

tive 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, 7801, 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
A. Crimes	7201
B. Other offenses	7261
C. Forfeitures	7301
D. Miscellaneous penalty and forfeiture provisions	7341

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6420, 6421, 6427, 7801, 7851 of this title; title 48 sections 1421i, 1612.

Subchapter A—Crimes

Part	
I.	General provisions.
II.	Penalties applicable to certain taxes.

¹ Section numbers editorially supplied.