; and

(C) ensure that the budget request supports the annual and long-range strategic plans.

(5) Taxpayer protection

To ensure the proper treatment of taxpayers by the employees of the Internal Revenue Service.

The Secretary shall submit the budget request referred to in paragraph (4)(B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

(e) Board personnel matters

(1) Compensation of members

(A) In general

Each member of the Oversight Board who—

(i) is described in subsection (b)(1)(A); or

(ii) is described in subsection (b)(1)(D) and is not otherwise a Federal officer or employee,

shall be compensated at a rate of $30,000 per year. All other members shall serve without compensation for such service.

(B) Chairperson

In lieu of the amount specified in subparagraph (A), the Chairperson of the Oversight Board shall be compensated at a rate of $50,000 per year.

(2) Travel expenses

(A) In general

The members of the Oversight Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, to attend meetings of the Oversight Board and, with the advance approval of the Chairperson of the Oversight Board, while otherwise away from their homes or regular places of business for purposes of duties as a member of the Oversight Board.

(B) Report

The Oversight Board shall include in its annual report under subsection (f)(3)(A) information with respect to the travel expenses allowed for members of the Oversight Board under this paragraph.

(3) Staff

(A) In general

The Chairperson of the Oversight Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

(B) Detail of Government employees

Upon request of the Chairperson of the Oversight Board, a Federal agency shall detail a Federal Government employee to the Oversight Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

(4) Procurement of temporary and intermittent services

The Chairperson of the Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f) Administrative matters

(1) Chair

(A) Term

The members of the Oversight Board shall elect for a 2-year term a chairperson from among the members appointed under subsection (b)(1)(A).

(B) Powers

Except as otherwise provided by a majority vote of the Oversight Board, the powers of the Chairperson shall include—

(i) establishing committees;

(ii) setting meeting places and times;

(iii) establishing meeting agendas; and

(iv) developing rules for the conduct of business.

(2) Meetings

The Oversight Board shall meet at least quarterly and at such other times as the Chairperson determines appropriate.

(3) Reports

(A) Annual

The Oversight Board shall each year report with respect to the conduct of its respon-

sibilities under this title to the President, the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

(B) Additional report

Upon a determination by the Oversight Board under subsection (c)(1)(B) that the organization and operation of the Internal Revenue Service are not allowing it to carry out its mission, the Oversight Board shall report such determination to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(Aug. 16, 1954, ch. 736, 68A Stat. 915; Pub. L. 93–406, title II, § 1051(a), Sept. 2, 1974, 88 Stat. 951; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), (B), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–258, § 2(f)(2), Sept. 13, 1982, 96 Stat. 1059; Pub. L. 100–647, title VI, § 6235(a), Nov. 10, 1988, 102 Stat. 3737; Pub. L. 104–168, title I, § 101(a), (b)(2), July 30, 1996, 110 Stat. 1453, 1455; Pub. L. 105–206, title I, § 1101(a), July 22, 1998, 112 Stat. 691; Pub. L. 106–554, § 1(a)(7) [title III, § 319(27)], Dec. 21, 2000, 114 Stat. 2763, 2763A–648.)

REFERENCES IN TEXT

The Ethics in Government Act of 1978, referred to in subsec. (b)(3)(A), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824, as amended. Title I of the Act is set out in the Appendix to Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5 and Tables.

AMENDMENTS

2000—Subsec. (b)(2)(B)(ii). Pub. L. 106–554 substituted a comma for semicolon before ''and''.

1998—Pub. L. 105–206 amended section catchline and text of section generally, substituting present provisions for provisions which: in subsec. (a), declared that there shall be in the Department of the Treasury a Commissioner of Internal Revenue, appointed by the President, with such duties and powers as prescribed by Secretary of the Treasury; in subsec. (b), established Office of Employee Plans and Exempt Organizations to carry out functions with respect to organizations exempt from tax and with respect to plans to which part I of subchapter D of chapter 1 applied; in subsec. (c), established Office for Taxpayer Services such as telephone, walk-in, and taxpayer educational services, and design and production of forms; and in subsec. (d), established Office of Taxpayer Advocate and set forth functions of Office and responsibilities of Commissioner regarding response to recommendations of Office. See section 7803 of this title.

1996—Pub. L. 104–168, § 101(b)(2), substituted ''Commissioners; Taxpayer Advocate.'' for ''Commissioner (Employee Plans and Exempt Organizations)'' in section catchline.

Subsec. (d). Pub. L. 104–168, § 101(a), added subsec. (d).

1988—Subsec. (c). Pub. L. 100–647 added subsec. (c).

1982—Subsec. (b). Pub. L. 97–258 redesignated existing provisions as par. (1), added par. (1) heading, and added par. (2). Par. (2) is based on provisions that appeared in section 1037 of former Title 31, Money and Finance, prior to enactment of Title 31 by Pub. L. 97–258.

1976—Subsec. (a). Pub. L. 94–455, § 1906(b)(13)(B), substituted ''Secretary of the Treasury'' for ''Secretary'' after ''prescribed by the''.

Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1974—Pub. L. 93–406 designated existing provisions as subsec. (a) and added subsec. (b).

CHANGE OF NAME

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title I, § 1101(d), July 22, 1998, 112 Stat. 697, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and sections 4946 and 6103 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].

''(2) INITIAL NOMINATIONS TO INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—The President shall submit the initial nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act [July 22, 1998].

''(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF OVERSIGHT BOARD.—Nothing in this section shall be construed to invalidate the actions and authority of the Internal Revenue Service prior to the appointment of the members of the Internal Revenue Service Oversight Board.''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(c) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section and section 7811 of this title] shall take effect on the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6235(c) of Pub. L. 100–647 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date 180 days after the date of the enactment of this Act [Nov. 10, 1988].''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 1051(d) of Pub. L. 93–406 provided that: ''The amendments made by this section [amending this section and sections 5108 and 5109 of Title 5, Government Organization and Employees] shall take effect on the 90th day after the date of the enactment of this Act [Sept. 2, 1974].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 7803 of this title.

§ 7803. Commissioner of Internal Revenue; other officials

(a) Commissioner of Internal Revenue

(1) Appointment

(A) In general

There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate, to a 5-year term. Such appointment shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

(B) Vacancy

Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which such individual's predecessor was appointed shall be appointed only for the remainder of that term.

(C) Removal

The Commissioner may be removed at the will of the President.

(D) Reappointment

The Commissioner may be appointed to more than one 5-year term.

(2) Duties

The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

(3) Consultation with Board

The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

(b) Chief Counsel for the Internal Revenue Service

(1) Appointment

There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the consent of the Senate.

(2) Duties

The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary, including the duty—

(A) to be legal advisor to the Commissioner and the Commissioner's officers and employees;

(B) to furnish legal opinions for the preparation and review of rulings and memoranda of technical advice;

(C) to prepare, review, and assist in the preparation of proposed legislation, treaties, regulations, and Executive orders relating to laws which affect the Internal Revenue Service;

(D) to represent the Commissioner in cases before the Tax Court; and

(E) to determine which civil actions should be litigated under the laws relating to the Internal Revenue Service and prepare recommendations for the Department of Justice regarding the commencement of such actions.

If the Secretary determines not to delegate a power specified in subparagraph (A), (B), (C), (D), or (E), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

(3) Persons to whom Chief Counsel reports

The Chief Counsel shall report directly to the Commissioner of Internal Revenue, except that—

(A) the Chief Counsel shall report to both the Commissioner and the General Counsel for the Department of the Treasury with respect to—

(i) legal advice or interpretation of the tax law not relating solely to tax policy;

(ii) tax litigation; and

(B) the Chief Counsel shall report to the General Counsel with respect to legal advice or interpretation of the tax law relating solely to tax policy.

If there is any disagreement between the Commissioner and the General Counsel with respect to any matter jointly referred to them under subparagraph (A), such matter shall be submitted to the Secretary or Deputy Secretary for resolution.

(4) Chief Counsel personnel

All personnel in the Office of Chief Counsel shall report to the Chief Counsel.

(c) Office of the Taxpayer Advocate

(1) Establishment

(A) In general

There is established in the Internal Revenue Service an office to be known as the ''Office of the Taxpayer Advocate''.

(B) National Taxpayer Advocate

(i) In general

The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the ''National Taxpayer Advocate''. The National Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of the Treasury so determines, at a rate fixed under section 9503 of such title.

(ii) Appointment

The National Taxpayer Advocate shall be appointed by the Secretary of the Treasury after consultation with the Commissioner of Internal Revenue and the Oversight Board and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(iii) Qualifications

An individual appointed under clause (ii) shall have—

(I) a background in customer service as well as tax law; and

(II) experience in representing individual taxpayers.

(iv) Restriction on employment

An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Internal Revenue Service during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the National Taxpayer Advocate. Service as an officer or employee of the Office of the Taxpayer Advocate shall not be taken into account in applying this clause.

(2) Functions of office

(A) In general

It shall be the function of the Office of the Taxpayer Advocate to—

(i) assist taxpayers in resolving problems with the Internal Revenue Service;

(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service;

(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii); and

(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

(B) Annual reports

(i) Objectives

Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

(ii) Activities

Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

(I) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness;

(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811;

(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems;

(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action;

(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory;

(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction;

(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b);

(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers;

(IX) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems;

(X) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes; and

(XI) include such other information as the National Taxpayer Advocate may deem advisable.

(iii) Report to be submitted directly

Each report required under this subparagraph shall be provided directly to the committees described in clause (i) without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

(iv) Coordination with report of Treasury Inspector General for Tax Administration

To the extent that information required to be reported under clause (ii) is also required to be reported under paragraph (1) or (2) of subsection (d) by the Treasury Inspector General for Tax Administration, the National Taxpayer Advocate shall not contain such information in the report submitted under such clause.

(C) Other responsibilities

The National Taxpayer Advocate shall—

(i) monitor the coverage and geographic allocation of local offices of taxpayer advocates;

(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local offices of taxpayer advocates;

(iii) ensure that the local telephone number for each local office of the taxpayer advocate is published and available to taxpayers served by the office; and

(iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.

(D) Personnel actions

(i) In general

The National Taxpayer Advocate shall have the responsibility and authority to—

(I) appoint local taxpayer advocates and make available at least 1 such advocate for each State; and

(II) evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of a taxpayer advocate described in subclause (I).

(ii) Consultation

The National Taxpayer Advocate may consult with the appropriate supervisory personnel of the Internal Revenue Service in carrying out the National Taxpayer Advocate's responsibilities under this subparagraph.

(3) Responsibilities of Commissioner

The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the National Taxpayer Advocate within 3 months after submission to the Commissioner.

(4) Operation of local offices

(A) In general

Each local taxpayer advocate—

(i) shall report to the National Taxpayer Advocate or delegate thereof;

(ii) may consult with the appropriate supervisory personnel of the Internal Revenue Service regarding the daily operation of the local office of the taxpayer advocate;

(iii) shall, at the initial meeting with any taxpayer seeking the assistance of a local office of the taxpayer advocate, notify such taxpayer that the taxpayer advocate offices operate independently of any other Internal Revenue Service office and report directly to Congress through the National Taxpayer Advocate; and

(iv) may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.

(B) Maintenance of independent communications

Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

(d) Additional duties of the Treasury Inspector General for Tax Administration

(1) Annual reporting

The Treasury Inspector General for Tax Administration shall include in one of the semiannual reports under section 5 of the Inspector General Act of 1978—

(A) an evaluation of the compliance of the Internal Revenue Service with—

(i) restrictions under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998 on the use of enforcement statistics to evaluate Internal Revenue Service employees;

(ii) restrictions under section 7521 on directly contacting taxpayers who have indicated that they prefer their representatives be contacted;

(iii) required procedures under section 6320 upon the filing of a notice of a lien;

(iv) required procedures under subchapter D of chapter 64 for seizure of property for collection of taxes, including required procedures under section 6330 regarding levies; and

(v) restrictions under section 3707 of the Internal Revenue Service Restructuring and Reform Act of 1998 on designation of taxpayers;

(B) a review and a certification of whether or not the Secretary is complying with the requirements of section 6103(e)(8) to disclose information to an individual filing a joint return on collection activity involving the other individual filing the return;

(C) information regarding extensions of the statute of limitations for assessment and collection of tax under section 6501 and the provision of notice to taxpayers regarding requests for such extension;

(D) an evaluation of the adequacy and security of the technology of the Internal Revenue Service;

(E) any termination or mitigation under section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998;

(F) information regarding improper denial of requests for information from the Internal Revenue Service identified under paragraph (3)(A); and

(G) information regarding any administrative or civil actions with respect to violations of the fair debt collection provisions of section 6304, including—

(i) a summary of such actions initiated since the date of the last report; and

(ii) a summary of any judgments or awards granted as a result of such actions.

(2) Semiannual reports

(A) IN GENERAL.—The Treasury Inspector General for Tax Administration shall include in each semiannual report under section 5 of the Inspector General Act of 1978—

(i) the number of taxpayer complaints during the reporting period;

(ii) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources;

(iii) a summary of the status of such complaints and allegations; and

(iv) a summary of the disposition of such complaints and allegations, including the

outcome of any Department of Justice action and any monies paid as a settlement of such complaints and allegations.

(B) Clauses (iii) and (iv) of subparagraph (A) shall only apply to complaints and allegations of serious employee misconduct.

(3) Other responsibilities

The Treasury Inspector General for Tax Administration shall—

(A) conduct periodic audits of a statistically valid sample of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103 of this title or section 552(b)(7) of title 5, United States Code; and

(B) establish and maintain a toll-free telephone number for taxpayers to use to confidentially register complaints of misconduct by Internal Revenue Service employees and incorporate the telephone number in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1).

(Aug. 16, 1954, ch. 736, 68A Stat. 915; Pub. L. 92–310, title II, § 230(e), June 6, 1972, 86 Stat. 209; Pub. L. 94–455, title XIX, § 1906(a)(58), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1833, 1834; Pub. L. 105–206, title I, § 1102(a), July 22, 1998, 112 Stat. 697.)

REFERENCES IN TEXT

The provisions of title 5 relating to appointments in the competitive service and the Senior Executive Service, referred to in subsec. (c)(1)(B)(ii), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

Section 5 of the Inspector General Act of 1978, referred to in subsec. (d)(1), (2)(A), is section 5 of Pub. L. 95–452, which is set out in the Appendix to Title 5, Government Organization and Employees.

Sections 1203, 1204, and 3707 of the Internal Revenue Service Restructuring and Reform Act of 1998, referred to in subsec. (d)(1)(A)(i), (v), (E), are sections 1203, 1204, and 3707 of Pub. L. 105–206, which are set out as notes under sections 7804, 7804, and 6651, respectively, of this title.

Section 6227 of the Omnibus Taxpayer Bill of Rights, referred to in subsec. (d)(3)(B), is section 6227 of Pub. L. 100–647, which is set out as a note under section 7801 of this title.

AMENDMENTS

1998—Pub. L. 105–206 amended section catchline and text generally, substituting present provisions for provisions which: in subsec. (a), authorized appointment of persons for administration and enforcement of internal revenue laws; in subsec. (b), directed Secretary to determine and designate posts of duty of employees in field service, and authorized Secretary to order such employees to duty within and outside District of Columbia; and in subsec. (c), directed Secretary to issue notice and demand for failure to account for and pay over money or property collected in connection with internal revenue laws, and deemed amount so demanded to be imposed and assessed upon the officer or employee upon the date of such notice and demand. See section 7804 of this title.

1976—Subsecs. (a), (b), (c). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsecs. (c), (d). Pub. L. 94–455, § 1906(a)(58), redesignated subsec. (d) as (c).

1972—Subsec. (c). Pub. L. 92–310 repealed subsec. (c) which related to bonds of officers and employees.

CHANGE OF NAME

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title I, § 1102(f), July 22, 1998, 112 Stat. 705, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section, sections 6212, 6323, 6343, 7611, and 7811 of this title, and section 5109 of Title 5, Government Organization and Employees] shall take effect on the date of the enactment of this Act [July 22, 1998].

''(2) CHIEF COUNSEL.—Section 7803(b)(3) of the Internal Revenue Code of 1986, as added by this section, shall take effect on the date that is 90 days after the date of the enactment of this Act.

''(3) NATIONAL TAXPAYER ADVOCATE.—Notwithstanding section 7803(c)(1)(B)(iv) of such Code, as added by this section, in appointing the first National Taxpayer Advocate after the date of the enactment of this Act, the Secretary of the Treasury—

''(A) shall not appoint any individual who was an officer or employee of the Internal Revenue Service at any time during the 2-year period ending on the date of appointment; and

''(B) need not consult with the Internal Revenue Service Oversight Board if the Oversight Board has not been appointed.

''(4) CURRENT OFFICERS.—

''(A) In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of such Code, as added by this section, shall begin as of the date of such appointment.

''(B) Clauses (ii), (iii), and (iv) of section 7803(c)(1)(B) of such Code, as added by this section, shall not apply to the individual serving as Taxpayer Advocate on the date of the enactment of this Act.''

§ 7804. Other personnel

(a) Appointment and supervision

Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

(b) Posts of duty of employees in field service or traveling

Unless otherwise prescribed by the Secretary—

(1) Designation of post of duty

The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

(2) Detail of personnel from field service

The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

(c) Delinquent Internal Revenue officers and employees

If any officer or employee of the Treasury Department acting in connection with the internal

revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.

(Aug. 16, 1954, ch. 736, 68A Stat. 916; Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105–206, title I, §1104(a), July 22, 1998, 112 Stat. 710.)

AMENDMENTS

1998—Pub. L. 105–206 amended section catchline and text generally, substituting present provisions for provisions which had declared: in subsec. (a), that provisions of Reorganization Plans No. 26 of 1950 and No. 1 of 1952 should apply to all functions vested by this title, or by any act amending this title in any officer, employee, or agency of the Department; and in subsec. (b), that nothing in such Reorganization Plans should be considered to impair existing rights and remedies, that for the purpose of any action to recover tax all statutes, rules, and regulations referring to collector of internal revenue, principal officer for internal revenue district, or Secretary, should be deemed to refer to officer whose acts gave rise to such action, and that venue of any such action should be the same as under existing law.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title I, §1104(c), July 22, 1998, 112 Stat. 710, provided that: ''The amendments made by this section [amending this section and section 6344 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].''

TERMINATION OF EMPLOYMENT FOR MISCONDUCT

Pub. L. 105–206, title I, §1203, July 22, 1998, 112 Stat. 720, provided that:

''(a) IN GENERAL.—Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

''(b) ACTS OR OMISSIONS.—The acts or omissions referred to under subsection (a) are—

''(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

''(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

''(3) with respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of—

''(A) any right under the Constitution of the United States; or

''(B) any civil right established under—

''(i) title VI or VII of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq., 2000e et seq.];

''(ii) title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.];

''(iii) the Age Discrimination in Employment Act of 1967 [29 U.S.C. 621 et seq.];

''(iv) the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.];

''(v) section 501 or 504 of the Rehabilitation Act of 1973 [29 U.S.C. 791, 794]; or

''(vi) title I of the Americans with Disabilities Act of 1990 [42 U.S.C. 12111 et seq.];

''(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

''(5) assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;

''(6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

''(7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry;

''(8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect;

''(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect; and

''(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

''(c) DETERMINATION OF COMMISSIONER.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

''(3) NO APPEAL.—Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

''(d) DEFINITION.—For purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity receiving Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.''

EMPLOYEE TRAINING PROGRAM

Pub. L. 105–206, title I, §1205, July 22, 1998, 112 Stat. 722, provided that:

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [July 22, 1998], the Commissioner of Internal Revenue shall implement an employee training program and shall submit an employee training plan to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

''(b) CONTENTS.—The plan submitted under subsection (a) shall—

''(1) detail a comprehensive employee training program to ensure adequate customer service training;

''(2) detail a schedule for training and the fiscal years during which the training will occur;

''(3) detail the funding of the program and relevant information to demonstrate the priority and commitment of resources to the plan;

''(4) review the organizational design of customer service;

''(5) provide for the implementation of a performance development system; and

''(6) provide for at least 16 hours of conflict management training during fiscal year 1999 for employees conducting collection activities.''

CATALOGING COMPLAINTS

Pub. L. 105–206, title III, § 3701, July 22, 1998, 112 Stat. 776, provided that: ''In collecting data for the report required under section 1211 of the Taxpayer Bill of Rights 2 (Public Law 104–168) [set out below], the Secretary of the Treasury or the Secretary's delegate shall, not later than January 1, 2000, maintain records of taxpayer complaints of misconduct by Internal Revenue Service employees on an individual employee basis.''

USE OF PSEUDONYMS BY INTERNAL REVENUE SERVICE EMPLOYEES

Pub. L. 105–206, title III, § 3706, July 22, 1998, 112 Stat. 778, provided that:

''(a) IN GENERAL.—Any employee of the Internal Revenue Service may use a pseudonym only if—

''(1) adequate justification for the use of a pseudonym is provided by the employee, including protection of personal safety; and

''(2) such use is approved by the employee's supervisor before the pseudonym is used.

''(b) EFFECTIVE DATE.—Subsection (a) shall apply to requests made after the date of the enactment of this Act [July 22, 1998].''

REPORTS ON MISCONDUCT OF IRS EMPLOYEES

Pub. L. 104–168, title XII, § 1211, July 30, 1996, 110 Stat. 1474, provided that: ''On or before June 1 of each calendar year after 1996, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

''(1) all categories of instances involving the misconduct of employees of the Internal Revenue Service during the preceding calendar year, and

''(2) the disposition during the preceding calendar year of any such instances (without regard to the year of the misconduct).''

TAXPAYERS' RIGHTS, COURTESY AND CROSS-CULTURAL RELATIONS TRAINING

Pub. L. 106–554, § 1(a)(3) [title I, § 102], Dec. 21, 2000, 114 Stat. 2763, 2763A–132, provided that: ''The Internal Revenue Service shall maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–58, title I, § 102, Sept. 29, 1999, 113 Stat. 437.

Pub. L. 105–277, div. A, § 101(h) [title I, § 102], Oct. 21, 1998, 112 Stat. 2681–480, 2681–488.

Pub. L. 105–61, title I, § 102, Oct. 10, 1997, 111 Stat. 1281.

Pub. L. 104–208, div. A, title I, § 101(f) [title I, § 102], Sept. 30, 1996, 110 Stat. 3009–314, 3009–323.

Pub. L. 104–52, title I, § 2, Nov. 19, 1995, 109 Stat. 474.

Pub. L. 103–329, title I, § 2, Sept. 30, 1994, 108 Stat. 2388.

Pub. L. 103–123, title I, § 2, Oct. 28, 1993, 107 Stat. 1232.

Pub. L. 102–393, title I, § 2, Oct. 6, 1992, 106 Stat. 1735.

BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES

Pub. L. 105–206, title I, § 1204, July 22, 1998, 112 Stat. 722, provided that:

''(a) IN GENERAL.—The Internal Revenue Service shall not use records of tax enforcement results—

''(1) to evaluate employees; or

''(2) to impose or suggest production quotas or goals with respect to such employees.

''(b) TAXPAYER SERVICE.—The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.

''(c) CERTIFICATION.—Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue whether or not tax enforcement results are being used in a manner prohibited by subsection (a).

''(d) TECHNICAL AND CONFORMING AMENDMENT.—[Repealed section 6231 of Pub. L. 100–647, set out below.]

''(e) EFFECTIVE DATE.—This section shall apply to evaluations conducted on or after the date of the enactment of this Act [July 22, 1998].''

Pub. L. 100–647, title VI, § 6231, Nov. 10, 1988, 102 Stat. 3734, prohibited Internal Revenue Service use of records of tax enforcement results to evaluate employees or to impose or suggest production quotas or goals, and required quarterly certification that results had not been used in prohibited manner, prior to repeal by Pub. L. 105–206, title I, § 1204(d), July 22, 1998, 112 Stat. 722.

SENSE OF CONGRESS AS TO INCREASED INTERNAL REVENUE SERVICE FUNDING FOR TAXPAYER ASSISTANCE AND ENFORCEMENT

Pub. L. 100–203, title X, § 10622, Dec. 22, 1987, 101 Stat. 1330–452, provided that:

''(a) FINDINGS.—The Congress hereby finds that—

''(1) the Internal Revenue Service estimates that the amount of taxes owed for 1986 will exceed the amount of taxes collected for such year by $100 billion;

''(2) the current taxpayer compliance rate stands at 81.5 percent;

''(3) the tax gap can be significantly reduced by enhancing taxpayer assistance services and enforcement; and

''(4) the Appropriations Committee of the House of Representatives, in its fiscal year 1988 Internal Revenue Service appropriation, took a step in the direction of providing additional funding for taxpayer assistance and enforcement efforts.

''(b) It is the sense of the Congress that:

''(1) The Congress increase outlays for the Internal Revenue Service in fiscal year 1989 and fiscal year 1990 in the areas of taxpayer assistance and enforcement by $.7 billion in fiscal year 1989 for a revenue total of $3.2 billion and by $.8 billion in fiscal year 1990 for a revenue total of $4.4 billion. The net revenue increase would be $2.5 billion in fiscal year 1989 and $3.6 billion in fiscal year 1990, or a net revenue increase over the House Appropriations Committee recommendations of $.4 billion in fiscal year 1989 and $1.3 billion in fiscal year 1990.

''(2) The Internal Revenue Service offer improved taxpayer assistance and enforcement efforts by using the aforementioned outlays in areas recommended by, or consistent with the recommendations of, the 'Dorgan Task Force Report'. Taxpayer assistance efforts would include providing expanded taxpayer education programs, instituting pilot programs of taxmobiles in rural areas, and upgrading the quality of telephone assistance. Taxpayer enforcement efforts would include raising the audit rate from 1.1 percent toward 2.5 percent, restoring resources to criminal investigations, and the collection of delinquent accounts.

''(3) The Congress should undertake an experimental multiyear authorization and 2-year appropriation for the Internal Revenue Service consistent with the recommendations in Public Law 100–119, section 201 (Increasing the Statutory Limit on the Public Debt) [2 U.S.C. 621 note].

''(4) Increased funding should be provided for compilation and analysis of statistics of income and research.

The Internal Revenue Service must issue a report on the extent of the tax gap and the measures that could be undertaken to decrease the tax gap. The report must utilize more current data than has been utilized re-

cently. The report must be issued by April 15, 1989. The Internal Revenue Service must also report annually on the improvements being made in the audit rate, taxpayer assistance, and enforcement efforts.''

TAX COUNSELING FOR THE ELDERLY

Pub. L. 95–600, title I, § 163, Nov. 6, 1978, 92 Stat. 2810, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) TRAINING AND TECHNICAL ASSISTANCE.—

''(1) AGREEMENTS.—The Secretary, through the Internal Revenue Service, is authorized to enter into agreements with private or public nonprofit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals in the preparation of their Federal income tax returns.

''(2) OTHER ASSISTANCE.—In addition to any other forms of technical assistance provided under this section, the Secretary may provide—

''(A) preferential access to Internal Revenue Service taxpayer service representatives for the purpose of making available technical information needed during the course of the volunteers' work;

''(B) material to be used in making elderly persons aware of the availability of assistance under volunteer taxpayer assistance programs under this section; and

''(C) technical materials and publications to be used by such volunteers.

''(b) POWERS OF THE SECRETARY.—In carrying out his responsibilities under this section, the Secretary is authorized—

''(1) to provide assistance to organizations which demonstrate, to the satisfaction of the Secretary, that their volunteers are adequately trained and competent to render effective tax counseling to the elderly;

''(2) to provide for the training of such volunteers, and to assist in such training, to insure that such volunteers are qualified to provide tax counseling assistance to elderly individuals;

''(3) to provide reimbursement to volunteers through such organizations for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance under this section, and such other support and assistance as he determines to be appropriate in carrying out the provisions of this section;

''(4) to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement therefor; and

''(5) to prescribe such rules and regulations as he deems necessary to carry out the provisions of this section.

''(c) EMPLOYMENT OF VOLUNTEERS.—

''(1) IN GENERAL.—Service as a volunteer in any program carried out under this section shall not be considered service as an employee of the United States. Volunteers under such a program shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

''(2) EXPENSES.—Amounts received by volunteers serving in any program carried out under this section as reimbursement for expenses are exempt from taxation under chapters 1 and 21 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

''(d) PUBLICITY RELATING TO INCOME TAX PROVISIONS PARTICULARLY IMPORTANT TO THE ELDERLY.—The Secretary shall, from time to time, undertake to direct the attention of elderly individuals to those provisions of the Internal Revenue Code of 1986 which are particularly important to taxpayers who are elderly individuals, such as the provisions of section 37 (relating to credit for the elderly) and section 121 (relating to one-time exclusion of gain from sale of principal residence) of the Internal Revenue Code of 1986.

''(e) DEFINITIONS.—For purposes of this section—

''(1) The term 'Secretary' means the Secretary of the Treasury or his delegate.

''(2) The term 'elderly individual' means an individual who has attained the age of 60 years as of the close of his taxable year.

''(3) The term 'Federal income tax return' means any return required under chapter 61 of the Internal Revenue Code of 1986 with respect to the tax imposed on an individual under chapter 1 of such Code.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out the provisions of this section $2,500,000 for the fiscal year ending September 30, 1979, and $3,500,000 for the fiscal year ending September 30, 1980.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6344 of this title.

§ 7805. Rules and regulations

(a) Authorization

Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) Retroactivity of regulations

(1) In general

Except as otherwise provided in this subsection, no temporary, proposed, or final regulation relating to the internal revenue laws shall apply to any taxable period ending before the earliest of the following dates:

(A) The date on which such regulation is filed with the Federal Register.

(B) In the case of any final regulation, the date on which any proposed or temporary regulation to which such final regulation relates was filed with the Federal Register.

(C) The date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public.

(2) Exception for promptly issued regulations

Paragraph (1) shall not apply to regulations filed or issued within 18 months of the date of the enactment of the statutory provision to which the regulation relates.

(3) Prevention of abuse

The Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse.

(4) Correction of procedural defects

The Secretary may provide that any regulation may apply retroactively to correct a procedural defect in the issuance of any prior regulation.

(5) Internal regulations

The limitation of paragraph (1) shall not apply to any regulation relating to internal Treasury Department policies, practices, or procedures.

(6) Congressional authorization

The limitation of paragraph (1) may be superseded by a legislative grant from Congress

authorizing the Secretary to prescribe the effective date with respect to any regulation.

(7) Election to apply retroactively

The Secretary may provide for any taxpayer to elect to apply any regulation before the dates specified in paragraph (1).

(8) Application to rulings

The Secretary may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect.

(c) Preparation and distribution of regulations, forms, stamps, and other matters

The Secretary shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

(d) Manner of making elections prescribed by Secretary

Except to the extent otherwise provided by this title, any election under this title shall be made at such time and in such manner as the Secretary shall prescribe.

(e) Temporary regulations

(1) Issuance

Any temporary regulation issued by the Secretary shall also be issued as a proposed regulation.

(2) 3-year duration

Any temporary regulation shall expire within 3 years after the date of issuance of such regulation.

(f) Review of impact of regulations on small business

(1) Submissions to Small Business Administration

After publication of any proposed or temporary regulation by the Secretary, the Secretary shall submit such regulation to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of such regulation on small business. Not later than the date 4 weeks after the date of such submission, the Chief Counsel for Advocacy shall submit comments on such regulation to the Secretary.

(2) Consideration of comments

In prescribing any final regulation which supersedes a proposed or temporary regulation which had been submitted under this subsection to the Chief Counsel for Advocacy of the Small Business Administration—

(A) the Secretary shall consider the comments of the Chief Counsel for Advocacy on such proposed or temporary regulation, and

(B) the Secretary shall discuss any response to such comments in the preamble of such final regulation.

(3) Submission of certain final regulations

In the case of the promulgation by the Secretary of any final regulation (other than a temporary regulation) which does not supersede a proposed regulation, the requirements of paragraphs (1) and (2) shall apply; except that—

(A) the submission under paragraph (1) shall be made at least 4 weeks before the date of such promulgation, and

(B) the consideration (and discussion) required under paragraph (2) shall be made in connection with the promulgation of such final regulation.

(Aug. 16, 1954, ch. 736, 68A Stat. 917; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. A, title I, § 43(b), July 18, 1984, 98 Stat. 558; Pub. L. 100–647, title VI, § 6232(a), Nov. 10, 1988, 102 Stat. 3734; Pub. L. 101–508, title XI, § 11621(a), Nov. 5, 1990, 104 Stat. 1388–503; Pub. L. 104–168, title XI, § 1101(a), July 30, 1996, 110 Stat. 1468; Pub. L. 105–206, title III, § 3704, July 22, 1998, 112 Stat. 777.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–206 struck out ''by regulations or forms'' before ''prescribe''.

1996—Subsec. (b). Pub. L. 104–168 struck out ''or rulings'' after ''regulations'' in heading and amended text generally. Prior to amendment, text read as follows: ''The Secretary may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.''

1990—Subsec. (f). Pub. L. 101–508 substituted heading for one which read ''Impact of regulations on small business reviewed'' and amended text generally. Prior to amendment, text read as follows: ''After the publication of any proposed regulation by the Secretary and before the promulgation of any final regulation by the Secretary which does not supersede a proposed regulation, the Secretary shall submit such regulation to the Administrator of the Small Business Administration for comment on the impact of such regulation on small business. The Administrator shall have 4 weeks from the date of submission to respond.''

1988—Subsecs. (e), (f). Pub. L. 100–647 added subsecs. (e) and (f).

1984—Pub. L. 98–369 added subsec. (d).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1101(b) of Pub. L. 104–168 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to regulations which relate to statutory provisions enacted on or after the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11621(b) of Pub. L. 101–508 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to regulations issued after the date which is 30 days after the date of the enactment of this Act [Nov. 5, 1990].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6232(b) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending this section] shall apply to any regulation issued after the date which is 10 days after the date of the enactment of this Act [Nov. 10, 1988].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98–369, set out as an Effective Date note under section 1271 of this title.

INTERNET AVAILABILITY

Pub. L. 105–206, title II, § 2003(d), July 22, 1998, 112 Stat. 725, provided that: ''In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures for all tax forms, instructions, and publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database at approximately the same time such records are available to the public in paper form. In addition, in the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database at approximately the same time such guidance is available to the public in paper form.''

§ 7806. Construction of title

(a) Cross references

The cross references in this title to other portions of the title, or other provisions of law, where the word ''see'' is used, are made only for convenience, and shall be given no legal effect.

(b) Arrangement and classification

No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect. The preceding sentence also applies to the sidenotes and ancillary tables contained in the various prints of this Act before its enactment into law.

(Aug. 16, 1954, ch. 736, 68A Stat. 917.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is act Aug. 16, 1954.

§ 7807. Rules in effect upon enactment of this title

(a) Interim provision for administration of title

Until regulations are promulgated under any provision of this title which depends for its application upon the promulgation of regulations (or which is to be applied in such manner as may be prescribed by regulations) all instructions, rules or regulations which are in effect immediately prior to the enactment of this title shall, to the extent such instructions, rules, or regulations could be prescribed as regulations under authority of such provision, be applied as if promulgated as regulations under such provision.

(b) Provisions of this title corresponding to prior internal revenue laws

(1) Reference to law applicable to prior period

Any provision of this title which refers to the application of any portion of this title to a prior period (or which depends upon the application to a prior period of any portion of this title) shall, when appropriate and consistent with the purpose of such provision, be deemed to refer to (or depend upon the application of) the corresponding provision of the Internal Revenue Code of 1939 or of such other internal revenue laws as were applicable to the prior period.

(2) Elections or other acts

If an election or other act under the provisions of the Internal Revenue Code of 1939 would, if this title had not been enacted, be given effect for a period subsequent to the date of enactment of this title, and if corresponding provisions are contained in this title, such election or other act shall be given effect under the corresponding provisions of this title.

(Aug. 16, 1954, ch. 736, 68A Stat. 917.)

REFERENCES IN TEXT

The Internal Revenue Code of 1939, referred to in subsec. (b), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 was redesignated The Internal Revenue Code of 1986 by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 481 of this title.

§ 7808. Depositaries for collections

The Secretary is authorized to designate one or more depositaries in each State for the deposit and safe-keeping of the money collected by virtue of the internal revenue laws; and the receipt of the proper officer of such depositary to the proper officer or employee of the Treasury Department for the money deposited by him shall be a sufficient voucher for such Treasury officer or employee in the settlement of his accounts.

(Aug. 16, 1954, ch. 736, 68A Stat. 918; 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''.

§ 7809. Deposit of collections

(a) General rule

Except as provided in subsections (b) and (c) and in sections 7651, 7652, 7654, and 7810, the gross amount of all taxes and revenues received under the provisions of this title, and collections of whatever nature received or collected by authority of any internal revenue law, shall be paid daily into the Treasury of the United States under instructions of the Secretary as internal revenue collections, by the officer or employee receiving or collecting the same, without any abatement or deduction on account of salary, compensation, fees, costs, charges, expenses, or claims of any description. A certificate of such payment, stating the name of the depositor and the specific account on which the deposit was made, signed by the Treasurer of the United States, designated depositary, or proper officer of a deposit bank, shall be transmitted to the Secretary.

(b) Deposit funds

In accordance with instructions of the Secretary, there shall be deposited with the Treas-

urer of the United States in a deposit fund account—

(1) Sums offered in compromise

Sums offered in compromise under the provisions of section 7122;

(2) Sums offered for purchase of real estate

Sums offered for the purchase of real estate under the provisions of section 7506;

(3) Surplus proceeds in sales under levy

Surplus proceeds in any sale under levy, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for costs and charges of the levy and sale; and

(4) Surplus proceeds in sales of redeemed property

Surplus proceeds in any sale under section 7506 of real property redeemed by the United States, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for the costs of sale.

Upon the acceptance of such offer in compromise or offer for the purchase of such real estate, the amount so accepted shall be withdrawn from such deposit fund account and deposited in the Treasury of the United States as internal revenue collections. Upon the rejection of any such offer, the Secretary shall refund to the maker of such offer the amount thereof.

(c) Deposit of certain receipts

Moneys received in payment for—

(1) Work or services performed pursuant to section 6103(p) (relating to furnishing of copies of returns or of return information), and section 6108(b) (relating to special statistical studies and compilations);

(2) work or services performed (including materials supplied) pursuant to section 7516 (relating to the supplying of training and training aids on request);

(3) other work or services performed for a State or a department or agency of the Federal Government (subject to all provisions of law and regulations governing disclosure of information) in supplying copies of, or data from, returns, statements, or other documents filed under authority of this title or records maintained in connection with the administration and enforcement of this title; and

(4) work or services performed (including materials supplied) pursuant to section 6110 (relating to public inspection of written determinations),

shall be deposited in a separate account which may be used to reimburse appropriations which bore all or part of the costs of such work or services, or to refund excess sums when necessary.

(d) Deposit of funds for law enforcement agency account

(1) In general

In the case of any amounts recovered as the result of information provided to the Internal Revenue Service by State and local law enforcement agencies which substantially contributed to such recovery, an amount equal to 10 percent of such amounts shall be deposited in a separate account which shall be used to make the reimbursements required under section 7624.

(2) Deposit in Treasury as internal revenue collections

If any amounts remain in such account after payment of any qualified costs incurred under section 7624, such amounts shall be withdrawn from such account and deposited in the Treasury of the United States as internal revenue collections.

(Aug. 16, 1954, ch. 736, 68A Stat. 918; Pub. L. 87–870, § 3(b), Oct. 23, 1962, 76 Stat. 1161; Pub. L. 89–719, title I, § 112(b), Nov. 2, 1966, 80 Stat. 1146; Pub. L. 94–455, title XII, § 1202(h)(5), title XIX, §§ 1906(a)(59), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1688, 1833, 1834; Pub. L. 94–528, § 2(d), Oct. 17, 1976, 90 Stat. 2483; Pub. L. 100–690, title VII, § 7602(b), Nov. 18, 1988, 102 Stat. 4507.)

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–690 added subsec. (d).

1976—Subsec. (a). Pub. L. 94–455, § 1906(a)(59), (b)(13)(A), struck out ''4735, 4762'' after ''and in sections'', and ''or his delegate'' after ''Secretary'' in two places.

Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (c)(1). Pub. L. 94–455, § 1202(h)(5), substituted ''section 6103(p) (relating to furnishing of copies of returns or of return information), and section 6108(b) (relating to special statistical studies and compilations)'' for ''section 7515 (relating to special statistical studies and compilations for other services on request)'' after ''performed pursuant to''.

Subsec. (c)(4). Pub. L. 94–528 added par. (4).

1966—Subsecs. (a), (b)(4). Pub. L. 89–719 inserted reference to section 7810 in subsec. (a) and added subsec. (b)(4).

1962—Subsec. (a). Pub. L. 87–870, § 3(b)(1), substituted ''subsections (b) and (c) and in'' for ''subsection (b),''.

Subsec. (c). Pub. L. 87–870, § 3(b)(2), added subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 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 a note under section 6103 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Section 2(e) of Pub. L. 94–528 provided that: ''The amendments made by this section [amending this section and provisions set out as notes under sections 6334, 6851, and 7609 of this title] shall take effect on the date of the enactment of the Tax Reform Act of 1976 [Oct. 4, 1976].''

Amendment by section 1202(h)(5) of Pub. L. 94–455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94–455, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as a note under section 6323 of this title.

AUTHORIZATION OF APPROPRIATIONS

Section 7602(f) of Pub. L. 100–690 provided that: ''There is authorized to be appropriated from the account referred to in section 7809(d) of the Internal Revenue Code of 1986 such sums as may be necessary to make the payments authorized by section 7624 of such Code.''

§ 7810. Revolving fund for redemption of real property

(a) Establishment of fund

There is established a revolving fund, under the control of the Secretary, which shall be available without fiscal year limitation for all expenses necessary for the redemption (by the Secretary) of real property as provided in section 7425(d) and section 2410 of title 28 of the United States Code. There are authorized to be appropriated from time to time such sums (not to exceed $10,000,000 in the aggregate) as may be necessary to carry out the purposes of this section.

(b) Reimbursement of fund

The fund shall be reimbursed from the proceeds of a subsequent sale of real property redeemed by the United States in an amount equal to the amount expended out of such fund for such redemption.

(c) System of accounts

The Secretary shall maintain an adequate system of accounts for such fund and prepare annual reports on the basis of such accounts.

(Added Pub. L. 89–719, title I, § 112(a), Nov. 2, 1966, 80 Stat. 1145; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. A, title IV, § 443, July 18, 1984, 98 Stat. 816.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–369 substituted ''$10,000,000'' for ''$1,000,000''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE

Section applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)–(c) of Pub. L. 89–719, set out as an Effective Date of 1966 Amendment note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7809 of this title.

§ 7811. Taxpayer Assistance Orders

(a) Authority to issue

(1) In general

Upon application filed by a taxpayer with the Office of the Taxpayer Advocate (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the National Taxpayer Advocate may issue a Taxpayer Assistance Order if—

(A) the National Taxpayer Advocate determines the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary; or

(B) the taxpayer meets such other requirements as are set forth in regulations prescribed by the Secretary.

(2) Determination of hardship

For purposes of paragraph (1), a significant hardship shall include—

(A) an immediate threat of adverse action;

(B) a delay of more than 30 days in resolving taxpayer account problems;

(C) the incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted; or

(D) irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.

(3) Standard where administrative guidance not followed

In cases where any Internal Revenue Service employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the National Taxpayer Advocate shall construe the factors taken into account in determining whether to issue a Taxpayer Assistance Order in the manner most favorable to the taxpayer.

(b) Terms of a Taxpayer Assistance Order

The terms of a Taxpayer Assistance Order may require the Secretary within a specified time period—

(1) to release property of the taxpayer levied upon, or

(2) to cease any action, take any action as permitted by law, or refrain from taking any action, with respect to the taxpayer under—

(A) chapter 64 (relating to collection),

(B) subchapter B of chapter 70 (relating to bankruptcy and receiverships),

(C) chapter 78 (relating to discovery of liability and enforcement of title), or

(D) any other provision of law which is specifically described by the National Taxpayer Advocate in such order.

(c) Authority to modify or rescind

Any Taxpayer Assistance Order issued by the National Taxpayer Advocate under this section may be modified or rescinded—

(1) only by the National Taxpayer Advocate, the Commissioner of Internal Revenue, or the Deputy Commissioner of Internal Revenue, and

(2) only if a written explanation of the reasons for the modification or rescission is provided to the National Taxpayer Advocate.

(d) Suspension of running of period of limitation

The running of any period of limitation with respect to any action described in subsection (b) shall be suspended for—

(1) the period beginning on the date of the taxpayer's application under subsection (a) and ending on the date of the National Taxpayer Advocate's decision with respect to such application, and

(2) any period specified by the National Taxpayer Advocate in a Taxpayer Assistance Order issued pursuant to such application.

(e) Independent action of National Taxpayer Advocate

Nothing in this section shall prevent the National Taxpayer Advocate from taking any action in the absence of an application under subsection (a).

(f) National Taxpayer Advocate

For purposes of this section, the term ''National Taxpayer Advocate'' includes any designee of the National Taxpayer Advocate.

(Added Pub. L. 100–647, title VI, § 6230(a), Nov. 10, 1988, 102 Stat. 3733; amended Pub. L. 104–168, title I, §§ 101(b)(1), 102(a), (b), July 30, 1996, 110 Stat. 1455, 1456; Pub. L. 105–206, title I, § 1102(c), (d)(1)(C)–(G), (2), (3), July 22, 1998, 112 Stat. 703, 704; Pub. L. 106–554, § 1(a)(7) [title III, § 319(28), (29)], Dec. 21, 2000, 114 Stat. 2763, 2763A–648.)

AMENDMENTS

2000—Subsec. (a)(3). Pub. L. 106–554, § 1(a)(7) [title III, § 319(28)], substituted ''Taxpayer Assistance Order'' for ''taxpayer assistance order''.

Subsec. (d)(1). Pub. L. 106–554, § 1(a)(7) [title III, § 319(29)], substituted ''National Taxpayer Advocate's'' for ''Ombudsman's''.

1998—Subsec. (a). Pub. L. 105–206, § 1102(c), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''Upon application filed by a taxpayer with the Office of the Taxpayer Advocate (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Taxpayer Advocate may issue a Taxpayer Assistance Order if, in the determination of the Taxpayer Advocate, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary.''

Subsec. (b)(2)(D). Pub. L. 105–206, § 1102(d)(1)(C), substituted ''National Taxpayer Advocate'' for ''Taxpayer Advocate''.

Subsec. (c). Pub. L. 105–206, § 1102(d)(1)(D), substituted ''National Taxpayer Advocate'' for ''Taxpayer Advocate'' wherever appearing.

Subsec. (d)(1). Pub. L. 105–206, § 1102(d)(2), which directed amendment of par. (1) by substituting ''National Taxpayer Advocate's'' for ''Taxpayer Advocate's'', could not be executed because the words ''Taxpayer Advocate's'' did not appear.

Subsec. (d)(2). Pub. L. 105–206, § 1102(d)(1)(E), substituted ''National Taxpayer Advocate'' for ''Taxpayer Advocate''.

Subsec. (e). Pub. L. 105–206, § 1102(d)(1)(F), (3), substituted ''National Taxpayer Advocate'' for ''Taxpayer Advocate'' in heading and text.

Subsec. (f). Pub. L. 105–206, § 1102(d)(1)(G), (3), substituted ''National Taxpayer Advocate'' for ''Taxpayer Advocate'' in heading and in two places in text.

1996—Subsec. (a). Pub. L. 104–168, § 101(b)(1), substituted ''the Office of the Taxpayer Advocate'' for ''the Office of the Ombudsman'' and substituted ''Taxpayer Advocate'' for ''Ombudsman'' in two places.

Subsec. (b). Pub. L. 104–168, § 102(a)(1), inserted ''within a specified time period'' after ''the Secretary''.

Subsec. (b)(2). Pub. L. 104–168, § 102(a)(2), inserted ''take any action as permitted by law,'' after ''cease any action,''.

Subsec. (b)(2)(D). Pub. L. 104–168, § 101(b)(1)(B), substituted ''Taxpayer Advocate'' for ''Ombudsman''.

Subsec. (c). Pub. L. 104–168, § 102(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''Any Taxpayer Assistance Order issued by the Ombudsman under this section may be modified or rescinded only by the Ombudsman, a district director, a service center director, a compliance center director, a regional director of appeals, or any superior of any such person.''

Subsecs. (d)(2) to (f). Pub. L. 104–168, § 101(b)(1)(B), substituted ''Taxpayer Advocate'' for ''Ombudsman'' wherever appearing.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 101(b)(1) of Pub. L. 104–168 effective July 30, 1996, see section 101(c) of Pub. L. 104–168, set out as a note under section 7802 of this title.

Section 102(c) of Pub. L. 104–168 provided that: ''The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 30, 1996].''

EFFECTIVE DATE

Section 6230(d) of Pub. L. 100–647 provided that: ''The amendments made by this section [enacting this section] shall take effect on January 1, 1989.''

REGULATIONS

Section 6230(c) of Pub. L. 100–647 provided that: ''The Secretary of the Treasury or the Secretary's delegate shall issue such regulations as the Secretary deems necessary within 90 days of the date of the enactment of this Act [Nov. 10, 1988] in order to carry out the purposes of section 7811 of the 1986 Code (as added by this section) and to ensure taxpayers uniform access to administrative procedures.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7803 of this title.

Subchapter B—Effective Date and Related Provisions

Sec.
7851. Applicability of revenue laws.
7852. Other applicable rules.

§ 7851. Applicability of revenue laws

(a) General rules

Except as otherwise provided in any section of this title—

(1) Subtitle A

(A) Chapters 1, 2, 4,[1] and 6 of this title shall apply only with respect to taxable years beginning after December 31, 1953, and ending after the date of enactment of this title, and with respect to such taxable years, chapters 1 (except sections 143 and 144) and 2, and section 3801, of the Internal Revenue Code of 1939 are hereby repealed.

(B) Chapters 3 and 5[1] of this title shall apply with respect to payments and transfers occurring after December 31, 1954, and as to such payments and transfers sections 143 and 144 and chapter 7 of the Internal Revenue Code of 1939 are hereby repealed.

(C) Any provision of subtitle A of this title the applicability of which is stated in terms of a specific date (occurring after December 31, 1953), or in terms of taxable years ending after a specific date (occurring after December 31, 1953), shall apply to taxable years ending after such specific date. Each such provision shall, in the case of a taxable year subject to the Internal Revenue Code of 1939, be deemed to be included in the Internal Revenue Code of 1939, but shall be applicable only to taxable years ending after such specific date. The provisions of the Internal Revenue Code of 1939 superseded by provisions of subtitle A of this title the applicability of which is stated in terms of a specific date (occurring after December 31, 1953) shall be deemed to be included in subtitle A of this title, but shall be applicable only to the period prior to the taking effect of the corresponding provision of subtitle A.

(D) Effective with respect to taxable years ending after March 31, 1954, and subject to tax under chapter 1 of the Internal Revenue Code of 1939—

(i) Sections 13(b)(3), 26(b)(2)(C), 26(h) (1)(C) (including the comma and the word ''and''

[1] See References in Text note below.

immediately preceding such section), 26(i)(3), 108(k), 207(a)(1)(C), 207(a)(3)(C), and the last sentence of section 362(b)(3) of such Code are hereby repealed; and

(ii) Sections 13(b)(2), 26(b)(2)(B), 26(h)(1)(B), 26(i)(2), 207(a)(1)(B), 207(a)(3)(B), 421(a)(1)(B), and the second sentence of section 362(b)(3) of such Code are hereby amended by striking out ''and before April 1, 1954'' (and any accompanying punctuation) wherever appearing therein.

(2) Subtitle B

(A) Chapter 11 of this title shall apply with respect to estates of decedents dying after the date of enactment of this title, and with respect to such estates chapter 3 of the Internal Revenue Code of 1939 is hereby repealed.

(B) Chapter 12 of this title shall apply with respect to the calendar year 1955 and all calendar years thereafter, and with respect to such years chapter 4 of the Internal Revenue Code of 1939 is hereby repealed.

(3) Subtitle C

Subtitle C of this title shall apply only with respect to remuneration paid after December 31, 1954, except that chapter 22 of such subtitle shall apply only with respect to remuneration paid after December 31, 1954, which is for services performed after such date. Chapter 9 of the Internal Revenue Code of 1939 is hereby repealed with respect to remuneration paid after December 31, 1954, except that subchapter B of such chapter (and subchapter E of such chapter to the extent it relates to subchapter B) shall remain in force and effect with respect to remuneration paid after December 31, 1954, for services performed on or before such date.

(4) Subtitle D

Subtitle D of this title shall take effect on January 1, 1955. Subtitles B and C of the Internal Revenue Code of 1939 (except chapters 7, 9, 15, 26, and 28, subchapter B of chapter 25, and parts VII and VIII of subchapter A of chapter 27 of such code) are hereby repealed effective January 1, 1955. Provisions having the same effect as section 6416(b)(2)(H),[1] and so much of section 4082(c)[1] as refers to special motor fuels, shall be considered to be included in the Internal Revenue Code of 1939 effective as of May 1, 1954. Section 2450(a) of the Internal Revenue Code of 1939 (as amended by the Excise Tax Reduction Act of 1954) applies to the period beginning on April 1, 1954, and ending on December 31, 1954.

(5) Subtitle E

Subtitle E shall take effect on January 1, 1955, except that the provisions in section 5411 permitting the use of a brewery under regulations prescribed by the Secretary for the purpose of producing and bottling soft drinks, section 5554, and chapter 53 shall take effect on the day after the date of enactment of this title. Subchapter B of chapter 25, and part VIII of subchapter A of chapter 27, of the Internal Revenue Code of 1939 are hereby repealed effective on the day after the date of enactment of this title. Chapters 15 and 26, and part VII of subchapter A of chapter 27, of the Internal Revenue Code of 1939 are hereby repealed effective January 1, 1955.

(6) Subtitle F

(A) General rule

The provisions of subtitle F shall take effect on the day after the date of enactment of this title and shall be applicable with respect to any tax imposed by this title. The provisions of subtitle F shall apply with respect to any tax imposed by the Internal Revenue Code of 1939 only to the extent provided in subparagraphs (B) and (C) of this paragraph.

(B) Assessment, collection, and refunds

Notwithstanding the provisions of subparagraph (A), and notwithstanding any contrary provision of subchapter A of chapter 63 (relating to assessment), chapter 64 (relating to collection), or chapter 65 (relating to abatements, credits, and refunds) of this title, the provisions of part II of subchapter A of chapter 28 and chapters 35, 36, and 37 (except section 3777) of subtitle D of the Internal Revenue Code of 1939 shall remain in effect until January 1, 1955, and shall also be applicable to the taxes imposed by this title. On and after January 1, 1955, the provisions of subchapter A of chapter 63, chapter 64, and chapter 65 (except section 6405) of this title shall be applicable to all internal revenue taxes (whether imposed by this title or by the Internal Revenue Code of 1939), notwithstanding any contrary provision of part II of subchapter A of chapter 28, or of chapter 35, 36, or 37, of the Internal Revenue Code of 1939. The provisions of section 6405 (relating to reports of refunds and credits) shall be applicable with respect to refunds or credits allowed after the date of enactment of this title, and section 3777 of the Internal Revenue Code of 1939 is hereby repealed with respect to such refunds and credits.

(C) Taxes imposed under the 1939 Code

After the date of enactment of this title, the following provisions of subtitle F shall apply to the taxes imposed by the Internal Revenue Code of 1939, notwithstanding any contrary provisions of such code:

(i) Chapter 73, relating to bonds.

(ii) Chapter 74, relating to closing agreements and compromises.

(iii) Chapter 75, relating to crimes and other offenses, but only insofar as it relates to offenses committed after the date of enactment of this title, and in the case of such offenses, section 6531, relating to periods of limitation on criminal prosecution, shall be applicable. The penalties (other than penalties which may be assessed) provided by the Internal Revenue Code of 1939 shall not apply to offenses, committed after the date of enactment of this title, to which chapter 75 of this title is applicable.

(iv) Chapter 76, relating to judicial proceedings.

(v) Chapter 77, relating to miscellaneous provisions, except that section 7502 shall apply only if the mailing occurs after the

date of enactment of this title, and section 7503 shall apply only if the last date referred to therein occurs after the date of enactment of this title.

(vi) Chapter 78, relating to discovery of liability and enforcement of title.

(vii) Chapter 79, relating to definitions.

(viii) Chapter 80, relating to application of internal revenue laws, effective date, and related provisions.

(D) Chapter 28 and subtitle D of 1939 Code

Except as otherwise provided in subparagraphs (B) and (C), the provisions of chapter 28 and of subtitle D of the Internal Revenue Code of 1939 shall remain in effect with respect to taxes imposed by the Internal Revenue Code of 1939.

(7) Other provisions

If the effective date of any provision of the Internal Revenue Code of 1986 is not otherwise provided in this section or in any other section of this title, such provision shall take effect on the day after the date of enactment of this title. If the repeal of any provision of the Internal Revenue Code of 1939 is not otherwise provided by this section or by any other section of this title, such provision is hereby repealed effective on the day after the date of enactment of this title.

(b) Effect of repeal of Internal Revenue Code of 1939

(1) Existing rights and liabilities

The repeal of any provision of the Internal Revenue Code of 1939 shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause, before such repeal; but all rights and liabilities under such code shall continue, and may be enforced in the same manner, as if such repeal had not been made.

(2) Existing offices

The repeal of any provision of the Internal Revenue Code of 1939 shall not abolish, terminate, or otherwise change—

(A) any internal revenue district,

(B) any office, position, board, or committee, or

(C) the appointment or employment of any officer or employee,

existing immediately preceding the enactment of this title, the continuance of which is not manifestly inconsistent with any provision of this title, but the same shall continue unless and until changed by lawful authority.

(3) Existing delegations of authority

Any delegation of authority made pursuant to the provisions of Reorganization Plan Numbered 26 of 1950 or Reorganization Plan Numbered 1 of 1952, including any redelegation of authority made pursuant to any such delegation of authority, and in effect under the Internal Revenue Code of 1939 immediately preceding the enactment of this title shall, notwithstanding the repeal of such code, remain in effect for purposes of this title, unless distinctly inconsistent or manifestly incompatible with the provisions of this title. The preceding sentence shall not be construed as limiting in any manner the power to amend, modify, or revoke any such delegation or redelegation of authority.

(c) Crimes and forfeitures

All offenses committed, and all penalties or forfeitures incurred, under any provision of law hereby repealed, may be prosecuted and punished in the same manner and with the same effect as if this title had not been enacted.

(d) Periods of limitation

All periods of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, hereby repealed shall not be affected thereby, but all suits, proceedings, or prosecutions, whether civil or criminal, for causes arising, or acts done or committed, prior to said repeal, may be commenced and prosecuted within the same time as if this title had not been enacted.

(e) Reference to other provisions

For the purpose of applying the Internal Revenue Code of 1939 or the Internal Revenue Code of 1986 to any period, any reference in either such code to another provision of the Internal Revenue Code of 1939 or the Internal Revenue Code of 1986 which is not then applicable to such period shall be deemed a reference to the corresponding provision of the other code which is then applicable to such period.

(Aug. 16, 1954, ch. 736, 68A Stat. 919; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

Chapter 4 of this title, referred to in subsec. (a)(1)(A), was repealed by Pub. L. 101–508, title XI, § 11801(a)(37), Nov. 5, 1990, 104 Stat. 1388–521.

The date of enactment of this title, referred to in subsecs. (a)(1)(A), (5), (6)(A) to (C), (7), (b)(2), (3), is Aug. 16, 1954.

Various provisions of the Internal Revenue Code of 1939, referred to in text and described below, have corresponding provisions appearing in the Internal Revenue Code of 1986 [formerly I.R.C. 1954]. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title. See, also, subsec. (e) of this section for provision that references in the 1986 Code to a provision in the 1939 Code, not then applicable, shall be deemed a reference to the corresponding provision of the 1986 Code, which is then applicable.

Chapter 1 of the Internal Revenue Code of 1939, referred to in subsec. (a)(1)(A), (D), was comprised of sections 1 to 482 of former Title 26, Internal Revenue Code. Sections 1 to 33 were repealed by subsec. (a)(1)(A) of this section, section 34 was repealed by act Feb. 25, 1944, ch. 63, title I, § 106(c)(2), 58 Stat. 31, sections 35 to 184 were repealed by subsec. (a)(1)(A) of this section, section 185 was repealed by act Feb. 25, 1944, ch. 63, title I, § 107(a), 58 Stat. 31, sections 201 to 263 were repealed by subsec. (a)(1)(A) of this section, section 264 was repealed by act Oct. 21, 1942, ch. 619, title I, § 159(e), 56 Stat. 860, sections 265 to 362 were repealed by subsec. (a)(1)(A) of this section, section 363 was repealed by act Oct. 21, 1942, ch. 619, title I, § 170(a), 56 Stat. 878, sections 371 to 482 were repealed by subsec. (a)(1)(A) of this section.

Sections 143 and 144 of the Internal Revenue Code of 1939, referred to in subsec. (a)(1)(A), (B), were classified to sections 143 and 144 of former Title 26, Internal Revenue Code.

Chapter 2 of the Internal Revenue Code of 1939, referred to in subsec. (a)(1)(A), was comprised of sections 500 to 784 of former Title 26, Internal Revenue Code. Sections 500 to 511 and 650 to 706 were repealed by subsec. (a)(1)(A) of this section, sections 600 to 605 were repealed by act Nov. 8, 1945, ch. 453, title II, § 202, 59 Stat. 574, sections 710 to 736, 740, 742 to 744, 750, 751, 760, 761 and 780 to 784 were repealed by act Nov. 8, 1945, ch. 453, title I, § 122(a), 59 Stat. 568, section 741 was repealed by act Oct. 21, 1942, ch. 619, title II, §§ 224(b), 228(b), 56 Stat. 920, 925, section 752 was repealed by act Oct. 21, 1942, ch. 619, title II, § 229(a)(1), 56 Stat. 931, eff. as of Oct. 8, 1940.

Section 3801 of the Internal Revenue Code of 1939, referred to in subsec. (a)(1)(A), was classified to section 3801 of former Title 26, Internal Revenue Code. Section 3801 was repealed by subsec. (a)(1)(A) of this section.

Chapter 5 of this title, referred to in subsec. (a)(1)(B), was repealed by Pub. L. 105–34, title XI, § 1131(a), Aug. 5, 1997, 111 Stat. 978.

Chapter 7 of the Internal Revenue Code of 1939, referred to in subsec. (a)(1)(B), (4), was comprised of sections 1250 to 1254 of former Title 26, Internal Revenue Code.

The Internal Revenue Code of 1939, referred to in subsecs. (a)(1)(C), (4), (6)(A) to (C), (C)(iii), (D), (7), (b)(1) to (3), (e), is act Feb. 10, 1939, ch. 2, 53 Stat. 1, as amended. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code.

Sections 13(b)(3), 26(b)(2)(C), 26(h)(1)(C), 26(i)(3), 108(k), 207(a)(1)(C), 207(a)(3)(C), and the last sentence of section 362(b)(3), referred to in subsec. (a)(1)(D)(i), were classified to former sections 13(b)(3), 26(b)(2)(C), (h)(1)(C), (i)(3), 108(k), 207(a)(1)(C), (3)(C), and 362(b)(3) of former Title 26, Internal Revenue Code. Sections 13(b)(3), 26(b)(2)(C), (h)(1)(C), (i)(3), 108(k), 207(a)(1)(C), (3)(C), and 362(b)(3) were repealed by subsec. (a)(1)(d)(i) of this section.

Sections 13(b)(2), 26(b)(2)(B), 26(h)(1)(B), 26(i)(2), 207(a)(1)(B), 207(a)(3)(B), 421(a)(1)(B), and the second sentence of section 362(b)(3), referred to in subsec. (a)(1)(D)(ii), were classified to sections 13(b)(2), 26(b)(2)(B), (h)(1)(B), (i)(2), 207(a)(1)(B), (3)(B), 421(a)(1)(B), and 362(b)(3) of former Title 26, Internal Revenue Code.

Chapter 3 of the Internal Revenue Code of 1939, referred to in subsec. (a)(2)(A), was comprised of sections 800 to 951 of former Title 26, Internal Revenue Code.

Chapter 4 of the Internal Revenue Code of 1939, referred to in subsec. (a)(2)(B), was comprised of sections 1000 to 1031 of former Title 26, Internal Revenue Code.

Chapter 9 of the Internal Revenue Code of 1939, referred to in subsec. (a)(3), (4), was comprised of sections 1400 to 1636 of former Title 26, Internal Revenue Code. Subchapters B and E of chapter 9 of the Internal Revenue Code of 1939 were comprised of sections 1500 to 1538, and 1630 to 1636, respectively, of former Title 26.

Subtitles B and C of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), were comprised of chapters 6 to 28, sections 1200 to 3361, and chapters 29 to 33A, sections 3400 to 3540, respectively, of former Title 26, Internal Revenue Code. Sections 1200 to 1207 of former Title 26 were repealed by act Nov. 8, 1945, ch. 453, title II, § 201, 59 Stat. 574. Sections 1250 to 1254, 1400 to 1627, 1631 to 1805, 1807 to 2300, 2302 to 2362, 2400 to 2475, 2477 to 2905, 2908 to 3150, 3152, 3153, 3155 to 3195, 3206 to 3212, 3220 to 3301, 3303 to 3335, 3350 to 3409, 3412 to 3451, and 3453 to 3508 of former Title 26, were repealed by subsec. (a)(4) of this section. Sections 1300 and 1301 were repealed by act June 10, 1952, ch. 390, 66 Stat. 133. Section 1630 was repealed by act Aug. 27, 1949, ch. 517, § 4(b), 63 Stat. 668. Section 1806 was repealed by act Mar. 11, 1947, ch. 117, § 8(c), 61 Stat. 13. Section 2301 was repealed by act Mar. 16, 1950, ch. 61, § 1, 64 Stat. 20. Sections 2380 to 2390, and 3215 to 3217 were repealed by act Oct. 21, 1942, ch. 619, title VI, § 619, 56 Stat. 979. Section 2476 was repealed by act Apr. 30, 1946, ch. 244, title V, § 506(b), 60 Stat. 157. Sections 2906 and 3302 were repealed by act Feb. 21, 1950, ch. 36, § 7, 64 Stat. 8. Section 2907 was repealed by act July 22, 1941, ch. 314, 55 Stat. 602. Sections 3151 and 3154 were repealed by act Aug. 27, 1949, ch. 498, § 6, 63 Stat. 626. Sections 3200 to 3202 were repealed by act Mar. 16, 1950, ch. 61, § 2, 64 Stat. 20. Sections 3340 to 3343 were repealed by act Apr. 30, 1946, ch. 244, title V, § 507(b), 60 Stat. 157. Section 3411 was repealed by act Oct. 20, 1951, ch. 521, title IV, § 488(a), 65 Stat. 536. Section 3452 was repealed by act Sept. 20, 1941, ch. 412, title V, § 501, 55 Stat. 706. Sections 3520 to 3528 expired by their own terms on Apr. 26, 1941. Section 3540 was repealed by act Nov. 8, 1945, ch. 453, title III, § 301, 59 Stat. 575.

Chapter 15 of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), (5), was comprised of sections 2000 to 2199 of former Title 26, Internal Revenue Code. Chapter 15 was repealed by subsec. (a)(5) of this section.

Chapter 26 of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), (5), was comprised of sections 2800 to 3195 of former Title 26, Internal Revenue Code. Sections 2800 to 2905, 2908 to 3150, 3152, 3153, 3155 to 3195 were repealed by subsec. (a)(5) of this section. Section 2906 was repealed by act Feb. 21, 1950, ch. 36, § 7, 64 Stat. 8. Section 2907 was repealed by act July 22, 1941, ch. 314, § 3, 55 Stat. 602. Sections 3151 and 3154 were repealed by act Aug. 23, 1949, ch. 498, § 6, 63 Stat. 626.

Chapter 28 of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), (6)(B), (D), was comprised of sections 3300 to 3361 of former Title 26, Internal Revenue Code. Part II of subchapter A of chapter 27 of the Internal Revenue Code of 1939 was comprised of sections 3310 to 3314 of former Title 26.

Subchapter B of chapter 25 of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), (5), was comprised of sections 2720 to 2734 of former Title 26, Internal Revenue Code. Subchapter B of chapter 25 of the Internal Revenue Code of 1939 was repealed by subsec. (a)(5) of this section.

Parts VII and VIII of subchapter A of chapter 27 of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), (5), were comprised of sections 3250 to 3255 and 3260 to 3266, respectively, of former Title 26, Internal Revenue Code. Parts VII and VIII of subchapter A of chapter 27 of the Internal Revenue Code of 1939 were repealed by subsec. (a)(5) of this section.

Section 6416(b)(2)(H), referred to in subsec. (a)(4), was repealed by Pub. L. 98–369, div. A, title VII, § 735(c)(13)(B), July 18, 1984, 98 Stat. 984.

Section 4082, referred to in subsec. (a)(4), was amended generally by Pub. L. 99–514, title XVII, § 1703(a), Oct. 22, 1986, 100 Stat. 2775, and, as so amended, did not contain a subsec. (c). Subsequently, section 4082 was amended generally by Pub. L. 103–66, title XIII, § 13242(a), Aug. 10, 1993, 107 Stat. 517, and, as so amended, contains a subsec. (c) relating to regulations. Section 4082 was further amended by Pub. L. 104–188, title I, § 1801(a), Aug. 20, 1996, 110 Stat. 1891, which added a subsec. (c), relating to exception to dyeing requirements, and redesignated former subsec. (c), relating to regulations, as (d).

Section 2450(a) of the Internal Revenue Code of 1939, referred to in subsec. (a)(4), was classified to section 2450 of former Title 26, Internal Revenue Code. Section 2450 was repealed by subsec. (a)(4) of this section.

The Excise Tax Reduction Act of 1954, referred to in subsec. (a)(4), is act Mar. 31, 1954, ch. 126, 68 Stat. 37.

Subtitle D of the Internal Revenue Code of 1939, referred to in subsec. (a)(6)(B), (D), was comprised of chapters 34 to 38, sections 3600 to 3781 of former Title 26, Internal Revenue Code. Chapters 35, 36, and 37 of subtitle D of the Internal Revenue Code of 1939 were comprised of sections 3640 to 3647, 3650 to 3762, and 3770 to 3781, respectively, of former Title 26.

Section 3777 of the Internal Revenue Code of 1939, referred to in subsec. (a)(6)(B), was classified to section 3777 of former Title 26, Internal Revenue Code. Section 3777 was repealed by subsec. (a)(6)(B) of this section.

Reorganization Plan Numbered 26 of 1950, referred to in subsec. (b)(3), is Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, which is set out in the Appendix to Title 5, Government Organization and Employees.

Reorganization Plan Numbered 1 of 1952, referred to in subsec. (b)(3), is Reorg. Plan No. 1 of 1952, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, which is set out in Appendix to Title 5.

AMENDMENTS

1986—Subsecs. (a)(7), (e). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1976—Subsec. (a)(5). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6013 of this title.

§ 7852. Other applicable rules

(a) Separability clause

If any provision of this title, or the application thereof to any person or circumstances, is held invalid, the remainder of the title, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) Reference in other laws to Internal Revenue Code of 1939

Any reference in any other law of the United States or in any Executive order to any provision of the Internal Revenue Code of 1939 shall, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, be deemed also to refer to the corresponding provision of this title.

(c) Items not to be twice included in income or deducted therefrom

Except as otherwise distinctly expressed or manifestly intended, the same item (whether of income, deduction, credit, or otherwise) shall not be taken into account both in computing a tax under subtitle A of this title and a tax under chapter 1 or 2 of the Internal Revenue Code of 1939.

(d) Treaty obligations

(1) In general

For purposes of determining the relationship between a provision of a treaty and any law of the United States affecting revenue, neither the treaty nor the law shall have preferential status by reason of its being a treaty or law.

(2) Savings clause for 1954 treaties

No provision of this title (as in effect without regard to any amendment thereto enacted after August 16, 1954) shall apply in any case where its application would be contrary to any treaty obligation of the United States in effect on August 16, 1954.

(e) Privacy Act of 1974

The provisions of subsections (d)(2), (3), and (4), and (g) of section 552a of title 5, United States Code, shall not be applied, directly or indirectly, to the determination of the existence or possible existence of liability (or the amount thereof) of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense to which the provisions of this title apply.

(Aug. 16, 1954, ch. 736, 68A Stat. 922; Pub. L. 94–455, title XII, § 1202(g), Oct. 4, 1976, 90 Stat. 1688; Pub. L. 100–647, title I, § 1012(aa)(1)(A), Nov. 10, 1988, 102 Stat. 3531.)

REFERENCES IN TEXT

The Internal Revenue Code of 1939, referred to in subsec. (b), is act Feb. 10, 1939, ch. 2, 53 Stat. 1. Prior to the enactment of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the 1939 Code was classified to former Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 was redesignated The Internal Revenue Code of 1986 by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of this title.

Chapters 1 and 2 of the Internal Revenue Code of 1939, referred to in subsec. (c), are chapters 1 and 2 of former Title 26, Internal Revenue Code. For history of such chapters, see References in Text note set out under section 7851 of this title.

The Privacy Act of 1974, referred to in subsec. (e), is Pub. L. 93–579, Dec. 31, 1974, 88 Stat. 1896, as amended, which enacted section 552a of Title 5, Government Organization and Employees, and enacted notes set out under section 552a of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 552a of Title 5 and Tables.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–647 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''No provision of this title shall apply in any case where its application would be contrary to any treaty obligation of the United States in effect on the date of enactment of this title.''

1976—Subsec. (e). Pub. L. 94–455 added subsec. (e).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1012(aa)(1)(B) of Pub. L. 100–647 provided that: ''Section 7852(d)(1) of the 1986 Code, as added by subparagraph (A), shall apply to any taxable period with respect to which the time for assessment of any deficiency has not expired by reason of any law or rule of law before the date of the enactment of this Act [Nov. 10, 1988].''

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 1976 AMENDMENT

Amendment by Pub. L. 94–455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94–455, set out as a note under section 6103 of this title.

APPLICATION OF SUBSEC. (d) TO PUB. L. 87–834

Pub. L. 87–834, § 31, Oct. 16, 1962, 76 Stat. 1069, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Section 7852(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to treaty obligations) shall not apply in respect of any amendment made by this Act [see Short Title of 1962 Amendments note set out under section 1 of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 269B, 894 of this title; title 42 section 1307.

Subchapter C—Provisions Affecting More Than One Subtitle

Sec.
7871. Indian tribal governments treated as States for certain purposes.
7872. Treatment of loans with below-market interest rates.
7873. Income derived by Indians from exercise of fishing rights.

AMENDMENTS

1988—Pub. L. 100–647, title III, § 3041(b), Nov. 10, 1988, 102 Stat. 3641, added item 7873.

1984—Pub. L. 98–369, div. A, title I, §172(b), July 18, 1984, 98 Stat. 703, added item 7872.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7701 of this title; title 25 sections 566, 715a.

§ 7871. Indian tribal governments treated as States for certain purposes

(a) General rule

An Indian tribal government shall be treated as a State—

(1) for purposes of determining whether and in what amount any contribution or transfer to or for the use of such government (or a political subdivision thereof) is deductible under—

(A) section 170 (relating to income tax deduction for charitable, etc., contributions and gifts),

(B) sections 2055 and 2106(a)(2) (relating to estate tax deduction for transfers of public, charitable, and religious uses), or

(C) section 2522 (relating to gift tax deduction for charitable and similar gifts);

(2) subject to subsection (b), for purposes of any exemption from, credit or refund of, or payment with respect to, an excise tax imposed by—

(A) chapter 31 (relating to tax on special fuels),

(B) chapter 32 (relating to manufacturers excise taxes),

(C) subchapter B of chapter 33 (relating to communications excise tax), or

(D) subchapter D of chapter 36 (relating to tax on use of certain highway vehicles);

(3) for purposes of section 164 (relating to deduction for taxes);

(4) subject to subsection (c), for purposes of section 103 (relating to State and local bonds);

(5) for purposes of section 511(a)(2)(B) (relating to the taxation of colleges and universities which are agencies or instrumentalities of governments or their political subdivisions);

(6) for purposes of—

(A) section 105(e) (relating to accident and health plans),

(B) section 403(b)(1)(A)(ii) (relating to the taxation of contributions of certain employers for employee annuities), and

(C) section 454(b)(2) (relating to discount obligations); and

(7) for purposes of—

(A) chapter 41 (relating to tax on excess expenditures to influence legislation), and

(B) subchapter A of chapter 42 (relating to private foundations).

(b) Additional requirements for excise tax exemptions

Paragraph (2) of subsection (a) shall apply with respect to any transaction only if, in addition to any other requirement of this title applicable to similar transactions involving a State or political subdivision thereof, the transaction involves the exercise of an essential governmental function of the Indian tribal government.

(c) Additional requirements for tax-exempt bonds

(1) In general

Subsection (a) of section 103 shall apply to any obligation (not described in paragraph (2)) issued by an Indian tribal government (or subdivision thereof) only if such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.

(2) No exemption for private activity bonds

Except as provided in paragraph (3), subsection (a) of section 103 shall not apply to any private activity bond (as defined in section 141(a)) issued by an Indian tribal government (or subdivision thereof).

(3) Exception for certain private activity bonds

(A) In general

In the case of an obligation to which this paragraph applies—

(i) paragraph (2) shall not apply,

(ii) such obligation shall be treated for purposes of this title as a qualified small issue bond, and

(iii) section 146 shall not apply.

(B) Obligations to which paragraph applies

This paragraph shall apply to any obligation issued as part of an issue if—

(i) 95 percent or more of the net proceeds of the issue are to be used for the acquisition, construction, reconstruction, or improvement of property which is of a character subject to the allowance for depreciation and which is part of a manufacturing facility (as defined in section 144(a)(12)(C)),

(ii) such issue is issued by an Indian tribal government or a subdivision thereof,

(iii) 95 percent or more of the net proceeds of the issue are to be used to finance property which—

(I) is to be located on land which, throughout the 5-year period ending on the date of issuance of such issue, is part of the qualified Indian lands of the issuer, and

(II) is to be owned and operated by such issuer,

(iv) such obligation would not be a private activity bond without regard to subparagraph (C),

(v) it is reasonably expected (at the time of issuance of the issue) that the employment requirement of subparagraph (D)(i) will be met with respect to the facility to be financed by the net proceeds of the issue, and

(vi) no principal user of such facility will be a person (or group of persons) described in section 144(a)(6)(B).

For purposes of clause (iii), section 150(a)(5) shall apply.

(C) Private activity bond rules to apply

An obligation to which this paragraph applies (other than an obligation described in paragraph (1)) shall be treated for purposes of this title as a private activity bond.

(D) Employment requirements

(i) In general

The employment requirements of this subparagraph are met with respect to a facility financed by the net proceeds of an issue if, as of the close of each calendar year in the testing period, the aggregate face amount of all outstanding tax-exempt private activity bonds issued to provide financing for the establishment which includes such facility is not more than 20 times greater than the aggregate wages (as defined by section 3121(a)) paid during the preceding calendar year to individuals (who are enrolled members of the Indian tribe of the issuer or the spouse of any such member) for services rendered at such establishment.

(ii) Failure to meet requirements

(I) In general

If, as of the close of any calendar year in the testing period, the requirements of this subparagraph are not met with respect to an establishment, section 103 shall cease to apply to interest received or accrued (on all private activity bonds issued to provide financing for the establishment) after the close of such calendar year.

(II) Exception

Subclause (I) shall not apply if the requirements of this subparagraph would be met if the aggregate face amount of all tax-exempt private activity bonds issued to provide financing for the establishment and outstanding at the close of the 90th day after the close of the calender year were substituted in clause (i) for such bonds outstanding at the close of such calendar year.

(iii) Testing period

For purposes of this subparagraph, the term ''testing period'' means, with respect to an issue, each calendar year which begins more than 2 years after the date of issuance of the issue (or, in the case of a refunding obligation, the date of issuance of the original issue).

(E) Definitions

For purposes of this paragraph—

(i) Qualified Indian lands

The term ''qualified Indian lands'' means land which is held in trust by the United States for the benefit of an Indian tribe.

(ii) Indian tribe

The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(iii) Net proceeds

The term ''net proceeds'' has the meaning given such term by section 150(a)(3).

(d) Treatment of subdivisions of Indian tribal governments as political subdivisions

For the purposes specified in subsection (a), a subdivision of an Indian tribal government shall be treated as a political subdivision of a State if (and only if) the Secretary determines (after consultation with the Secretary of the Interior) that such subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.

(e) Essential governmental function

For purposes of this section, the term ''essential governmental function'' shall not include any function which is not customarily performed by State and local governments with general taxing powers.

(Added Pub. L. 97–473, title II, § 202(a), Jan. 14, 1983, 96 Stat. 2608; amended Pub. L. 98–21, title I, § 122(c)(6), Apr. 20, 1983, 97 Stat. 87; Pub. L. 98–369, div. A, title IV, § 474(r)(41), title X, § 1065(b), July 18, 1984, 98 Stat. 847, 1048; Pub. L. 99–514, title I, §§ 112(b)(4), 123(b)(3), title XIII, § 1301(j)(6), (7), title XVIII, §§ 1878(i), 1899A(65), Oct. 22, 1986, 100 Stat. 2109, 2113, 2658, 2905, 2962; Pub. L. 100–203, title X, § 10632(a), (b), Dec. 22, 1987, 101 Stat. 1330–455; Pub. L. 103–66, title XIII, § 13222(d), Aug. 10, 1993, 107 Stat. 481.)

AMENDMENTS

1993—Subsec. (a)(6)(B) to (D). Pub. L. 103–66 redesignated former subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: ''section 162(e) (relating to appearances, etc., with respect to legislation),''.

1987—Subsec. (c)(2). Pub. L. 100–203, § 10632(b)(2), substituted ''Except as provided in paragraph (3), subsection (a)'' for ''Subsection (a)''.

Subsec. (c)(3). Pub. L. 100–203, § 10632(b)(1), added par. (3).

Subsec. (e). Pub. L. 100–203, § 10632(a), added subsec. (e).

1986—Subsec. (a)(4). Pub. L. 99–514, § 1301(j)(6), substituted ''(relating to State and local bonds)'' for ''(relating to interest on certain governmental obligations)''.

Subsec. (a)(6). Pub. L. 99–514, § 123(b)(3), redesignated subpars. (C) to (E), as previously redesignated by section 112(b)(4) of Pub. L. 99–514, as (B) to (D), respectively, and struck out previously redesignated subpar. (B), which read as follows: ''section 117(b)(2)(A) (relating to scholarships and fellowship grants),''.

Pub. L. 99–514, § 112(b)(4), redesignated subpars. (B) to (F) as (A) to (E), respectively, and struck out former subpar. (A) which read as follows: ''section 24(c)(4) (defining State for purposes of credit for contribution to candidates for public offices),''.

Pub. L. 99–514, § 1878(i), made technical amendment to directory language of Pub. L. 98–369, § 1065(b). See 1984 Amendment note below.

Subsec. (a)(6)(D). Pub. L. 99–514, § 1899A(65), substituted ''; and'' for period at end.

Subsec. (c)(2). Pub. L. 99–514, § 1301(j)(7), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Subsection (a) of section 103 shall not apply to any of the following issued by an Indian tribal government (or subdivision thereof):

''(A) An industrial development bond (as defined in section 103(b)(2)).

''(B) An obligation described in section 103(*l*)(1)(A) (relating to scholarship bonds).

''(C) A mortgage subsidy bond (as defined in paragraph (1) of section 103A(b) without regard to paragraph (2) thereof).''

1984—Subsec. (a)(6)(A). Pub. L. 98–369, § 474(r)(41), substituted ''section 24(c)(4)'' for ''section 41(c)(4)''.

Subsec. (a)(6)(B) to (F). Pub. L. 98–369, § 1065(b), as amended by Pub. L. 99–514, § 1878(i), added subpars. (B), (D), and (F), and redesignated former subpars. (B) and (C) as (C) and (E), respectively.

1983—Subsec. (a)(6). Pub. L. 98–21 redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out former subpar. (A), which referred to section 37(e)(9)(A) (relating to certain public retirement systems).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 applicable to amounts paid or incurred after Dec. 31, 1993, see section 13222(e) of Pub. L. 103–66 set out as a note under section 162 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 10632(c) of Pub. L. 100–203 provided that: ''The amendments made by this section [amending this section] shall apply to obligations issued after October 13, 1987.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 112(b)(4) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99–514, set out as a note under section 1 of this title.

Amendment by section 123(b)(3) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, but only in the case of scholarships and fellowships granted after Aug. 16, 1986, see section 151(d) of Pub. L. 99–514, set out as a note under section 1 of this title.

Amendment by section 1301(j)(6), (7) of Pub. L. 99–514 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99–514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

Amendment by section 1878(i) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(41) of Pub. L. 98–369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98–369, set out as a note under section 21 of this title.

Section 1065(c) of Pub. L. 98–369 provided that: ''The amendment made by subsection (b) [amending this section] shall apply to taxable years beginning after December 31, 1984.''

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–21 applicable to taxable years beginning after Dec. 31, 1983, except that if an individual's annuity starting date was deferred under section 105(d)(6) of this title as in effect on the day before Apr. 20, 1983, such deferral shall end on the first day of such individual's first taxable year beginning after Dec. 31, 1983, see section 122(d) of Pub. L. 98–21, set out as a note under section 22 of this title.

EFFECTIVE DATE

Section 204 of title II of Pub. L. 97–473, as amended by Pub. L. 98–369, div. A, title X, § 1065(a), July 18, 1984, 98 Stat. 1048; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendments made by this title [enacting this section, amending sections 41, 103, 164, 170, 2055, 2106, 2522, 4227, 4484, 6420, 6421, 6424, 6427, and 7701 of this title, and enacting provisions set out as a note under section 1 of this title]—

''(1) insofar as they relate to chapter 1 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [26 U.S.C. 1 et seq.] (other than section 103 thereof), shall apply to taxable years beginning after December 31, 1982,

''(2) insofar as they relate to section 103 of such Code, shall apply to obligations issued after December 31, 1982,

''(3) insofar as they relate to chapter 11 of such Code [26 U.S.C. 2001 et seq.], shall apply to estates of decedents dying after December 31, 1982,

''(4) insofar as they relate to chapter 12 of such Code [26 U.S.C. 2501 et seq.], shall apply to gifts made after December 31, 1982, and

''(5) insofar as they relate to taxes imposed by subtitle D of such Code [26 U.S.C. 4041 et seq.], shall take effect on January 1, 1983.''

SHORT TITLE

For short title of title II of Pub. L. 97–473 as the ''Indian Tribal Governmental Tax Status Act of 1982'', see Short Title of 1983 Amendments note set out under section 1 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99–514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For nonapplication of amendment by section 123(b)(3) of Pub. L. 99–514 to the extent application of such amendment would be contrary to any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(3), (4) of Pub. L. 100–647, set out as a note under section 861 of this title.

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 sections 164, 170, 401, 2055, 2106, 2522, 4227, 4484, 6420, 6421, 6427, 7701 of this title; title 25 section 566.

§ 7872. Treatment of loans with below-market interest rates

(a) Treatment of gift loans and demand loans

(1) In general

For purposes of this title, in the case of any below-market loan to which this section applies and which is a gift loan or a demand loan, the forgone interest shall be treated as—

(A) transferred from the lender to the borrower, and

(B) retransferred by the borrower to the lender as interest.

(2) Time when transfers made

Except as otherwise provided in regulations prescribed by the Secretary, any forgone interest attributable to periods during any calendar year shall be treated as transferred (and retransferred) under paragraph (1) on the last day of such calendar year.

(b) Treatment of other below-market loans

(1) In general

For purposes of this title, in the case of any below-market loan to which this section applies and to which subsection (a)(1) does not apply, the lender shall be treated as having

transferred on the date the loan was made (or, if later, on the first day on which this section applies to such loan), and the borrower shall be treated as having received on such date, cash in an amount equal to the excess of—

(A) the amount loaned, over

(B) the present value of all payments which are required to be made under the terms of the loan.

(2) Obligation treated as having original issue discount

For purposes of this title—

(A) In general

Any below-market loan to which paragraph (1) applies shall be treated as having original issue discount in an amount equal to the excess described in paragraph (1).

(B) Amount in addition to other original issue discount

Any original issue discount which a loan is treated as having by reason of subparagraph (A) shall be in addition to any other original issue discount on such loan (determined without regard to subparagraph (A)).

(c) Below-market loans to which section applies

(1) In general

Except as otherwise provided in this subsection and subsection (g), this section shall apply to—

(A) Gifts

Any below-market loan which is a gift loan.

(B) Compensation-related loans

Any below-market loan directly or indirectly between—

(i) an employer and an employee, or

(ii) an independent contractor and a person for whom such independent contractor provides services.

(C) Corporation-shareholder loans

Any below-market loan directly or indirectly between a corporation and any shareholder of such corporation.

(D) Tax avoidance loans

Any below-market loan 1 of the principal purposes of the interest arrangements of which is the avoidance of any Federal tax.

(E) Other below-market loans

To the extent provided in regulations, any below-market loan which is not described in subparagraph (A), (B), (C), or (F) if the interest arrangements of such loan have a significant effect on any Federal tax liability of the lender or the borrower.

(F) Loans to qualified continuing care facilities

Any loan to any qualified continuing care facility pursuant to a continuing care contract.

(2) $10,000 de minimis exception for gift loans between individuals

(A) In general

In the case of any gift loan directly between individuals, this section shall not apply to any day on which the aggregate outstanding amount of loans between such individuals does not exceed $10,000.

(B) De minimis exception not to apply to loans attributable to acquisition of income-producing assets

Subparagraph (A) shall not apply to any gift loan directly attributable to the purchase or carrying of income-producing assets.

(C) Cross reference

For limitation on amount treated as interest where loans do not exceed $100,000, see subsection (d)(1).

(3) $10,000 de minimis exception for compensation-related and corporate-shareholder loans

(A) In general

In the case of any loan described in subparagraph (B) or (C) of paragraph (1), this section shall not apply to any day on which the aggregate outstanding amount of loans between the borrower and lender does not exceed $10,000.

(B) Exception not to apply where 1 of principal purposes is tax avoidance

Subparagraph (A) shall not apply to any loan the interest arrangements of which have as 1 of their principal purposes the avoidance of any Federal tax.

(d) Special rules for gift loans

(1) Limitation on interest accrual for purposes of income taxes where loans do not exceed $100,000

(A) In general

For purposes of subtitle A, in the case of a gift loan directly between individuals, the amount treated as retransferred by the borrower to the lender as of the close of any year shall not exceed the borrower's net investment income for such year.

(B) Limitation not to apply where 1 of principal purposes is tax avoidance

Subparagraph (A) shall not apply to any loan the interest arrangements of which have as 1 of their principal purposes the avoidance of any Federal tax.

(C) Special rule where more than 1 gift loan outstanding

For purposes of subparagraph (A), in any case in which a borrower has outstanding more than 1 gift loan, the net investment income of such borrower shall be allocated among such loans in proportion to the respective amounts which would be treated as retransferred by the borrower without regard to this paragraph.

(D) Limitation not to apply where aggregate amount of loans exceed $100,000

This paragraph shall not apply to any loan made by a lender to a borrower for any day on which the aggregate outstanding amount of loans between the borrower and lender exceeds $100,000.

(E) Net investment income

For purposes of this paragraph—

(i) In general

The term ''net investment income'' has the meaning given such term by section 163(d)(4).

(ii) De minimis rule

If the net investment income of any borrower for any year does not exceed $1,000, the net investment income of such borrower for such year shall be treated as zero.

(iii) Additional amounts treated as interest

In determining the net investment income of a person for any year, any amount which would be included in the gross income of such person for such year by reason of section 1272 if such section applied to all deferred payment obligations shall be treated as interest received by such person for such year.

(iv) Deferred payment obligations

The term ''deferred payment obligation'' includes any market discount bond, short-term obligation, United States savings bond, annuity, or similar obligation.

(2) Special rule for gift tax

In the case of any gift loan which is a term loan, subsection (b)(1) (and not subsection (a)) shall apply for purposes of chapter 12.

(e) Definitions of below-market loan and forgone interest

For purposes of this section—

(1) Below-market loan

The term ''below-market loan'' means any loan if—

(A) in the case of a demand loan, interest is payable on the loan at a rate less than the applicable Federal rate, or

(B) in the case of a term loan, the amount loaned exceeds the present value of all payments due under the loan.

(2) Forgone interest

The term ''forgone interest'' means, with respect to any period during which the loan is outstanding, the excess of—

(A) the amount of interest which would have been payable on the loan for the period if interest accrued on the loan at the applicable Federal rate and were payable annually on the day referred to in subsection (a)(2), over

(B) any interest payable on the loan properly allocable to such period.

(f) Other definitions and special rules

For purposes of this section—

(1) Present value

The present value of any payment shall be determined in the manner provided by regulations prescribed by the Secretary—

(A) as of the date of the loan, and

(B) by using a discount rate equal to the applicable Federal rate.

(2) Applicable Federal rate

(A) Term loans

In the case of any term loan, the applicable Federal rate shall be the applicable Federal rate in effect under section 1274(d) (as of the day on which the loan was made), compounded semiannually.

(B) Demand loans

In the case of a demand loan, the applicable Federal rate shall be the Federal short-term rate in effect under section 1274(d) for the period for which the amount of forgone interest is being determined, compounded semiannually.

(3) Gift loan

The term ''gift loan'' means any below-market loan where the forgoing of interest is in the nature of a gift.

(4) Amount loaned

The term ''amount loaned'' means the amount received by the borrower.

(5) Demand loan

The term ''demand loan'' means any loan which is payable in full at any time on the demand of the lender. Such term also includes (for purposes other than determining the applicable Federal rate under paragraph (2)) any loan if the benefits of the interest arrangements of such loan are not transferable and are conditioned on the future performance of substantial services by an individual. To the extent provided in regulations, such term also includes any loan with an indefinite maturity.

(6) Term loan

The term ''term loan'' means any loan which is not a demand loan.

(7) Husband and wife treated as 1 person

A husband and wife shall be treated as 1 person.

(8) Loans to which section 483, 643(i), or 1274 applies

This section shall not apply to any loan to which section 483, 643(i), or 1274 applies.

(9) No withholding

No amount shall be withheld under chapter 24 with respect to—

(A) any amount treated as transferred or retransferred under subsection (a), and

(B) any amount treated as received under subsection (b).

(10) Special rule for term loans

If this section applies to any term loan on any day, this section shall continue to apply to such loan notwithstanding paragraphs (2) and (3) of subsection (c). In the case of a gift loan, the preceding sentence shall only apply for purposes of chapter 12.

(11) Time for determining rate applicable to employee relocation loans

(A) In general

In the case of any term loan made by an employer to an employee the proceeds of which are used by the employee to purchase a principal residence (within the meaning of section 121), the determination of the applicable Federal rate shall be made as of the date the written contract to purchase such residence was entered into.

(B) Paragraph only to apply to cases to which section 217 applies

Subparagraph (A) shall only apply to the purchase of a principal residence in connection with the commencement of work by an employee or a change in the principal place of work of an employee to which section 217 applies.

(g) Exception for certain loans to qualified continuing care facilities

(1) In general

This section shall not apply for any calendar year to any below-market loan made by a lender to a qualified continuing care facility pursuant to a continuing care contract if the lender (or the lender's spouse) attains age 65 before the close of such year.

(2) $90,000 limit

Paragraph (1) shall apply only to the extent that the aggregate outstanding amount of any loan to which such paragraph applies (determined without regard to this paragraph), when added to the aggregate outstanding amount of all other previous loans between the lender (or the lender's spouse) and any qualified continuing care facility to which paragraph (1) applies, does not exceed $90,000.

(3) Continuing care contract

For purposes of this section, the term ''continuing care contract'' means a written contract between an individual and a qualified continuing care facility under which—

(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

(B) the individual or individual's spouse—

(i) will first—

(I) reside in a separate, independent living unit with additional facilities outside such unit for the providing of meals and other personal care, and

(II) not require long-term nursing care, and

(ii) then will be provided long-term and skilled nursing care as the health of such individual or individual's spouse requires, and

(C) no additional substantial payment is required if such individual or individual's spouse requires increased personal care services or long-term and skilled nursing care.

(4) Qualified continuing care facility

(A) In general

For purposes of this section, the term ''qualified continuing care facility'' means 1 or more facilities—

(i) which are designed to provide services under continuing care contracts, and

(ii) substantially all of the residents of which are covered by continuing care contracts.

(B) Substantially all facilities must be owned or operated by borrower

A facility shall not be treated as a qualified continuing care facility unless substantially all facilities which are used to provide services which are required to be provided under a continuing care contract are owned or operated by the borrower.

(C) Nursing homes excluded

The term ''qualified continuing care facility'' shall not include any facility which is of a type which is traditionally considered a nursing home.

(5) Adjustment of limit for inflation

(A) In general

In the case of any loan made during any calendar year after 1986 to which paragraph (1) applies, the dollar amount in paragraph (2) shall be increased by the inflation adjustment for such calendar year. Any increase under the preceding sentence shall be rounded to the nearest multiple of $100 (or, if such increase is a multiple of $50, such increase shall be increased to the nearest multiple of $100).

(B) Inflation adjustment

For purposes of subparagraph (A), the inflation adjustment for any calendar year is the percentage (if any) by which—

(i) the CPI for the preceding calendar year exceeds

(ii) the CPI for calendar year 1985.

For purposes of the preceding sentence, the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year.

(h) Regulations

(1) In general

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

(A) regulations providing that where, by reason of varying rates of interest, conditional interest payments, waivers of interest, disposition of the lender's or borrower's interest in the loan, or other circumstances, the provisions of this section do not carry out the purposes of this section, adjustments to the provisions of this section will be made to the extent necessary to carry out the purposes of this section,

(B) regulations for the purpose of assuring that the positions of the borrower and lender are consistent as to the application (or nonapplication) of this section, and

(C) regulations exempting from the application of this section any class of transactions the interest arrangements of which have no significant effect on any Federal tax liability of the lender or the borrower.

(2) Estate tax coordination

Under regulations prescribed by the Secretary, any loan which is made with donative intent and which is a term loan shall be taken into account for purposes of chapter 11 in a manner consistent with the provisions of subsection (b).

(Added Pub. L. 98–369, div. A, title I, § 172(a), July 18, 1984, 98 Stat. 699; amended Pub. L.

99–121, title II, §§ 201, 202, Oct. 11, 1985, 99 Stat. 511–513; Pub. L. 99–514, title V, § 511(d)(1), title XVIII, §§ 1812(b)(2)–(4), 1854(c)(2)(B), Oct. 22, 1986, 100 Stat. 2248, 2834, 2879; Pub. L. 100–647, title I, §§ 1005(c)(15), 1018(u)(48), Nov. 10, 1988, 102 Stat. 3393, 3593; Pub. L. 104–188, title I, §§ 1602(b)(7), 1704(t)(58), 1906(c)(2), Aug. 20, 1996, 110 Stat. 1834, 1890, 1916; Pub. L. 105–34, title III, § 312(d)(1), Aug. 5, 1997, 111 Stat. 839; Pub. L. 105–206, title VI, § 6023(30), July 22, 1998, 112 Stat. 826; Pub. L. 106–554, § 1(a)(7) [title III, § 319(30)], Dec. 21, 2000, 114 Stat. 2763, 2763A–648.)

AMENDMENTS

2000—Subsec. (f)(3). Pub. L. 106–554 substituted ''forgoing'' for ''foregoing''.

1998—Subsec. (f)(2)(B). Pub. L. 105–206 substituted ''forgone'' for ''foregone''.

1997—Subsec. (f)(11)(A). Pub. L. 105–34 substituted ''section 121'' for ''section 1034''.

1996—Subsec. (a)(1), (2). Pub. L. 104–188, § 1704(t)(58)(A), substituted ''forgone'' for ''foregone''.

Subsec. (e). Pub. L. 104–188, § 1704(t)(58)(B), substituted ''forgone'' for ''foregone'' in heading.

Subsec. (e)(2). Pub. L. 104–188, § 1704(t)(58), substituted ''Forgone'' for ''Foregone'' in heading and ''forgone'' for ''foregone'' in introductory provisions of text.

Subsec. (f)(8). Pub. L. 104–188, § 1906(c)(2), inserted '', 643(i),'' before ''or 1274'' in heading and text.

Subsec. (f)(12). Pub. L. 104–188, § 1602(b)(7), struck out par. (12) which read as follows: ''SPECIAL RULE FOR CERTAIN EMPLOYER SECURITY LOANS.—This section shall not apply to any loan between a corporation (or any member of the controlled group of corporations which includes such corporation) and an employee stock ownership plan described in section 4975(e)(7) to the extent that the interest rate on such loan is equal to the interest rate paid on a related securities acquisition loan (as described in section 133(b)) to such corporation.''

1988—Subsec. (d)(1)(E)(i). Pub. L. 100–647, § 1005(c)(15), directed substitution of ''section 163(d)(4)'' for ''section 163(d)(3)'', which substitution had been previously made by Pub. L. 99–514, § 511(d)(1).

Subsec. (f)(11), (12). Pub. L. 100–647, § 1018(u)(48), redesignated former par. (11), Pub. L. 99–514, relating to special rule for certain employer security loans, as (12).

1986—Subsec. (d)(1)(E)(i). Pub. L. 99–514, § 511(d)(1), substituted ''section 163(d)(4)'' for ''section 163(d)(3)''.

Subsec. (f)(2)(B). Pub. L. 99–514, § 1812(b)(4), inserted '', compounded semiannually'' before the period at end.

Subsec. (f)(5). Pub. L. 99–514, § 1812(b)(3), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''The term 'demand loan' means any loan which is payable in full at any time on the demand of the lender. Such term also includes (for purposes other than determining the applicable Federal rate under paragraph (2)) any loan which is not transferable and the benefits of the interest arrangements of which is conditioned on the future performance of substantial services by an individual.''

Subsec. (f)(9). Pub. L. 99–514, § 1812(b)(2), amended par. (9) generally, inserting the subpar. (A) designation and adding subpar. (B).

Subsec. (f)(11). Pub. L. 99–514, § 1854(c)(2)(B), added par. (11) relating to special rule for certain employer security loans.

1985—Subsec. (c)(1). Pub. L. 99–121, § 201(c)(1), inserted ''and subsection (g)'' after ''this subsection'' in provisions preceding subpar. (A).

Subsec. (c)(1)(E). Pub. L. 99–121, § 201(c)(2), substituted ''(C), or (F)'' for ''or (C)''.

Subsec. (c)(1)(F). Pub. L. 99–121, § 201(b), added subpar. (f).

Subsec. (f)(11). Pub. L. 99–121, § 202, added par. (11) relating to time for determining rate applicable to employee relocation loans.

Subsecs. (g), (h). Pub. L. 99–121, § 201(a), added subsec. (g) and redesignated former subsec. (g) as (h).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105–34, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1602(b)(7) of Pub. L. 104–188 applicable to loans made after Aug. 20, 1996, with exception and provisions relating to certain refinancings, see section 1602(c) of Pub. L. 104–188, set out as an Effective Date of Repeal note under former section 133 of this title.

Amendment by section 1906(c)(2) of Pub. L. 104–188 applicable to loans of cash or marketable securities made after Sept. 19, 1995, see section 1906(d)(3) of Pub. L. 104–188, set out as a note under section 643 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 OF 1986 AMENDMENT

Amendment by section 511(d)(1) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 511(e) of Pub. L. 99–514, set out as a note under section 163 of this title.

Amendment by sections 1812(b)(2)–(4) and 1854(c)(2)(B) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 204(a), (b) of Pub. L. 99–121, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) SECTION 201.—

''(1) IN GENERAL.—The amendments made by section 201 [amending this section] shall apply with respect to loans made after the date of enactment of this Act [Oct. 11, 1985].

''(2) SECTION 7872 NOT TO APPLY TO CERTAIN LOANS.—Section 7872 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall not apply to loans made on or before the date of the enactment of this Act [Oct. 11, 1985] to any qualified continuing care facility pursuant to a continuing care contract. For purposes of this paragraph, the terms 'qualified continuing care facility' and 'continuing care contract' have the meanings given such terms by section 7872(g) of such Code (as added by section 201).

''(b) SECTION 202.—The amendment made by section 202 [amending this section] shall apply to contracts entered into after June 30, 1985, in taxable years ending after such date.''

EFFECTIVE DATE

Section 172(c) 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 this section [enacting this section] shall apply to—

''(A) term loans made after June 6, 1984, and

''(B) demand loans outstanding after June 6, 1984.

''(2) EXCEPTION FOR DEMAND LOANS OUTSTANDING ON JUNE 6, 1984, AND REPAID WITHIN 60 DAYS AFTER DATE OF ENACTMENT.—The amendments made by this section shall not apply to any demand loan which—

''(A) was outstanding on June 6, 1984, and

''(B) was repaid before the date 60 days after the date of the enactment of this Act [July 18, 1984].

''(3) EXCEPTION FOR CERTAIN EXISTING LOANS TO CONTINUING CARE FACILITIES.—Nothing in this subsection

shall be construed to apply the amendments made by this section to any loan made before June 6, 1984, to a continuing care facility by a resident of such facility which is contingent on continued residence at such facility.

''(4) APPLICABLE FEDERAL RATE FOR PERIODS BEFORE JANUARY 1, 1985.—For periods before January 1, 1985, the applicable Federal rate under paragraph (2) of section 7872(f) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by this section, shall be 10 percent, compounded semiannually.

''(5) TREATMENT OF RENEGOTIATIONS, ETC.—For purposes of this subsection, any loan renegotiated, extended, or revised after June 6, 1984, shall be treated as a loan made after such date.

''(6) DEFINITION OF TERM AND DEMAND LOANS.—For purposes of this subsection, the terms 'demand loan' and 'term loan' have the respective meanings given such terms by paragraphs (5) and (6) of section 7872(f) of the Internal Revenue Code of 1986, as added by this section, but the second sentence of such paragraph (5) shall not apply.''

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.

CERTAIN ISRAEL OR POLISH BONDS NOT SUBJECT TO RULES RELATING TO BELOW-MARKET LOANS

Section 1812(b)(5) of Pub. L. 99–514, as amended by Pub. L. 101–179, title III, § 307(a), Nov. 28, 1989, 103 Stat. 1314, provided that: ''Section 7872 of the Internal Revenue Code of 1954 [now 1986] (relating to treatment of loans with below-market interest rates) shall not apply to any obligation issued by Israel or Poland if—

''(A) the obligation is payable in United States dollars, and

''(B) the obligation bears interest at an annual rate of not less than 4 percent.''

[Section 307(b) of Pub. L. 101–179 provided that: ''The amendments made by this section [amending section 1812(b)(5) of Pub. L. 99–514, set out above] shall apply to obligations issued after the date of the enactment of this Act [Nov. 28, 1989].'']

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 142, 856, 4941 of this title.

§ 7873. Income derived by Indians from exercise of fishing rights

(a) In general

(1) Income and self-employment taxes

No tax shall be imposed by subtitle A on income derived—

(A) by a member of an Indian tribe directly or through a qualified Indian entity, or

(B) by a qualified Indian entity,

from a fishing rights-related activity of such tribe.

(2) Employment taxes

No tax shall be imposed by subtitle C on remuneration paid for services performed in a fishing rights-related activity of an Indian tribe by a member of such tribe for another member of such tribe or for a qualified Indian entity.

(b) Definitions

For purposes of this section—

(1) Fishing rights-related activity

The term ''fishing rights-related activity'' means, with respect to an Indian tribe, any activity directly related to harvesting, processing, or transporting fish harvested in the exercise of a recognized fishing right of such tribe or to selling such fish but only if substantially all of such harvesting was performed by members of such tribe.

(2) Recognized fishing rights

The term ''recognized fishing rights'' means, with respect to an Indian tribe, fishing rights secured as of March 17, 1988, by a treaty between such tribe and the United States or by an Executive order or an Act of Congress.

(3) Qualified Indian entity

(A) In general

The term ''qualified Indian entity'' means, with respect to an Indian tribe, any entity if—

(i) such entity is engaged in a fishing rights-related activity of such tribe,

(ii) all of the equity interests in the entity are owned by qualified Indian tribes, members of such tribes, or their spouses,

(iii) except as provided in regulations, in the case of an entity which engages to any extent in any substantial processing or transporting of fish, 90 percent or more of the annual gross receipts of the entity is derived from fishing rights-related activities of one or more qualified Indian tribes each of which owns at least 10 percent of the equity interests in the entity, and

(iv) substantially all of the management functions of the entity are performed by members of qualified Indian tribes.

For purposes of clause (iii), equity interests owned by a member (or the spouse of a member) of a qualified Indian tribe shall be treated as owned by the tribe.

(B) Qualified indian tribe

For purposes of subparagraph (A), an Indian tribe is a qualified Indian tribe with respect to an entity if such entity is engaged in a fishing rights-related activity of such tribe.

(c) Special rules

(1) Distributions from qualified Indian entity

For purposes of this section, any distribution with respect to an equity interest in a qualified Indian entity of an Indian tribe to a member of such tribe shall be treated as derived by such member from a fishing rights-related activity of such tribe to the extent such distribution is attributable to income derived by such entity from a fishing rights-related activity of such tribe.

(2) De minimis unrelated amounts may be excluded

If, but for this paragraph, all but a de minimis amount—

(A) derived by a qualified Indian tribal entity, or by an individual through such an en-

tity, is entitled to the benefits of paragraph (1) of subsection (a), or

(B) paid to an individual for services is entitled to the benefits of paragraph (2) of subsection (a),

then the entire amount shall be entitled to the benefits of such paragraph.

(Added Pub. L. 100–647, title III, § 3041(a), Nov. 10, 1988, 102 Stat. 3640.)

EFFECTIVE DATE

Section 3044 of subtitle E (§§ 3041–3044) of title III of Pub. L. 100–647 provided that:

''(a) EFFECTIVE DATE.—The amendments made by this subtitle [enacting this section and amending sections 1402 and 3121 of this title, section 71 of Title 25, Indians, and sections 409 and 411 of Title 42, The Public Health and Welfare] shall apply to all periods beginning before, on, or after the date of the enactment of this Act [Nov. 10, 1988].

''(b) NO INFERENCE CREATED.—Nothing in the amendments made by this subtitle shall create any inference as to the existence or non-existence or scope of any exemption from tax for income derived from fishing rights secured as of March 17, 1988, by any treaty, law, or Executive Order.''

SECTION REFERRED TO IN OTHER SECTIONSYTHIS SECTION IS REFERRED TO IN SECTIONS 1402, 3121 OF THIS TITLE; TITLE 25 SECTION 71; TITLE 42 SECTIONS 409, 411.

Subtitle G—The Joint Committee on Taxation

Chapter		Sec.[1]
91.	Organization and membership of the Joint Committee	8001
92.	Powers and duties of the Joint Committee	8021

AMENDMENTS

1976—Pub. L. 94–455, title XIX, § 1907(b)(1), Oct. 4, 1976, 90 Stat. 1836, struck out ''Internal Revenue'' in heading of subtitle G.

CHAPTER 91—ORGANIZATION AND MEMBERSHIP OF THE JOINT COMMITTEE

Sec.
8001. Authorization.
8002. Membership.
8003. Election of chairman and vice chairman.
8004. Appointment and compensation of staff.
8005. Payment of expenses.

§ 8001. Authorization

There shall be a joint congressional committee known as the Joint Committee on Taxation (hereinafter in this subtitle referred to as the ''Joint Committee'').

(Aug. 16, 1954, ch. 736, 68A Stat. 925; Pub. L. 94–455, title XIX, § 1907(a)(1), Oct. 4, 1976, 90 Stat. 1835.)

AMENDMENTS

1976—Pub. L. 94–455 struck out ''Internal Revenue'' after ''Committee on''.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1907(c) of Pub. L. 94–455 provided that: ''The amendments made by this section [amending this section and sections 8004, 8021, and 8023 of this title and enacting provisions set out below] shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act [Oct. 4, 1976].''

REFERENCES TO JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

Pub. L. 94–455, title XIX, § 1907(a)(5), Oct. 4, 1976, 90 Stat. 1836, provided that: ''All references in any other statute, or in any rule, regulation, or order, to the Joint Committee on Internal Revenue Taxation shall be considered to be made to the Joint Committee on Taxation.''

§ 8002. Membership

(a) Number and selection

The Joint Committee shall be composed of 10 members as follows:

(1) From Committee on Finance

Five members who are members of the Committee on Finance of the Senate, three from the majority and two from the minority party, to be chosen by such Committee; and

(2) From Committee on Ways and Means

Five members who are members of the Committee on Ways and Means of the House of Representatives, three from the majority and two from the minority party, to be chosen by such Committee.

(b) Tenure of office

(1) General limitation

No person shall continue to serve as a member of the Joint Committee after he has ceased to be a member of the Committee by which he was chosen, except that—

(2) Exception

The members chosen by the Committee on Ways and Means who have been reelected to the House of Representatives may continue to serve as members of the Joint Committee notwithstanding the expiration of the Congress.

(c) Vacancies

A vacancy in the Joint Committee—

(1) Effect

Shall not affect the power of the remaining members to execute the functions of the Joint Committee; and

(2) Manner of filling

Shall be filled in the same manner as the original selection, except that—

(A) Adjournment or recess of Congress

In case of a vacancy during an adjournment or recess of Congress for a period of more than 2 weeks, the members of the Joint Committee who are members of the Committee entitled to fill such vacancy may designate a member of such Committee to serve until his successor is chosen by such Committee; and

(B) Expiration of Congress

In the case of a vacancy after the expiration of a Congress which would be filled by the Committee on Ways and Means, the members of such Committee who are continuing to serve as members of the Joint

[1] Section numbers editorially supplied.