

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 743A and 7463 of this title] shall apply to proceedings commenced after the date of the enactment of this Act [July 22, 1998].”

§ 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.)

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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.

PART I—ORGANIZATION AND JURISDICTION

Sec.	
7441.	Status.
7442.	Jurisdiction.
7443.	Membership.
7443A.	Special trial judges.
[7443B.]	Repealed.]
7444.	Organization.
7445.	Offices.
7446.	Times and places of sessions.
7447.	Retirement.
7448.	Annuities of surviving spouses and dependent children. ¹

AMENDMENTS

2008—Pub. L. 110-458 repealed amendment made by section 856 of Pub. L. 109-280. See 2006 Amendment note below.

2006—Pub. L. 109-280, title VIII, §856(b), Aug. 17, 2006, 120 Stat. 1019, added item 7443B. Pub. L. 110-458, title I,

¹ So in original. Does not conform to section catchline.

§108(l), Dec. 23, 2008, 122 Stat. 5110, repealed Pub. L. 109-280, §856, and provided that the Internal Revenue Code of 1986 shall be applied and administered as if such section had not been enacted.

Pub. L. 109-280, title VIII, §854(c)(2), Aug. 17, 2006, 120 Stat. 1018, which directed amendment of item 7448 by inserting “and special trial judges” after “judges”, could not be executed because “judges” did not appear subsequent to amendment by Pub. L. 94-455. See 1976 Amendment note below.

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.)

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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 Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006, Pub. L. 109-115, div. A, title VI, Nov. 30, 2005, 119 Stat. 2490, and were repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were contained in the following prior appropriations acts:

Pub. L. 108-447, div. H, title IV, Dec. 8, 2004, 118 Stat. 3264.

Pub. L. 108-199, div. F, title IV, Jan. 23, 2004, 118 Stat. 340.

Pub. L. 108-7, div. J, title IV, Feb. 20, 2003, 117 Stat. 460.

Pub. L. 107-67, title IV, Nov. 12, 2001, 115 Stat. 543.

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.

§ 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,
- (5) any proceeding under section 7436(c),
- (6) any proceeding under section 7623(b)(4), and
- (7) 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), (4), (5), or (6) 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; Pub. L. 109-280, title VIII, § 857(a), (b), Aug. 17, 2006, 120 Stat. 1020; Pub. L. 109-432, div. A, title IV, § 406(a)(2), Dec. 20, 2006, 120 Stat. 2959.)

AMENDMENTS

2006—Subsec. (b)(5). Pub. L. 109-280, § 857(a), added par. (5). Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 109-432, § 406(a)(2)(A), added par. (6). Former par. (6) redesignated (7).

Pub. L. 109-280, § 857(a), redesignated par. (5) as (6).

Subsec. (b)(7). Pub. L. 109-432, § 406(a)(2)(A), redesignated par. (6) as (7).

Subsec. (c). Pub. L. 109-432, § 406(a)(2)(B), substituted “(5), or (6)” for “or (5)”.

Pub. L. 109-280, § 857(b), substituted “(4), or (5)” for “or (4)”.

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 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to information provided on or after Dec. 20, 2006, see section 406(d) of Pub. L. 109-432, set out as a note under section 62 of this title.

Pub. L. 109-280, title VIII, § 857(c), Aug. 17, 2006, 120 Stat. 1020, provided that: “The amendments made by this section [amending this section] shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act [Aug. 17, 2006].”

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 recommendations 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.”

[§ 7443B. Repealed. Pub. L. 110-458, title I, § 108(I), Dec. 23, 2008, 122 Stat. 5110]

Section, added Pub. L. 109-280, title VIII, § 856(a), Aug. 17, 2006, 120 Stat. 1019, related to the recall of retired special trial judges of the Tax Court.

EFFECTIVE DATE OF REPEAL

Repeal effective as if included in the provisions of Pub. L. 109-280 to which the repeal relates, except as otherwise provided, see section 112 of Pub. L. 110-458, set out as an Effective Date of 2008 Amendment note under section 72 of this title.

CONSTRUCTION OF AMENDMENT BY PUB. L. 109-280

Pub. L. 110-458, title I, § 108(I), Dec. 23, 2008, 122 Stat. 5110, provided that: "Section 856 of the 2006 Act [Pub. L. 109-280, enacting this section], and the amendments made by such section, are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such sections and amendments had not been enacted."

§ 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 lit-

tle 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.

(j) Thrift Savings Plan

(1) Election to contribute

(A) In general

A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

(B) Period of election

An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

(2) Applicability of title 5 provisions

Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code,

shall apply with respect to a judge who makes an election under paragraph (1).

(3) Special rules

(A) Amount contributed

The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

(B) Contributions for benefit of judge

No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

(C) Applicability of section 8433(b) of title 5 whether or not judge retires

Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

- (i) retires under subsection (b), or
- (ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

(D) Applicability of section 8351(b)(5) of title 5

The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

(E) Exception

Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Federal Retirement Thrift Investment Board prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.

(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; Pub. L. 109-280, title VIII, §853(a), Aug. 17, 2006, 120 Stat. 1016.)

AMENDMENTS

2006—Subsec. (j). Pub. L. 109-280 added subsec. (j).
 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 2006 AMENDMENT

Pub. L. 109-280, title VIII, §853(b), Aug. 17, 2006, 120 Stat. 1017, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 17, 2006], except that United States Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date.”

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(e)] 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.”

§ 7448. Annuities to surviving spouses and dependent children of judges and special trial 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 “special trial judge” means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under chapter 83 or 84 of title 5, United States Code, whether or not performing judicial duties under section 7443B.¹

(6) The term “special trial judge’s salary” means the salary of a special trial judge received under section 7443A(d), any amount received as an annuity under chapter 83 or 84 of title 5, United States Code, and compensation received under section 7443B.¹

(7) The term “survivors annuity fund” means the Tax Court judges survivors annuity fund established by this section.

(8) 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.

(9) 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

(1) Judges

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.

(2) Special trial judges

Any special trial judge may by written election filed with the chief judge bring himself or herself within the purview of this section.

Such election shall be filed not later than the later of 6 months after—

- (A) 6 months after the date of the enactment of this paragraph,
- (B) the date the judge takes office, or
- (C) the date the judge marries.

(c) Survivors annuity fund

(1) Salary deductions

There shall be deducted and withheld from the salary of each judge or special trial judge electing under subsection (b) a sum equal to 3.5 percent of such judge’s or special trial judge’s salary. The amounts so deducted and withheld from such judge’s or special trial 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 judicial officers survivors annuity fund” and said fund is appropriated for the payment of annuities, refunds, and allowances as provided by this section. Each judge or special trial 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 or special trial 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 section 7443A(d), 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) and (a)(6) 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

¹ See References in Text note below.

(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 or special trial 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 or special trial 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 or special trial judge may elect to make such deposits in installments during the continuance of his service as a judge or special trial 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 or special trial judge to make such deposit, credit shall be allowed for the service rendered, but the annuity of the surviving spouse of such judge or special trial 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 or special trial 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 or special trial 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 or special trial 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 or special trial judge.

(g) Termination

If the service of any judge or special trial 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 or special trial 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 or special trial 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 or special trial judge electing under subsection (b) shall die while a judge or special trial 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 or special trial 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 special trial 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 or special trial 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 or special trial 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 or special trial 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 or special trial 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 or special trial judge leaving a dependent child or children of the judge or special trial 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 or special trial judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge or special trial 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 or special trial judge electing under subsection (b) shall die while in office (whether in regular active service, retired from such service under section 7447, or receiving any annuity under chapter 83 or 84 of title 5, United States Code),² 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 or special trial judge shall terminate before a valid claim therefor shall have been established,

the total amount credited to the individual account of such judge or special trial 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 or special trial 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 or special trial 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 or special trial judge;

(iii) if none of the above, to the child or children of such judge or special trial judge and the descendants of any deceased children by representation;

(iv) if none of the above, to the parents of such judge or special trial 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 or special trial judge; and

(vi) if none of the above, to such other next of kin of such judge or special trial judge as may be determined by the chief judge to be entitled under the laws of the domicile of such judge or special trial judge at the time of his death.

Determination as to the surviving spouse, child, or parent of a judge or special trial judge for the purposes of this paragraph shall be made by the chief judge without regard to the definitions in paragraphs (8) and (9) of subsection (a).

(2) In any case in which the annuities of all persons entitled to annuity based upon the service of a judge or special trial judge shall terminate before the aggregate amount of annuity paid equals the total amount credited to the individual account of such judge or special trial 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 or special trial 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 or special trial 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 or special trial 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 pay-

² So in original.

ment 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 or special trial judge electing under subsection (b) shall be an amount equal to the sum of (1) 1.5 percent of the average annual salary (whether judge's or special trial judge's salary or compensation for other allowable service) received by such judge or special trial judge for judicial service (including periods in which he received retired pay under section 7447(d) or any annuity under chapter 83 or 84 of title 5, United States Code) 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,³ 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 or special trial 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 or special trial judge of the Tax Court of the United States, and as a judge or

special trial judge of the Tax Court, his years of service pursuant to any appointment under section 7443A, 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).

(s) Increases in survivor annuities

Each time that an increase is made under section 8340(b) of title 5, United States Code, in an-

³So in original. A closing parenthesis probably should precede the comma.

nunities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).

(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; Pub. L. 109-280, title VIII, §§851(a), 854(a)-(c)(1), (3)-(7), Aug. 17, 2006, 120 Stat. 1016-1018.)

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.

Section 7443B, referred to in subsec. (a)(5), (6), was repealed by Pub. L. 110-458, title I, §108(l), Dec. 23, 2008, 122 Stat. 5110.

The date of the enactment of this paragraph, referred to in subsec. (b)(2)(A), is the date of enactment of Pub. L. 109-280, which was approved Aug. 17, 2006.

AMENDMENTS

2006—Pub. L. 109-280, §854(c)(3), which directed amendment of subsec. (u) of this section by inserting “or special trial judge” after “judge” and “or special trial judge’s” after “judge’s” wherever appearing, could not be executed because no subsec. (u) has been enacted.

Pub. L. 109-280, §854(c)(1), inserted “and special trial judges” after “children of judges” in section catchline.

Subsec. (a)(5) to (9). Pub. L. 109-280, §854(a), which directed amendment of subsec. (a) by adding pars. (5) and (6) and redesignating former pars. (5) to (8) as (7) to (10), respectively, was executed by adding pars. (5) and (6) and redesignating former pars. (5) to (7) as (7) to (9), respectively, to reflect the probable intent of Congress. Subsec. (a) did not contain a par. (8) prior to the amendment.

Subsec. (b). Pub. L. 109-280, §854(b), reenacted subsec. heading without change, designated existing provisions as par. (1), inserted par. heading, realigned margins, and added par. (2).

Subsec. (c)(1). Pub. L. 109-280, §854(c)(4)(A), substituted “Tax Court judicial officers” for “Tax Court judges”.

Pub. L. 109-280, §854(c)(3), inserted “or special trial judge” after “judge” and “or special trial judge’s” after “judge’s” wherever appearing.

Subsec. (c)(2)(A). Pub. L. 109-280, §854(c)(4)(B)(i), inserted “and section 7443A(d)” after “(a)(4)”.

Subsec. (c)(2)(B). Pub. L. 109-280, §854(c)(4)(B)(ii), substituted “subsection (a)(4) and (a)(6)” for “subsection (a)(4)”.

Subsec. (d). Pub. L. 109-280, §854(c)(3), inserted “or special trial judge” after “judge” wherever appearing except after “chief judge” and inserted “or special trial judge’s” after “judge’s”.

Subsecs. (f) to (h). Pub. L. 109-280, §854(c)(3)(A), inserted “or special trial judge” after “judge” wherever appearing.

Subsec. (j). Pub. L. 109-280, §854(c)(3)(A), inserted “or special trial judge” after “judge” wherever appearing except after “chief judge”.

Subsec. (j)(1). Pub. L. 109-280, §854(c)(5)(B), substituted “paragraphs (8) and (9) of subsection (a)” for “subsections (a)(6) and (7)” in concluding provisions.

Subsec. (j)(1)(A). Pub. L. 109-280, §854(c)(5)(A), substituted “service, retired from such service under section 7447, or receiving any annuity under chapter 83 or 84 of title 5, United States Code,” for “service or retired from such service under section 7447”.

Subsec. (m). Pub. L. 109-280, §854(c)(6), inserted “or any annuity under chapter 83 or 84 of title 5, United States Code” after “7447(d)”.

Pub. L. 109-280, §854(c)(3), inserted “or special trial judge’s” after “judge’s” and “or special trial judge” after “judge” in two places.

Subsec. (n). Pub. L. 109-280, §854(c)(3)(A), (7), inserted “or special trial judge” after “judge” wherever appearing and “his years of service pursuant to any appointment under section 7443A,” after “of the Tax Court.”.

Subsec. (s). Pub. L. 109-280, §851(a), amended heading and text of subsec. (s) generally. Prior to amendment, text read as follows: “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.”

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 Re-

tirement 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 2006 AMENDMENT

Pub. L. 109-280, title VIII, §851(b), Aug. 17, 2006, 120 Stat. 1016, provided that: “The amendment made by this section [amending this section] shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act [Aug. 17, 2006].”

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.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

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].”]

PART II—PROCEDURE

Sec.
7451. Fee for filing petition.

Sec.
7452. Representation of parties.
7453. Rules of practice, procedure, and evidence.
7454. Burden of proof in fraud and transferee cases.¹
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 of \$60 to be fixed by the Tax Court for the filing of any petition.

(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; Pub. L. 109-280, title VIII, §859(a), Aug. 17, 2006, 120 Stat. 1020.)

AMENDMENTS

2006—Pub. L. 109-280 struck out “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)” after “petition”.

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 2006 AMENDMENT

Pub. L. 109-280, title VIII, §859(b), Aug. 17, 2006, 120 Stat. 1020, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 17, 2006].”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with

¹Section catchline amended by Pub. L. 91-172 without corresponding amendment of analysis.

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.

§ 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.

¹ So in original.

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.

§ 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”.

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 and may otherwise provide, when requested by the chief judge of the Tax Court, for the security of the Tax Court, including the personal protection of Tax Court judges, court officers, witnesses, and other threatened persons in the interests of justice, where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding. The United States Marshals Service retains final authority regarding security requirements for the Tax Court.

(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; Pub. L. 110-177, title I, §102(b), Jan. 7, 2008, 121 Stat. 2535.)

AMENDMENTS

2008—Subsec. (c). Pub. L. 110-177 inserted before period at end of concluding provisions “and may otherwise provide, when requested by the chief judge of the Tax Court, for the security of the Tax Court, including the personal protection of Tax Court judges, court officers, witnesses, and other threatened persons in the interests of justice, where criminal intimidation impedes on the functioning of the judicial process or any other

official proceeding. The United States Marshals Service retains final authority regarding security requirements for the Tax Court”.

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.

REIMBURSEMENT

Pub. L. 110-177, title I, §102(c), Jan. 7, 2008, 121 Stat. 2535, provided that: "The United States Tax Court shall reimburse the United States Marshals Service for protection provided under the amendments made by this section [amending this section and section 566 of Title 28, Judiciary and Judicial Procedure]."

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]."

§ 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".

§ 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), con-

tinue 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 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

¹ See 1997 Amendment note below.

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.

§ 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.)

§ 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]."

§ 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 sub-sections (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 45K 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.

Sec. 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

(1) Clerk

The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

(2) Judge-appointed employees

(A) In general

The judges and special trial judges of the Tax Court may appoint employees, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such employee shall serve at the pleasure of the appointing judge.

(B) Exemption from Federal leave provisions

A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the law clerk’s credit as of the effective date of this subsection shall remain credited to the law clerk and shall be available to the law clerk upon separation from the Federal Government.

(3) Other employees

The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

(4) Pay

The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in courts established under Article III of the Constitution of the United States.

(5) Programs

The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

(6) Discrimination prohibited

The Tax Court shall—

(A) prohibit discrimination on the basis of race, color, religion, age, sex, national ori-

gin, political affiliation, marital status, or handicapping condition; and

(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

(7) Experts and consultants

The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

(8) Rights to certain appeals reserved

Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall continue to be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

(9) Competitive status

Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

(10) Merit system principles, prohibited personnel practices, and preference eligibles

Any personnel management system of the Tax Court shall—

(A) include the principles set forth in section 2301(b) of title 5, United States Code;

(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

(C) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.

(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; Pub. L. 111-366, §1(a), Jan. 4, 2011, 124 Stat. 4063.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (a)(2)(B), (8), probably means the effective date of section 1(a) of Pub. L. 111-366, which amended subsec. (a) generally. See Effective Date of 2011 Amendment note below.

AMENDMENTS

2011—Subsec. (a). Pub. L. 111-366 amended subsec. (a) generally. Prior to amendment, text read as follows: “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.”

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 2011 AMENDMENT

Pub. L. 111-366, §1(b), Jan. 4, 2011, 124 Stat. 4065, provided that: “The amendments made by this section [amending this section] shall take effect on the date the United States Tax Court adopts a personnel management system [adopted effective Oct. 9, 2011] after the date of the enactment of this Act [Jan. 4, 2011].”

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. Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, that is incurred after the date of the enactment of the Pension Protection Act of 2006, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code. 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; Pub. L. 109-280, title VIII, §852, Aug. 17, 2006, 120 Stat. 1016; Pub. L. 111-8, div. D, title VI, §618(a), Mar. 11, 2009, 123 Stat. 677.)

REFERENCES IN TEXT

The date of the enactment of the Pension Protection Act of 2006, referred to in text, is the date of enactment of Pub. L. 109-280, which was approved Aug. 17, 2006.

AMENDMENTS

2009—Pub. L. 111-8, which directed the amendment of section 7472 of “title 26, United States Code” by inserting “after April 24, 1999, that is incurred” after “imposed” in second sentence, was executed to this section, which is section 7472 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress.

2006—Pub. L. 109-280 inserted after first sentence “Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after the date of the enactment of the Pension Protection Act of 2006, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.”

1986—Pub. L. 99-514 substituted “Except as provided in section 7475, all” for “All” in second sentence.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-8, div. D, title VI, §618(b), Mar. 11, 2009, 123 Stat. 677, provided that: “This amendment [amending this section] shall take effect as if included in the amendment made by section 852 of the Pension Protection Act of 2006 [Pub. L. 109-280].”

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.)

§ 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 and to provide services to pro se taxpayers.

(Added Pub. L. 99-514, title XV, §1553(a), Oct. 22, 1986, 100 Stat. 2754; amended Pub. L. 109-280, title VIII, §860(a), Aug. 17, 2006, 120 Stat. 1020.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-280 inserted “and to provide services to pro se taxpayers” before period at end.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title VIII, §860(b), Aug. 17, 2006, 120 Stat. 1020, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 17, 2006].”

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.”

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.

Sec.

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.

§ 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].”

§ 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.”

§ 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 sec-

tion] shall apply to the estates of decedents dying after the date of the enactment of this Act [Aug. 5, 1997].”

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.

§ 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 redetermination 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